

8665

COVENANTS AND RESTRICTIONS

for

Section One

Hawthorne Ridge Subdivision

ENTERED FOR RECORD

BOOK

PAGE

APR 15 1986

Ronnie R. Mophet  
RECORDER HENDRICKS COUNTY

1. NAME: This subdivision shall be known and designated as HAWTHORNE RIDGE, a subdivision located in Guilford Township, Hendricks County, Indiana.
2. LAND USE AND BUILDING TYPE: No lot shall be used except for single family residential purposes other than any that are designated for park or recreation. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two stories in height and a private attached garage for not less than two cars nor more than four cars, except that one Club House shall be permitted on any lot in Hawthorne Ridge designated by the developer for park or recreation. In the event the purchaser should buy two adjacent lots with purpose of building one single family dwelling across the centerline, the lot line restrictions shall not apply to the boundary lines dividing any two said lots. Exterior of dwelling shall be at least fifty (50) percent brick or stone unless approved by the Architectural Committee.
3. BUILDING LINE: Front yard set back lines, and side yard set back lines on corner lots are to be shown on the plat, between which lines and the property lines of the street there shall be no buildings or structures erected or maintained.
4. UTILITY EASEMENTS AND DRAINAGE: "Utility Easements" as shown shall be reserved for the use of public utilities for the installation of water, sewer, gas, tile and for electric or telephone line, poles, ducts, pipes, etc. on, over, under and to said easement for local public use. These easements are not for the use of and shall not be used for high voltage electric transmission lines or high pressure liquid transmission pipe lines, except by written permission of the owner of the land at the time said transmission line is to be constructed. "Drainage Easements" reserved as drainage swales are to be maintained by any owner such that the water from any adjacent lot shall have adequate drainage along such swale and cannot be blocked to prevent the flow of natural drainage, even if specified easement is not shown on the plat. All easements shown as "Utility Easements" are also to be considered drainage easements and are subject to all restrictions and maintenance assessments of drainage easements. No permanent, or other structures are to be erected or maintained upon any easements shown upon the plat and owners of lots shall take their titles subject to the rights of the above easement; no sump pump can be discharged into the street after a house is completed. The discharge of a sump pump must be installed underground with plastic pipe or vitrified tile to those designated areas.
5. ARCHITECTURAL CONTROL: No building or inground swimming pool shall be erected, placed, or altered on any lot until the construction plans and specifications and the complete plot plan have been approved by the Architectural Committee, as to the quality and type of material and workmanship, in harmony with the external design and with existing structure of finished grade elevation. Information concerning members and location of Architectural Committee may be obtained by contacting Lincoln Federal Savings Bank, Plainfield, IN. The ground floor of the main structure, exclusive of open porches and garages, shall not be less than 1700 square feet for houses of one story on lots numbered 1,2,

