



# **DAVID BRENTON'S TEAM**

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

**48 N Emerson Ave Suite 600 Greenwood, IN 46143-8895**

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**[www.move2indy.com](http://www.move2indy.com)**

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 COVENANTS, CONDITIONS AND RESTRICTIONS

OF

E & F REALTY CO.

THIS DECLARATION, made on the date hereinafter set forth by E & F Realty Co., an Indiana general partnership, hereinafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Indianapolis, Marion County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

NAME

This subdivision shall be known and designated as Sherman Oaks III, a subdivision located in Indianapolis, Marion County, Indiana.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Southridge Square Homeowners Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

Section 3. "Properties" shall mean and refer to the real estate described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Plat" shall mean and refer to the subdivision plat of the Properties recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented.

Section 5. "Driveway Easements" shall mean and refer to the surface easements for ingress and egress appurtenant to the Lots and shown as shaded areas on the Plat.

Section 6. "Lot" shall mean and refer to any parcel of land shown upon the Plat. It is anticipated that the Plat shall be recorded initially reflecting units described as "Blocks" and that the Plat shall be rerecorded, with the approval of the Department of Metropolitan Development, City of Indianapolis, to define specific lot lines. With respect to any single-family portion of any Building that may be constructed on a part of more than one of such parcels, "Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit.

Section 7. "Building" shall mean and refer to any multi-family dwelling unit that may be constructed on a part of more than one Lot.

Section 8. "Declarant" shall mean and refer to E & F Realty Co., its successors and assigns as a declarant including builders who purchase Lots for the purpose of the erection of buildings and the resale of the Lots and dwelling units to Owners.

Section 9. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

### ARTICLE III

#### LOTS

Section 1. Number of Lots. This subdivision consists of sixty (60) Lots; with streets as shown on the Plat.

Section 2. Street Dedication. The street shown on the Plat as Lima Court is hereby dedicated to the public.

Section 3. Land Use. All Lots shall be used exclusively for residential purposes.

Section 4. Conveyance of Lots. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

#### ARTICLE IV

##### ACCESS RIGHTS OF ASSOCIATION

Certain utility lines, sewer and other facilities and other improvements located on one Lot may serve other Lots. The Association and any member thereof whose enjoyment of the use and occupancy of his Lot is affected thereby shall have an easement thereto and shall have the right, at reasonable times and at any time in case of emergency, to go upon any other Lot for the purpose of maintaining or causing to be maintained or repaired any party walls, utility lines, sewer or other facilities which serve more than one Lot.

If any Owner shall fail to adequately maintain the open area included within his Lot, the Association upon the giving of ten (10) days written notice to such Owner, shall have the right to enter upon such open area and do any necessary maintenance thereon. The cost of such maintenance shall be a special assessment against such Lot and the Owner thereof.

The Association shall have an easement for access to all Lots for ingress and egress as reasonably required by its officers, directors, employees, and their agents and independent contractors, in order to perform its obligations and duties as set forth in this Declaration. These easements are also reserved for the benefit of Declarant so long as Declarant owns any Lot.

#### ARTICLE V

##### ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. 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 Owner. 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 Declarant and 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) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on January 1, 1985.

Section 3. The Owners 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.

#### ARTICLE VI

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly assessments or charges; (2) special assessments for capital improvements and operating deficits; and (3) special assessments as provided in Article IV

and Article IX; such assessments to be established and collected as hereinafter provided. The monthly 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.

Section 2. 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 improvements, maintenance and other purposes as specifically provided herein.

Section 3. Maximum Monthly Assessments.

(a) Until January 1, 1982, the maximum monthly assessment on any Lot conveyed by Declarant (not including assessments for insurance pursuant to Article IX) shall be \$20.00 per Lot, except that if a Lot is undeveloped or construction of the residential unit thereon is incomplete, the maximum monthly assessment for such Lot shall be twenty-five percent (25%) of the monthly assessment applicable to other Lots.

