



# **DAVID BRENTON'S TEAM**

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## **RE/MAX Select, REALTORS**

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The covenants provided may or may not include any amendments made due to governing agencies (ie: national, state, city, local and neighborhood agencies). Please contact the Recorder's office for the county where the property is located to receive updated information.

**The information is deemed reliable, but not guaranteed.**

\* 99-035325  
12/14/99

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF FEATHERSTONE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FEATHERSTONE ("Declaration"), is made this 14 day of DECEMBER, 1999, by Featherstone Development, LLC, an Indiana limited liability company (hereinafter referred to as "Declarant"),

WITNESSETH THAT:

WHEREAS, Declarant is the owner of certain real estate located in Johnson County, Indiana, more particularly described in the attached Exhibit A ("Real Estate"); and

WHEREAS, the Real Estate is being developed as a Subdivision known as FEATHERSTONE; and

WHEREAS, Declarant intends to sell and convey Lots within FEATHERSTONE and desires to subject that platted subdivision to certain covenants and restrictions ("Covenants") in order to ensure that the development and use of the various Lots in the platted subdivision are harmonious and do not adversely affect the use or value of surrounding Lots in the platted subdivision; and

WHEREAS, Declarant desires to provide for maintenance of the ponds, Common Areas, and other improvements within the platted subdivision which are of common benefit to the Owners of the various Lots within said platted subdivision, and to that end desires to impose upon the Owners thereof certain obligations, including but not limited to assessments and charges for maintenance and other costs related to the operation of FEATHERSTONE;

NOW, THEREFORE, Declarant hereby declares that all of the Real Estate as it is now held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, is subject to the following Covenants, which shall relate only to FEATHERSTONE. All of the Covenants shall run with the Real Estate and shall be binding upon the Declarant and upon the parties having or acquiring any right, title, or interest, legal or equitable, in and to the Real Estate or any part or parts thereof and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to the Real Estate or any part or parts thereof.

ARTICLE I.

General Purpose of This Declaration

The Real Estate is hereby subjected to the Covenants herein declared to preserve the value of the Real Estate, to ensure proper use and appropriate improvement of the Real Estate, to encourage the construction of attractive buildings and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may be inharmonious with other improvements on the Real Estate to preserve and maintain proper setbacks from streets

and adequate free space between structures, and to provide for adequate and proper maintenance of the Real Estate all in compliance with applicable requirements of relevant governmental agencies.

## ARTICLE II.

### Definitions For All Purposes Of This Declaration

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

Section 1. FEATHERSTONE. "FEATHERSTONE" means the Real Estate which is being developed by the Declarant and which will be identified as FEATHERSTONE on a plat to be recorded by the Declarant, with the Recorder of Johnson County following final plat approval.

Section 2. Assessment. "Assessment" means the share of the Common Expenses imposed upon and against each Lot as determined and assessed pursuant to the provisions of this Declaration.

Section 3. Association. "Association" means the Featherstone Homeowners' Association, Inc., an Indiana not-for-profit corporation, formed or to be formed for the purpose of determining and collecting the Assessments and overseeing and enforcing the terms of this Declaration.

Section 4. Architectural Control Committee. "Architectural Control Committee" means a committee for FEATHERSTONE which shall be composed of up to five (5) members appointed by the Board of Directors of the Association and which shall review and approve all plot plans, plans, and specifications prior to the commencement of construction, of any kind, within the subdivision to which each is related.

Section 5. Common Areas. "Common Areas" means certain areas not amenable to development which may be designated as Ponds, Detention Area or Common Area on the plats of FEATHERSTONE, and not part of any Lot and which are intended for the common benefit of all Lots within FEATHERSTONE.

Section 6. Common Expense. "Common Expense" means the actual or estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Areas, and any other cost or expense incurred by the Association for the benefit of the Common Areas, or the administration and management of the Association, including but not limited to insurance costs, legal and accounting costs, and costs of other appropriate services.

Section 7. Declarant. "Declarant" means Featherstone Development, LLC, an Indiana limited partnership, or any other person, firm, corporation or partnership which succeeds to the interest of Featherstone Development, LLC, as developer of FEATHERSTONE.