- 1, 4, 5, 6, 18, 21, 24, 25, 27, 11, 12, 13, 34, 35, 36, 17, 38, 39, and 2000 square feet for houses of one story on lots numbered 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 26, 28, 29, 30, and at least 1000 square feet on the first floor of houses of more than one story. (Determination of sufficiency and adequacy of the term "ground floor of main structure" with respect to dwellings of tri-level, bi level and one and one-half story design shall rest exclusively with the Architectural Committee.) Because of a Department of Natural Resources regulation, no basements will be allowed on lots 1, 21, 22, 23, 24, 25, 31, 33, 34 and 35. The finish floor elevation of houses on these lots must be above the 100 year flood elevation.
6. ARCHITECTURAL COMMITTEE: The Architectural Committee shall be composed of three members appointed by the Directors of L F Service Corporation. Said committee membership shall be made known to original lot purchasers at time of sale. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event that said written approval is not received from the Committee within twenty (20) days from the date of submission, it shall be deemed that the Committee has approved the presented plan. Once L F Service Corporation has no ownership or has no interest in Hawthorne Ridge Subdivision, the Board of Directors of L F Service Corporation shall have authority to appoint its successor Architectural Committee.
  7. BUILDING LOCATION: No building shall be located on any lot nearer to the front lot line, nor nearer to the side street lines than the minimum set-back line shown on the record plat. For the purpose of this restriction, eaves, steps, and open porches which may include a screened porch, shall not be considered 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.
  8. NUISANCES: No noxious or offensive activity shall be carried upon any lot, nor shall anything be done which may become an annoyance or nuisance to the neighborhood. This includes but is not limited to the tearing down or rebuilding of vehicles.
  9. TEMPORARY STRUCTURES: No structures of a temporary character, trailer, basement, tent, shack, garage, barn, kennel, other buildings, satellite discs larger than 18 inches in diameter and none of approved size may be decorated with pictures or words, solar panels, above ground swimming pools or radio antennas that extend more than 5 feet above the uppermost height of the roof shall be placed on any lot. For the purpose of this covenant, structures needed and used by the builders shall be allowed to remain during the building period.
  10. LIVESTOCK AND POULTRY: No animals, livestock, or poultry of any kind shall be housed, bred, or kept on any lot except family pets, which may be kept, provided they are not kept, bred or maintained for commercial purposes, and not to create or constitute a nuisance. Small animals, which are not family pets such as rabbits, may be kept as 4-H projects but must be removed within 30 days after a 4-H show.
  11. GARBAGE AND REFUSE DISPOSAL: No lots shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept, except in sanitary containers out of view from street except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash.

12. WATER SUPPLY: No individual water supply system shall be permitted on any lot.
13. SEWAGE DISPOSAL: No individual sewage disposal system shall be permitted upon any lot.
14. SIGHT DISTANCE AT INTERSECTIONS: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet and six feet above the roadways shall be placed, or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet from the intersection of the street line. The same sight line limitations shall apply on any lot within ten feet from the intersection of a street's property line with edge of driveway. No trees shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at such height to prevent obstruction of such sight lines.
15. FENCES: Fences, other than a standard chain link no higher than 42", walls or continuous shrub planting which would in any way serve the purpose of a fence, shall not be erected until approved, in writing, by the Architectural Committee.
16. SIDEWALKS AND PRIVATE DRIVES: All private drives shall be paved of blacktop or concrete; sidewalks of concrete. Both must be installed according to local code and requirements and must be completed at time of construction and before occupancy or within three years from date of purchase whichever occurs first. Lot No. 32 is not required to have a sidewalk. Compliance is an obligation of the purchaser.
17. STORAGE TANKS: Oil, gas, or gasoline storage tanks shall either be buried or located within the house or garage area so that they are completely concealed from outside view.
18. SIGNS: No sign of any kind shall be displayed to the public view on any lot, except for one sign of not more than five square feet, advertising the property for sale or for rent, or signs used by a builder to advertise the property during construction and sales period and the entrance sign on lots 1 and 22.
19. VEHICLE REGULATIONS: No vehicle of more than 3/4 ton hauling capacity shall be parked on any homesite except while making a delivery or pickup. No car, truck, or trailer that is not in operational condition and bearing the current year's license plate shall be permitted to remain on any homesite unless kept within a garage. No boat, trailer, or motorhome shall be permitted to remain on any homesite for more than five days unless kept within a garage.
20. VIOLATIONS: Enforcement shall be by proceedings at law by said Developer or Land Owner or Homeowners Association or their assignee or in equity against any person(s), partnership(s) or corporation(s) violating or attempting to violate any covenants either to restrain the violation or to recover damages. These restrictions shall inure to and be enforceable on any single family dwelling unit or common area surrounding thereof in this addition and any judgment for costs on account of legal action brought to enforce said restrictions, or any of them, shall carry with it attorney's fees for plaintiff's attorney, including but not limited to all trial fees and appeal fees, which shall attach to and be a lien upon any real estate owned by the defendant in this addition.