(b) From and after January 1, 1982, the maximum monthly assessment may be increased each calendar year not more than eighteen percent (18%) above the maximum assessment for the previous year without a vote of the membership.

(c) From and after January 1, 1982, the maximum monthly assessment may be increased above eighteen percent (18%) by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the monthly 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 the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 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 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.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessments; Due Dates. The monthly assessment provided for herein shall commence on July 1, 1981 and the insurance assessment provided for in Article IX shall commence as to each Lot on the first day of the first month following the conveyance of such Lot to an Owner other than a builder. The Board of Directors shall fix any increase in the amount of the monthly assessment at

least thirty (30) days in advance of 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.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action in favor of the prevailing party.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. 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.

#### ARTICLE VII

##### DECLARANT'S RIGHTS

Section 1. Use of Property. Declarant reserves the right to use any of the Lots as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of buildings and other improvements.

Section 2. Rights of Builders. The rights reserved to Declarant in Section 1 are also reserved to a builder purchasing a Lot from Declarant including but not limited to Ryan Homes, Inc.

#### ARTICLE VIII

##### MAINTENANCE

Section 1. Maintenance by Owners. (a) Interior. The Owner of each Lot shall furnish and be responsible for, at his

own expense, all maintenance, repairs, decorating and replacements within his residence, including the heating and air conditioning system and any partitions and interior walls. He further shall be responsible for the maintenance, repair and replacement of all windows in his residence and also the doors leading into the residence, and any and all other maintenance, repair, and replacements of the improvements on his Lot unless otherwise provided herein.

(b) Exterior. The Owner of each Lot shall furnish and be responsible for, at his own expense, all of the exterior maintenance and repairs of the improvement and Lot and for landscaping except for those items specifically undertaken by the Association pursuant to Sections 2 and 3 of this Article. Such responsibility of the Owner is subject, however, to the conditions and limitations set forth in Article XII regarding Architectural Control.

(c) Equipment, Facilities and Fixtures. To the extent that equipment, facilities and fixtures within any Lot shall be connected to similar equipment, facilities or fixtures affecting or serving other Lots, then the use thereof by the Owner of such Lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to any equipment, facilities or fixtures affecting or serving other Lots.

Section 2. Maintenance of Driveway Easements. The Association shall be responsible for the maintenance, repair and repaving of all Driveway Easements and for the maintenance and repair of any pedestrian walkway or sidewalk constructed or to be constructed within any Driveway Easement.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance upon the Driveway Easements, the Association shall provide exterior maintenance upon each Lot which is subject to

assessment hereunder, as follows: lawns, trash removal and snow removal from the paved portions of Driveway Easements. The term lawn means grass and does not include trees, shrubberies or other plantings.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE IX

INSURANCE

Section 1. Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Properties in an amount consonant with the full replacement value of the improvements excluding all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by any Owner and excluding any personal property owned by any Owner whether located on a Lot or elsewhere. If the Association can obtain such coverage for reasonable amounts it shall also obtain "all risk" coverage. The Association shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Association, it may cause such full replacement value to be determined by a qualified appraiser and the cost of any such appraisal shall be included in the monthly maintenance assessment for each Lot. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each Owner.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, its Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based

on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms, that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted.

Section 2. Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing, all Owners and all other persons entitled to occupy any Lot.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

Section 3. Monthly Assessment for Insurance. The premiums for all such insurance hereinabove described shall be paid by the Association and the pro rata cost thereof based upon square feet of living area including garages but excluding basements, shall be assessed on a monthly basis and shall be in addition to the monthly assessment to which each Lot conveyed by Declarant shall be subject under the terms and provisions of Article VI. Each Owner (except builders) shall prepay to the

Association at the time his lot is conveyed to such Owner an amount equal to thirteen (13) monthly insurance assessments as estimated by the Association and shall maintain such prepayment account at all times. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided; provided further that such funds may be used for the prepayment of insurance premiums. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

Section 4. Distribution to Mortgagee. In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and the Mortgagee jointly.

