

**AMENDED AND RESTATED DECLARATION OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR HUNTERS GREEN**

**ARTICLE 1**

**General Purpose of This Declaration**

The Hunters Green Real Estate is hereby subjected to the Covenants herein declared to preserve the value of the Real Estate, to ensure property use and appropriate improvement of the Real Estate, to encourage the construction and proper maintenance of attractive structures and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may not be harmonious with other improvements on the Real Estate, to preserve and maintain property setbacks from streets and adequate free space between structures, to provide for adequate and property maintenance of the Real Estate so as to ensure a high quality appearance and condition of the Real Estate and so as to meet the requirements of certain governmental agencies, all for the purpose of preserving the values of all Lots within Hunters Green and to ensure desired high standards of maintenance of the Real Estate, to the benefit of all Owners within Hunters Green.

**ARTICLE 2**

**Definitions for All Purposes of This Declaration**

The following terms, whenever used in this Declaration, shall have the meanings assigned to them by this Article 2:

Section 2.1. Architectural Control Committee. The Architectural Control Committee, or “ACC”, means the Architectural Control Committee for Hunters Green to be appointed in accordance with this Declaration.

Section 2.2. Assessment. “Assessment” means the share of the Common Expenses imposed upon each Lot as determined and levied pursuant to the provisions of this Declaration.

Section 2.3. Association. “Association” means Hunters Green Homeowners Association, Inc., an Indiana nonprofit corporation, formed ~~or to be formed~~ for the purpose of determining and collecting the Assessments, for managing the affairs of the Association, and overseeing and enforcing the terms of this Declaration.

Section 2.4. Common Areas. “Common Areas” means certain areas not amenable to development which may be designated as Lake, Tree Preservation Easements or Common Areas on the Plat and which is intended for the common benefit of all Lots.

Section 2.5. Common Expense. “Common Expense” means the actual or estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Areas, Tree Preservation Easements, Drainage System, and other cost or expense incurred by the Association for the benefit of the same.

~~Section 6. Declarant.~~ “Declarant” means ~~Investors Construction, Inc., an Indiana corporation, Hanson & Horn Group, Inc., and Theodore K. Greeman, or any other person, firm, corporation or partnership which succeeds to the interest of Investors Construction, Inc., Hanson & Horn Group, Inc., and Theodore K. Greeman, as developer and/or owner of Hunters Green.~~

Section 2.6. Drainage System. “Drainage System” means the Lake, storm sewers, subsurface drainage tiles, pipes and structures, and other structures, fixtures, properties, equipment and facilities located in, upon, or under the Common Areas, Easements, or Streets and designed for the purpose of expediting the drainage of surface and subsurface waters from, over, and across Hunters Green.

Section 2.7. Easements. “Easements” refer to those areas reserved as easements, on the Plat of Hunters Green.

Section 2.8. Hunters Green. “Hunters Green” or “Real Estate” means the Real Estate as it was is platted and recorded with the County Recorder for the Hunters Green subdivision. ~~by Declarant in accordance with the provisions of this Declaration.~~

Section 2.9. Landscape Easements. “Landscape Easements” refer to those areas reserved as Landscape Easements on the Plat of Hunters Green.

Section 2.10. Lot. “Lot” means any of the separate parcels numbered and identified on the Plat of Hunters Green.

Section 2.11. Mortgagee. “Mortgagee” means any holder, insurer, or guarantor of any first mortgage on any Lot.

Section 2.12. Owner. “Owner” means any person or persons who acquire, ~~after the date of this Declaration,~~ legal and/or equitable title to any Lot; provided, however, that “Owner” shall not include any holder of any mortgage of all or any part of any Lot, so long as such holder does not hold both legal and equitable title thereto.

Section 2.13. Plat. “Plat” means the final plat recorded for Hunters Green.

Section 2.14. Recreation Area. “Recreation Area” means Common Area “E” where fitness trails established by the Association are located, as designated on the Plat of Hunters Green which is intended for the common benefit of all Lots.

Section 2.15. Sewage System. “Sewage System” means any sanitary sewer lines, lift stations, equipment, or facilities located in, upon, or under the Common Areas, Easements, or Streets and designed to provide for the discharge of sanitary sewage from any or all Lots, as the same are or may be constructed at any time, and any replacement thereof or substitute therefor.

Section 2.16. Streets. “Streets” means all of the public ~~and private~~ roadways to the respective right-of-way lines thereof, as shown on the Plat of Hunters Green, which have been ~~or hereafter are~~ constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots.

### ARTICLE 3

#### General Restrictions

Section 3.1. Maintenance of Premises. In order to maintain the standards of Hunters Green, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Owners shall maintain their Lots and improvements situated thereon in a manner so as to prevent the Lot or improvements from becoming unsightly, and specifically, Owners shall:

(a) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds. Grass allowed to grow to a height in excess of six inches (6”) shall be deemed unsightly.

(b) Cut down and remove dead trees, limbs, shrubs and landscape plantings.

(See additional restrictions if tree is in Tree Preservation Easement.)

(c) Keep the exterior of all improvements in such state of repair or maintenance so as to avoid their becoming unsightly.

(d) Prevent the existence of any other condition that reasonably tends to detract from or diminish the appearance of the Lot and/or Hunters Green.

(e) An exception to subparagraphs 1(a)-(d) of this Article 3 are those areas designated as Tree Preservation Easements and Common Areas on the Plat which areas are to be left in a condition so as to appear in their natural state. However, if a tree situated within a Tree Preservation Easement located on an Owner's Lot is dead or diseased and it poses a threat or potential threat to any other Owners or other property, such Lot Owner must remove the dead tree at the Owner's expense. Likewise, if a tree situated within a Tree Preservation Easement located within any parcel of the Association's Common Areas is dead or diseased and it poses a threat or potential threat to any Owners or other property, the Association shall remove the dead tree with the costs incurred being part of the common expenses of the Association.