21. **PROTECTIVE COVENANTS:** The Protective Covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 25 years, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless changed by a vote of the majority of the then owners of the building sites covered by these covenants in whole or in part. Invalidation of any one of the covenants, by judgment or court order, will in no way affect the other covenants which shall remain in full force and effect.
22. **MAIL BOXES:** As long as a mail box is required to be installed at a street location for Postal delivery, said mail box must be supported and mounted on 4" x 4" wood material, preferably of a treated variety. Any exception, such as a decorative enclosure or support, must be approved in writing by the Architectural Committee.
23. **GAZEBOS:** Free standing gazebos are permitted if design and location is approved by the Architectural Committee.
24. **COVENANTS FOR MAINTENANCE ASSESSMENTS:**
  - A. **Creation of the Lien and Personal Obligation of Assessments.** The Developer, being the owner of Hawthorne Ridge Subdivision, hereby covenants, and each subsequent owner by acceptance of a deed of conveyance, shall be deemed to covenant and agree to pay to the Hawthorne Ridge Homeowners Association hereafter referred to as the Association; (1) Annual assessments or charges; (2) Special assessments for common area improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The lien date shall be the annual assessment due date as set forth in Paragraph G.
  - B. **Purposes of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Hawthorne Ridge Subdivision and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties situated upon the development including, but not limited to, the payment of taxes and insurance thereof and repair, replacement, maintenance, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.
  - C. **Basis and Amount of Annual Assessments.** The original assessment pursuant to the By-Laws of Hawthorne Ridge Subdivision shall be in the amount of \$75.00 per each lot sold by the Developer, its representatives or assigns, by land contract or deed an assessment shall be distributed evenly against each lot. All such assessments shall be paid to the Treasurer of the Hawthorne Ridge Homeowners Association. In no event shall any assessment or charge or special assessment as provided below be levied against or be due from developer for any lots owned by it or otherwise.
  - D. **Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section C. hereof, the Association may levy in any assessment year on each lot sold by the Developer, its representatives or

assigns, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of common area improvements, including the necessary fixture and personal property related thereto, provided any such assessment shall have the affirmative of two-thirds (2/3) of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

E. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section C hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section C. hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section C hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

F. Quorum for Any Action Authorized under Section D and E. The quorum required for any action authorized by Sections D and E hereof shall be as follows: At the first meeting called as provided in Sections D and E hereof, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement as set forth in Sections D and E, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

G. Date of Commencement of Annual Assessments. Due Dates. The Annual assessments, provided for herein, shall commence on the first day of April, 1987. The Assessment for each succeeding year shall become due and payable on the first day of April of each year. No adjustments or prorations of assessments shall be made by the Association. For the purposes of levying the assessment, assessments shall be considered as paid in advance and shall be levied against any lot which is subject to these Restrictions. The due date of any special assessment under Section D hereof shall be fixed in the Resolution authorizing such assessment.

H. Duties of the Board of Directors. The management, affairs and policies of the Association shall be vested in the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto at least thirty (30) days in advance of such assessment due date. Such assessment roster shall be kept in the office of the Association. Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Said certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

I. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section G hereof), then the assessments and costs of collection thereof as hereinafter provided, shall thereupon become a continuing lien of the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid thirty (30) days after the delinquency date, a penalty fee not to exceed \$10.00 shall be added thereto and from the date interest at the rate of twelve percent (12%) per annum may be added to the delinquent balance and penalty and the Association may bring an action at law against the property. There shall be added to such assessment, delinquent fee and interest, the cost of preparing and filing a Complaint in such action; and in all events, the judgment shall include interest on the total amount above as provided together with reasonable attorney fees, to be fixed by the court, together with all costs of any legal action incurred which includes all costs and attorney fees for appeals.

J. Subordination of the Lien to Mortgages. The lien of the assessments provided for therein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the properties subject to assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, not from the lien or any such subsequent assessment.

K. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein; (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to the public use; (b) all Common Properties of the development; (c) all properties exempted from taxation by the laws of the State of Indiana upon the terms and to the extent of such legal exemption; (d) all properties owned by the Developer, its successor and assigns, and held by them or any of them for sale or resale, including any lots which may have been reacquired by the Developer.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges and liens.