Section 5. Additional Insurance. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property, the contents of his residence (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by him) and his personal property stored elsewhere on the Properties, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at his own expense upon his Lot but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to

proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

Section 6. Casualty and Restoration. Damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.

Section 7. Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a special assessment against all Lots for such deficiency.

For purposes of Section 6 above, repair, reconstruction and restoration shall mean construction or rebuilding of the Building or Buildings to as near as possible the same condition as it existed immediately prior to the damage or destruction and with the same type of architecture.

Section 8. Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Properties, or, in the discretion of the Board of Directors, may be distributed to the Owners of the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

ARTICLE X

EASEMENTS

Section 1. Utility & Drainage Strips. There are strips of ground marked "Utility & Drainage Strips" ("U.D.S.") shown on the Plat which are hereby reserved for public utilities, not including transportation companies, for the installation and maintenance of poles, mains, sewers, drains, ducts, lines, wires and the like. The Owners of Lots shall take title subject to the easements hereby created and subject at all times to the rights of proper authorities to service the utilities and the easements hereby created. No permanent structure of any kind, and no part thereof, including fences, shall be built, erected or maintained on said drainage, utility and sewer easements except walkways and paving on the Driveway Easements.

Section 2. Driveway Easements. Driveway Easements as specified in Article II, Section 5, are hereby reserved for the common use and enjoyment of the Owners of the Lot or Lots appurtenant thereto, their families and invitees. Such Driveway Easements shall not be used for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pickups and deliveries to neighboring Lots. No boats, campers, trailers, velocipedes, bicycles, toys or other private property shall be allowed to obstruct any Driveway Easement, nor shall the same be stored in the open alongside building walls or other locations of public view. Cars, trucks and other vehicles shall not be parked on the paved portion of any Driveway Easement so as to impede access from or to any Lot or public street and except in areas designated for parking by the Association; provided, however, each Lot shall have available not less than two (2) parking spaces within a reasonable distance. No fence, barrier or other obstruction of any kind shall ever be placed upon any Driveway Easement so as to block or impede access upon such easement. The Association may assign two (2) parking places to the Owner of each Lot. Such parking spaces shall be properly paved and appurtenant to a Driveway Easement. Any parking

space assigned to an Owner shall be located upon such Owner's Lot (or within such Owner's garage, if applicable) to the extent reasonably possible, but may encroach upon the unimproved portion of another Lot to a reasonable extent if necessary or appropriate. The Association may construct additional parking areas (to be properly surfaced) within the area noted on the Plat as a 125' IPALCO Easement (subject to any necessary governmental or utility approvals) or upon any other Lot or Lots with the consent of the Owner thereof and provide access to a Driveway Easement or a public street, provided such additional parking areas shall not be located within ten (10) feet of a Building. The Association shall be responsible for the maintenance and repair of any parking areas constructed by Declarant, Original Builder or the Association. All owners shall have reciprocal rights to any additional parking areas established by the Association subject to any reasonable and nondiscriminatory rules and regulations enacted by the Association.

Section 3. Easement for Emergency Purposes. An easement is hereby granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon the Driveway Easements and, to the extent necessary or appropriate, upon any Lot.

#### ARTICLE XI

#### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing lines between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty.

Subject to the provisions of Article X hereof, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE XII

ARCHITECTURAL CONTROL

Except for original construction by Declarant or a builder, no out-building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein, other than by the Board of Directors, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided.

ARTICLE XIII

SIGNS AND HOME OCCUPATIONS

Section 1. Signs. Prior to January 1, 1983, no advertising signs of any kind (other than interior window signs) shall be displayed on any Lot without the prior written approval of Declarant. Further, no signs of any nature, kind or description (including incidental signs as regulated in Section 2.18 of the Dwelling District Zoning Ordinance of Marion County, Indiana, 68-AO-2, as amended) shall be erected, placed or maintained on any Lot which identify, advertise or in any way describe the existence or conduct of a home occupation.

Section 2. Home Occupations. No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Lot and which is generally or regularly conducted in another location away from such Lot.