Section 3.2. Failure to Comply. Failure to comply shall warrant the ~~Declarant~~, authorized agents of Marion County or the Association to cut the growth or weeds or clear the refuse from the Lot at the expense of the Owner, including a non-resident Owner (landlord). The Association shall place and record a lien against said Lot in an amount equal to the expenses therefor and costs which costs may include reasonable attorney's fees for the placement of said lien should such be deemed necessary by the Association. Said liens shall be subject and subordinate only to taxes, municipal liens, and the lien of any bona fide mortgage upon any Lot. The obligation to reimburse the Association's expenses shall also constitute the personal obligation of the Owner.

At the option of the Association, said liens may be foreclosed upon in any court of competent jurisdiction by the Association as Plaintiff for the amount of lien with interest, attorney's fees and costs. Any judgment obtained shall be without relief from valuation or appraisal laws.

Section 3.3. Residential Purpose. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any Lot other than a dwelling not to

exceed two (2) stories in height. A dwelling shall have an attached garage of a size to accommodate at least two (2) cars.

Section 3.4. Setbacks. No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the recorded Plat. The minimum side yard setback shall be five feet (5') and minimum aggregate of the side yards on any Lot shall be ten feet (10'). The minimum rear yard setback shall be fifteen feet (15') from the rear lot line or shall be twenty feet (20') from the subdivision boundary property line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 3.5. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat.

Section 3.6. Landscape Easements. The landscaping within the Landscape Easements shall ~~initially~~ be determined by the Architectural Control Committee (the "ACC"), ~~and developed by Declarant in accordance with the Landscape Plan for Hunters Green.~~ The Declarant, ~~prior to the incorporation of the Association, and the Association thereafter,~~ shall maintain the Landscape Easements. The Landscape Easements located within the dedicated County road right-of-way shall be subject to termination by the County if, in its discretion, the County determines that the Landscape Easements are not being properly maintained and/or constitute a hazard to the motoring public.

Section 3.7. Inoperable Vehicles. At no time shall any junk vehicle, unlicensed and/or inoperable vehicle be permitted on any Lot (including the driveway), Common Area, street or easement unless kept entirely within a garage.

Section 3.8. Vehicles, Trucks, Boats, Recreational Vehicles; Cul-de-Sac Parking. ~~No semi-truck, trailer, boat or trailer, mobile home, or recreational vehicle, or any similar equipment shall be permitted to be kept on any Lot unless kept entirely within a garage.~~ Only normal passenger vehicles are permitted to be parked within the Hunters Green subdivision. Normal passenger vehicles include automobiles, vans, motorcycles, mini-bikes, sport utility vehicles, and trucks with a maximum load capacity of one ton or less. Boats or other watercraft, campers, recreational vehicles, trailers of any kind, temporary storage units, dumpsters, buses, mobile homes, “commercial vehicles” (defined below) business trucks or vans, or any other vehicles other than normal passenger vehicles shall not be permitted to be parked or stored anywhere within the Hunters Green subdivision, unless they are:

- (A) parked or stored completely enclosed within the Owner’s garage; or
- (B) parked or stored upon the Owner’s Lot for no more than two (2) weeks per year total; or
- (C) approved by the Board of Directors’ upon a showing of extenuating circumstances.

The Board’s approval may include such conditions as deemed appropriate by the Board of Directors.

For the purposes of this provision, “commercial vehicles” mean any and all kinds of vehicles that have a maximum load capacity of one ton or more and upon which commercial lettering or equipment is visible, and that are being used for commercial or business purposes. Work-related vehicles upon which commercial lettering and/or designs are visible, including vans and trucks, will be permitted if they have a maximum load capacity of less than one ton. No junk or disabled vehicle or other vehicle on which current registration plates are not displayed

shall be kept in the Property, except as may be completely enclosed within a garage. No repair work shall be done within the Property on any vehicles, including passenger vehicles, except as may be completely enclosed within a garage. No vehicles of any kind can be parked on cul-de-sacs by Owners or their guests for more than 48 hours without Board approval.

Section 3.9. Nuisances. No noxious, obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. This provision may be construed to prohibit extremely audible music or activities.

Section 3.10. Outdoor Storage. No large machinery or equipment shall be permitted to be kept or stored on any Lot except within the dwelling. No temporary storage unit or dumpster shall be permitted for a period of longer than 48 hours without Board approval.

Section 3.11. Drainage Ditches. Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written permission of authorized agents of Marion County.

Any property owner altering, changing, damaging, or failing to maintain these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice by certified mail to repair said damage, after which time, if no action is taken, authorized agents of Marion County may cause said repairs to be accomplished and the bill for cost of said repairs will be sent to the affected property owner for the immediate payment.

Section 3.12. Signs. Except for signs permitted by the Board in its rules and regulations, ~~n~~No sign of any kind shall be displayed to the public view on any Lot except one (1) professionally manufactured sign of not more than five (5) square feet advertising the property for sale or rent, ~~or signs used by a Builder to advertise the Property during the construction and~~



~~sale period.~~ Political signs are permitted, but only if they comply with Indiana law and the Association's rules. Any political sign in violation shall be subject to removal.

Section 3.13. Childcare Services. No pre-school, babysitting business or such childcare services for more than six (6) children shall be allowed to operate upon any Lot.

Section 3.14. Mining Operations. No oil drilling, oil development operation, oil refining quarrying, or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 3.15. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets in reasonable numbers may be kept provided that they are not bred, kept or maintained for any commercial use and are housed within the dwelling. Dogs being walked by Owners, other residents or guests must be on leashes at all times. Owners of dogs shall so control or confine them so as to avoid barking which will annoy or disturb adjoining Owners. An Owner shall be fully liable for any injury or damage to persons or property, including the Common Areas, caused by his or her pet. The Owner shall be responsible for the cleaning of any Common Area or within the Lot made dirty by his or her pet's excrement and shall be fully liable for the expenses of any cleaning not performed by the Owner.

