



DAVID BRENTON'S TEAM

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.

**DECLARATION OF RESTRICTIONS
OF
McFARLAND FARMS**

THIS DECLARATION made this 10th day of January 1989 by The Shorewood Corporation, a Pennsylvania corporation (hereinafter referred to as the "Developer"),

WITNESSETH:

WHEREAS, the Developer is about to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions, and charges (hereinafter referred to as the "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and the future owners thereof:

NOW, THEREFORE, The Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the Developer's successors in title to any real estate in the Development. The Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by the Developer of a particular lot or tract within the Development as shown on Exhibit "A", to exclude any real estate so shown from the Development, or to include additional real estate.

1. DEFINITIONS. The following are the definitions of the terms as they are used in this Declaration:

A. "Committee" shall mean the McFarland Farms Development Control Committee, composed of three members appointed by the Developer who shall be subject to removal by the Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of the Developer. The Developer may, at its sole option, at any time hereafter relinquish to the Association the power to appoint and remove one or more members of the Committee.

B. "Association" shall mean the McFarland Farms Property Owners' Association, Inc., a not-for-profit corporation, the membership and powers of which are more fully described in Paragraph 1.1 of this Declaration.

C. "Lot" shall mean any parcel of real estate excluding "Blocks", whether residential or otherwise, described by one of the plats of the Development which is recorded in the office of the Recorder of Marion County, Indiana.

D. Approvals, determinations, permissions, or consents required herein shall be deemed given if they are given in writing, signed with respect to the Developer or the Association, by the President or a Vice President thereof, and with respect to the Committee, by two members thereof.

E. "Owner" shall mean a person who has or is acquiring any right, title, or interest, legal or equitable, in and to a lot, but excluding those persons having such interest merely as security for the performance of an obligation.

F. "Common Area" shall mean those areas set aside for conveyance of the Association, as shown on the plat(s).

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every lot in the Development, unless it is otherwise designated by the Developer, is a residential lot and shall be used exclusively for single-family residential purposes. No structures shall be erected, placed or permitted to remain upon any of said residential lots except a single-family dwelling house and such outbuildings as are usually accessory to dwelling houses.

B. Residential Use or Accessory Outbuildings Prohibited. No accessory outbuildings shall be created on any of the residential lots prior to the erection thereon of a single-family dwelling house, and in no event shall any such accessory outbuilding which may be constructed upon a residential lot under these Restrictions ever be used as a residence or dwelling house or place for human occupancy or habitation. Accessory outbuildings shall be limited to 120 square feet, and shall be constructed of materials other than metal.

C. Occupancy or Residential Use of Partially Completed Dwelling House Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the house shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record appearing on the recorded plat of the subdivision, on recorded easements, rights-of-ways, and also to all governmental zoning authority and regulation affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES

A. Minimum Living Space Areas. The minimum square footage of living space of dwellings constructed on various residential lots in the Development, exclusive of porches, terraces, garages, carports, or accessory buildings shall be as specified in the recorded plats of the various sections of the Development. Basements shall not be included in the computation of the minimum living area except for that portion of a walkout basement which is to be finished as a living area.

B. Residential Set-Back Requirements.

(i) In General. Unless otherwise provided in these Restrictions or on the record plat, no dwelling house or above-grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.

(ii) Definitions. "Side line" means a lot boundary line 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.

(iii) Front Yards. The front building set-back lines shall be the designated number of feet from the right-of-way of the road upon which the lot abuts as set forth upon the plats of the Development.

(iv) Side Yards. The side yard set-back lines shall not be less than six (6) feet from either side line of the lot and the total or both side yards shall be not less than an aggregate of sixteen (16) feet.

(v) Rear Yards. The rear set-back line shall be at least twenty (20) feet from the rear line.

C. Fences and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence must be approved by the Committee as to size, location, height and composition before it may be installed. A lot must have at least two (2) trees growing upon it in the front yard by the time the house is completed.

D. Exterior Construction. The finished exterior of every building constructed or placed on any lot in the Development shall be of material other than tar paper, rollbrick siding or any other similar material. All driveways must be paved with asphalt or concrete from their point of connection with the abutting street or road.