Section 8. Drainage System. "Drainage System" means the storm sewers, subsurface drainage tiles, pipes, and other structures, fixtures, properties, equipment and facilities located in, upon, or under the Common Areas, Easements, or Streets and designed for the purpose of directing and expediting the drainage of surface and subsurface waters from, over, and across FEATHERSTONE.

Section 9. Easements. "Easements" refer to those areas reserved as easements on the plats of FEATHERSTONE.

Section 10. Lot. "Lot" means any of the separate parcels created, or which could potentially be created, on the plat of FEATHERSTONE

Section 11. Mortgagee. "Mortgagee" means any holder, insurer, or guarantor of any first mortgage on any Lot.

Section 12. Owner. "Owner" means any person or persons who acquire, after the date of this Declaration, legal and/or equitable title to any Lot; provided, however, that "Owner" shall not include any holder of any mortgage of all or any part of any Lot, so long as such holder does not hold both legal and equitable title thereto.

Section 13. Sewage System. "Sewage System" means any sanitary sewer lines, lift stations, equipment, or facilities located in, upon, or under the Common Areas, Easements, or Streets and designed to provide for the discharge, disbursement, or treatment of sanitary sewage from any or all Lots and Common Areas, as the same are or may be constructed at any time, and any replacement thereof or substitute therefor.

Section 14. Streets. "Streets" means all of the public and private roadways to the respective right-of-way lines thereof, as will be shown on the plats of FEATHERSTONE, which have been or hereafter are constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots.

### ARTICLE III.

#### General Restrictions

Section 1. Maintenance of Premises. In order to maintain the standards of the property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Owner shall maintain their Lot and improvements situated thereon in a manner so as to prevent the Lot or improvements from becoming unsightly, and specifically, Owner shall:

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

(b) Cut down and remove dead trees.

(c) Keep the exterior of all improvements in such state of repair or maintenance as to avoid their becoming unsightly as may be determined by the Board of Directors of the Association, in its sole discretion.

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

Upon an Owner's failure to comply with these provisions, the Declarant, the City of Greenwood or the Association may cut the growth or weeds, or clear the refuse from the Lot at the expense of the Owner, and there shall be a lien against said Lot for the expense thereof.

**Section 2. Residential Purpose.** Lots shall be used exclusively for residential purposes. No building shall be erected, altered, placed or permitted on any Lot other than a dwelling not to exceed two (2) stories in height. A dwelling shall have an attached garage of a size to accommodate at least two (2) cars.

**Section 3. Setbacks.** No building shall be located nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the plats. The minimum width of side yards for any Lot shall be eight feet (8'), and no part of any building shall be located less than eight feet (8') from any line separating Lots, except as may be specifically permitted, pursuant to Article IV herein. No part of any building shall be located within any easement as shown on the plat. For purposes of this covenant, eaves, steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a Lot, including eaves, steps, and open porches, to encroach upon another Lot.

**Section 4. Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the plat.

**Section 5. Unoperative Parked Vehicles.** At no time shall any unlicensed or inoperative vehicle be permitted on any Lot, Common Area, street or easement unless kept entirely within a garage.

**Section 6. Trucks, Boats, Recreational Vehicles.** Heavy equipment, tractors, commercial vehicles, semi-trucks, trailers, mobile homes, recreational vehicles, boats, boat and utility trailers, and all other similar equipment shall not be permitted to be kept on any Lot unless entirely kept within a garage.

**Section 7. Nuisances.** No noxious, obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. This provision may be construed to prohibit extremely audible music or activities.

**Section 8. Drainage Ditches.** Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written permission of the City of Greenwood Board of Public Works and Safety. Property Owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by the City of Greenwood Board of Public Works and Safety.

Any Owner altering, changing, damaging, or failing to maintain these drainage swales or ditches will be held responsible for such action and will be given 10 days notice by certified mail to repair said damage, after which time, if no action is taken, the City of Greenwood Board of Public Works and Safety will cause said repairs to be accomplished at the Owner's expense. Failure to pay such expenses immediately upon receiving a bill will result in a lien against the property.

**Section 9. Signs.** No sign of any kind shall be displayed to the public view on any Lot except one professionally manufactured sign of not more than five square feet advertising the property for sale or rent.