Section 3.16. Rubbish, Trash, and Garbage. Rubbish, trash, garbage or any other waste shall not be allowed to be compiled, accumulated or dumped on any Lot. Garbage and trash shall be kept in appropriate containers which are not visible from the street, except on collection day.

Section 3.17. Corner Lot. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above roadways shall be placed or permitted on any corner Lot within the triangular area formed by the street property line and a line connecting them at points 25 feet from the intersection of the street lines extended. The same sight line limitation shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight lines.

Section 3.18. Field Tiles. Any field tile or underground drain which is on any Lot must be allowed to perpetuate an all owners of the Lots in this Subdivision and their successors shall comply with the Indiana Drainage Code of 1965.

Section 3.19. Minimum Living Space. The minimum square footage of living space of dwellings with Hunters Green, exclusive of porches, garages or basements shall be no less than:

- (a) 1100 square feet for single store dwellings; and
- (b) 660 square feet for the ground floor of two-story dwellings.

Section 3.20. Outbuildings. No outbuildings of any kind, detached garages, sheds, barns, storage buildings, shacks or tents shall be maintained on any Lot.

Section 3.21. Driveways and Carports. All driveways must be paved with concrete. All other driveway surfaces are prohibited, including but not limited to asphalt. ~~asphalt or other all-weather surface excluding gravel.~~ No carports are permitted.

Section 3.22. Communication Devices. ~~Satellite dishes,~~ Free standing antennas, or any other such visible communication receiving or transmitting devices are prohibited, excepting antennas attached to the dwelling which do not rise above the peak of the roof. A maximum of

one (1) satellite dish may be installed on each Lot; provided, however, no satellite dish shall be installed (i) which is larger than one meter (approximately 39”) in diameter (or such smaller diameter if allowed by law); and (ii) without the prior written approval of the ACC. All permitted satellite dishes shall, by landscaping or otherwise, be aesthetically concealed on all sides, unless attached to a home in which case it shall be substantially concealed, from views by other Owners in the neighborhood. All permitted satellite dishes shall be installed so as to not constitute a nuisance or to have an offensive effect on other Owners in the neighborhood. Any Owner desiring to install a satellite dish which meets the requirements of this Section shall submit an application and two (2) copies of plot plans to the ACC for approval or denial. No satellite dish shall be positioned in a front yard, on a roof or, if not attached to a home, more than four feet (4') off the ground unless, in addition to meeting all other criteria, the ACC determines, in its sole discretion, that the proposed location is necessary because any other location on the Lot would be inadequate and would have a more offensive effect on surrounding Owners.

Section 3.23. Mailboxes. All mailboxes in Hunters Green shall be uniform in appearance. The color, size, style, type and location shall be determined by the ~~Architectural Control Committee~~ (“ACC”). Owners shall be prohibited from removing, altering, or substituting the mailboxes approved by the ACC. Owners shall be responsible to keep the mailboxes in good state of repair and to replace them with a substantially identical one if necessary using a supplier and design approved by the ACC.

Wood newspaper boxes shall remain on mailbox posts and be kept painted in the color previously approved by the ACC. Owners shall be responsible to keep the newspaper boxes in a good state of repair and replace them when necessary with one of wood construction and the same size and design as the original box.

The ACC or the Board shall notify any Lot Owner if his/her mailbox, post or newspaper box needs to be repaired or replaced if it doesn't conform with the neighborhood's standards. The Board's notification shall also include the name of the Association's approved mailbox vendor. After three (3) written notices sent over a period of sixty (60) days from the Board or ACC to the Lot Owner, if the Owner still has not complied, the Owner shall be sent a fourth and final written notice giving notice as to the approximate date when the Association's contractor may perform the repairs or replacements. In that event, the Association may, but is not obligated to, perform whatever maintenance, repair or replacement of the mailboxes, posts and/or newspaper boxes is necessary to conform with the neighborhood standards, with all costs incurred being a Special Assessment applicable to that Lot Owner only as well as a continuing lien upon the Owner's Lot. No Owner shall be permitted to remove or alter the mailbox, post or newspaper box associated with such Owner's Lot without prior Board approval. For any mailbox, post or newspaper box installed by the Association, the Association will not be responsible for maintenance, replacement or repair of mailboxes or posts if damage occurs due to willful, intentional or negligent acts or omission including the negligent acts of an Owner, or a family member, guest, tenant, and invitee or other occupant or visitor of such Owner. It will be the responsibility of the Owner to pay for such repairs or, if needed, replacement of the mailbox and/or post.

Section 3.24. Yard Lights. All Lots shall ~~upon their initial development and thereafter~~ have yard lights of uniform appearance. The style, type and location shall be determined by the Architectural Control Committee. Owners shall be prohibited from removing, altering, or substituting the yard lights approved by the ACC. Owners shall be responsible to maintain the yard lights in the form in which they were originally installed, kept functional at all times.

standing upright and level, and in a state of good repair. All yard light poles must be black in color.

Section 3.25. Wells and Septic Tanks. No water wells shall be drilled on any Lot. Septic tanks shall be prohibited.

Section 3.26. Swimming Pools. Above-ground as well as in-ground swimming pools are prohibited.

Section 3.27. Construction, Earth-Moving, Excavation. No construction, significant earth-moving, or excavating work of any nature may be conducted on any Lot without first having any development plans approved by the Architectural Control Committee.