Section 3. Advertising During Construction and Sales Period. Nothing contained herein shall be construed or interpreted to affect the activities of Declarant or builder in the sale of Lots or single-family dwellings as a part of the development of this Subdivision.

ARTICLE XIV

ENCROACHMENTS AND EASEMENTS FOR BUILDINGS

If, by reason of the location, construction, settling or shifting of a Building, any part of a Building consisting of the single-family residence appurtenant to a Lot (hereinafter in this Article XIV referred to as the "Encroaching Lot") now encroaches or shall hereafter encroach upon any other adjacent Lot, then in such event, an easement shall be deemed to exist and run to the Owner of the Encroaching Lot for the maintenance, use and enjoyment of the Encroaching Lot and all appurtenances thereto.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in or on any other Lot and serving his Lot.

ARTICLE XV

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the persons in ownership from time to time of the Lots and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 2. Amendment. This Declaration may be amended or changed at any time within ten (10) years following the date of recordation by an instrument recorded in the Office of the Recorder of Marion County, Indiana, signed by at least a majority of the then Owners and thereafter by a similar recorded instrument signed by at least seventy-five percent (75%) of such Owners; provided, however, none of the rights of Declarant reserved hereunder may be amended or changed without Declarant's prior written approval. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Marion County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3. Annexation. Additional residential property may be annexed to the Properties with the consent of a majority of the Owners by the recording of a declaration applicable to such annexed real estate which incorporates the terms of the Declaration herein.

Section 4. HUD Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Department of Housing and Urban Development: annexation of additional properties; dedication of common area (if any); and amendment of this Declaration.

IN WITNESS WHEREOF, E & F Realty Co., by Franklin L. Jackson, general partner, has caused this Declaration to be executed this 23 day of March, 1980.

E & F REALTY CO.

Franklin L. Jackson  
Franklin L. Jackson  
General Partner

STATE OF INDIANA    )  
                          )  
COUNTY OF MARION    )

Before me, the undersigned Notary Public, personally appeared Franklin L. Jackson, General Partner of E & F Realty Co., who being duly sworn under oath stated that the matters set forth are true and accurate to the best of his knowledge and belief and acknowledged the execution of the foregoing Declaration.

Witness my hand and Notarial Seal this 23 day of March, 1980.

Deborah L. Osborne  
Printed Deborah L. Osborne  
Notary Public - Marion County

My Commission Expires:  
Aug. 5, 1981

This instrument prepared by John W. Van Buskirk, Attorney.

Part of the North half of the Northeast quarter of Section 20, Township 14 North, Range 4 East of the Second Principal Meridian described as follows:

Beginning at the Southeast corner of the said half quarter Section; thence South 89 degrees 31 minutes 00 seconds West on and along the south line thereof 938.17 feet; thence North 63 degrees 39 minutes 31 seconds East 38.59 feet; thence North 51 degrees 30 minutes 07 seconds East 1173.48 feet to the East line of the said half quarter Section; thence South 01 degrees 09 minutes 00 seconds West on and along the said East line 739.84 feet to the Point of Beginning containing 7.854 acres more or less, subject to all legal rights-of-way and easements.

EXHIBIT "A"

CODE OF BY-LAWS  
OF  
SOUTHRIDGE SQUARE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Identification

Section 1.01. Name. The name of the Corporation is Southridge Square Homeowners Association, Inc. (hereinafter referred to as the "Corporation").

Section 1.02. Principal Office and Resident Agent. The post office address of the principal office of the Corporation is 4000 East Southport Road, Suite 110, Indianapolis, Indiana 46227; the name and post office address of its Resident Agent in charge of such office is 4000 East Southport Road, Indianapolis, Indiana 46227. The location of the principal office of the Corporation or the designation of its Resident Agent, or both, may be changed at any time, or from time to time, when authorized by the Board of Directors by filing with the Secretary of State, on or before the day any such change is to take effect, or as soon as possible after the death of its Resident Agent, or other unforeseen termination of its agent.