25. The Hawthorne Ridge Homeowners Association, Inc. is a not-for-profit corporation with mandatory membership and will have enforceability powers for the restrictive covenants and for the filing and collection of liens.

In witness whereof, the undersigned have set their hands and signatures  
this 15th. day of April, 1986.

L F SERVICE CORPORATION

Edward E. Whalen  
EDWARD E. WHALEN, PRESIDENT

Melba S. Hanlon  
MELBA S. HANLON, SECRETARY

STATE OF INDIANA, HENDRICKS COUNTY, SS:

Beforeme, the undersigned, a Notary Public in and for said County and State, this 15th. day of April, 1986, personally appeared L F SERVICE CORPORATION by Edward E. Whalen, it's President and Melba S. Hanlon, it's Secretary and acknowledged the execution of the foregoing COVENANTS AND RESTRICTIONS for Section One, Hawthorne Ridge Subdivision.

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

Pamela A. Bloomer  
Pamela A. Bloomer, Notary Public  
Residing in Hendricks County, Indiana

My commission expires:  
1/13/88



This instrument prepared by Edward E. Whalen.

BY-LAWS

"HAWTHORNE RIDGE HOMEOWNERS ASSOCIATION, INC."

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ARTICLE I

3916 Definitions

"Association" means Hawthorne Ridge Homeowners Association, Inc., an association composed of Owners of properties at Hawthorne Ridge Subdivision, as the same may be shown on maps thereof recorded from time to time in the Recorder's Office of Hendricks County, Indiana.

"Indenture means such Indenture(s) as may from time to time contain the covenants, liens, and charges established for the benefit of the Association, its Members, and the property and the residents of the communities located thereon.

"HRHA Property" means any property subject to the Indenture or the covenants, liens or charges imposed thereby.

"Community Facilities" shall mean and refer to any real property, common properties, or other facility or facilities intended to be devoted to the use and enjoyment of the members of the Corporation which the Corporation may own or hereafter acquire.

ARTICLE II

Location and Purpose

The principal office of the Association shall be located at 1121 East Main Street, Plainfield, Indiana 46168.

The general objects and purposes of this Corporation shall be to promote and foster mutual understanding and good will; to enhance the Hawthorne Ridge subdivision, Guilford Township, Hendricks County, through the realization of common interests; to establish thereon and to administer and enforce covenants, conditions, restrictions, reservations, servitudes, profits, licenses, easements, liens or charges for the support and benefit of the Corporation and the welfare or betterment of such communities or residents thereof; and to provide for the preservation of the values and amenities of any and all real property, or other Common Properties which the Corporation may own or hereafter acquire.

In furtherance of, and not in limitation of the general powers conferred by the laws of Indiana, and the objects and purposes set forth in this instrument it is expressly provided that this Corporation shall also have the following powers, viz:

- (a) To continue as a corporation, under its corporate name perpetually;
- (b) To sue and be sued in its corporate name;
- (c) To have a corporate seal and to alter the same at pleasure, and to use such seal generally, but the use of such seal shall be necessary only as required by law;

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*Bonnie A. Mowles*  
HENDRICKS COUNTY RECORDER



- (d) To acquire, own, hold, use, lease, mortgage, pledge, sell, convey or otherwise dispose of property, real and/or intangible, legal or equitable;
- (e) To borrow money, and to issue, sell or pledge its obligations and evidences of indebtedness, and to mortgage or pledge its property and franchises to secure the payment thereof;
- (f) To appoint such officers and agents as the affairs of this Corporation may require, and to define their duties and fix their compensation;
- (g) By its Board of Directors to make, alter, amend or repeal By-laws for the government and regulation of its affairs;
- (h) To cease the Corporation's activities and to dissolve and surrender its corporate franchise;
- (i) To provide for the acquisition, construction, management, maintenance, and care of the Corporation property;
- (j) To do all acts and things necessary, convenient or expedient to carry out the purpose for which it is formed; provided that this Corporation shall not, by any implication or construction be deemed to possess the power of engaging in any activities for the purposes of or resulting in the pecuniary remuneration to its members as such, but this provision shall not be deemed to prohibit reasonable compensation to members for services actually rendered; nor shall such corporation be prohibited from engaging in any undertaking for profit so long as such undertaking does not inure to the profit of its members;
- (k) The Corporation shall not be organized nor operated for profit, nor shall it participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE III