E. Heating Plants and Garages. Every house in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the house. Geo-Thermal heat pumps shall be a closed loop system. Every house in the Development must have a garage.

F. Diligence in Construction. Every building whose construction or placement on any residential lot in the Development is begun shall be completed within nine (9) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

G. Prohibition of Used Structures. All structures constructed or placed on any numbered lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such lot.

H. Maintenance of Lots and Improvements. The owner of any lot in the Development shall at all times maintain the lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly; and, specifically, such owner shall:

(i) Mow the lot at such times as may be reasonably required in order to prevent unsightly growth of vegetation and noxious weeds.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(iv) Cut down and remove dead trees.

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

(vi) Within sixty (60) days following completion of a house on a lot, the owner shall landscape the lot, weather permitting.

I. Association's Right to Perform Certain Maintenance. In the event that the owner of any lot in the Development shall fail to maintain his lot and any improvements situated thereon in accordance with the provisions of these Restrictions, the Association shall have the right, but not the obligation, by and through its agents or employees or contractors, to enter upon said lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such lot and improvements situated thereon if any, conform to the requirements of these Restrictions. The cost therefore to the Association shall be added to and become a part of the annual charge to which said lot is subject and may be collected in any manner in which such annual charge may be collected. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

4. PROVISIONS RESPECTING DISPOSAL OF SANITARY WASTE.

A. Nuisance. No outside toilets shall be permitted on any lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter any storm drain. By purchase of a lot, each owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by the Developer or the Association in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorney's fees, shall become a charge or lien upon the lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt.

Neither the Developer, nor the Association, nor any officer, agent, employee or contractor thereof, shall be liable for any damage which may result from enforcement of this paragraph.

B. Construction of Sewage Lines. All sanitary sewage lines on the residential building lots shall be designed and constructed in accordance with the provisions and requirements of the City of Indianapolis, Department of Public Works. No storm water (subsurface or surface) shall be discharged into sanitary sewers.

5. INDIVIDUAL YARD LIGHTS REQUIRED ON EACH LOT IN THE DEVELOPMENT.

At the time that the owner of the lot in the Development completes the construction of a home on his lot, he shall install or cause to have installed a dusk to dawn yard light in the front yard of his lot. The design, type and location of the yard light shall be subject to the approval of the Committee which may require, for the purpose of uniformity and appearance, that said yard light be purchased from the Developer or its designee.

6. MAILBOXES.

Owners of a lot in the Development shall install or cause to have installed a mailbox which shall be in accordance with the design, type and location of a mailbox approved by the Committee. The Committee may require, for the purpose of uniformity and appearance, that the mailbox be purchased from the Developer or its designee.

7. GENERAL PROHIBITIONS.

A. In General. No noxious or offensive activities shall be carried on on any lot in the Development, nor shall anything be done on any of said lots that shall become or be an unreasonable annoyance or nuisance to any owner of another lot in the Development.

B. Signs. No signs or advertisements shall be displayed or placed on any lot or structures in the Development without the prior written approval of the Committee except for real estate sales signs.

C. Animals. No animals shall be kept or maintained on any lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance.

D. Vehicle Parking. No campers, trailers, boats or similar vehicles shall be parked on any street or lot in the Development. No boat or truck, one (1) ton or larger in size, shall be parked for overnight or longer storage on any lot in the Development, unless the same shall be parked in such a manner that it is not visible to the occupants of other lots in the development, or the users of any street in the development.

E. Garbage and Other Refuse. No owner of a lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such owner accumulate or permit the accumulation out of doors of such refuse on his lot except as may be permitted in Subparagraph F below. All houses built in the Development shall be equipped with a garbage disposal unit.

F. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground. Any receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible front any street within the Development at any time, except at the times when refuse collections are being made.

G. Model Homes. No owner of any lot in the Development shall build or permit the building upon said lot of any dwelling house

that is to be used as a model home or exhibit house without permission to do so from the Developer.

H. Temporary Structures. No temporary structure of any kind, such as a house, trailer, tent, garage or other outbuilding shall be placed or erected on any lot nor shall any overnight camping be permitted on any lot.