**Section 10. Mining Operations.** No oil drilling, oil development operation, oil refining quarrying, or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

**Section 11. Animals.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not bred, kept or maintained for any commercial use and are confined, at all times, within the boundaries of their Owner's Lot, unless restrained by a leash and attended by their Owner. No outdoor kennels, doghouses, posts, stakes, lines, chains, cables or other above ground structures designed or used as a shelter for or to restrain any such pets shall be permitted on any Lot. It is the purpose and intent of this Section to require that all household pets permitted herein be kept, primarily, inside the Lot Owner's dwelling. In every case, those household pets which are excepted under this Section, shall be kept in a manner that does not constitute an annoyance to the Owners of other Lots, and does not adversely affect their use and enjoyment of their property.

**Section 12. Rubbish, Trash, Garbage and Recyclables.** Rubbish, trash, garbage, other waste, and recyclable materials shall not be dumped or accumulated on any Lot. All such materials shall be kept in appropriate containers which are not visible from the street, except on collection days.

Section 13. Corner Lot. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 8 feet above roadways shall be placed or permitted on any corner Lot within the triangular area formed by the street property line and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersections of the street lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight lines.

Section 14. Field Tiles. Any field tile or underground drain which is on any Lot must be allowed to perpetuate.

Section 15. Minimum Living Space. The minimum square footage of living space of dwellings within FEATHERSTONE, exclusive of porches, garages, or basement shall be no less than:

- (a) 1,200 square feet for single story dwellings; and
- (b) 1,400 square feet (aggregate) for two-story dwellings.

Section 16. Outbuildings. Except as specifically permitted herein and as approved by the Architectural Control Committee, no outbuildings of any kind, detached garages, sheds, barns, storage buildings, shacks or tents shall be permitted on any Lot. Mini barns shall be permitted subject to the following: (i) only one mini barn shall be permitted on any Lot; (ii) no mini barn shall exceed 120 square feet in size; (iii) the materials and color of any mini barn shall be the same as or consistent with the materials and colors used on the primary dwelling; and (iv) the location of any mini barn on a Lot shall be submitted to and approved by the Architectural Control Committee.

Section 17. Driveways And Carports. All driveways must be paved with concrete, asphalt or other all-weather surface excluding gravel. No carports are permitted.

Section 18. Communication Devices. No satellite dishes, outside speakers, free standing antennae, or other such visible communication receiving or transmitting devices shall be installed or permitted on any Lot, except satellite dishes one meter or less in diameter.

Section 19. Mail Boxes. Mailboxes and the posts on which they are mounted shall be of uniform size, height, design, and color as specified by the Declarant. Owners shall be prohibited from altering the appearance of their mailboxes or the posts on which they are mounted, except to make repairs to and maintain or replace the mailboxes or the posts on which they are mounted in a manner which is consistent with the uniform appearance as specified by the Declarant. Owners shall keep their mailboxes in a good state of repair at all times.

Section 21. Wells And Septic Tanks. No water wells shall be drilled on any Lot. Septic tanks shall be prohibited on all Lots.

Section 22. Swimming Pools. Above-ground swimming pools are prohibited.

Section 23. Construction, Earth-Moving, Excavation. No construction, significant earth-moving, or excavating work of any nature may be conducted on any Lot.

Section 24. Fences, Walls, Barriers. Black vinyl coated chain link fences not to exceed six feet (6') in height shall be permitted. All other fences, walls, barriers or like structures must be approved in writing by the Architectural Control Committee. No such structures shall exceed eight feet (8') in height and no such structures, including fences which are specifically permitted by this Section, shall be placed closer to the front Lot line than the front building setback line.

Section 25. Uniform Exterior Appearance: Maintenance, Repair, Replacement. Owners shall keep the exterior of their premises in a good state of repair at all times.

#### ARTICLE IV.

##### Ponds and Detention Area Covenants and Restrictions

Section 1. The ponds and detention area shown on the plats (hereinafter "Ponds") shall be included as Common Areas as referenced herein, to be maintained and controlled by the Association.

Section 2. The Association shall be responsible for formulating rules and regulations pertaining to the usage of the Ponds as well as creating an annual budget of costs to adequately maintain, and repair of the Ponds and Detention Areas, said costs shall be included as part of the Owner's annual assessment.

Section 3. Access to the Ponds is restricted to that available from the Streets within FEATHERSTONE, and access through any Lot or from outside FEATHERSTONE is strictly prohibited.