Membership

1. Eligibility. The Members of the Association are determined by Article V of its Articles of Incorporation. The rights of Members are subject to (a) the payment of the annual charges imposed by Indenture, and (b) compliance with the covenants of the Indenture and the rules and regulations of the Board of Directors regarding the use of HRNA Property and the conduct of Members, their families, their tenants, and the guests of any thereof. As provided in the Articles, the voting and other membership rights of any Member may be suspended by action of the Directors during any period when such Member shall have failed to pay any Annual Assessment and/or Special Assessment then due and payable; but, upon payment of such Assessment, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of HRNA Property, or any Community Facilities, or the personal conduct of any person thereon, the voting or other membership rights of any Member may be suspended by action of the Board of Directors for a period not to exceed 30 days, if he, any member of his family, his tenants, or the guests of any thereof shall have violated such rules and regulations.

2. Rights and perquisites of membership. Each member is entitled to the use and enjoyment of the HRNA Property and any Community Facilities in accordance with the Indenture. Such rights may be delegated to and exercised by all members of his family who reside upon the Property, any of his tenants who reside there under a lease for a term of one year or more, and the guests of any thereof. Each Member shall notify the Secretary of the Association in writing of the name and relationship to the member of any person who shall be entitled to exercise such rights under

this Section. The rights and privileges of such person are subject to suspension by the Board in the same manner and for the same reasons as those of any Member under the preceding Section.

ARTICLE IV

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Meetings of Members

1. Annual meetings. The Annual Meeting of the Members shall be held at the office of the Association specified in the Notice of the Meeting, on the last Thursday in January in each year, at the hour of 7:00 p.m., commencing on the last Thursday in January of the year 1986.
2. Special meetings. Special meetings of the Members for any purpose may be called at any time by the President, or by any five or more Directors. The Secretary shall call a special meeting upon written request of the members who have a right to vote one-fourth (1/4) of all of the votes of the entire membership.
3. Notices. Notice of meetings shall be given to the Members by the Secretary. Notice may be given to the Member either personally, or by mailing a copy of the notice, postage prepaid, to the address appearing on the books of the Corporation. (Each Member shall register his address and any change in address with the Secretary.) Notice of any meeting, regular or special, shall be mailed not less than ten nor more than thirty days in advance of the meeting and shall set forth the purposes of the meeting.
4. Proxy voting. At any membership meeting the presence, whether in person or by proxy, of Members entitled to vote not less than 10% of the total membership vote, shall constitute a quorum for the transaction of business. All proxies shall be in writing and be filed with the Secretary at the commencement of the meeting. Any proxy given by a person who shall not be a qualified Member at the date of the meeting and any proxy given more than eleven months before the date of the meeting shall be void.

ARTICLE V

Assessments to Property Owners Association

1. Each owner of property shall pay assessments to Hawthorne Ridge Homeowners Association, Inc. as required under the restrictive covenants and conditions for the Hawthorne Ridge Subdivision.
2. Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents in the Development and, in particular, for the improvement, maintenance and construction of facilities devoted to the use of all members.
3. Annual Assessments shall be paid in advance and shall be due on the dates specified in Paragraph G of the Restrictive Covenants. No adjustments of prorations of assessments shall be made by the Association. The due date of any special assessment under Paragraph D of the Restrictive Covenants shall be fixed in the Resolution authorizing such assessment.
4. The Board shall prepare a roster of the properties and assessments applicable thereto at least thirty days in advance of such assessment due date. Such assessment roster shall be kept in the office of the Association and shall be open for inspection

by an owner. Written notice of assessment shall be sent to every property owner subject thereto.

