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DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
DIAMOND POINTE

This Declaration of Covenants, Conditions and Restrictions of Diamond Pointe made this 5th day of May, 1989, by the Shorewood Corporation, a Pennsylvania Corporation, hereinafter referred to as "Developer".

WITNESS:

1. Developer is the owner of a forty-one lot tract of land named Diamond Pointe and more particularly described in Exhibit A, attached. Although lots 28 and 29 of the Diamond Pointe subdivision are included in the Plat of Diamond Pointe, these two lots shall only be subject to this Declaration of Restrictions as provided in Paragraphs 2, 3 and 6.D hereof and shall not be subject to the further conditions set forth in this Declaration of Covenants, Conditions and Restrictions of Diamond Pointe.

2. The development, use and enjoyment of all land within Diamond Pointe is subject to a certain Declaration of Restrictions of Ceist Harbours hereinafter called the "Umbrella Association" recorded May 14, 1981 as Instrument 81-29285 in the Office of the Recorder of Marion County, Indiana, in addition to the provisions contained herein.

3. Each owner or contract purchaser of a residential lot in Diamond Pointe including Lots 28 and 29, shall be a member of the Umbrella Association as is prescribed in Paragraphs 9 and 10 of said Umbrella Association including the imposition of mandatory assessments, the lien of assessments and such other restrictions, rights and duties prescribed therein.

4. In addition to assessments payable to the Umbrella Association the owners of lots in Diamond Pointe, with the exception of the Developer and the owners of Lots 28 and 29, shall be members of the to-be-formed Diamond Pointe Property Owners' Association, Inc., (a not-for-profit association which will be created under the laws of the State of Indiana) and shall pay uniform, mandatory assessments to the Diamond Pointe Property Owners' Association for the following purposes:

- A. Ownership and maintenance of the private street system designated Block "A" in the recorded plat of Diamond Pointe.
- B. Costs of maintenance of the easement area for the ornamental screening wall, landscaping and gated entrance to be constructed by Developer from the southeasterly corner of Lot 1 to the Southwesterly corner of Lot 28 in the plat of Diamond Pointe.
- C. Costs of maintenance of Block C, a pedestrian access way, as shown on the record Plat of Diamond Pointe. (See paragraph 5.A of these Restrictions).
- D. Costs of maintenance of the Common Drives shown as Blocks B, D, E, F and G on the record Plat of Diamond Pointe. (See paragraph 5.B of these Restrictions).

5. Common Areas

The Developer shall cause title and responsibility for the private streets designated Block "A", the common drives designated as Blocks B, D, E, F and G, the pedestrian way designated as Block "C", and the easement rights for the security and screening wall and entrance gates along Admirals Pointe Drive to be transferred to the Diamond Pointe Property Owners' Association, Inc. at such time as the Developer deems appropriate. Until Developer transfers said interest in the above-described parcels and improvements, Developer shall retain exclusive control of same including reasonable regulations for the use and maintenance of said commons areas.

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LAWRENCE TOWNSHIP  
ASSESSOR

A. Block C on the recorded plat of Diamond Pointe shall be owned and maintained by the Association as herein provided as a pedestrian access way. The Developer shall install and provide boat docks at this location to all off water lots ("OWL") in Diamond Pointe excepting Lots 28 and 29, as part of the lot purchase price; (such Lots being numbered 1 through 6, 10, 11 and 17 through 27). Ownership of such docking facilities shall be appurtenant to the Lot and shall run with the land. Such docks shall be used exclusively by the owners of a particular O.W.L. and shall not be assigned nor sublet to non-residents of Diamond Pointe. At no time shall there be more than 19 boat docks/spaces attached to Block C. The Association shall set out reasonable rules and regulations for the use and enjoyment of said Block C.

B. The Blocks designated on the recorded plat of Diamond Pointe as Common Drives, Blocks B, D, E, F and G, shall be owned and maintained by the Association. Some lot owners will find that they must utilize these blocks as access to the private street system. Other lot owners, whose lots abut both the private streets of Block A and a Common Drive have the option of utilizing the Common Drive, subject to approval by the Development Control Committee. Those lots which utilize the Common Drives may be subject to an additional assessment as set out in Paragraph 6A, iii.

Once all lots abutting a Common Drive are built upon, the Association may elect, but is not required, to transfer ownership of the specific Common Drive Block to those owners utilizing that Common Drive. Such transfer would be as an undivided interest not separately conveyable from the subject lot.

6. Diamond Pointe Property Owners' Association, Inc.

Each owner of a Lot in Diamond Pointe, except for Lots 28 and 29, shall automatically become a member of the to-be-formed Association and shall be entitled to one (1) vote per lot for which such Owner holds title.

A. The powers of the to-be-formed Diamond Pointe Property Owners' Association, Inc., to levy and collect charges and impose liens shall be as follows:

(i) The Association shall have all of the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law, including the power to levy a uniform annual charge or assessment against the subject lots within the Development. Such charge shall be established by the Board of Directors at their first annual meeting after consideration of the financial requirements of the Association. No charge shall ever be levied by the Association against the Developer or any corporation that may be created to acquire title to and operate utilities serving the Development.

(ii) Every such charge shall be paid in advance by the members of the Association before the first day of March of the year for which the charge is made. The Board of Directors of the Association shall fix the amount of the annual charge by the first day of February of each year, and written notice of the charge so fixed shall be sent to each member. Assessments shall be payable on the contract closing of a lot or the delivery of the deed for a lot, whichever occurs first. Payments shall be prorated from the date of closing until the following March 1st and thereafter payable annually.

(iii) In addition, the Association may at its discretion levy a special assessment against those lot owners who utilize the blocks designated as Common Drives as access to the private street system. Said assessment would be for the purpose of necessary maintenance and repairs of the specific Common Drive used by those lot owners.

(iv) Any charge levied or assessed against any lot, together with interest and other charges and costs hereinafter provided, shall become and remain a lien upon that lot until paid in full, subordinate only to the lien of a first mortgage, and shall also be a personal obligation of the Owner or Owners of the lot at the time the charge fell due. Such charge shall bear interest at the rate of one per cent (1%) per month until

paid in full. If, in the opinion of the Board of Directors of the Association, such charge has remained due and payable for an unreasonably long period of time, the Board may, on behalf of the Association, institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court or competent jurisdiction. The legal or equitable Owner of the lot or lots subject to the charge, shall, in addition to the amount of the charge at the time legal action is instituted, be obliged to pay the expense or costs, including attorney's costs, incurred by the Association in collecting the same. Every legal or equitable owner of a subject lot in the Development and any person who may acquire any interest in such lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become a legal or equitable Owner of a subject lot in Diamond Pointe is hereby notified that by the act of the acquiring such title, such person shall be conclusively held to have covenanted to pay the Association all charges that the Association shall make pursuant to these Restrictions.