Section 4. The Ponds may be used only in the manner authorized by the Association.

Section 5. The Ponds shall be available for the exclusive use of the Owners and guests of the Owners who are accompanied by Owners.

Section 6. No privately owned property of any kind shall be allowed to remain within the Ponds areas except when the Owner of such property is present.

Section 7. No docks or piers will be allowed except those which may be authorized by, constructed, owned, and operated by the Association.

Section 8. No Owner or third party shall do or permit another to do any act which would or may pollute the Ponds, divert any water, raise the elevation of the water, significantly disturb the earth or the embankment of the Ponds areas, or any other conduct which could result in an adverse effect upon the water quality, embankment and adjacent property, drainage, or any other general condition of the Ponds.

Section 9. The Association, on behalf of the Owners, or the City of Greenwood shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of any damage caused to the Ponds or interference with the drainage system, together with any damages incurred, costs, and reasonable attorneys' fees.

#### ARTICLE VII.

##### Declarant's/Association's Right To Guarantee Compliance

Section 1. In the event the Owner of any Lot in FEATHERSTONE shall fail to maintain that Lot or any of its improvements situated therein in accordance with the provisions of these Covenants, Conditions and Restrictions, the Association or, prior to the Association's incorporation, the Declarant, shall have the right, but not the obligation, by and through its agents and employees or contractors to enter upon said Lot, and perform such acts as may be reasonably necessary to make such Lot and improvements thereon, if any, conform to the requirements of these Covenants, Conditions and Restrictions. The cost thereof to the Association or Declarant shall be collected in any reasonable manner from the Owner. Neither the Association/Declarant nor any of its agents, employees, or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

#### ARTICLE VIII.

##### Architectural Control Committees

Section 1. Appointment Of Architectural Control Committees. The Board of Directors of the Association shall appoint an Architectural Control Committee for FEATHERSTONE, each of which shall be composed of up to five (5) members.

Section 2. Construction Approvals. No construction of any kind, including additions, alterations, fences, screens and walls, shall begin within FEATHERSTONE until a detailed plot plan, and plans and specifications have been submitted to and approved by the appropriate Architectural Control Committee. The plans and specifications of and location of all buildings, structures, and other improvements shall be in compliance with all building and other applicable regulatory codes, and shall also comply with zoning covenants and restrictions which are applicable to the Real Estate. Disapproval of plans and specifications and/or plot plans may be based on any grounds, including purely aesthetic grounds, in the sole and absolute discretion of the Architectural Control Committees. Neither the Architectural Control Committee nor the Association/Declarant shall be responsible for

any defects in such plans or specifications, or in any building, structure, or improvement erected according to such plans and specifications.

The plans and specifications submitted to the Architectural Control Committee shall contain a plot plan to scale with adequate provision for landscaping, including the planting of trees and shrubs. The determination of whether adequate provision has been made for landscaping shall be at the sole discretion of the Architectural Control Committees. The required landscaping and driveways shall be completed at the time of completion of the building, or as soon as weather and season permit.

Section 3. Powers of Committee. (i) In General. No dwelling, building, structure, improvement, exterior alteration or change of original color or material shall be constructed, placed or performed on any Lot in FEATHERSTONE unless the appropriate Architectural Control Committee chooses to grant a special exception. Such a special exception may be requested by written application to the Committee from the Owner of the Lot. Such written application shall be in the manner and form prescribed from time to time by the Committees, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction, improvement or alteration. Such plans shall include plot plans where applicable, showing the location of all improvements existing under or upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. (ii) Specific. The Architectural Control Committees may adopt and enforce rules, guidelines, and specifications for the construction of dwellings, buildings, structures, and other improvements in FEATHERSTONE, including but not limited to approved construction materials, colors, and designs. The Architectural Control Committees shall require that all structures in FEATHERSTONE have shingled roofs of the same or similar color, and that all front yards be sodded at the time the initial construction is completed and landscaped in a manner deemed appropriate by the Architectural Control Committees with trees and shrubs of a type and size which may be specified by the Architectural Control Committees for the subdivision.

Section 4. Duties of Committees. The appropriate Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons.