5. If any assessment is not paid when due, such assessment, including the cost of collection thereof, shall become a continuing recorded lien on the property, which shall bind the property in the hands of the then owner, his heirs, devisees, personal representatives and assigns, in accordance with Paragraph I of the Restrictive Covenants. If the assessment is not paid within thirty days after the due date, there shall be added to the delinquent assessment those penalty fees, interest, cost and reasonable attorney's fees authorized pursuant to Paragraph I of the Restrictive Covenants.

6. The lien for delinquent assessments provided for herein shall be subordinated to the lien of any mortgage or mortgages now or hereafter placed upon the properties pursuant to Paragraph J of the Restrictive Covenants.

7. Exempt Property. The following property subject to the Restrictive Covenants shall be exempt from the assessments, charges and liens, created therein:

(A) All properties to the extent of any easement or other interest therein dedicated and accepted by a local public authority and devoted to public use;

(B) All common properties as defined in Article I, Paragraph 4;

(C) All properties exempted from taxation by the laws of the State of Indiana upon the terms and to the extent of such legal exemption;

(D) All properties owned by the Developer, its assigns and successors, and held by them or any of them for the purposes of engaging in the business of sale or resale of such property, including any lots which may have been reacquired by the Developer.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

#### ARTICLE VI

##### Finance

1. The fiscal year of the Association shall begin on the first day of January each year, unless changed by resolution of the Board of Directors.

2. No later than the 31st day of December a budget of estimated income and expenditure for the next fiscal year shall be adopted by the Board. This budget shall be available for inspection by the members at the office of the Association. A summary of the approved budget shall be included in the notice of the next regular meeting of the Association.

3. The Board of Directors shall determine the official depository or depositories:

(A) After acceptance of responsibility by the Association for the administration of the assessment funds, the Treasurer shall be authorized to issue checks for expenditures incurred for the Association, provided the amount of such checks issued does not exceed in that fiscal year, the amount budgeted, in accordance with Article VI, Section 2 hereof.

(B) All checks shall be signed by the Treasurer hereunder. ~~Such officer shall~~ <sup>BOOK 118 PAGE 691</sup>  
be bonded in an amount determined by the Board. Indemnity bond premiums shall be  
paid by the Association.

(C) An accounting of all the Association's receipts and disbursements for the previous  
fiscal year shall be prepared each year before the annual meeting, at which meeting  
the accounting in written form shall be made available to the membership.

#### ARTICLE VII

##### Special Assessments

1. It is declared the policy of this Association that special assessments  
are generally undesirable and shall be levied only in an emergency or under extra-  
ordinary circumstances.
2. Special assessments shall be levied only upon the recommendation of the  
Board and with the consent of voting members, pursuant to Paragraph D of the Restrictive  
Covenants.
3. The due date of any special assessment shall be fixed in the Resolution  
authorizing such assessment. Special assessments not paid within thirty days after  
the due date shall be collected pursuant to Paragraph 1 of the Restrictive Covenants.

#### ARTICLE VIII

##### Board of Directors

1. Membership and powers. The Association shall be governed by a Board of  
Directors. Without limiting the generality of the preceding sentence, or any  
power vested in it by law, the Board of Directors shall have the power (a) to appoint  
and remove at its pleasure all officers, agents and employees of the Association,  
prescribe their duties, fix their compensation and require of them security or fidelity  
bonds as it may deem expedient (nothing contained in these By Laws shall be construed  
to prohibit the employment of any Member, officer or director of the Association  
in any capacity whatsoever); (b) to establish, levy, assess and collect the Annual  
Assessment and/or Special Assessment and all other charges referred to in the Indenture;  
(c) to adopt and publish rules and regulations governing the use of HBHA Property  
and Community Facilities, and the personal conduct of Members, their family, their  
tenants, and their guests with respect thereto; (d) to exercise for the Association  
all power, duties, and authority vested in or delegated to this Association, except  
those expressly reserved to the Members; and (e) in the event any member of the  
Board of Directors of this Association shall be absent from three consecutive regular  
meetings of the Board of Directors, the Board may by action taken at the meeting  
in which such third absence occurs declare the office of said absent Director to  
be vacant.
2. Duties. It shall be the duty of the Board of Directors (a) to cause to  
be kept a full, true and accurate record of its acts and corporate affairs and to  
present a statement thereof to the Members at the Annual Meeting of the Members  
or at any special meeting when requested in writing by one-fourth (1/4) of the full  
membership; (b) to supervise all officers, agents and employees of this Association,