I. Ditches and Swales. It shall be the duty of the owner on every lot in the Development on which any part of any open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon the lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said lot as may be reasonably necessary to accomplish the purposes of this subsection. All owners, if necessary, shall install dry culverts between the road rights-of-way and their lots in conformity with specifications and recommendations of the City of Indianapolis, Department of Transportation, and of the appropriate zoning bodies.

J. Utility-Services. No utility services shall be installed, constructed, repaired, replaced and/or removed under finished streets except by jacking, drilling or boring and shall require the approval of the Department of Transportation where the streets are public and by the property owners where there are private drives.

K. Wells and Septic Tanks. No water wells shall be drilled on any of the lots nor shall any septic tanks be installed on any of the lots in the Development, without the approval of the Committee and the Indianapolis Water Company.

L. Prohibition of Antennas. No exposed radio, cable and television antennas and/or dishes shall be permitted within the Development.

8. McFARLAND FARMS DEVELOPMENT CONTROL COMMITTEE.

A. Statement of Purposes and Powers. The Committee shall regulate the external design, appearance, use, location and maintenance of lands subject to these Restrictions and improvements thereon, in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

- (i) Generally. No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any lot in the Development without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the owner of the lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by three (3) complete

sets of plans and specification for any such proposed construction or improvement. Such plans shall

(ii) include plot plans showing the location of a all improvements existing 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 specification shall set forth the color and composition of all exterior material; proposed to be used and any proposed landscaping together with any other materials or information which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of $\frac{1}{4}'' = 1'$ and all plot plans shall be drawn to a scale of $1'' = 30'$, or to such other scale as the Committee shall require. There shall also be submitted, where applicable, the permits or reports required under Paragraph 3 of these Restrictions.

(ii) Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(a) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of those Restrictions;

(b) The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the lot or with adjacent buildings or structures;

(c) The proposed improvement, or any part hereof, would in the opinion of the Committee be contrary to the interests, welfare or rights of all or any part of other owners.

(iii) Power to Grant Variances. The Committee may allow reasonable variances or adjustments of these Restrictions where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these Restrictions and no variance or adjustment shall be granted which is materially detrimental or injurious to other lots in the Development.

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

C. Liability of Committee. Neither the Committee nor any agent thereof, nor the Developer, shall be responsible in any way for any defects in any plans, specifications or other

materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee does not make any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

E. Continuation of Committee. When the Developer notifies the Association of discontinuance of his Architectural Control Committee, then the Directors of the Association, or their designees, shall continue the functions of the Committee with like powers.

9. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous lots in the Development shall be owned by the same person, and such owner shall desire to use two or more of said lots as a site for a single-dwelling house, he shall apply in writing to the Committee for permission to so use said lots. If permission for such a use shall be granted, the lots constituting the site for such single-dwelling house shall be treated as a single lot for the purpose of applying these Restrictions to said lots, so long as the lots remain improved with one single-dwelling house.

10. OWNERSHIP, USE AND ENJOYMENT OF COMMONS.

"Commons" and "Commons Area" shall mean those areas set aside for conveyance to the Association, as shown on the plat. Any commons depicted on the recorded plats of the Development shall remain private, and neither the Developer's execution of recording of the plats nor the doing of any other act by the Developer is, or is intended to be, or shall be construed as, a dedication to the public of the commons.

A license upon such terms and conditions as the Developer, and the successors, assigns or licensees of the Developer, shall from time to time grant, for the use and enjoyment of the commons, is granted to the persons who are from time to time members of the Association. Ownership of any commons shall be conveyed in fee simple title, free of financial encumbrances to the Association upon their completion. Such conveyance shall be subject to easements and restrictions of record, and such other conditions as the Developer may at the time of such conveyance deem appropriate. Such conveyance shall be deemed to have been accepted by the Association and those persons who shall from time to time be members thereof upon the recording of a deed or deeds conveying such commons to the Association.