(v) The Association shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Association that the assessment on a specified lot has been paid or that certain assessments against said lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(vi) Notwithstanding any other provision contained herein, the Board of Directors of the Association shall have the right to suspend the voting rights, if any, and the services to be provided by the Association together with the right to use the facilities of the Association, of any member (i) for any period during which any of the Association's charges or any fines assessed under these Restrictions owed by the member remain unpaid; (ii) during the period of any continuing violation of the restrictive covenants for Diamond Pointe, after the existence of the violation shall have been declared by the Board of Directors of the Association; and (iii) during the period of any violation of the Articles of Incorporation, By-Laws or regulations of the Association.

B. The Association, by its Board of Directors, shall adopt reasonable regulations for the use and enjoyment of the described common areas and such other activities in Diamond Pointe deemed beneficial to those owners so long as such regulations are not in conflict with the Declaration of Restrictions of Geist Harbours as set forth in Paragraph 2 hereof or other burdens of title existing upon the subject property of record.

C. The Association by its Board of Directors is empowered to establish and collect fines for violations of these Restrictions or any reasonable rules and regulations set out and published by the Board of Directors. In consideration of the foregoing power, the Board of Directors is empowered to enforce these fines in a court of law and any judgment so rendered by the Court shall be recorded as a lien against the property until satisfied in full, including court costs and attorney fees which shall be recoverable by the Board of Directors from the offending party.

D. As set forth in Paragraph Two and Three hereof, each owner or contract purchaser of a residential lot in Diamond Pointe including Lots 28 and 29 is a member of the "Umbrella Association", and pursuant to the amended By-Laws of the Umbrella Association, the lot owners and or contract purchasers of lots in Diamond Pointe including Lots 28 and 29 together with the lot owners and or contract purchasers of Admirals Pointe and Crossing South shall collectively be entitled to elect one Director to the Board of Directors of the Umbrella Association. However, nothing in this paragraph shall prevent any owner in Diamond Pointe from being elected as a Director of the Umbrella Association or appointed as an officer or member of a committee of the Umbrella Association.

## 7. Remedies

A. In General. Any party to whose benefit this Declaration inures, including the Developer or Indianapolis Water Company (with respect to activities that affect Geist Reservoir) may proceed at law or in equity to prevent the occurrence or continuation of any violation of these covenants, conditions and restrictions but neither the Developer nor The Indianapolis Water Company shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these covenants, conditions and restrictions.

B. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these covenants, conditions and restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation. Further, upon written request to the Umbrella Association, the to-be-formed Association can enforce, in the name of the Association, all or any part of the Declaration of Restrictions of Geist Harbours and these restrictions as they directly or indirectly affect the use and enjoyment of the Lot Owners in Diamond Pointe.

## 8. Amendments

Amendment of these Restrictions shall be as follows: The affirmation vote of not less than 2/3rds of the lot owners, one vote per lot, shall be necessary to effect amendment of these Restrictions. Any such Amendment shall be recorded in the Office of the Recorder of Marion County. Anything contrary notwithstanding.

## 9. Effect of Becoming an Owner

The owners of any lot subject to these Restrictions by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the developer or a subsequent owner of such lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement contained herein. By acceptance of such deed or execution of such contract, the owner acknowledges the rights and powers of the Developer, Committee and of the Association with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such owners covenant and agree and consent to and with the Developer, Committee and the Association and to and with the owners and subsequent owners of each of the lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

## 10. Titles

The underlined titles preceding the various paragraphs and subparagraphs of these Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

## 11. Duration

The foregoing covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2069, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then owners of a majority of the numbered lots in the Development or The Indianapolis Water company with regard to its Geist Reservoir.

EXHIBIT "A"

Part of the East Half of Section 16 and part of the West Half of Section 15, Township 17 North, Range 5 East in Marion County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 15, which said corner lies North 00 degrees 12 minutes 44 seconds East (assumed bearing) from the Southwest corner of the Northwest Quarter of Section 22, Township 17 North, Range 5 East, and said corner lies South 89 degrees 01 minute 49 seconds West from the Southeast corner of the Southwest Quarter of said Section 15; thence along the South line of the Southwest Quarter of said Section 15 North 89 degrees 01 minute 49 seconds East 1335.00 feet; thence North 00 degrees 58 minutes 11 seconds West 110.00 feet; thence North 52 degrees 31 minutes 31 seconds West 170.93 feet; thence North 28 degrees 58 minutes 05 seconds West 257.77 feet; thence North 02 degrees 12 minutes 30 seconds East 500.00 feet; thence North 87 degrees 47 minutes 30 seconds West 543.85 feet to a curve having a radius of 1065.00 feet, the radius point of which bears South 02 degrees 12 minutes 30 seconds West; thence Westerly along said curve 351.02 feet to a point which bears North 16 degrees 40 minutes 35 seconds West from said radius point; thence South 73 degrees 19 minutes 25 seconds West 73.06 feet; thence North 16 degrees 40 minutes 35 seconds West 70.00 feet; thence North 73 degrees 19 minutes 25 seconds East 10.00 feet; thence North 16 degrees 40 minutes 35 seconds West 282.11 feet to a curve having a radius of 435.00 feet, the radius point of which bears North 73 degrees 19 minutes 25 seconds East; thence Northerly along said curve 177.15 feet to a point which bears North 83 degrees 20 minutes 37 seconds West from said radius point, which is the Point of Beginning; thence North 72 degrees 14 minutes 15 seconds West 840.59 feet; thence North 17 degrees 51 minutes 25 seconds West 564.18 feet; thence North 15 degrees 51 minutes 07 seconds East 86 feet, more or less, to a point on the shore line of Geist Reservoir as established when said Reservoir is full (with the water level thereof at an elevation of 785.0 feet above mean sea level); thence generally Northerly, Easterly, Southerly, Easterly, Northerly, Westerly, Northerly, Southerly and Easterly along said shore line to a point which bears North 64 degrees 02 minutes 46 seconds West 60 feet, more or less, from a point which bears North 00 degrees 54 minutes 23 seconds East 1607.07 feet from the point of beginning; thence from said shore line bear South 64 degrees 02 minutes 46 seconds East 60 feet, more or less, to said point which bears North 00 degrees 54 minutes 23 seconds East 1607.07 feet from the point of beginning; thence South 60 degrees 27 minutes 59 seconds East 84.66 feet; thence South 28 degrees 55 minutes 17 seconds East 395.55 feet; thence South 83 degrees 17 minutes 27 seconds East 158.20 feet; thence South 25 degrees 40 minutes 20 seconds East 298.57 feet; thence South 58 degrees 53 minutes 40 seconds West 115.64 feet to a curve having a radius of 600.00 feet, the radius point of which bears South 31 degrees 06 minutes 20 seconds East; thence Southwesterly along said curve 372.50 feet to a point which bears North 66 degrees 40 minutes 35 seconds West from said radius point; thence South 23 degrees 19 minutes 25 seconds West 515.77 feet to a curve having a radius of 435.00 feet, the radius point of which bears South 66 degrees 40 minutes 35 seconds East; thence Southerly along said curve 126.54 feet to a point which bears North 83 degrees 20 minutes 37 seconds West from said radius point, which is the Point of Beginning, containing 33.39 acres, more or less.