and to see that their duties are properly performed; (c) to receive and disburse the funds of the Association, (i) to fix the amount of the Annual Assessment and/or Special Assessments against each lot or living unit as soon as may be practicable after the beginning of each calendar year and in any event before April 1; (ii) to prepare a roster of the properties and Annual Assessment and/or Special Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member; and (iii) to send written notice of each assessment to every owner subject thereto; (d) to issue or to cause an appropriate officer to issue, upon demand by any person a certificate stating whether any Annual Assessment or Special Assessment has been paid, which shall be conclusive evidence that any charge stated therein has or has not been paid. The Board shall adopt such rules and regulations relating to the use of the common properties and sanctions for noncompliance therewith, as it may deem reasonable necessary in the best interests of the Association and its members.

3. Vacancies. Vacancies in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors and any such appointed Director shall hold office for the unexpired term of his predecessor in office.

ARTICLE IX

Directors' Meetings

1. Annual meetings. The Annual Meeting of the Board of Directors shall be held immediately following adjournment of the Annual Meeting of the Members in each year.

2. Notice; waiver. No notice need be given for the Annual meeting of the Board. Notice of any special meeting shall be sufficient if mailed to each Director, postage prepaid, at his address as it appears on the records of the Association, at least three days before the meeting or given personally or by telephone not later than the day before the meeting. No notice need be given to any Director who attends the meeting, or to any Director who in writing (before or after the Meeting) waives such notice.

3. Special meetings. Special meetings of the Board of Directors shall be called by the Secretary upon request by any officer of the Association or by any two Directors. The action of a majority of the Board, although not at a regularly called meeting, shall be valid and effective in all respects if the record of the meeting shall be assented to in writing by all members.

4. Quorum. At all meetings of the Board a majority of the Board of Directors shall constitute a quorum, and, except as otherwise provided by law or by the By Laws, the act of a majority of the Directors present shall be the act of the Board.

ARTICLE X

Election of Directors

1. Term of office. Each Director of the Association shall be a member of the Association, and a Director shall cease to be a Director when he ceases to be a member. Directors shall be elected for periods of up to three (3) years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the Board of Directors each year.

2. Ballots. The election of Directors shall be written ballot as hereinafter provided. At each Annual Meeting or at any special meeting called for the purpose of electing Directors, the Members or their proxies may cast, in respect of each vacancy, as many votes as they are entitled to cast under the Articles of Incorporation of the Association. The nominees receiving the largest number of votes shall be elected.

3. Nominations; nominating committee. Nominations for election to the Board of Directors shall be made by the Nominating Committee, which shall consist of a Director, who shall be the Chairman, and one or more Members of the Association or an officer of a corporate member. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members to serve during such Annual Meeting and until the next Annual Meeting or until its successor shall have been duly designated and qualified. The members of the Nominating Committee shall be announced at each Annual Meeting of the Members.

4. Nominees. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies to be filled. Such nominations may be made from among Members, as the Committee in its discretion shall determine. Nominations shall be placed on a written ballot as provided in Section 5 and shall be made in advance of the time fixed in Section 5 for the mailing of such ballots to the Members.

5. Procedure. All elections of the Board of Directors shall be made on written ballots which shall (a) describe the vacancies to be filled; (b) set forth the names of those nominated by the Nominating Committee for such vacancies; and (c) contain a space for a write-in vote by the members for each vacancy. Such ballot shall be prepared and mailed by the Secretary to the Members at least fourteen days in advance of the date set forth therein for a return (which shall be a date not later than the day before the Annual Meeting or any special meeting called for the purpose of electing Directors).