Section 1.03. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of July of each year and end on the last day of June next succeeding.

ARTICLE II

Membership

Section 2.01. Classes. The classes of Members are as follows:

Class A. Class A members shall be all Owners with the exception of Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds such interest or interests in any Lot, all such persons shall be members and 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 such Lot.

Class B. Class B member(s) shall be the Declarant, its officers, directors and nominees which shall be entitled to three votes for each Lot in which it holds the interest required for membership by this Article; provided, however, that the Class B membership shall be cancelled and converted to Class A membership on the happening of either of the following events:

(i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(ii) on December 31, 1985.

Section 2.02. Rights, Preferences, Limitations and Restrictions of Classes. All Members of each Class shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members of such Class. All

Members shall abide by the Articles of Incorporation, the Code of By-Laws, and the rules and regulations adopted by the Board of Directors.

Section 2.03. Membership Certificate. Each member of the Corporation shall be entitled to a membership certificate signed by the President and attested by the Secretary, stating that he is a Member of the Corporation and designating the class of membership and containing such other information as may be required by law. The form of membership certificate shall be prescribed by resolution of the Board of Directors. Membership certificates shall not be transferable except as herein provided.

Section 2.04. Transfer of Membership. Holders of a Class A membership shall have the right as the result of the sale of their Dwelling Unit, to transfer membership to the purchaser of their home.

Any successor to the interest of Ryan Homes, Inc. in the development of Wood Creek shall automatically have membership in the Corporation as a Class A Member with all the rights, privileges, duties, liabilities, limitations and restrictions applicable to a Class A Member.

### ARTICLE III

#### Meetings of Corporation

Section 3.01. Purpose of Meetings. At least annually and at such other times as may be necessary, the meetings of the

Corporation shall be held for the purpose of electing the Board of Directors, and for such other purposes as may be required by the Articles of these By-Laws.

Section 3.02. Annual Meetings. The annual meeting of the Members of the Corporation shall be held on the first Tuesday of April in each calendar year. At the annual meeting the Members shall elect the Board of Directors of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.03. Special Meetings. A special meeting of the Members of the Corporation may be called by resolution of the Board of Directors or upon a written petition of the Members who have not less than a majority of the Vote. The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 3.04. Notice and Place of Meetings. All meetings of the Members of the Corporation shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time and place of any meeting and in the case of a special meeting or when otherwise required by law the purpose or purposes for which the meeting is called shall be delivered or mailed by the Secretary of the Corporation to each Member of record at such address as appears on the records of the Corporation.

Section 3.05. Waiver of Notice. Notice of any meeting may be waived in writing by any Member if the waiver sets forth in reasonable detail the time and place of the meeting and the purposes thereof. Attendance at any meeting in person, or by proxy, shall constitute a waiver of notice of such meeting.

Section 3.06. Voting by Proxy. A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy the Member shall duly designate his attorney-in-fact in writing delivered to the Secretary of the Corporation prior to commencement of the meeting.

Section 3.07. Quorum. Except where otherwise expressly provided in the Articles or these By-Laws, at any meeting of the Members representation of a majority of the votes available in person or by proxy shall constitute a quorum.

Section 3.08. Conduct of Meeting. The Chairman of the meeting shall be the President of the Corporation. He shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(a) Reading of Minutes. The Secretary shall read the Minutes of the last annual meeting and the Minutes of any special meeting held subsequent thereto.

(b) Treasurer's Report. The Treasurer shall report to the Members concerning the financial condition of the Corporation and answer relevant questions of the Members concerning the expenses and financial report for the prior year and the proposed budget for the current year.

(c) Election of Board of Directors. Nomination for the Board of Directors may be made by any Class A or Class B Member from those persons eligible to serve. Such nomination shall be in writing and presented to the Secretary of the Corporation at least ten (10) days prior to the date of the annual meeting. Voting for the Board of Directors shall be by paper ballot. Ballots shall contain the name of each person nominated to serve as a Board member. Each Member may cast the vote or votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Member shall sign his ballot.