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CROSS REFERENCE

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CROSS REFERENCE

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AMENDMENT TO DECLARATION OF  
COVENANTS AND RESTRICTIONS  
OF DIAMOND POINTE

DATE RECORDED  
MARION COUNTY RECORDERS

This Amendment to a certain Declaration of Covenants,  
Conditions and Restrictions ("Declaration") of Diamond Pointe  
recorded May 12, 1989 as Instrument No. 89-0044542 in the office  
of the Recorder of Marion County, Indiana,

Witness:

WHEREAS, The Shorewood Corporation as owner and developer of  
a subdivision known as Diamond Pointe who imposed certain Covenants  
and Restrictions, more particularly identified and described as set  
forth above; and,

WHEREAS, The Declaration established common drives designated  
as Blocks B, D, E, F and G to be incorporated in the Plat of  
Diamond Pointe with provisions that they be owned and maintained  
by a to-be-formed Diamond Pointe Property Owners' Association, Inc.  
("Association") with lots utilizing such Common Drives subject to  
an additional assessment for maintenance and repairs; and,

WHEREAS, said Blocks were established to provide vehicular  
access to the private street system; and,

WHEREAS, Block G was created to provide street access to Lots  
2 and 3 in Diamond Pointe per plat thereof recorded May 12, 1989  
as Instrument No. 89-0044543 in the Office of the Recorder of  
Marion County, Indiana, but contemporaneous with this Amendment  
Lots 2 and 3 are being combined as a single building site and there  
is no longer a need for Block G.

NOW, THEREFORE, pursuant to paragraph 8 of the Declaration  
concerning Amendment thereof, by an affirmative vote of more than  
two-thirds (2/3) of the lot owners of Diamond Pointe, these  
restrictions were and are hereby amended to withdraw Block G as a  
Common Property to be owned by the Association and Block G is  
hereby added to Lot 2 in Diamond Pointe to be owned, controlled,  
maintained, used as a part of the residential lot, and taxes paid  
thereon in the same manner as Lot 2 with the exception that there  
shall be maintained over Block G a front building setback line of  
25 feet from Diamond Pointe Court.

In witness whereof, developer and owner of more than two-  
thirds (2/3) of the Lots in Diamond Pointe has caused this  
Amendment to Declaration of Covenants and Restrictions of Diamond  
Pointe this 23rd day of January, 1990.

THE SHOREWOOD CORPORATION

By: Philip W. Klinger  
Philip W. Klinger  
Exec. V.P. Finance

ATTEST:  
Nancy Martikke  
Nancy Martikke, Assistant Secretary

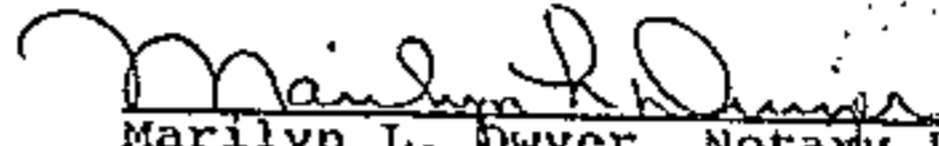
STATE OF INDIANA )  
                    ) SS:  
COUNTY OF HAMILTON )

Before me a Notary Public in and for said County and State,  
personally appeared Philip W. Klinger and Nancy Martikke, the  
Executive Vice President-Finance and Assistant Secretary,

CERTIFIED  
RECORDED  
JAN 23 1990 02154

respectively of The Shorewood Corporation, who acknowledged execution of the foregoing Amendment to Declaration of Covenants and Restrictions of Diamond Pointe, and who, having been first duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 23rd day of January, 1990.

  
Marilyn L. Dwyer, Notary Public

My Commission Expires: 10-14-92  
My County of Residence: Boone

This instrument was prepared by William F. LeMond, 600 Union Federal Building, 45 N. Pennsylvania Street, Indianapolis, IN 46204, (317)635-4500.

900007543

COPY

SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF DIAMOND POINTE

This Amendment is made this 10<sup>th</sup> day of May, 1997 to that certain Declaration of Covenants, Conditions and Restrictions ("Declaration") of Diamond Pointe recorded May 12, 1989 as Instrument No. 89-0044542 in the Office of the Recorder of Marion County, Indiana, and as amended by Amendment to Declaration of Covenants and Restrictions of Diamond Pointe dated January 23, 1990, and recorded January 23, 1990 as Instrument No. 900007543 in the Office of the Recorder of Marion County, Indiana.

RECITALS

A. The Declaration established common drives designated as Blocks B, D, E, F and G which have been incorporated in the Plat of Diamond Pointe with provisions that they be owned and maintained by the Diamond Pointe Property Owners' Association, Inc. ("Association") with lots utilizing such Common Drives subject to an additional assessment for maintenance and repairs; and,

B. Block D was created to provide street access to Lots 7, 8 and 9 in Diamond Pointe per plat thereof recorded May 12, 1989 as Instrument No. 89-0044543 in the Office of the Recorder of Marion County, Indiana.

C. The owner of Lot 11 has purchased Lot 9 and the owner of Lot 10 has purchased Lot 8. Both owners are utilizing their double lots as single building sites and there is no need for a common access drive over the portion of Block D intended to serve Lots 8 and 9.

NOW, THEREFORE, pursuant to paragraph 8 of the Declaration concerning Amendment thereof, the requisite number of the lot owners of Diamond Pointe having consented thereto, the Declaration is hereby amended to withdraw the portion of Block D described on Exhibit A and depicted on Exhibit B (the "Common Roadway") as a Common Property to be owned by the Association, and the Common Roadway is hereby added to Lot 8 in Diamond Pointe to be owned, controlled, maintained, used as a part of the residential lot, and taxes paid thereon in the same manner as Lot 8.

In witness whereof, the Association has caused this Second Amendment to Declaration of Covenants and Restrictions of Diamond Pointe as of the date set forth above.