11. MCFARLAND FARMS PROPERTY OWNERS' ASSOCIATION, INC.

A. In General.

(i) There has been or will be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as the "McFarland Farms Property Owners' Association, Inc.", which is referred to as the "Association". Every owner of a residential lot in the Development shall be a member of the Association and shall be subject to all the requirements and limitations imposed in these Restrictions on other owners of residential lots within the Development and on members of the Association, including those provisions with respect to the payment of an annual charge.

B. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Developer 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 member(s) shall be **the Developer**, who shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) On the date the Developer sells the last lot which it owns in the Development, and the Developer no longer owns any lots or land in the Development; or

(b) On January 1, 1999.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association.

D. Professional-Management. No contract or agreement for professional management of the Association shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

E. Responsibilities of the Association.

(i) The Association shall maintain the landscape easements shown on the plats(s) and shall keep such areas in a neat, clean and presentable condition at all times.

(ii) The Association shall maintain and repair the Common Areas shown on the plat(s) including improvements thereon.

(iii) The Association shall provide for the operation, management and maintenance of the swimming pool and related facilities located within the Development.

(iv) The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable.

(v) The Association may contract for such service as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable.

12. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. Creation of the Lien and Personal Obligation of Assessments. Each owner of any lot in the subdivision, except the Developer, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements and operating deficits; such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. No charge or assessment shall ever be levied by the Association against the Developer.

B. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the properties and for the improvement and maintenance of the Common Area and improvements, operated or maintained by the Association, and the landscape casements on the Development and other purposes as specifically provided herein.

C. Special Assessments for Capital Improvements and Operating Deficits. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the

assent of a majority of the votes of tile members who are **voting in person** or by proxy at a meeting duly called for this purpose.

D. Notice and Quorum for Any Action Authorized Under Sections C and D. Written notice of any meeting called for the purpose of taking any action authorized under Section C or D 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 may 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 subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

E. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for herein shall commence for each lot on the date of conveyance to the owner by deed or on the date the owner signs a land contract to purchase a lot. The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance or the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any lot shall be binding upon the Association as of the date of its issuance.

F. Effect of Non-Payment of Assessments: Remedies of the Association. Any charge levied or assessed against any lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that lot until paid in full and shall also be a personal obligation of the owner or owners of that lot at the time the charge fell due. Such charge shall bear interest at the rate of twelve percent (12%) per annum 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 of competent jurisdiction. The 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 any expense or costs, including attorneys' fees, incurred by the Association in collecting the same. Every owner of a 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 an owner of lot in the Development is hereby notified that by the act of acquiring, making such purchase or 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 this subparagraph of the Restrictions.

The Association shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Association that the assessments on a specified lot have 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 certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

G. Subordination of the Lien to Mortgagee. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any lot pursuant to the foreclosure of any first mortgage on such lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

H. Suspension of Privileges of Membership. Notwithstanding any other provision contained herein, the Board or 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 or associate member for any period during which any of the Association's charges or any fines assessed under these Restrictions owed by the member or associate member remains unpaid, during the period of any continuing violation of the restrictive covenants for the Development, after the existence of the violation shall have been declared by the Board of Directors of the Association; and during the period of any violation of the Articles of Incorporation, By-Laws or regulations of the Association.

13. REMEDIES

A. In General. The association or any party to whose benefit these Restrictions inure, including the Developer, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to abide by, enforce, or carry out any of these 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 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, reoccurrence or continuation of such violation of these Restrictions.

14. 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 herein contained. By acceptance of such deed or execution of such contract, the owner recognizes 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.

15. TITLES

The titles preceeding the various paragraphs and subparagraphs of the Restrictions are for 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 the plural, and the masculine form shall be taken to mean or apply the feminine or to the neuter.

16. 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, 2080, at which time said Covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or part by vote of those persons who are then the owners of a majority of the numbered lots in the Development.

17. SEVERABILITY

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one 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,

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The Homeowner and the Community Association

What an Association Is

Associations are private, non-profit organizations in which all property owners automatically are members and have certain rights and obligations. They go by a variety of names: homeowners associations, property-owners associations, etc. To simplify matters here, we'll refer to them by a commonly used catch-all name: community association or CA.

The association runs things as a sort of *mini-government*, operating under legal documents. In an association, the majority rules and what the group wants under the agreements; you have to accept, too.