6. Voting. Each Member shall be mailed a ballot on which he may cast the number of votes to which he is entitled. The completed ballot shall be returned in the manner hereinafter outlined. The ballot shall bear on its face the name and signature of the Member, the number of votes being cast and such other information as the Board of Directors may determine will serve to establish his right to cast the vote or votes stated therein. The ballot shall be clearly designated by the Secretary.

7. Processing. Upon the receipt of each return, the Secretary shall immediately place it in a safe place. Not more than twenty-one days prior to the day set for the meeting at which the elections are to be held, the envelopes shall be turned over, unopened, to an Election Committee which shall consist of three persons appointed by the Board of Directors. All returns thereafter received by the Secretary on or before the date set for a return shall accordingly be turned over to the Election Committee. The Election Committee shall adopt a procedure which shall (a) establish that the Member is entitled to cast either personally or by proxy, the number of votes indicated on the ballot; and (b) that the signature of the Member on the ballot is genuine; and (c) if the vote is by proxy, that the proxy has been filed with the Secretary as provided in Article IV, Section 4, and that such proxy is valid. After the procedure has been completed relative to a ballot the count of the vote shall be taken. All ballots and proxies as well as any continuing tally of the

votes shall be kept by the Election Committee, when not being presented, in a safe place. The ballots shall be retained for ninety days after the meeting and then destroyed.

ARTICLE XI

BOOK 118 PAGE 684

Officers

1. Offices. The officers of the Association shall be a President, Secretary, one or more Assistant Secretaries and a Treasurer. The President and Treasurer shall be members of the Board of Directors by reason of their offices.
2. Election by board of directors. All officers shall be elected at such Annual Meeting of the Board, and each officer shall hold office until the next Annual Meeting of the Board, and each officer shall hold office until his successor shall have been duly elected and qualified or until his earlier death, resignation, or removal in accordance with the By Laws. The officers shall be chosen by a majority vote of the Directors.
3. President; duties. The President shall be the chief executive officer of the Association and as such shall have general supervision of the affairs and property of the Association and over its several officers, subject to the direction of the Board of Directors. The President shall, if present, preside over all meetings of the Board of Directors, and shall generally do and perform all acts incident to the Office of President. He may sign in the name and on behalf of the Association all notes, leases, mortgages, deeds and all other written instruments authorized by the Board, except where the Board shall delegate the execution thereof to some other officer or agent of the Association.
4. Secretary; duties. The Secretary shall act as Secretary of the Board of Directors and shall record the votes and keep the minutes of all proceedings in a book to be kept for the purpose. He shall sign all certificates of membership. He shall keep the records of the Association. He shall record the names and addresses of all Members of the Association, shall see that all notices are duly given as required by the By Laws or applicable law, and shall be custodian of the corporate seal.
5. Treasurer; duties. The Treasurer shall receive and deposit in bank accounts approved by the Board all moneys of the Association and shall disburse such funds as directed by a resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for the disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all check and notes of the Association, and shall be the chief executive officer in case of the absence or disability of the President.
6. Books and accountings. The Treasurer shall keep proper books of account and cause an annual audit of the Association's books to be made by an independent accountant at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement and the budget, and balance sheet statement shall be presented to the membership at its Annual Meeting.

ARTICLE XV

BOOK 119 PAGE 696

Fiscal Year

The fiscal year of the Corporation shall coincide with the calendar year.

ARTICLE XV

Amendments

1. Amendment procedure. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of the majority of a quorum of the Members present in person or by proxy, provided that those provisions of these By Laws which are covered by the Articles of Incorporation of this Association may not be amended except as provided in the Articles of Incorporation or applicable law; and provided further that any matter stated herein to be or which is in fact covered by the Indentures may not be amended except as provided therein.

2. Resolution of conflicts. In the case of any conflict between the Articles of Incorporation and these By Laws, the Articles shall control; and in the case of any conflict between the Indentures and these By Laws, the Indentures shall control.

This instrument prepared by Edward E. Whalen, President, L F Service Corporation