DIAMOND POINTE PROPERTY OWNERS ASSOCIATION, INC.

By: Richard A. Daines  
Printed Name: Richard A. DAINES  
Its: PRESIDENT

FILED

AUG 14 1997

45 [Signature]



COPY

STATE OF Indiana )  
 ) SS:  
COUNTY OF Marion )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard A. Baker as President of Diamond Pointe Property Owners' Association, Inc., who having been duly sworn upon his/her oath acknowledged the execution of the foregoing Second Amendment to Declaration of Covenants and Restrictions of Diamond Pointe for and on behalf of said corporation.

Witness my hand and Notarial Seal this 7th day of June, 1997.

Susan M. Bork  
Susan M. Bork, Notary Public  
residing in Marion County,  
Indiana

My Commission Expires:  
9-18-98

This instrument prepared by Donald E. Williams, Attorney-at-Law  
Barnes & Thornburg  
1313 Merchants Bank Building, 11 South Meridian Street, Indianapolis, Indiana 46204

COPY

EXHIBIT A

A portion of Block D of the Diamond Pointe Subdivision recorded as Instrument No. 89-0044543 in the Office of the Recorder of Marion County, Indiana being more particularly described as:

That portion of Block D north and northwest of the intersection of (1) the extension of the Southwest lot line of Lot 8 (identified on the Plat as North 60° 52' 16" West) with (2) the Northwest lot line of Lot 10 (identified on the Plat as North 33° 12' 45" East) as depicted on Exhibit B attached hereto.

## DIAMOND POINTE PLAT RESTRICTIONS

The undersigned, The Shorewood Corporation, being the owners of record of the above described real estate, hereby certify that they do lay off, plat and subdivide the same into lots and streets in accordance with this plat and certificate.

This subdivision shall be known and designated as DIAMOND POINTE.

All streets and blocks shown are private and will be owned and maintained by an Association provided for in Declaration of Restrictions. Twenty (20.00) feet along Admirals Pointe Drive is hereby dedicated as public right of way.

1. EASEMENTS FOR DRAINAGE, SEWERS, UTILITIES LANDSCAPE AND NON-ACCESS: Lots are subject to drainage easements, sewer easements and utility easements, either separately or in combination, as shown on the plat, which are reserved for the use of the lot owners, public utility companies and governmental agencies as follows:
  - A. DRAINAGE EASEMENTS (D.E.) - are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of the subdivision and adjoining ground and/or public drainage system; and it shall be the individual responsibility of the lot owner to maintain the drainage across his own lot. Under no circumstances shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict the water flow in any manner. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage or by the developer of the subdivision.
  - B. SEWER EASEMENTS (S.E.) - are created for the use of the local governmental agency having jurisdiction over the storm and sanitary waste disposal system of said city and/or county designated to serve the addition for the purposes of installation and maintenance of sewers that are a part of said system. Each owner of a lot must connect with any public sanitary sewer available.
  - C. UTILITY EASEMENTS (U.E.) - are created for the use of public utility companies, not including transportation companies, for the installation of pipes, mains, ducts and cables as well as for the uses specified in the case of sewer easements.
  - D. LANDSCAPE EASEMENTS (L.S.E.) - Lot 1 and lots 23 through 27 - The landscape easement shown on the plat shall be maintained by the Association as provided in the Declaration of Covenants, Conditions and Restrictions of Diamond Pointe.

Lots 28 and 29 - The Developer has installed a decorative wall within the landscape easement shown on these lots. This wall attaches to an existing wall located at Lot 204, Admirals Pointe, Section Nine. It shall be the joint obligation of the owners of Lots 28 and 29 of Diamond Pointe, Lots 60, 78, 79, 80 and 81 of Admirals Pointe, Section Three the plat of which is recorded as Instrument No. 87-54695, and Lots 204 and 205, Admirals Pointe, Section Nine the plat of which is recorded as Instrument No. 87-62886 to keep, maintain and replace, as necessary, in an aesthetically pleasing and sightly manner, all lawn, landscaping, and fencing located in the easement area containing said wall located on Lots 28 and 29 and the lots herein noted in Sections Three and Nine of Admirals Pointe. All of the lot owners referred to in the preceding sentence shall contribute an equal share of any maintenance or replacement costs

associated with the landscaping or improvements located within the easement. Where a majority of the affected lot owners elect to maintain or replace said landscaping or improvements within the easement area and one or more lot owners fails to pay their allocable share of such maintenance or replacement costs, then the owners paying such costs may file a lien for the reasonable value of labor performed and materials furnished as prescribed by the lien laws of the State of Indiana against any lot and the owner thereof and recover the full assessment owed, together with interest from due date and reasonable attorney fees.

E. NON-ACCESS EASEMENTS (N.A.E.) - When non-access easements are shown, there shall be no vehicular traffic allowed across these easements.

F. The owners of all lots in this addition shall take title subject to the rights of public utilities, governmental agencies, and the rights of the other lot owners in this addition to said easement herein granted for ingress and egress in, along and through the strips of ground for the purposes herein stated.

2. DWELLING SQUARE FOOTAGE REQUIREMENTS AND USE: All lots in this subdivision shall be known and designated as residential lots. No business building shall be erected on said lots and no business may be conducted on any part thereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any residential lot herein, other than one detached single-family dwelling not to exceed two and one-half stories in height and residential accessory buildings. Any garage, or accessory building erected shall be of permanent type of construction and shall conform to the general architecture and appearance of such residence.

A. The minimum square footage of finished living space of dwellings constructed on all residential lots except Lots 28 & 29 shall be 3000 square feet at the street level floor for a single story residence and 4000 square feet for a two story or multi-story residence with the street level floor having a minimum of 2000 square feet exclusive of porches, terraces, garages, carports, accessory buildings and basements. Lots 28 & 29 shall be 2600 square feet at the street level floor for a single story residence and 2600 square feet for a two story or multi-story residence with the street level floor having a minimum of 1200 square feet exclusive of porches, terraces, garages, carports, accessory buildings and basements. A multi-story dwelling shall be a dwelling with more than one story above the street floor level.

3. PRIVATE DRIVES: The Blocks B, D, E, F & G are common drives and designated "C.D." The private drives may contain utilities (private or public). The property owners' association shall maintain the utilities not otherwise maintained by the respective utility company in the same manner as provided for in the Declaration of Restrictions. All private drives (C.D.) shall be a utility easement (U.E.).