An automatic membership community association should not be confused with a voluntary civic or social club. It's nothing of the kind. Your interests as a homeowner lie with the continuing success of your community association. If the association functions well, the lifestyle you have chosen and your property values will be maintained. The major responsibility of the association is to protect the investment and enhance the value of the property owned by the members. This is done by providing for the physical maintenance and operation of the shared property. These may include landscaped grounds, a swimming pool, and other recreational facilities. The association also may provide common services such as security, garbage and trash collection, and snow removal, etc. The association has other responsibilities too, such as enforcing the master regulations and architectural controls, providing recreational programs, and setting up an effective communication system among members.

What an Association is Not

There are some things that an association does not do. A CA is not a political organization with the main purpose of influencing outside issues and elections. On rare occasions, a CA may become active on a single civic issue if it affects the property values of all members. Usually, however, associations do not become involved, leaving such matters to voluntary membership citizens' associations and political parties. The association also is not a forum for individual resident complaints against the builder. This is a matter to be settled between the individual owner and the builder.

How Does the CA Work?

The typical association is administered by a board of five to nine directors elected by the residents for staggered terms of office to assure continuity. The association officers usually are elected by the board of directors from the board's membership.

The board is assisted in its duties by committees of association members. Typically there are committees for finance, communication, maintenance, recreation, architectural control, and nominations and elections. Effective committees are essential to a well-run CA. They advise and assist the board, and the board in turn gives strong support to committee action.

Each homeowner is involved in the association in some manner. Involvement for you may mean that you pay your assessment on time, cooperate with the association, and participate where you will be most effective, even if that means that you only vote at the annual meeting.

You may wish to take a more active role-serve on the board or on a committee. If you do become actively involved in your association, you will find it a rewarding, educational experience, and both you and the association will benefit.

The CA is a Business

establish the community association, govern its operational and provide rules for use of all properties in the community. The legal documents may vary, but usually they consist of the following:

Articles of incorporation- establish the association and its purpose, structure and powers.

Bylaws-establish rules for the operation of the association through the officers, board of directors, committees and membership meetings.

Covenants, conditions, and restrictions (CC&Rs) in a PUD- detail each owner's property rights and the conditions on use of his property, and his rights and obligations in the association. Here we will refer to them as the master regulations.

The master regulations are important rules in your day-to-day living. They are set up to make the sharing of property convenient and easy for you and all others involved, not to make things difficult. Master regulations usually cover both use of shared property and use of individual residential properties.

But no matter what the intentions of the rules are, someone will always break them. Most associations have a rule about no dogs being allowed to run free throughout the common property. The reasons for the rules are obvious. Perhaps a new resident moves in with three Irish setters. He's informed of the rules, but doesn't take them seriously. His dogs roam throughout the neighborhood day and night. Then, other dog owners see the dogs running free and begin to let their dogs out, too. Soon the rule is broken more often than it's kept.

The association must act quickly and firmly on this problem and those similar to it. The association has the power of enforcement and must use it to be effective. Without proper enforcement, the master regulations mean little.

Swimming pool rules, excessive noise, and operation of business in a residence are other examples of community concerns often covered in the master regulations.

Usually a friendly word or simple written notice from the CA manager or an association officer will be enough to correct the situation. But with particularly stubborn violators, the association board can suspend violators from use of the recreational areas as provided in the master regulations. But this only works if rules are enforced promptly and apply to everyone.

If necessary, the CA can take trip to court and precedent will back up the association's position. Every effort should be made to avoid going to court, however. Not only is it costly, but it can also cause feelings of ill will in the community.

Architectural Controls

Most master regulations provide for architectural control by the association. These controls are not set up to stifle your individual creativity, but rather to assure that the integrity of the original community design is preserved. You can paint the entire inside of your unit bright purple if you wish. It's only the exterior of your unit that is of concern to the association.

Common problems with architectural control arise over such issues as fences, external color of units, additions, clotheslines, antennas and patio awnings. Most associations set up an architectural control committee which develops and distributes architectural guidelines for you, reviews and approves all submitted plans for exterior alterations, forces architectural standards.