Section 3.28. Fences, Walls, Barriers. All fences, walls, barriers or like structures must be approved in writing by the Architectural Control Committee prior to construction. No such structure shall be constructed on Lot numbers 28, 29, 30, 31, 44 and 45 in order that the Common Area surrounding the Lake remain accessible and aesthetically pleasing to all residents. For all Lots, excluding the aforementioned, no such structures shall exceed six feet (6') in height and shall otherwise meet the guidelines of the Metropolitan Planning Commission. No such structure shall be constructed of wrought iron or chain link. Such structures shall be constructed of wood or other materials first approved by the Architectural Control Committee. No such structures shall be placed closer to the front Lot line than the front building setback line.

Section 3.29. Decorative Structures. No decorative structure, statue, or other structure may be placed on the Lot closer to the front Lot line than the front building setback line.

Section 3.30. Basketball Goals and other Items. Basketball goals and any other structures (statues, flag poles, bird baths, etc.) cannot be placed beyond the front setback line of the home. Portable basketball goals are allowed so long as they are not in the street and cannot

be left up on a long-term basis. No permanently installed basketball goals in driveways or on the roofs of homes are permitted.

## ARTICLE 4

### Lake Covenants and Restrictions

Section 4.1. The area ~~to be~~ known as the Lake and which is shown as Common Area “E” and described as a storm detention easement on the Plat (hereinafter “Lake”) shall be included as Common Area as referenced herein, to be maintained and controlled by the Association.

Section 4.2. The Association’s Board of Directors shall be responsible for formulating rules and regulations pertaining to the Lake as well as creating an annual budget to assure adequate maintenance, upkeep and repair of the Lake property. Said budget shall be included as part of the Owners’ Annual Assessment.

Section 4.3. The Lake within the Recreation Area may be used only in the manner authorized by the Association’s Board of Directors which shall not be inconsistent with the provisions of this Declaration.

Section 4.4. No privately owned personal property of any kind shall be allowed to remain within the Lake area except when the Owner of such property is present.

Section 4.5. No docks or piers will be allowed except those which may be authorized by, constructed, owned, and operated by the Association.

Section 4.6. No Owner or third party shall do or permit another to do any act which could result in pollution of the Lake, diversion of any water, raise the elevation of the water, significantly disturb the earth or the embankment of the Lake areas, or any other conduct which could result in an adverse effect upon the water quality, embankment and adjacent property, drainage, or any other general condition of the Lake.

Section 4.7. The Association, on behalf of the Owners, or authorized agents of Marion County, shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of any damage caused to the Lake or interference with the drainage system, together with any damages incurred, and upon recovery of judgment shall be entitled to costs, together with reasonable attorney's fees.

## ARTICLE 5

### **Declarant's/Association's Right to Guarantee Compliance**

Section 5.1. In the event the Owner of any Lot in Hunters Green shall fail to maintain that Lot or any of its improvements situated thereon in accordance with the provisions of these Covenants, the Association, ~~or prior to the Association's incorporation, the Declarant,~~ shall have the right, but not the obligation, by and through its agents and employees or contractors to enter upon said Lot, perform such acts as may be reasonably necessary to make such Lot improvements thereon, if any, conform to the requirements of these Covenants. The cost thereof to the Association ~~or Declarant~~ shall be collected in any reasonable manner from Owner. The Association/~~Declarant~~ shall not be liable for any damage which may result from any maintenance work performed hereunder at the time dwellings are constructed upon.

## ARTICLE 6

### **Hunters Green Architectural Control Committee**

Section 6.1. Appointment of Architectural Control Committee. The Board of Directors of the Association, ~~or Declarant if the Association is not yet incorporated,~~ shall appoint the members of the Architectural Control Committee (hereinafter sometimes referred to as "ACC"). ~~However, initially the Architectural Control Committee shall consist of Lisa Wampole and Henry Erickson (hereinafter "Wampole and Erickson"). The term Wampole and Erickson shall~~

~~serve as the ACC shall be that period of time consisting of the sale and construction of residential structures on all Lots within Hunters Green Sections One and Two. Thereafter, the~~  
The ACC shall consist of three members who shall be appointed by the Association's Board of Directors. The persons appointed by the Board to the ACC shall consist of Owners of Lots and may be, but need not be, members of the Board of Directors. The term of any ~~Association~~ appointed member of the ACC shall be one (1) year in length, unless a longer term is approved by the Board. The members of the ACC are subject to appointment and removal by the Board at any time and for any reason.

Section 6.2. Construction Approvals. No construction or re-construction of any building or structure of any kind, including additions, alterations, ~~swimming pools,~~ fences, screens and walls shall begin within Hunters Green until the plans and specifications, locations and plot plan thereof, in detail and to scale have been submitted to and approved by the Architectural Control Committee. Prior approval by the Architectural Control Committee is also required for any proposed change of the color of house trim, front door, shingles and garage. The plans and specifications of and location of all construction shall be in compliance with all applicable regulatory codes, including those relating to building, plumbing, and electrical requirements, and shall also comply to all zoning covenants and restrictions which are applicable to the Real Estate. Refusal of approval of plans and specifications, location and plot plan by the ACC ~~Declarant~~ may be based on any ground, including purely aesthetic grounds, in the sole and absolute discretion of the Architectural Control Committee. Neither the Board of Directors nor the ACC ~~Declarant~~ shall ~~not~~ be responsible for any defects in such plans or specifications, or in any building or structure erected according to such plans and specifications.



~~————The plans and specifications submitted to Declarant shall contain a plot plan to scale with adequate provision for landscaping, including the planting of trees and shrubs. The determination of whether adequate provision has been made for landscaping shall be at the sole discretion of the Architectural Control Committee. The required landscaping and driveways shall be complete at the time of completion of the building, or as soon as weather and season permit. Declarant shall not be responsible for any defects in such plans or specifications, or in any building or structure erected according to such plans and specifications.~~

Section 6.3. Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor. In any judicial proceeding challenging a determination by the ACC and in any action initiated to enforce this Declaration in which an abuse of discretion by the ACC is raised as a defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the ACC, could only conclude that such determination constituted an abuse of discretion.