4. FENCES: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the street shall be placed or permitted to remain on any corner lot within the triangular areas formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines. No trees shall be permitted to remain within said distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

5. RESIDENTIAL SETBACK REQUIREMENTS:

- A. In General - Unless otherwise provided in these restrictions or on the recorded plat, no dwelling house or above grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.
- B. Definitions - "Side line" means a lot boundary that extends from the road on which a lot abuts to the rear line of said lot. "Rear line" means the lot boundary line that is farthest from, and substantially parallel to, the road on which the lot abuts, except that on corner lots, it may be determined from either abutting road.
- C. Front Yards - The front building setback lines shall be as set forth upon this plat of the Development.
- D. Cul-De-Sacs - If a particular lot abuts on a cul-de-sac, the front building setback line shall be as shown on the plat of that lot.
- E. Side Yards - The side yard setback lines for Lots 1 thru 27 and 30 thru 41 shall not be less than an aggregate of twenty-five (25) feet. Provided, however, no side yard shall be less than twelve (12) feet from the side lines of the lot. Lots 28 & 29 shall not be less than an aggregate of twenty-two (22) feet. Provided, however, no side yard shall be less than eight (8) feet from the side lines of the lot.
- F. Rear Yards - Rear setback lines shall be at least twenty (20) feet from the rear lot line excepting in the case of water frontage lots where setbacks shall be twenty (20) feet or at the contour level of 788.4 feet above mean sea level, whichever is greater; provided, however, the Indiana Department of Natural Resources may authorize an encroachment upon lands below 788.4 feet above mean sea level because of unusual topographic conditions.

6. DEVELOPMENT CONTROL COMMITTEE: Prior to application for Improvement Location Permit from the Department of Metropolitan Development of the City of Indianapolis for the construction of a residence or other structure, site plans and building plans shall be approved in writing by the Development Control Committee as defined in the Declaration of Restrictions. Such approval shall include building design, color and location, private drives, tree preservation and proposed landscaping.

7. 100 YEAR FLOOD ELEVATION: A line depicted as "100 yr. F.E." on any lot in this addition denotes an area between such line and the water line of the reservoir in which no building or permanent structure may be erected without the prior written approval of the Indiana Department of Natural Resources.

8. CONTROLLING DOCUMENTATION: The restrictions contained in this plat are an implementation of the Declaration of Restrictions of Diamond Pointe, recorded as Instrument No. 89-44542 in the Office of the Recorder of Marion County, Indiana and shall apply in their entirety to the real estate being platted herein, shall run with the real estate covered by this plat, and is included and incorporated herein by reference. In the event of a discrepancy between Plat Restrictions and the Declaration, then the Declaration shall control.

9. DURATION: These covenants are to run with the land, and shall be binding to all parties and all persons claiming under them until January 1, 2069, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then the owners of a majority of the numbered lots in the development.
10. ENFORCEMENT: The right of enforcement of each of the foregoing restrictions by injunction, together with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is reserved to the Control Committee and the owners of the lots in the subdivision, their heirs, personal representatives, successors and assigns, who are entitled to such relief without being required to show any damage of any kind to the Control Committee, any owner or owners, by or through any such violation or attempted violation. The right of enforcement of the covenants is hereby also granted to the Department of Metropolitan Development of Marion County, its successors or assigns.
11. ANTENNA DISCS OR OTHER SIMILAR STRUCTURES: No antenna discs, antenna towers or other freestanding antenna structures or devices shall be erected, placed or permitted to remain on any lot within this subdivision.
12. SEVERABILITY: Every one of the Restrictions is hereby declared to be independent of, or severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions.

Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

CODE OF BY-LAWS

OF

DIAMOND POINTE PROPERTY OWNERS' ASSOCIATION, INC.

ARTICLE I

Definitions

Section 1.01. The term "Association" shall mean Diamond Pointe Property Owners' Association, Inc.

Section 1.02. The term "Act" shall mean The Indiana General Not For Profit Corporation Act, of 1971, as amended from time to time.

Section 1.03. The term "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as amended from time to time.

Section 1.04. The term "Code of By-Laws" shall mean the Code of By-Laws of the Association, as amended from time to time.

Section 1.05. The term "Project" shall mean the subdivision known as "Diamond Pointe" (except for lots 28 and 29 in Diamond Pointe), which is situated in Marion County, Indiana.

ARTICLE II

Identification

Section 2.01 - Name. The name of the Association is Diamond Pointe Property Owners' Association, Inc.

Section 2.02 - Principal Office and Resident Agent. The location of the principal office of the Association and the designation of the resident agent of the Association shall be as specified in the Articles of Incorporation, unless, after the adoption of the Articles of Incorporation, such location or such designation or both shall be changed in accordance with the requirements of the Act, in which case the notice of the change that is required by the Act (and the more or most recent of such notices, if two or more shall have been filed) shall be conclusive as to the matters covered by such notice.

Section 2.03 - Seal. The seal of the Association shall be in the form of a circle, about the upper periphery of which shall appear the words "Diamond Pointe Property Owners' Association, Inc. (or an appropriate abbreviation thereof), and about the lower periphery of which shall appear the word "Indiana." When the affixing of the seal of the Association to any instrument shall be appropriate, the affixing may be done by means of a metal die capable of impressing the seal on paper or the affixing of the seal may be done by drawing the seal on the instrument to which it is to be affixed.

Section 2.04 - Fiscal Year. The fiscal year of the Association shall begin on the first day of January in each year and end on the last day of December in the same calendar year.

### ARTICLE III

#### Membership

Section 3.01 - Qualification for Membership. Membership in Diamond Pointe Property Owners' Association, Inc. is limited to Diamond Pointe property owners (with the exception of the owners of lots 28 and 29) and to Associate members if associate memberships are established by the Board of Directors of the Association.

Section 3.02 - Evidence of Membership. The Board of Directors of the Association shall have the power (but not the duty) to cause the issuance of evidences of membership and association membership in the Association to the members and associate members thereof in such form as the Board of Directors shall prescribe. As of the date of the adoption of this Code of By-Laws, the Board of Directors has taken no action (except the adoption of this By-Law).

Section 3.03 - Privileges of Membership. The members and associate members of the Association (and any person who both belongs to the family of a member and has the same residence as the member to whose family he belongs, and any person who is a guest of a member and associate members of the Association) shall have the privilege of using the areas designated parks, streets, commons, common drives, blocks or rights-of-way in the plats of the Project, and any other recreational facilities that may be constructed within the Project that are owned by the Association, in accordance with the restrictive covenants of the Project, the Articles of Incorporation, and any such other rules for the use of such facilities adopted from time to time by resolutions of the Board of Directors of the Association.



## ARTICLE IV

### Meetings of Members

Section 4.01 - Place of Meetings. Any meetings of the members of the Association may be held at any place within Marion County, Indiana. The place at which a particular meeting of the members is to be held shall be stated in the notice of that meeting.