It is important that you are familiar with the architectural controls and always work with the committee when making any exterior change to your unit. This will avoid unnecessary misunderstandings which inevitably cause delay and extra expense. If you see flagrant violations of the architectural controls by other association members, you can do your part by calling it to the attention of the architectural control committee.

No matter what role you play in the association, one thing is certain. You will want it to operate as smoothly and efficiently as possible. The most important thing to remember about a community association is that it is business. To be successful it must be operated like one. What makes an association work like a successful business? Several things play a key role:

1. Economical and satisfactory operation and maintenance of the CA's facilities and services.
2. Accurate and forward-looking budgeting process.
3. Assessment amounts set to support the actual present and future costs of managing and operating the association and its facilities.
4. Swift, judicious enforcement of master regulations.
5. Professional relationships with key participants; for example, builder, lender, manager.

Another key to success is the cooperation and participation of homeowners. However, even if you do no more than pay your assessment and vote at the annual meeting, you still have an interest in how others are running the association. The following sections discuss some important activities of the association which should be the concern of every homeowner.

The Assessment

Since it's your money that the association spends, you have a special interest in seeing that the association has a sound budget. The CA's budget must be adequate to maintain the common facilities, provide special services and keep an adequate reserve for future large expenditures.

Originally the developer makes provision for mandatory assessments in the legal documents. The CA board sets the specific current assessment from year to year according to the actual operating needs, The association's expenses, undoubtedly increase from time to time in every development. Some common causes are real estate tax increases, higher wage and management costs, need to enlarge the reserve account and increased services.

To accommodate such increases, the legal documents of many CAs provide that the assessment may be increased by the CA board from year to year. Sometime the residents inherit an inadequate assessment from the developer. Although less frequent these days, developers have been known to pay an excessive share of association expenses during the sales period to help finance the association. This keeps the assessment low to attract buyers. Later when the developer phases out, assessments must be raised to operate the association. This can come as a surprise to you, but you should remember that it is not usually the association's fault.

Increasing the assessment unnecessarily, however, should be avoided because it can cause the problems of assessment collection to multiply. One of the most persistent association concerns, failure on the part of the association to collect assessments, can have disastrous results.

When some residents fail to pay their assessment, the association must cut back on its services to continue. Perhaps the swimming pool isn't opened, exterior maintenance of the buildings is put off, and lawn care is curtailed so that there are more weeds than grass. The place simply doesn't look like it used to, and more and more "For Sale" signs appear. Property values drop drastically and residents start moving even before they sell.

This example is extreme, for sure. But it can happen. It is important, then, that the association take steps early to collect delinquent assessments. If gentle prodding doesn't work, a lien may be placed on the property.

The Master Regulations

When any group of people - no matter what size -- share property, rules must be set down for its use. These rules and their enforcement are essential to preserve property values in the community. When the developer plans his project, he develops a set of legal documents which

The Amenities

Chances are you were attracted to a particular development not only by the type of housing, but also by the recreational amenities available. Perhaps the development you live in has a pool, private lake and a tennis court. You really go for the tennis court, but you couldn't care less about the swimming pool. Don't forget that you pay for the upkeep of the pool even if you never swim in it. You will pay for the tennis courts even if you never use them. You can't deduct the unused amenity upkeep portion from your assessment bill.

Communication

Communication within the association is vital. The association can't expect you to be interested in association activities if you don't find out about them until it's too late, or don't find out at all.

Person-to-person contact is always the best form of communication and there is rarely any suitable substitute for it. An association can start off right by having a greeting committee pay a visit to new residents with a "welcome package" full of useful information. For example, it can be very effective to provide a summary of the master regulations, a list of the association officers and committee chairmen with their major responsibilities, and a list of upcoming association activities. The welcome committee should also take the time to explain how the association works and invite the new resident's participation.

The association's social functions are another form of person-to-person communication. When many residents are moving into a new community, the association, may plan a welcome party where everyone can get to know each other. In older projects, social functions often become traditions enjoyed by new and old residents alike.