Section 6.4. Liability of Committee. Neither the Committee nor any agent thereof, nor the Board, nor the Association ~~Declarant~~, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the ACC, the Association and the Board of Directors make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional

construction advice, engineering, and required municipal permits and inspections on each Lot prior to proposing any construction or improvements.

Section 6.5. Inspection. The Architectural Control Committee or its agents may inspect work being performed to assure compliance with the approved plans and this Declaration.

Section 6.6. Power to Grant Variances. The ACC may allow reasonable variances or adjustments of this Declaration where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of this Declaration or to comply with written request of municipality in charge of applicable permits. No variance or adjustment shall be granted which is knowingly materially detrimental or injurious to other Lots in Hunters Green, and any such variance granted shall not be considered as precedent setting.

## **ARTICLE 7**

### **Covenants for Maintenance Assessments**

Section 7.1. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the value of the Lots within Hunters Green and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, fencing, operating, and maintenance of the Common Areas and Landscape Easements and Drainage System, including, but not limited to, the payment of taxes and insurance thereof and for the costs of labor, equipment, material, and management furnished with respect to the Common Areas and Landscape Easements; provided that the Association shall not be responsible for the replacement, repair or maintenance of any

Common Area which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay the Association:

- (a) ~~A pro-rata share (as hereinafter defined)~~ of Annual Assessments fixed, established, and determined from time to time as hereinafter provided; and
- (b) ~~A pro-rata share (as hereinafter defined)~~ of Special Assessments fixed, established, and determined from time to time, as hereinafter provided.

Section 7.2. Liability for Assessments. All assessments shall be a prior lien on the Lots with respect to which said assessments are in favor of the Association, subject and subordinate only to taxes, municipal liens, and to the lien of any bona fide mortgage upon any Lot, and at the option of the Association, assessments may be foreclosed upon in any court of competent jurisdiction by the Association as plaintiff for the amount of the assessment with interest, late charges, attorney's fees and costs. Any judgment obtained shall be without relief from valuation or appraisal laws. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien or such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7.3. Pro-rata Share. The pro-rata share of each Owner for purposes of this Article shall be the percentage obtained by dividing one by the total number of Lots within Hunters Green ~~that have been conveyed by the Declarant to an Owner~~ ("Pro-Rata Share"). Thus, Annual and Special Assessments shall be uniform for all Lots.

Section 7.4. Basis of Annual Assessment. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be delivered to each owner within thirty (30) days prior to the beginning of each fiscal year of the Association.

Section 7.5. Basis of Special Assessment. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board of Directors of the Association may, at any time, and from time to time, levy Special Assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board of Directors of the Association shall have the right to levy at any time, and from time to time, one or more Special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the Annual Assessment.

Section 7.6. Notice of Meetings. Written notice of any meeting called for the purpose of taking action to authorize Assessments shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

Section 7.7. Fiscal Year, Date of Commencement of Assessments, Due Dates. The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association's **Board of Directors**. ~~The Annual Assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area to the Association. Declarant shall be responsible for all Common Expenses prior to its conveying the Common Area to the Association. The first annual Assessment for each Lot shall be pro-rated for the balance of the fiscal year of the Association in which such~~

~~Assessment is made.~~ The Annual Assessment for each year after the first Assessment year shall be due and payable on the first day of each fiscal year of the Association, unless a later due date is selected by the Board. Annual Assessments shall be due and payable in full ~~as of the above date~~, except that the Association's Board of Directors may from time to time by resolution authorize the payment of such Assessments in installments.

Section 7.8. Duties of the Association.

(a) The Board of Directors of the Association shall cause proper books and records for the levy and collection of each Annual and Special Assessment to be kept and maintained, including a roster identifying ~~setting forth the identification of each and every Lot and each~~ Assessment applicable thereto, which books and records shall be kept in the office of the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association ~~upon the Lots and upon the Owners~~ to be mailed to the Owners or their designated representatives as promptly as practicable and at least ~~in no event less than~~ thirty (30) days prior to the due date of such Assessment or any installment thereof. ~~In the event such~~ If notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(b) The Association shall promptly furnish to any Owner or Mortgagee upon request a certificate in writing signed by an officer of the Association, setting forth the extent to which any Assessment has been levied and paid with respect to such requesting Owner's or

Mortgagee's Lot. As to any persons relying thereon, such certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

(c) The Association shall notify any Mortgagee from which it has received a written request for notice of any default in the performance by any Owner of any obligation under the By-Laws or this Declaration which is not cured within sixty (60) days.

(d) The Association shall, upon notification of conveyance of a Lot or interest therein, provide a copy of this Declaration to the persons or entities receiving said interest.

Section 7.9. Adjustments. ~~In the event that~~ If the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for Annual Assessments or by the making of one or more Special Assessments for such purpose, at the option of the Association's Board of Directors. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, ~~a Pro-Rata Share~~ of such excess shall be a credit against the Assessment(s) due from each owner for the next fiscal year(s), or at the discretion of the Board of Directors, may be deposited into the Association's reserve account.

Section 7.10. Effect of Nonpayment of Assessments; Remedies of the Association. No Owner may exempt himself or herself from paying Annual or Special Assessments or any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas, or by abandonment of the Lot belonging to such Owner. Each Owner shall be personally liable for the payment of all applicable Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Assessments

when due, the lien for such assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (i) Impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board;
- (ii) Suspend such Owner's right to use the Common Areas within the Development;  
and
- (iii) Suspend such Owner's right to vote if the Owner is more than six (6) months delinquent.