Section 4.02 - Annual Meeting. The annual meeting of the members of the Association for the election of Directors whose terms have expired and for the transaction of such other business as may properly come before the meeting, shall be held on the first Monday in May of each year, upon notice given to the members as herein provided. Failure to hold the annual meeting at the designated time shall not work any forfeiture of the charter, or dissolution of the Association.

Section 4.03 - Special Meetings. A special meeting of the members of the Association may be called by the President, by a majority of the Board of Directors, or by a written petition signed by a person who has, or persons who have, the right to cast one-half (1/2) of the votes on any question upon which the vote of the membership of the Association shall be required or desirable.

Section 4.04 - Notice of Meetings. A written or printed notice stating the place, day and hour of the meeting, and in the case of a special meeting (or when required by any provision of the Act or the Articles of Incorporation, or by any other provision of the Code of By-Laws), the purpose for which such meeting shall have been called, shall be delivered or mailed by the Secretary to each person (or group or persons constituting a tenancy by the entireties, a joint tenancy, or a tenancy in common) owning a numbered lot in the Project at least ten (10) days before the date of the meeting. Unless the Secretary shall have been otherwise notified in writing, adequate notice of a meeting shall be deemed to have been given to any member if said notice is mailed to the address of the member supplied by such member to the Association for the purpose of notice. Notice of any meeting of members may be waived in writing filed with the Secretary of the Association before the time of the meeting, at the time of the meeting, or after the time of the meeting, or by attendance in person.

Section 4.05 - Voting at Meetings.

Clause 4.051 - Voting Rights. The voting rights of the members of the Association shall be as prescribed in the Articles of Incorporation.

Clause 4.052 - Method of Voting. A vote attributable to a numbered lot in the Project shall be cast as follows:

- a) If the lot is owned by one person, the vote shall be cast by that one person.
- b) If the lot is owned by more than one person, either as tenants in common, as joint tenants, or as tenants by the entirety, the vote attributable thereto shall be deemed properly cast if cast by any one of the tenants in the absence of any objection, or contrary vote, by any other of them.
- c) If a lot is owned by more than one person, either as tenants in common, as joint tenants, or as tenants by the entirety, and if two or more of them desire that vote attributable to that lot be cast in different ways, or one of them desires that it not be cast, then the vote attributable thereto shall be deemed properly cast if cast by not less than a majority in number of the tenants.

Clause 4.053 - Proxies. Any person who is entitled to vote (as the Sole owner of a numbered lot in the Project or as one of a group of tenants by the entirety, joint tenants, or tenants in common owning such a lot) at any meeting of the members of the Association may vote in person or by proxy executed in writing by a duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless a longer time is expressly provided for upon the face of the proxy instrument.

Clause 4.054 - Quorum. Should a meeting be held for the purpose of voting on a special assessment for capital improvements and operating deficits, then a quorum shall be deemed to be present provided that written notice of any meeting called for said purpose shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such preceding meeting shall be held more than sixty (60) days following the preceding meetings.

## ARTICLE V

### The Board of Directors

Section 5.01 - Qualifications and Elections. The affairs of the Association shall be managed by a Board of three (3) Directors, (each of whom shall be a member of the Association). Each member of the first Board of Directors designated in the Articles of Incorporation shall serve for a term of three (3) years. Thereafter, an entire Board of Directors shall be elected by the members of the Association, voting in accordance with the Articles of Incorporation and the Code of By-Laws, at each annual meeting of the members, and each of the three (3) Directors so elected shall serve for a term of one (1) year, but shall hold his office until his successor shall have been chosen and qualified.

Section 5.02 - Vacancies. Any vacancy that shall occur in the Board of Directors by death, resignation, or otherwise shall be filled by a majority vote of the remaining Directors, and the Director so chosen shall serve the unexpired portion of the term for which the person who he is replacing shall have been elected or chosen.

Section 5.03 - Annual Meeting. The Board of Directors shall hold an annual meeting immediately after the annual meeting of the members of the Association, for the purposes of organization, election of officers, and the consideration of any other business that properly may be brought before the meeting. The failure to hold any annual meeting at the designated time shall not work any forfeiture of the charter, or dissolution of the Association.

Section 5.04 - Special Meetings. Special meetings of the Board of Directors may be called at any time by the President and shall be called on the written request of any two (2) Directors.

Section 5.05 - Notice of Meetings. A written or printed notice stating the place, day, and hour of the annual or a special meeting shall be delivered or mailed by the Secretary to each Director at least three (3) days before the date of the meeting. Notice of any meeting of Directors may be waived by any Director in a writing filed with the Secretary before the time of the meeting, at the time of the meeting, or after the time of the meeting, or by attendance in person.

Section 5.06 - Place. All meetings of the Board of Directors of the Association shall be held at such place as may be specified in the respective notices, or waivers of notice, thereof.

Section 5.07 - Quorum. A majority of the whole Board of Directors shall be necessary to constitute a quorum thereof, except for the filling of vacancies, which shall require a majority of the existing Directors for a quorum. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 5.08 - Powers and Duties of Directors.

Clause 5.081 - Powers. The powers of the Board of Directors shall include (but not be limited to)--

- a) the power to adopt and publish rules and regulations governing the use of those parts of the Project that are or will be owned by, or are otherwise under the control of the Association; and
- b) the power to exercise for the Association all the powers and duties of the Association whose exercise is not reserved or committed to the membership of the Association by the Code of By-Laws or the Articles of Incorporation.

Clause 5.082 - Duties. The duties of the Board of Directors shall include (but not be limited to) the duty to fix prior to the first day of April in each year, the amount of the annual charge that is to be made against each member of the Association pursuant to the provisions for such a charge that are contained in the Articles of Incorporation and in the subdivision plats of the Project.

Section 5.09 - Adoption of Rules and Regulations. The Board of Directors shall adopt rules and regulations relating to the use and enjoyment of the streets, parks, pedestrian easements, and any other recreational facilities within the Project that are owned by the Association.

Section 5.10 - Committees. The Board of Directors may create such temporary and standing committees as it shall deem necessary, and shall assign to each committee so created such duties as the Board of Directors shall consider proper for assignment to such committee. The Board of Directors shall choose committee members from the membership of the Association, and each such committee member shall serve at the pleasure of the Board of Directors.

## ARTICLE VI

### The Officers of the Association

Section 6.01 - Number. The officers of the Association shall be a President, a Vice-President, a Secretary, a Treasurer, and in addition, the Directors may choose an Assistant Secretary and/or an Assistant Treasurer. Any person may hold two (2) offices at the same time except the offices of President and Secretary. No officer, except the President, need be a Director.