Most associations find it very important to have a newsletter. Not only does a newsletter inform members about upcoming meetings and other association activities, but it can also serve as a community "bulletin board" with want ads, lists of neighborhood events, and similar items.

Association meetings also serve a vital function. The board meetings and the annual membership meeting should be well publicized. All association members should be encouraged to attend the annual meeting. This is where the real business of the association is discussed and important decisions made. Your input is important to you and to the association.

Complaints

No type of communication is complete without a method for airing disputes and grievances. You will be totally frustrated if there is no way to bring your problems to the attention of the association.

Associations handle grievances in several ways. Many CAs have developed grievance forms which you can fill out and turn into the association managers or president. The complaint is turned over to the appropriate officer or committee for consideration and the results are reported back to the manager or president and to the complainant. As an additional safety valve, some associations set aside times at association meetings for discussing any issue a member may wish to bring up. The board then assigns a particular individual or committee to handle each issue to assure that follow up will take place.

Grievances should never be ignored by association leaders no matter how small they may be. Small problems have a way of turning into big ones if they are not addressed at the beginning. You should never hesitate to present unresolved problems to the association, either. If something isn't right, say so. But be constructive.

Management

Smooth and efficient management means less worry for the homeowner and assures that property values will be maintained. Generally, management has the following responsibilities:

1. Arrange for operation and maintenance of common facilities and services.
2. Hire, fire and supervise all employees such as pool guards and gardeners.
3. Collect assessments on a regular basis.
4. Maintain records of receipts and expenses
5. Prepare yearly and monthly financial statements.
6. Prepare recommended yearly budget showing estimated income and proposed expenses.
7. Receive and handle complaints.
8. Assume other responsibilities as designated by the board.
9. Plan, organize, and staff association activities.
10. Assure that committees are functioning properly.
11. Provide communication mechanism such as a newsletter.
12. Report to board on all management activities.

There are many different forms of management. Which is best for your association depends on the size of the development, the CA's facilities and services, the finances available, and the member talent available.

Professional association management generally offers the association the most expertise and the least worry for the board. It can be obtained in various forms ranging from association-hired and paid staff to retaining the services of an outside management company.

Even when full-time or part-time professional management is employed, the association board still must oversee the management and evaluate the entire operation. Over dependence on management can lead an association into trouble, especially if the association management is not good.

Many associations rely totally on volunteers from the ranks of the residents to manage the association. This can be very economical for the association and on-site control is much easier. The size of the project and the talent and enthusiasm of the residents are important factors in weighing the viability of this method.

Although many associations successfully use volunteers it can sometimes put a strain on the association membership. Even the most enthusiastic volunteer will find it a burden if he must give most of his spare time to the association. Care must be taken to make sure that volunteers are not overworked.

Many associations do not use either of these methods, but successfully combine the two in various ways. For example, some employ professional management on a part-time basis to handle such things as monthly accounting records, overseeing day-to-day maintenance, and supervision of contractors. The board evaluates the entire operation and has complete control over the management functions.

Another commonly used method is to have volunteers handle financial matters. The board then hires a maintenance contractor to provide for the physical maintenance of the development such as lawn mowing and trash collection. Again, this requires an extra effort by the association membership, but it can pay off because it is less expensive. There are many alternative types of management, and each association must carefully weigh the pros and cons to arrive at what is

best for its needs. You can do much to help by cooperating with the management and offering to volunteer your talent when needed.

Insurance

The association should carry a policy to protect the shared property for which the association is responsible, such as recreational amenities, community walkways, and common areas. The coverage should provide adequate protection from liability suits that may be the result of the use of the common areas as well as acts of the association or its officers. The association's master policy should also protect you against loss of common property by fire or other hazard.

Even though the common property in a PUD is owned directly by the CA, not by you, the insurance coverage in it is important to you. If the CA's coverage is inadequate to cover damage from a fire in the clubhouse, for example, the difference will have to be collected through a special assessment - and that means you pay out the extra money.

Resales

Sooner or later you may wish to sell your home. This is an important time for any homeowner and you should proceed carefully. When you sell your home, you are responsible for informing the new owner about the community association, how it operates and what the individual residents' responsibilities are. Special care should be taken to explain the assessment and the master regulations.