The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessments without foreclosing or waiving the lien securing the same. In connection with any effort to collect or in any action to recover an Assessment, regardless of whether litigation is initiated, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the Lot, not only the delinquent Assessments, but also all interest, late charges, all court costs, all costs of collection, charges, fees and expenses incurred by the Association with respect to such collection effort or action, including but not limited to charges, costs, fees or other expenses incurred by the Association to a managing agent (if any) for administering, monitoring or processing delinquent Owners' accounts, and reasonable attorney's fees. The Association need not accept any tender or a partial payment of an Assessment, or any installment of an Assessment, and all costs, expenses, charges and attorney fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter.

## ARTICLE 8

### Organization and Duties of Association

Section 8.1. Organization of Association. The Association shall be organized as a not-for-profit corporation under the laws of the State of Indiana, to be operated in accordance with the Hunters Green Homeowners Association, Inc. Articles of Incorporation, Code of By-Laws and Declaration of Covenants, Conditions and Restrictions, all as amended. ~~which have been filed or will be filed by Declarant.~~

Section 8.2. Membership. The members of the Association shall consist of ~~the Declarant and~~ the Owners of Lots in Hunters Green provided that, ~~in the event that~~ if any one Lot shall be owned by more than one person, partnership, trust, corporation or other entity, they shall be treated collectively as one member for voting purposes.

The Association shall have a single class ~~two classes of voting membership.~~ ÷  
Class A. ~~Class A members shall be all Owners with the exception of the Declarant and~~ Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they amongst themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. ~~The Class B members shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned, and the first Board of Directors during their respective terms, who shall have no voting rights. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:~~



~~(a) — When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or~~

~~(b) — On January 1, 1999.~~

Section 8.3. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the By-Laws. The Board of Directors shall manage the affairs of the Association.

Section 8.4. Board Members. The number of Directors, as well as their qualifications and terms of office, shall be as described in the Association's By-Laws. ~~Initially, the Board of Directors shall consist of three members, those persons being Lisa Wampole, Henry Erickson and Michael Shotts (hereinafter referred to as Initial Board). The Initial Board shall serve as said Board members until 75% of the Lots in Hunters Green Section One have been sold and developed. Thereafter, the Board shall consist of six members who shall be Association members and to be elected by the Association membership. Each Board member shall serve a two year term. However, the first Board members elected by the Association shall serve terms as follows:~~

~~————— (a) — 2 newly elected Board members shall serve one year terms~~

~~————— (b) — 2 newly elected Board members shall serve two year terms~~

~~————— (c) — 2 newly elected Board members shall serve three year terms.~~

~~All subsequent Board members shall serve two year terms.~~

Section 8.5. General Duties of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name of, place and stead of, the individual Owners in all matters pertaining to the maintenance, repair and replacement, of the Common Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by this Declaration, for the

common benefit of all such Owners. Subject to the requirements of any Indiana statutory mandatory grievance procedures as described in the Association's By-Laws, tThe Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in this Declaration.

Section 8.6. Liability of Association. Neither the Association nor its directors, officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color or authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of willful or reckless disregard of the rights of the Owners or in the nature of the willful, intentional, fraudulent, or reckless misconduct.

Section 8.7. Amendment of Declaration. The Association shall have the right to amend this Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors and the subsequent approval of such amendment by the Owners of a majority of the Lots who are in good standing. For purposes of this provision, "good standing" shall mean Owners who are no more than six (6) months delinquent on the payment of any Assessments as determined by the Board at the time of the aforesaid approval. All Owners in good standing must be given the opportunity to vote on the proposed amendment(s). Such approval for an amendment to this Declaration may be obtained:

(a) at a meeting of the members of the Association duly called and held in accordance with the provisions of the Association's By-Laws; or

(b) by written consents or approvals received from the Owners; or

(c) pursuant to any other procedure recognized under Indiana law, including those recognized under the Indiana Nonprofit Corporations Act of 1991, as amended, including, but not limited to, written mail-in ballots; or  
(d) any combination of the above.

The President and Secretary of the Association shall execute the amendment, certifying that the Owners of a majority of the Lots who are in good standing approved such amendment.

Thereafter, the amendment shall be filed with the Marion County Recorder.~~both Owners of at least two thirds of the Lots and the Mortgagees of at least two thirds Mortgagees requesting notice of said action; provided, however, that any such amendment of this Declaration shall require prior written approval of the Declarant so long as Declarant owns at least ten Lots within Hunters Green. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Declarant when its approval is required, setting forth the facts sufficient to indicate compliance with the copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendments shall not be effective until recorded in the Office of the Recorder of Marion County. As long as there is a Class B membership, the following actions will require the prior approval of the Department of Housing and Urban Development or the Department of Veterans Affairs: annexation of addition properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.~~

Section 8.8. Insurance. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury with the amount of such coverage in no event to be less than One Million Dollars (\$1,000,000.00) for any single occurrence, occurring on or in connection with any and all

Common Areas and Landscape Easements. The Association shall also maintain in force adequate insurance, insuring all Common Property against windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions in an amount sufficient to cover any foreseeable maintenance, removal or replacement costs in the event of damage attributable to such hazards. The Association shall notify all Mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Board members, ~~the Declarant~~, any property manager, their respective employees and agents, the Lot Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more insured parties against other insured parties.

The Association shall maintain a fidelity bond indemnifying the Association, the Board of Directors and the Owners for loss of funds resulting from fraudulent or dishonest acts of any director, officer, employee or anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The fidelity bond should cover the maximum amount of funds which will be in the custody of the Association or its management agent at any time, but in no event shall such fidelity bond coverage be less than the sum of three (3) months' Assessments on all Lots in Hunters Green, plus the Association's reserve funds.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association, and all Mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be canceled or substantially modified for any reason. The Association shall cause the provisions of all insurance policies and fidelity

bonds to comply with the Federal National Mortgage Association lending guide Chapter 3, Part 5, as established on January 3, 1983, as amended on June 30, 1983, or as such guidelines may be amended thereafter.