(d) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least ten (10) days prior to the date of the meeting; provided, however, such written request may be waived at the meeting if agreed by a majority vote.

#### ARTICLE IV

##### Board of Directors

Section 4.01. Number. The number of Directors of the Corporation shall be three (3).

Section 4.02. Initial Board of Directors. The initial Board of Directors shall hold office until the first annual meeting of the Members to be held in April, 1982.

Section 4.03. Qualification and Election of Directors.

All Directors shall be Members of the Corporation at the time of their election to office and during their term of office as Directors. The Directors other than the initial Board of Directors shall be elected at each annual meeting of the Corporation by the Class A and Class B Members and shall hold office for the term of one year or until their successors have been duly elected and qualified. Any vacancy or vacancies occurring on the Board of Directors shall be filled by vote of a majority of the remaining Directors or by vote of the Class A and Class B Members if a Director has been removed in accordance with Section 4.04 of these By-Laws. Any Director elected to fill such vacancy shall serve for the unexpired term of the Director whose vacancy is thus filled.

Section 4.04. Removal of Director. A Director or Directors other than the initial Board of Directors may be removed with or without cause by vote of a majority of the voting Members at a special meeting of the Members duly called and constituted. In such case, the successor shall be elected at the same meeting from eligible Members nominated at the meeting. The Director so elected shall serve until the next annual meeting of the Members or until his successor is duly elected and qualified.

Section 4.05. Duties of the Board of Directors. The business and affairs of the Corporation shall be managed by the Board of Directors. The Board of Directors shall provide for

the administration and operation of the recreational facilities and the maintenance of driveway and utility easements, for lawn maintenance, and for trash and snow removal as provided for in the Declaration of Covenants, Conditions and Restrictions (Declaration) and for the collection and disbursement of the expenses therefor. These duties include, but are not limited to:

(a) Contracting with others to perform the maintenance functions set forth in the Declaration;

(b) Purchasing insurance as provided for in the Declaration;

(c) Establishing appropriate assessments to be paid by the Members;

(d) Collection of assessments from the Members;

(e) Preparation of an annual budget, a copy of which will be mailed or delivered to each Member at the same time as the notice of annual meeting is mailed or delivered;

(f) Preparing and delivering annually to the Members a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Member simultaneously with delivery of the annual budget;

(g) Keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Properties owned by the Corporation. All records and vouchers shall be available for examination by a Member at any time during normal business hours;

(h) Performing such other duties as may be reasonably inferred from the provisions of the Declaration.

Section 4.06. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of its duties. These powers include, but are not limited to, the power:

(a) To employ a managing agent hereinafter referred to as "Managing Agent" to assist the Board in performing its duties;

(b) To purchase for the benefit of the Members such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Members such insurance as in the opinion of the Board of Directors is necessary;

(d) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;

(e) To include the costs of all of the above and foregoing as expenses of the Corporation;

(f) To open and maintain a bank account or accounts in the name of the Corporation;

(g) To adopt, revise, amend and alter from time to time reasonable rules and regulations with respect to use, operation and enjoyment of the recreational facilities and to

fix and impose penalties for the violation of such rules and regulations;

(h) To constitute, appoint and establish such committees as the Board deems necessary to aid it in operating and managing the Corporation.

Section 4.07. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Members.

Section 4.08. Annual Meeting. The annual meeting of the Board of Directors shall be held immediately following the annual meeting of the Members at the place where such meeting of the Members was held. This meeting shall be held for the purpose of electing or re-electing officers of the Corporation and consideration of any other business that may be brought before the meeting. No notice shall be necessary for the holding of this annual meeting.

Section 4.09. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, provided, however, the Board of Directors shall meet at least quarterly. The Secretary shall give notice of the regular meetings of the Board to each Director personally or by United States Mail at least five (5) days prior to the date of such meeting.