Doing Your Part

The key to a successful association is the support and enthusiasm of the membership. And since you're a member that means you. Again and again association leaders say that member apathy is the plague of the association. And it is true. Without the involvement of its members, the association cannot operate successfully.

Apathy by members leads to problem piled upon problem for the association. No one attends meetings. No one volunteers for committees. Assessment collection lags. Soon the board throws up its collective hands and gives up. Now the association has no board. What happens next?

Without a board everything falls apart. Facility operations are limited, services are cut back, and inevitably property values will fall. Foreclosure looms. The private common properties may become public by action of the CA or even by tax sale. It's a gloomy picture, and in reality it seldom happens. But it needn't ever happen. Not if your association has your support.

Be actively involved in the association -- serve on the board, head up a committee, lend your talent where it will be the most useful. You can also help the association by doing these three things:

1. Pay your association assessment on time.
2. Cooperate with the association, follow the rules, help where you can.
3. Participate in a meaningful way.

Again, the value of your home investment and the quality of your community depend on your community association...and the success of the association depends on you. Give it all you can.

Parts of this have been paraphrased and reprinted by permission of the Community Association Institute located in Alexandria VA.

The original booklets are on file with the Association and are available for any resident to read.

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

OF

MCFARLAND FARMS PROPERTY OWNERS' ASSOCIATION, INC.

I, JOSEPH F. MCSSETT, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above corporation, have been presented to me as my office accompanied by the fees prescribed by law; that I have found such

Articles conform to law; all as prescribed by the provisions of the

Indiana Business Corporation Law,

as amended.

Now, therefore, I hereby issue to such Corporation this Certificate of Incorporation, and further certify that its corporate existence will begin April 11, 1930.

In witness whereof, I have hereunto set my
hand and affixed the seal of the State of
Indiana, at the City of Indianapolis, this
Eleventh Day of April, 1930

Joseph F. McSsett
JOSEPH F. MCSSETT, Secretary of State

BY

Connie McKay

Deputy



appear the words "McFarland Farms 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 McFarland Farms Property Owners' Association, Inc. is limited to McFarland Farms property owners 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 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 member of the Association) shall have the privilege of using the areas designated parks, commons, blocks or rights-of-way in the plat 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 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.

tenants in common, as joint tenants, or as tenants by the entireties, 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 tenants.

Clause 4.054 - Quorum. Except as stated in Clause 4.055, a quorum shall be deemed to be present at a meeting of the members of the Association, if at such meeting, the owners of not less than ten per cent (10%) of the numbered lots in the Project are present. For the purpose of Clause 4.054 and Clause 4.055, the owner of a lot shall be deemed to be present at a meeting if any owner of that lot is present in person or by proxy or by attorney-in-fact, whether the tenant so present is a sole owner, a tenant in common, a joint tenant, or a tenant by the entireties.

Clause 4.055 - Quorum for Special Assessments or Operating Deficits. Should a meeting be held for the purpose of voting on a special assessment for capital improvements or operating deficits, then a quorum shall be deemed to be present provided that the conditions for a quorum as set forth in Paragraph 12D of the Declaration of Restrictions of McFarland Farms as recorded as Instrument 89-5437 in the Office of the Recorder of Marion County, Indiana, are satisfied.

ARTICLE V

The Board of Directors

Section 5.01 - Qualifications and Elections. The affairs of the Association shall be managed by a Board of five (5) 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 five (5) 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 meeting 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 Directors 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

ARTICLES OF INCORPORATION
OF

MCFARLAND FARMS 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 "The Springs" and "Sterling Ridge" at McFarland Farms (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 in such a manner as to promote the creation and preservation of peaceful enjoyment of the property and the protection and enhancement of property values in the Project; 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 provisions of The Indiana General Not For Profit Corporation Act, as amended.

90 APR 11 10 FILE: 44

SECRET PROJECT

RECEIVED
CORPORATION DIV.

ARTICLE I

The name of the corporation is McFarland Farms 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 of the Project, or any part thereof; to repair, rebuild, and maintain structures, signs, walls 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 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

enforceability or "running" quality of any other one of the
Restrictions.