Section 8.9. Condemnation, Destruction. In the event that any of the Common Areas shall be condemned or taken by any competent public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any Common Area condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, and the balance of such sums shall either be held as a reserve for future maintenance of the Common Area or turned over to the Owners in equal shares, ~~proportion to their Pro-Rata Shares~~, whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Areas. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage, or destruction of any Common Area.

Section 8.10. Mortgagee's Rights. The Mortgagee shall have the right, at their option, jointly and severally, to pay taxes or other charges which are in default or which may or have become a charge against the Common Area to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and Mortgagees making such payment shall be owed immediate reimbursement therefor from the Association.

## ARTICLE 9

### General Provisions

Section 9.1. Covenants Run with the Land. The covenants created by this Declaration shall attach to and run with the Real Estate and shall be binding upon every person who may hereafter come into ownership, occupancy or possession of any portion of the Hunters Green Real Estate.

Section 9.2. Scope of Covenants. ~~Declarant and e~~ Each owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in such deed, ~~is are~~ deemed to have agreed to each and every one of the various terms, Covenants, and conditions, contained in this Declaration, and the same shall be of mutual and reciprocal benefit to ~~Declarant and~~ each owner of each Lot. ~~Declarant~~ The Association and each Owner shall be entitled to enforce this Declaration against any Owner to the full extent permitted herein and under applicable law and shall have all rights and remedies for such enforcement at law or in equity. Each Owner shall be liable for such enforcement at law or in equity. Each Owner shall be liable for any failure to fully comply with all of the terms, Covenants, and conditions, contained in this Declaration only so long as each such Owner shall have any interest in any Lot; provided, however, that the relinquishing of all such interest shall not operate to release any Owner from liability for a failure to comply with this Declaration which occurred while said Owner had such interest, including the non-payment of any Assessments.

Section 9.3. Attorneys' Fees. As to any legal or equitable proceedings for the enforcement of, or to restrain the violation of, this Declaration or any provision thereof, if the party bringing such action is successful in obtaining any remedy against any defaulting Owner,

such defaulting Owner shall pay the reasonable attorneys' fees of such successful party, in such amount as may be fixed by the Court in such proceedings.

Section 9.4. Failure to Enforce Not a Waiver of Rights. The failure or delay of ~~Declarant,~~ the Association, or any Owner to enforce any term, Covenant, or condition, herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other such term, Covenant or condition.

Section 9.5. Rights of Mortgagees. Except to the extent otherwise provided in Article 7, no breach of this Declaration shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to this Declaration. The provisions of Article 8 hereinabove notwithstanding, neither the Owners nor the Association shall have any right to make any amendment to this Declaration which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

Section 9.6. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any Court, the invalidity of such provision shall not affect the validity of the remaining provision thereof.

Section 9.7. Section Headings. Section headings used herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular sections to which they refer.

Section 9.8. Notices. All notices in connection with this Declaration shall be made in writing and shall be deemed delivered (a) upon personal delivery to the individual person, if any,

designated in writing by the Owner, as listed in the roster of Owners' names and addresses referred to in Article 7; or (b) seventy-two (72) hours after the deposit thereof in any United States main or branch post office, first class postage prepaid, properly addressed to the addressee thereof at the address listed in the said roster, or (c) in a manner permitted by the Association's By-Laws.

~~Section 9. Limitations and Declarant's Rights.~~ Any notice to or approval by Declarant under any provision of this Declaration shall not be necessary after such time as Declarant owns fewer than ten (10) Lots within Hunters Green.

~~Section 10. Deed Clause to Implement Declaration.~~ Each Owner covenants and agrees that it will not execute or deliver any deed or conveyance of a fee title interest in any Lot, or any portion thereof, unless such deed or conveyance contains a clause substantially as follows:

~~"By acceptance and recording of this conveyance, the Grantee herein covenants and agrees to be bound by the Declaration of Covenants, Conditions and Restrictions for Hunters Green pertaining to the Real Estate hereby granted, which is recorded in the Office of the Recorder of Marion County, Indiana",~~

~~and properly identifying the recording instrument number therein. However, the failure to include such clause shall not have any effect on this Declaration or the enforceability thereof against Owner of any interest in any portion of the Real Estate.~~

~~Section 11. Provisions Against Merger.~~ Declarant hereby intends that the Real Estate shall be subject to this Declaration, that the Covenants contained herein shall not be merged into the title of the Declarant regardless of whether Declarant is the fee title owner of all or any part of the Real Estate at the time this Declaration is executed or recorded.



~~Section 12. Reservations of Declarant.~~ The provisions of Article VII hereof notwithstanding, Declarant hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant, so long as Declarant owns at least ten (10) Lots within Hunters Green, without the approval or consent of the Owners or Mortgagees of the Lots; provided that Declarant shall not be entitled to make any amendment which has materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Declaration to any Owner, or substantially increases the obligations imposed by this Declaration on any Owner.

Section 9.9. Rights to Common Areas. Title to all Common Areas shall be held in the Association, and each Owner shall have, as non-exclusive, reciprocal easements appurtenant to his Lot, a right of access to his Lot over the Streets, the right to reasonable use of the Recreation Area in accordance with the rules and regulations of the Association and the right of access thereto over the Streets, and the right of property utilization and benefit of the Drainage System, the Sewage System, and all utility lines and mains abutting or adjacent to his Lot; provided, however, that no Owner shall materially interfere with any other Owner in exercising his rights hereunder. ~~In the event that~~ If any Owner's use of any Common Area causes such an interference, the Association or any Owner shall have all rights and remedies provided at law or in equity, for such interference.