Section 4.10. Special Meetings. Special meetings of the Board may be called by the President or any two (2) members of

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the Board. Persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail at least three (3) days prior to the date of such special meeting, give notice to the Board members. Notice of the meeting shall contain a statement of the purpose for which the meeting was called. Such meeting shall be held at such place and at such time in Marion County, Indiana, as shall be designated in the notice.

Section 4.11. Waiver of Notice. Before any meeting of the Board, any Director may in writing waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall as to such Director constitute waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board no notice shall be required and any business may be transacted at such meeting.

Section 4.12. Quorum. A majority of the entire Board of Directors shall be necessary to constitute a quorum for the transaction of any business and the action of a majority of the Directors present at any meeting at which a quorum is present shall be the decision of the Board of Directors unless the decision of a greater number is required by law, the Declaration, the Articles of Incorporation or these By-Laws.

Section 4.13. Executive Committee. The Board of Directors may by resolution adopted by majority of the whole Board designate two or more members of the Corporation to constitute

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an executive committee which committee to the extent provided in such resolution shall have and exercise all the authority of the Board of Directors in the management of the Corporation, but the designation of a committee and delegation of authority to it shall not operate to relieve the Board of Directors or any Member from any responsibility imposed upon it or him.

Section 4.14. Bond. The Board of Directors may require the Treasurer and such other officers as the Board deems necessary to give bond, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as deemed appropriate by the Board of Directors.

## ARTICLE V

### Officers

Section 5.01. Officers of the Corporation. The principal officers of the Corporation shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.02. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.03. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board, and shall have and discharge all the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Members as he may deem necessary to assist in the affairs of the Corporation and to perform such other duties as the Board may from time to time prescribe.

Section 5.04. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 5.05. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Corporation and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Corporation or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.06. The Treasurer. The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Corporation and such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the Corporation.

Section 5.07. Assistant Officers. The Board of Directors may, from time to time, designate and elect from among the Members an Assistant Secretary and Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers

and duties as these By-Laws or the Board of Directors may prescribe.

Section 5.08. Delegation of Authority. In the case of the absence of any officer of the Corporation, or for any other reason that the Board may deem sufficient, the Board may delegate the powers or duties of such officer to any other officer or to any Director, for the time being, provided a majority of the entire Board concurs therein.

## ARTICLE VI

### Dues and Assessments

#### Section 6.01. Dues and Assessments.

(a) Annual Accounting. Annually after the close of each calendar year and prior to the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared and furnished each Member a financial statement showing receipts and expenditures incurred and paid during the preceding calendar year.

(b) Annual Budget and Assessments. Annually before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a budget for the ensuing calendar year, estimating the total amount of the expenses for the ensuing year and furnishing a copy of such budget to each Member. The Board of Directors shall, based upon such budget, and subject to the recorded Declaration of Covenants and Restrictions determine the annual assessment to be paid by each

Member for the ensuing calendar year. Payment of such assessment shall be made to the Board of Directors or such other person as directed by the Board of Directors. Such annual assessment shall be payable at such time or times as the Board determines.

All assessments mentioned herein are exclusive of any taxes imposed by the federal, state or other governmental bodies and agencies.

(c) Special Assessments. The Board of Directors shall have the power to levy special assessments in accordance with the terms of the recorded Declaration of Covenants, Conditions and Restrictions.

#### ARTICLE VII

##### Contracts, Checks, Notes, Etc.

Section 7.01. All contracts and agreements entered into by the Corporation and all checks, drafts, and bills of exchange, and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise required by law, be signed by the President, or in his absence, the Treasurer. Any one of the documents heretofore mentioned in this Section for use outside the ordinary course of the business of the Corporation, or any notes or bonds of the Corporation shall be executed by and require the signature of both the President and Secretary.

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ARTICLE VIII

Amendments

Section 8.01. The power to make, alter, amend or repeal these By-Laws is vested in the Board of Directors of the Corporation, but such action shall be taken only at a meeting of such Board specifically called for such purpose. The affirmative vote of the majority of all the Directors shall be necessary to effect any such changes in these By-Laws, unless otherwise provided in the Articles or these By-Laws.