Section 5. Liability of Committees. Neither the Committees nor any agents thereof, nor the Association/Declarant, shall be liable or responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

Section 6. Inspection. The appropriate Committee may inspect work being performed with its permission to assure compliance with these Covenants, or the conditions of any approval granted by the Committees.

## ARTICLE IX.

### Covenants for Maintenance Assessments

Section 1. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the value of the Lots, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, operation, repair, and maintenance of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon and for the cost of labor, equipment, material, and management furnished with respect to the Common Property, including the Association's costs for consultants, engineers, architects, attorneys, and accountants; provided that the Association shall not be responsible for the replacement, repair or maintenance of any Common Area which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay to the Association:

- (a) A pro-rata share (as hereinafter defined) of the annual assessments fixed, established, and determined from time to time as hereinafter provided.
- (b) A pro-rata share (as hereinafter defined) of any special assessments fixed, established, and determined from time to time, as hereinafter provided.

Section 2. Liability for Assessments. Each assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien from and after the due date thereof in favor of the Association upon each Lot. Each such assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees shall also be the personal obligation of the Owner of each Lot at the time when the assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No such sale or transfer shall relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

Section 3. Pro-rata Share. The pro-rata share of each Owner for purposes of this Article shall be the percentage obtained by dividing one by the total number of Lots that have been conveyed by the Declarant to an Owner ("Pro-Rata Share").

Section 4. Basis of Annual Assessment. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and

reserves of the Association. A copy of this budget shall be delivered to each Owner within thirty (30) days to the beginning of each fiscal year of the Association.

**Section 5. Basis of Special Assessment.** Should the Board of Directors of the Association at any time during the fiscal year determine that the assessments levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board of Directors of the Association may, at any time, and from time to time, levy such special assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board of Directors of the Association shall have the right to levy at any time, and from time to time, one or more special assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the Annual Assessment.

**Section 6. Notice Of Meetings.** Written notice of any meeting called for the purpose of taking action to authorize assessments shall be sent to all members not less than thirty (30) days nor more than sixty (60) in advance of the meeting.

**Section 7. Fiscal Year; Date of Commencement of Assessments; Due Dates.** The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The annual assessments on each Lot in FEATHERSTONE shall commence on the day on which Declarant first conveys ownership of the Lot to an Owner. The first annual assessment for each Lot shall be prorated for the balance of the fiscal year of the Association in which such assessment is made. The annual assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual assessments shall be due and payable in full as of the above date, except that the Association may from time to time by resolution authorize the payment of such assessments in installments.

**Section 8. Duties of the Association.**

(a) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each assessment applicable thereto, which books and records shall be kept in the office of the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board of Directors of the Association shall cause written notice of all assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the assessment to which such notice pertains, payment of such assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(b) The Association shall promptly furnish to any Owner or Mortgagee, upon request, a certificate in writing signed by an officer of the Association, setting forth the extent to which assessment has been levied and paid with respect to such requesting Owner's or Mortgagee's Lot. As to any persons relying thereon, such certificate shall be conclusive evidence of payment of any assessments therein stated to have been paid.

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

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

**Section 9. Non-payment of Assessments; Remedies of Association.**

(a) If any assessment is not paid on the date when due, then such assessment shall be deemed delinquent and shall together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such assessment becomes due.

(b) If any assessment upon any Lot is not paid within fifteen (15) days after the due date, such assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at the maximum rate allowable under applicable usury laws, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such assessment all costs of such action, including the Association's attorneys fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

**Section 10. Adjustments.** In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for annual assessments or by the making of one or more special assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-Rata Share of such excess shall be a credit against the assessment(s) due from each Owner for the next fiscal year(s).

## ARTICLE X.

### Organization and Duties of Association

**Section 1. Organization of Association.** The Association shall be organized as a not-for-profit corporation under the laws of the State of Indiana, to be operated in accordance with The Articles of Incorporation which have been filed or will be filed by Declarant.

**Section 2. Membership.** The members of the Association shall consist of the Declarant and the Owners of Lots, provided that, in the event that any one Lot shall be owned by more than one person, partnership, trust, corporation or other entity, they shall be treated collectively as one member for voting purposes.

The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot .

**Class B.** The Class B membership shall consist of the Declarant, who shall be entitled to three (3) votes for each Lot owned by the Declarant. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

**Section 3. Board Of Directors.** The members shall elect a Board of Directors of the Association as prescribed by the By-Laws. The Board of Directors shall manage the affairs of the Association.

**Section 4. General Duties of the Association.** The Association is hereby authorized to act and shall act on behalf of, and in the name, place and stead of, the individual Owners in all matters pertaining to the maintenance, repair and replacement, of the Common Areas, the determination of Common Expenses, the collection of annual and special assessments, and the granting of any approvals whenever and to the extent called for by this Declaration, for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in this Declaration.

**Section 5. Liability of Association.** Neither the Association nor its directors, officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color or authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of the willful, intentional, fraudulent, or reckless misconduct.

Section 6. Amendment of Declaration. The Association shall have the right to amend this Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least a majority of the Lots and at least a majority of the Mortgagees requesting notice of such action; provided, however, that any such amendment of this Declaration shall require prior written approval of Declarant at all times prior to the Class B membership being converted to Class A membership as prescribed in subsection 2 of this Article IX.

Section 7. Insurance. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury with the amount of such coverage in no event to be less than One Million Dollars (\$1,000,000.00) for any single occurrence, occurring on or in connection with any and all Common Areas. The Association shall also maintain in force adequate fire and extended coverage insurance, insuring all Common Property against fire, and extended coverage insurance, insuring all Common Areas against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions in an amount equal to the full replacement value of such Common Area improvements. The Association shall notify all Mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives all rights of subrogation on any claim against the Association, its officers, Board members, the Declarant, any property manager, their respective employees and agents, the Lot Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more insured parties against other insured parties.

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

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association, and all Mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be canceled or substantially modified for any reason. The Association shall cause the provisions of all insurance policies and fidelity bonds to comply with the Federal National Mortgage Association lending guide Chapter 3, Part 5, as established on January 3, 1983, as amended on June 30, 1983, or as such guidelines may be amended thereafter.

Section 8. Condemnation, Destruction. In the event that any of the Common Areas shall be condemned or taken by any competent public authority, or in the event the same shall be damaged

or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any Common Area condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, and the balance of such sums shall either be held as a reserve for future maintenance of the Common Area or turned over to the Owners in proportion to their Pro-Rata Shares, whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Areas; provided, however, that upon request of any Owner(s), the Association shall pursue such claims on such requesting Owner(s) behalf, and shall turn any recoveries for such Owners over to such Owners directly. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage, or destruction of any Common Area.

**Section 9. Mortgagees' Rights.** The Mortgagees shall have the right, at their option, jointly or severally, to pay taxes or other charges which are in default or which may or have become a charge against the Common Area to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and Mortgagees making such payment shall be owed immediate reimbursement therefor from the Association.

## ARTICLE XI.

### General Provisions

**Section 1. Covenants Run With the Land.** The covenants created by this Declaration shall attach to and run with the Real Estate and shall be binding upon every person who may hereafter come into ownership, occupancy or possession of any portion of the Real Estate.

**Section 2. Scope of Covenants.** Declarant and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in such deed, are deemed to have agreed to each and every one of the various terms, Covenants, and conditions contained in this Declaration, and the same shall be of mutual and reciprocal benefit to Declarant and each Owner of each Lot. Declarant and each Owner shall be entitled to enforce this Declaration against any Owner to the full extent permitted herein and under applicable law, and shall have all rights and remedies for such enforcement at law or in equity. Each Owner shall be liable for such enforcement at law or in equity. Each Owner shall be liable for any failure to fully comply with all of the terms, Covenants, and conditions, contained in this Declaration only so long as each such Owner shall have any interest in any Lot; provided, however, that the relinquishing of all of such interest shall not operate to release any Owner from liability for a failure to comply with this Declaration which occurred while said Owner had such interest.

**Section 3. Attorneys' Fees.** As to any legal or equitable proceedings for the enforcement of, or to restrain the violation of, this Declaration or any provision thereof, if the party bringing such

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

**Section 4. Failure to Enforce Not a Waiver of Rights.** The failure of Declarant, the Association, or any Owner to enforce any term, Covenant, or condition, herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other such term, Covenant or condition.

