

BYLAWS
OF
WYNDHAM TRACE ASSOCIATION, INC

ARTICLE I
Definitions

All terms used in these Bylaws and not defined herein shall have the meanings set forth in the Articles of Incorporation of the Corporation.

ARTICLE II
Members

Section 1. Membership. Every Owner of a Lot shall be a Member of the Corporation. Membership shall be appurtenant to each Lot and may not be separated from ownership of any such Lot.

Section 2. One Class of Membership; Voting Rights. The Corporation shall have one class of membership. Members shall be entitled to cast votes as follows; each owner of a duplex lot casts two votes, each owner of a four-plex lot casts four votes, and the owner of the commercial lot casts seven votes on all matters submitted to a vote of the Members. When more than one person is an Owner of a Lot, all such persons shall be Members, but their total vote shall not exceed the number of votes as defined above, and such vote shall be cast as units in such manner as the majority of the Owners of such Lot may agree. In the event such Owners fail to reach agreement, they shall not be entitled to vote and shall be considered as abstaining. In the event one or more of the Owners of a Lot do not attend the meeting, in person or by proxy, the Owner(s) of a Lot who are in attendance, in person or by proxy, shall be considered as the sole Owner of the Lot.

The Board of Directors may suspend the voting rights of a Member during any period in which such Member shall be in default in payment of any assessment levied by the Corporation.

Section 3. Membership Certificates. Each Member shall receive a certificate signed by the President or Vice-President and Secretary or Assistant Secretary, stating that he is a Member of the Corporation. Membership shall be automatically transferred upon change of ownership of a Lot, but the Corporation shall not be obligated to alter its membership records until notified in writing of such change of ownership. Except for such changes in ownership, neither membership in the Corporation nor membership certificates shall be transferable.

Section 4. Annual Meeting. The annual meeting of the Members shall be held within six months after the close of the fiscal year of the Corporation, at a time and place fixed by the Board of Directors. If for any reason the annual meeting of Members shall

not be held at the time and place herein provided, it shall be held as soon as practicable thereafter. At the annual meeting, the Members shall elect the directors of the Corporation for the following year and shall adopt a budget for the following year as described in Article VI of these Bylaws. The Members may also transact such other business as may properly come before the meeting.

Section 5. Special Meetings. Special meetings of the Members shall be called upon the order of the President or a majority of the Board of Directors or upon presentation to the Secretary of a petition signed by at least one-tenth (1/10) of the Members entitled to vote by the Articles of Incorporation. No business shall be transacted at a special meeting except as stated in the notice of that meeting. If a special meeting is called upon a petition by at least one-tenth (1/10) of the Members as provided for above, the Secretary of the Corporation shall promptly issue notice of said special meeting which shall set forth the purpose for the meeting as described in the petition.

Section 6. Notice of Meetings. Notice of annual and special meetings shall be mailed to each Member at the address which appears on the records of the Corporation not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. All notices shall state the date, time and place of the meeting is called. In the case where several Members have the same address as shown on the records of the Corporation, one notice shall be sufficient.

Section 7. Quorum. At all meetings of Members, the presence in person or by proxy of Members representing thirty percent (30%) of the outstanding voting rights shall constitute a quorum for the transaction of business. A majority vote at any such meeting shall decide all questions unless a greater plurality is required by the Act, the Restrictive Covenants, the Articles of Incorporation or these Bylaws. If at any meeting of Members there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum can be obtained. Any business which might have been transacted at the meeting as originally called may be transacted at any adjournment thereof without further notice.

Section 8. Proxies. Votes may be cast in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to the commencement of the meeting in which they are to be voted. No proxy shall be valid for a period of more than eleven (11) months unless a longer time is expressly provided in the proxy, and every proxy shall automatically cease upon sale by the Owner of his Lot.

ARTICLE III Board of Directors

Section 1. Number and Qualifications. The number of directors of the Corporation shall be five (5). Members of the initial Board of Directors need not be Members of the Corporation. However, each successor or replacement member of the board of Directors must be a member of the Corporation.

Section 2. Election and Term of Office. The initial directors shall be designated by the Incorporator. Thereafter, the directors shall be elected at an annual or special meeting of Members by a majority of the votes cast by Members entitled to vote, for such terms and in such manner as is provided in the Articles of Incorporation, the provisions of which are incorporated herein by reference.

Section 3. Regular Meetings. A regular meeting of the Board of Directors shall be held annually immediately following the annual meeting of Members and at such other intervals and upon such notice as may be fixed from time to time by resolution of the Board of Directors.

Section 4. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Corporation or by any two directors after not less than seven (7) days notice to each director. Notice of any meeting of the Board of Directors may be waived in writing or by attendance at such meeting.

Section 5. Quorum. At all meetings of the Board of Directors, a majority of the voting directors shall constitute a quorum for the transaction of any business. A majority vote of the directors present at any such meeting shall decide all questions unless a greater plurality is required by law. If at any meeting of the Board of Directors there is less than a quorum of voting Directors present, the majority of those present may adjourn the meeting from time to time until a quorum can be obtained. Any business which might have been transacted at the meeting as originally called may be transacted at any adjournment thereof without further notice.

Section 6. Action by Unanimous Written Consent Without a Meeting. Any action which is required or permitted to be taken at a meeting of the Board of Directors or any committee thereof may be taken without a meeting if, prior to such action, a written consent setting forth the action to be taken is signed by all directors or all Members of said committee as the case may be. A copy of the consent shall be filed with the minutes of the meetings of the Board of Directors.