Section 6.02 - Election and Term of Office. The officers shall be chosen annually by the Board of Directors at the annual meeting of the Board of Directors. Each officer shall hold his office until his successor shall have been chosen and qualified, or until his death, resignation, or removal.

Section 6.03 - Removal. Any officer may be removed with or without cause, at any time, by a vote of not less than two (2) Directors, at a special meeting of the Board of Directors called for the purpose of considering the removal.

Section 6.04 - Vacancies. Any vacancy in any office because of death, resignation, or removal, or otherwise caused, shall be filled for the unexpired portion of the term by a person chosen by the Board of Directors.

Section 6.05 - The President. The President, who shall be chosen from the Directors, shall have active executive management of the operations of the Association, subject, however, to the control of the Board of Directors. He shall, in general, perform all duties incident to the office of President and such other duties as, from time to time, may be assigned to him by the Board of Directors.

Section 6.06 - A Vice President. A Vice President shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to him. In the case of absence or inability to act of the President, the Vice President shall temporarily act in his place.

Section 6.07 - The Secretary. The Secretary shall keep, or cause to be kept, in books that shall be provided for the purpose and shall remain in the Secretary's custody, the minutes of the meetings of the members of the Association and of the Board of Directors; shall at all times keep at the principal office of the Association a complete and accurate list of the names and addresses of all members of the Association; shall attend to the giving of all notices in

accordance with the provisions of this Code of By-Laws and as required by law; shall be the custodian of the records (except the financial records) of the Association and of any die or other instrument usable in affixing the seal of the Association to paper; shall affix the seal of the Association (by means of a die or by hand) to every document whose execution on behalf of the Association under its seal shall have been properly authorized; and shall, in general, perform all duties incident to the office of Secretary and such other duties as, from time to time, may be assigned to him by the Board of Directors or the President.

Section 6.08 - An Assistant Secretary. An Assistant Secretary shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to him.

Section 6.09 - The Treasurer. The Treasurer shall be the financial officer of the Association; shall keep, or cause to be kept, in books that shall be provided for the purpose and shall remain in the Treasurer's custody, complete books and records showing the financial condition of the Association and shall keep a separate financial account of each member of the Association; shall have charge and custody of, and be responsible for, all funds of the Association and shall deposit all such funds in the name of the Association in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; shall receive, and give receipts for, moneys due and payable to the Association from any source; shall disburse the funds of the Association in accordance with the instructions of the Board of Directors of the Association; shall render to the President, on request, an account of all his transactions as Treasurer and of the financial condition of the Association; and shall, in general, perform all the duties incident to the office of Treasurer and such other duties as, from time to time, may be assigned to him by the Board of Directors or the President.

Section 6.10 - An Assistant Treasurer. An Assistant Treasurer shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to him.

## ARTICLE VII

### Corporation Books and Records

Section 7.01 - Place of Keeping, In General. Except as otherwise provided by the laws of the State of Indiana or this Code of By-Laws, the books and records of the

Association may be kept at such place or places as the custodian thereof may select, but all of such books and records shall be open for inspection by any member of the Association for proper purposes at any reasonable time.

## ARTICLE VIII

### Execution of Checks and Contracts

Section 8.01 - Execution of Checks. Every check for the payment of money of the Association, and every promissory note of the Association, shall, unless otherwise ordered by the Board of Directors or required by law, be signed by two (2) officers of the Association, one of whom will be the Treasurer or Assistant Treasurer.

Section 8.02 - Execution of Contracts. Every contract (in addition to those mentioned above, in this Code of By-Laws) to which the Association shall be a party, shall be executed in its name by its President or a Vice President and attested by the Secretary or an Assistant Secretary, and the Secretary or an Assistant Secretary shall, when doing so shall be appropriate, affix the seal of the Association to such contract..

## ARTICLE IX

### Amendments

Section 9.01 - Procedure. The power to add to, alter amend or repeal (wholly or in part) this Code of By-Laws is rested in the Board of Directors. The affirmative vote of not less than a majority of the Directors shall be necessary to effect an addition to, or alteration, amendment or repeal of, this Code of By-Laws.

9900

ARTICLES OF INCORPORATION  
OF

DIAMOND POINTE PROPERTY OWNERS' ASSOCIATION, INC.

WHEREAS, the Shorewood Corporation, a Pennsylvania corporation (hereinafter sometimes referred to as "the Developer"), is developing a parcel of real estate in Marion County, Indiana, as a complete residential community that will be known as Diamond Pointe (hereinafter sometimes referred to as "the Project"); and

WHEREAS, it is desirable that a cooperative maintenance system be established, governed, and operated by the owners of the residential lots in the Project (with the exception of Lots 28 and 29 in Diamond Pointe, the owners of which will not be members in the Association created herein) in such a manner as to promote the creation and preservation of and peaceful enjoyment of the property and the protection and enhancement of property values in the Project; and

WHEREAS, nothing in these Articles of Incorporation shall apply to Lots 28 and 29 of Diamond Pointe, the owners of which lots shall not be members of the Association created herein; and

WHEREAS, plat restrictions and restrictive covenants have been recorded with respect to the Project:

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, a citizen of the United States, does hereby undertake to form a not-for-profit corporation without capital stock under the

RECEIVED  
CORPORATIONS DIV.  
90 APR 11 PM 4:44  
JOSEPH H. HOGGETT



provisions of The Indiana General Not For Profit Corporation Act, as amended.

#### ARTICLE I

The name of the corporation is Diamond Pointe Property Owners' Association, Inc., and it is hereinafter referred to as "the Association."

#### ARTICLE II

The general objects and purposes and powers of the Association are:

1. To exercise the powers and functions granted to it in, or pursuant to, the plat restrictions applicable to the Project, or any portion thereof, and any other restrictive covenants that have heretofore or may hereafter be recorded in respect of the Project, or any part thereof.
2. To care for, maintain, and repair certain vacant and unimproved and unkept lots and certain common areas or common drives of the Project, or any part thereof; to repair, rebuild, and maintain structures, signs, walls, walkways, private streets, and other improvements including drainage ways, swales, culverts and appurtenances thereto, or residences on any lot in the Project for the purposes of preventing any such structure's falling into a rundown condition; to repair, maintain, rebuild, and/or beautify all streets and their rights of way, and all parks or common areas and common walkways within the Project that are not subject to maintenance by governmental authority.

3. To provide for the payment of taxes and assessments, if any, that may be levied by any governmental authority upon any area in the Project that may be conveyed to the Association.