**Section 5. Rights of Mortgagees.** Except to the extent otherwise provided in Article VIII no breach of this Declaration shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to this Declaration. The provisions of Article VIII herein above notwithstanding, neither the Owners nor the Association shall have any right to make any amendment to this Declaration which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

**Section 6. Effect of Invalidation.** If any provision of this Declaration is held to be invalid by any Court, the invalidity of such provision shall not affect the validity of the remaining provisions thereof.

**Section 7. Section Headings.** Section headings used herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular sections to which they refer.

**Section 8. Notices.** All notices in connection with this Declaration shall be made in writing and shall be deemed delivered (a) upon personal delivery to the individual person, if any, designated in writing by the Owner, as listed in the roster of Owner's names and addresses referred to in Article VIII; or (b) seventy-two hours after the deposit thereof in any United States main or branch post office, first class postage prepaid, properly addressed to the addressee thereof at the address listed in the said roster.

**Section 9. Limitations and Declarant's Rights.** Any notice to or approval by Declarant under any provision of this Declaration shall not be necessary after the Class B membership has been converted to Class A membership pursuant to Section 2 of Article IX herein.

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

"By acceptance and recording of this conveyance, the Grantee herein covenants and agrees to be bound by the Declaration of Covenants and Restrictions For FEATHERSTONE pertaining to the Real Estate hereby granted, which is recorded in the Office of the Recorder of Johnson County, Indiana",

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

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

Section 12. Reservations of Declarant. The provisions of Article IX hereof notwithstanding, Declarant hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant, at any time prior to the Class B membership being converted to Class A membership, pursuant to Article IX, Section 2 without the approval or consent of the Owners or Mortgagees of the Lots; provided that Declarant shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Declaration to any Owner, or substantially increases the obligations imposed by this Declaration on any Owner.

Section 13. Rights to Common Areas. Title to all Common Areas shall be held in the Association, and each Owner shall have, in the form of non-exclusive, reciprocal easements appurtenant to his Lot, a right of access to his Lot over the Streets, the right to the use of all Common Areas as parks or open spaces and the right of access thereto over the Streets, and the right of access to and use of the Drainage System, the Sewage System, and all utility lines and mains abutting or adjacent to his Lot; provided, however, that no Owner's use of any Common Area shall materially interfere with any other Owner's use thereof. In the event that any Owner's use of any Common Area causes such an interference, the Association or any Owner shall have all rights and remedies provided at law or in equity, for such interference.

Section 14. Transfer of Control of Owner's Association and Quitclaim Deed of Common Areas. Declarant shall transfer control of the Owner's Association to the Lot Owners and give a Quitclaim Deed for the Common Areas to the Association no later than the earlier of (a) four months after three-fourths (3/4) of the Lots have been conveyed to purchasers or (b) five (5) years after the first Lot is conveyed.

In Witness Whereof, the Declarant has caused this Declaration to be executed on the date first above written.

FEATHERSTONE DEVELOPMENT, LLC

By: [Signature]  
Kevin McGinnis, Manager

STATE OF INDIANA )  
                                  )SS:  
COUNTY OF )

Before me, a Notary Public in and for said County and State, personally appeared Kevin McGinnis, Manager, who acknowledged the execution of the foregoing, and who having been duly sworn upon his oath, stated that the representations therein contained are true.

Witness my hand and seal this

14th day of December, 1999.

My Commission Expires 2-28-08



Brenda L. Moore  
Notary Public

Resident: Johnson  
BRENDA L. MOORE  
NOTARY PUBLIC STATE OF INDIANA  
ELKHART COUNTY  
MY COMMISSION EXPIRES 2/28/2008

This instrument was prepared by Lee Robbins, WILLIAMS HEWITT & ROBBINS, 125 S. DEARBORN Avenue, Suite 400, P.O. Box 405, Greenwood, IN, 46142.

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[Handwritten initials]

Caporale Posts  
Cedar  
535-4635

①

4" \$ 107.33  
6" \$ 141.98

②

4" \$ 126.23  
6" \$ 152.48

③

4" \$ 136.24  
6" \$ 157.74

④

4" \$ 126.23  
6" \$ 152.48

⑥

4" \$ 152.48

⑦

4" \$ 112.58  
6" \$ 146.17

⑧

4" \$ 107.33  
6" \$ 141.98

⑨

4x6 \$ 128.53