~~**Section 14. Transfer of Control of Owner's Association and Delivery of Warranty Deed to Common Areas. Declarant shall transfer control of the Owner's Association to the Lot Owners and give a Warranty Deed conveying the Common Areas to the Association free and clear of encumbrances no later than the earlier of (a) four (4) months after three-**~~

~~fourths (3/4) of the Lots have been conveyed to Lot purchasers or (b) seven (7) years after the first Lot is conveyed.~~

## ARTICLE 10

### Leasing Restrictions

Section 10.1. General Purposes of Leasing Restrictions: The Association's members recognize that an owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus owner occupants maintain their property better than renters generally. The Association's members wish to ensure that the residents within Hunters Green share the same proprietary interest in and respect of the Lots and the Common Areas, and to encourage residents to not only maintain property values but also to improve them by recognizing that owner occupants have more incentive to do so compared to non-owner occupants. Thus, the provisions of this Article 10 shall be applicable.

Section 10.2. Limits on the Number of Leased Lots ("Rental Cap"). No more than five (5) of the seventy-eight (78) Lots may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Article 10. The Lots described in Section 10.3 below shall count towards the five (5) Lot "rental cap". If at any time such number of Lots are leased or rented, an Owner who wants to rent or lease his or her Lot which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Lot shall immediately notify the Board of Directors of such fact and that Lot cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Lots. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors as to that Owner's intent to lease his or her Lot. After receiving such notice, the Board shall advise the Owner if his or her Lot may be leased or

whether the maximum number of Lots within Hunters Green is currently being leased. If the maximum number of Lots is being leased, the Board of Directors shall also notify the Owner of that Owner's position on the waiting list.

Section 10.3. Effective Date of "Rental Cap" on Existing Rentals. Within fifteen (15) days after the date on which this provision is recorded in the Office of the Recorder of Marion County (the "Recording Date"), the Board of Directors shall provide written notice to all Owners setting forth the Recording Date. The Rental Cap provisions of Section 10.2 shall not apply to the Owner of any Lot in Hunters Green which, as of the Recording Date, is rented or leased by its Owner to a non-owner occupant, so long as the Owner-landlord mails or otherwise delivers to the Board (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Lot (or Lots) which is in effect as of the Recording Date. Those Lots will be referred to as "Grandfathered Lots". Such lease copies may have the rental amount deleted, together with any personal identifying information such as social security numbers. The Owners of Grandfathered Lots shall not be subject to the provisions of Section 10.2, but shall be subject to the remaining provisions of this Article 10. However, when the legal owners of record of any Grandfathered Lot sells, transfers or conveys such Lot(s) to another Owner after the Recording Date, such Lot(s) shall immediately become subject to Section 10.2. Any Lot that falls under the exception of this Section 10.3 shall, nevertheless, be counted as one of the five (5) maximum Lots that may be rented at any given time even though such maximum does not apply to restrict the Owner of a Grandfathered Lot.

Section 10.4. Hardship Exceptions and Waiver. Notwithstanding Section 10.2 above, if an Owner wishes to rent or lease his or her Lot, but the maximum number of Lots is currently being leased, the Owner may request the Board of Directors to waive the "rental cap" and

approve a proposed lease if the Owner establishes to the Board's satisfaction that the "rental cap" will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Lot, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of this Article 10. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

(1) death, dissolution or liquidation of an Owner;

(2) divorce or marriage of an Owner;

(3) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Hunters Green due to a change of employment or retirement of at least one (1) of such Owners;

(4) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;

(5) difficult real estate market conditions;

(6) other similar circumstances.

Section 10.5. General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Lot other than the entire Lot shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without

joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease. It is ultimately the responsibility of the Owner, not the tenant or other occupant, to maintain the dwelling and Lot pursuant to the standards of the community and as set forth in Article III, Section 1 of this Declaration. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

Section 10.6. Two Year Waiting Period. In addition to all other provisions of this Article 10, for a period of at least two (2) years after an Owner's acquisition of a Lot, said Owner cannot lease such Lot. After such time, said Lot will be eligible to be leased if all other conditions of this Article 10 are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Association. Notwithstanding this Section 10.6, if an Owner wishes to lease a Lot prior to the end of the two-year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 10.4 above.

Section 10.7. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of the Declaration, the Articles of Incorporation, these By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 10.8. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted as well as personal identifying information such as social security numbers) shall be provided to the Board of Directors by the Owner within thirty (30) days after execution.

Section 10.9. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Article 10 shall be voidable at the election of the Association's Board of Directors or any other Owner, except that neither party to such lease may assert this provision of this Article 10 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 10.10. Institutional Mortgagees. The provisions set forth in this Article 10 shall not apply to any institutional mortgagee of any Lot which comes into possession of the Lot by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a Lot is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Article 10.

Section 10.11. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased and subject to the provisions of this Article 10 and the Owners shall have the burden of proving to the satisfaction of the Board of Directors that the occupancy is not in violation of the terms of this Article 10, including but not limited to the delivery to the Board of directors of a written statement of the nature and circumstances of the occupancy and any written

document or memorandum that is the legal basis for the occupancy. For purposes of this Article 10 and this Section 10.11, any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease, rental or other similar arrangement, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot.

Section 10.12. Certain Lots Not Counted as Rentals. The provisions of this Article 10 will not apply to any situation where a Lot is occupied by one or more family members of the Lot Owner. Thus, this kind of occupancy will not be considered a “rental”. Likewise, any Lot owned by a Trust or an Estate will not be considered a “rental” if the resident is (i) the Trustee, (ii) the Fiduciary of an Estate, or (iii) a beneficiary of the Trust or Estate.