4. To enforce charges, easements, restrictions, conditions, covenants, and servitudes existing upon and created for the benefit of the property over which the Association may have jurisdiction; to pay all expenses incidental thereto; to enforce the decisions and rulings of the Association; and to pay all expenses in connection therewith.

5. To provide for the operation, maintenance and management of parks, swimming pools, tennis courts, beaches, lodges, clubhouses, picnic facilities or other recreational facilities, and other community features of such land in the Project as may be conveyed to the Association, and to provide for the maintenance of those areas designated on the subdivision plats of the Project as Commons Areas, Common Easements, Landscape Easements, Common Drives, or Blocks.

6. To appoint such committees as may be necessary to, or convenient in, the Association's discharging the duties entrusted to it.

7. To levy an annual charge that shall be a lien against the real estate in the Project and a personal obligation of the members of the Association; to publish the names of members who shall fail to pay the charges made by the Association; to sue to collect any of such charges as are

not paid; and to foreclose any such lien. Each year the Board of Directors of the Association shall consider the current operational and maintenance needs and future needs including capital needs of the Association and, in the light of those needs, shall fix the amount of the annual charge herein provided for, which shall not be less than One Hundred Dollars (\$100.00) in respect of each numbered lot that is restricted to single family residential use except for Lots 28 and 29. Nothing contained in this paragraph 7 does, or is intended to, or shall be construed to, create in the Association a power to levy or make any charge of any kind against the Developer, or against the Association itself.

8. To acquire by gift, purchase, or other means, to own, hold, enjoy, lease, operate, maintain, convey, sell, lease, transfer, mortgage or otherwise encumber, or dedicate for the public use, real or personal property in connection with the business of this Association.

9. To expend the moneys collected by the Association from assessments or charges, and other sums received by the Association, for the payment and discharge of all proper costs, expenses, and obligations incurred by the Association in carrying out all or any of the purposes for which the Association is formed.

10. To borrow money and to give, as security therefor, a mortgage or other security interest in any or all real or personal property owned by the Association, or a pledge of moneys to be received under paragraph 7 above, and to assign

and pledge its right to make assessments and charges and its right to claim a lien therefore.

11. To do any and all lawful things and acts, and to have any and all lawful powers, which a corporation organized under and by virtue of The Indiana General Not For Profit Corporation Act, as amended, may do and have, and in general to do all things necessary and proper to accomplish the foregoing purposes, including the specific power to appoint any person or corporation as its fiscal agent to collect all assessments and charges levied by the Association and to enforce the Association's liens for unpaid assessments and charges or any other lien owned by the Association.

### ARTICLE III

The period during which the Association shall continue as a corporation shall be perpetual.

### ARTICLE IV

The post office address of the principal office of the Association shall be c/o The Shorewood Corporation, 100 Clarendon Drive, Noblesville, Indiana, 46060, and the name of its resident agent is John F. Culp, whose post office address is The Shorewood Corporation, 100 Clarendon Drive, Noblesville, Indiana 46060.

### ARTICLE V

1. With the exception of Lots 28 and 29, members of the Association shall be persons or corporations who at any time are owners (legal or equitable) of numbered residential lots

in the Project. A person who has no interest in real estate in the Project other than an interest that is held merely as security for the performance of an obligation to pay money (e.g., the interest of a mortgagee or a land contract vendor) shall not be entitled to membership in the Association.

2. Membership in the Association shall lapse and terminate when any member shall cease to be the owner of a numbered residential lot in the Project.

3. Any meeting of the members of the Association may be held at any place within Marion County, Indiana. The place at which a particular meeting of the members is to be held shall be stated in the notice of that meeting.

4. The members of the Association shall be divided into two classes, namely, Class A members, and Class B members. No person, firm, or corporation except the Developer (and any person who shall hereafter succeed to the Developer's business and properties substantially as a whole) shall hold a Class B membership in the Association; provided, however, for purposes of formation of the Association, the Developer may designate two persons to be Class B members until there are at least two Class A members, each of which designee shall have one vote. A Class A member shall be entitled to one vote for each numbered residential lot in the Project that is owned by the member; a Class B member shall be entitled to three votes for each numbered residential lot in the Project that is owned by the member. Any member (whether

a Class A member or a Class B member) shall have the power to cast his vote or votes by proxy or voting trust.

5. In addition to the foregoing, the Board of Directors of the Association may establish associate memberships in the Association for persons who may from time to time be owners of lots in other developments and who are not otherwise entitled to the benefits of membership by virtue of being owners of residential lots within the Project. Associate members shall have none of the rights of members to vote at meetings of the Association. The Board of Directors of the Association may establish fees or charges for such associate memberships and rules and regulations concerning such associate memberships which may be different from those applicable to members generally.

6. No member may be expelled from membership in the Association for any reason whatsoever; provided, however, that the Board of Directors of the Association shall have the right to suspend the voting rights (if any) and right to use any parks, common areas, and other recreational facilities of the Association of any member or associate member (i) for any period during which any Association charge owed by the member or associate member remains unpaid; (ii) and during the period of any continuing violation of the restrictive covenants for the Project, after the existence of the violation shall have been declared by the Board of Directors of the Association.

7. There shall be no other preferences, limitation, or restrictions with respect to the relative rights of the members.

#### ARTICLE VI

The affairs and business of the Association shall be managed by a Board of Directors consisting of not less than three nor more than seven members, the exact number to be stated in the By-Laws of the Association. In the absence of such a statement in the By-Laws, the number of Directors shall be three. Each member of the first Board of Directors shall serve for a term of three years; thereafter, each Director shall serve for such a term as may be prescribed by the By-Laws.

The Board of Directors of the Association shall have power to adopt By-Laws of the Association not inconsistent with these Articles or with the laws of the State of Indiana. Pursuant to the By-Laws, the Board of Directors may elect a President, a Vice President, a Secretary, an Assistant Secretary, a Treasurer, and an Assistant Treasurer. The officers shall have such qualifications, powers, and duties, and shall be elected in such manner, at such time and place, and shall serve for such terms as may be provided in the By-Laws of the Association.

#### ARTICLE VII

The names and addresses of the first Board of Directors are as follows:

made applicable to the Project. With the foregoing exception, these Articles may be freely amended in accordance with the provisions of The Indiana General Not For Profit Corporation Act, as now or hereafter amended.

IN WITNESS WHEREOF, the undersigned has hereunto subscribed his name on this 30th day of March 1990.

John F. Culp  
John Culp, Incorporator

STATE OF INDIANA }  
COUNTY OF HAMILTON } SS:

SUBSCRIBED AND SWORN to before me, a Notary Public in and for said County and State, this 30th day of March, 1990.

Brenda J. Thomas  
Notary Public  
Resident of Hamilton County

My commission expires:

May 5th 1992