Section 7. Powers and Duties. The Board of Directors shall manage the affairs of the Corporation and shall have such powers as are given to it by law, by the Articles of Incorporation and by the Restrictive Covenants including, but not limited to, the power:

- (a) To call special meetings of the Members whenever it deems necessary;
- (b) To appoint and remove at its pleasure all officers, agents and employees of the Corporation, to prescribe their duties and to require of them such security or fidelity bond as it may deem expedient;
- (c) To establish, levy, assess and collect all the various assessments or charges which under the terms and provisions of law, the Articles of Incorporation, these Bylaws and the Restrictive Covenants, the Corporation is empowered or required to establish, levy, assess or collect.

The Board of Directors may designate and retain a collecting agent to collect such assessments or charges;

- (d) To exercise for the Corporation all powers, duties and authorities vested in or delegated to the Corporation; and
- (e) To contract for, or to provide directly, services for the common benefit of all Owners, consistent with the purpose of the Corporation, the cost of which shall be a Common Expense.

It shall be the duty of the Board of Directors:

- (a) To cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting held for such purpose;
- (b) To keep detailed, accurate records in chronological order, of receipts and expenditures;
- (c) To establish assessments by using generally accepted accounting principles applied on consistent basis.
- (d) To supervise all officers, agents, and employees of the Corporation and to see that their duties are properly performed; and
- (e) To carry out all other obligations and duties imposed on the Corporation by the Restrictive Covenants.

Section 8. Compensation. The directors shall receive no compensation for their services as directors but shall be reimbursed for their actual expenses incurred in the discharge of their duties as directors.

Section 9. Death, Resignation and Removal. Any director may be removed, with or without cause, by a majority vote of the Members of the Corporation. In the event of death, resignation, or removal of a director, his successor shall be selected by the remaining directors and shall serve until the next annual meeting or special meeting of the Members, whichever occurs first, at which time the vacancy shall be filled by the members.

Section 10. Attendance by Conference Telephone. Any or all directors may participate in any regular meeting of the directors by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.

ARTICLE IV
Officers

Section 1. Designation. The officers of the Corporation shall be a President, a Secretary, a Treasurer and such other officers as the Board may appoint from time to time by resolution designate.

Section 2. Election. The election of the officers shall take place at the first meeting of the Board of Directors and at each regular meeting following each annual meeting of the members.

Section 3. Term. The officers shall be elected annually by the Board of Directors and each shall hold office for one (1) year and until his successor is elected and qualified, unless he shall sooner resign, be removed or become otherwise disqualified.

Section 4. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Multiple Offices. Any two or more offices may be held by the same person.

Section 6. President. The President shall be the chief executive officer of the Corporation and shall preside at all meetings of the Board of Directors and Members and shall have such other powers and perform such other duties as may be from time to time imposed upon him/her by the Board of Directors.

Section 7. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the members. He/she shall have charge of such books and papers as the Board of Directors may direct and shall perform such other duties as may be from time to time imposed upon him/her by the Board of Directors.

Section 8. Treasurer. The Treasurer shall keep complete and accurate books of account in accordance with the accounting methods adopted by the Board of Directors, showing the financial condition of the Corporation and the results of its operations. He/she shall have custody of all monies of the Corporation and shall disburse such funds as directed by the Board of Directors. He/she shall assist in the preparation of an annual budget and a statement of income and expenditures to be presented to the Members at their annual meeting.

Section 9. Fidelity Bonds. The Board of Directors may provide fidelity bonds and may require the Treasurer and such other officers of the Corporation, as the Board of Directors deems necessary, to provide fidelity bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors. The expense of any such bonds shall be a Common Expense. Such fidelity bonds shall name the Corporation as an obligee and shall not be less than the estimated maximum amount of funds in the custody of the Corporation at any given time during the term of each bond. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Corporation.

ARTICLE V Committees

The Board of Directors shall appoint such committees as it deems appropriate in the management of the affairs of the Corporation.

ARTICLE VI Assessments

Section 1. Purpose of Assessments. The Corporation shall provide for the ownership and maintenance of the real estate described in Exhibit A (the "Real Estate"), including, without limitation, all storm water detention facilities upon the Real Estate and any associated appurtenances not maintained by the County of Tippecanoe, and shall perform such other duties as are authorized or required by the Restrictive Covenants. The cost thereof shall constitute part of the Common Expense.

Notwithstanding any obligation or duty of the Corporation to repair or maintain certain areas upon the Real Estate, if due to the willful, intentional or negligent acts or omissions of any Owner or of a member of such Owner's family or a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Corporation. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become part of the assessment to which such Owner's Lot is subject.

Each Owner shall be responsible for maintaining and keeping such Owner's Lot in a good, clean and sanitary condition at such Owner's expense. If any Owner shall fail to maintain and keep such Owner's Lot in a good, clean and sanitary condition, the Corporation may perform any work necessary to do so and charge the

Owner of such Lot for such cost which cost shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The assessments levied by the Corporation shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Real Estate and for the costs and expenses incident to operation of the Corporation.

Section 2. Proposed Annual Budget. Annually, before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption, and, if so adopted, shall be the basis for the assessments for the next fiscal year. At the annual meeting of the Owners, the budget may be approved in a whole or in part or may be amended in whole or in part by a majority vote of the Owners: provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay assessments based upon the last approved budget.

Section 3. Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year as set forth in said budget, contain a proposed assessment against each Lot. Immediately following the adoption of the annual budget, each Owner of a Lot shall be given written notice of such assessment against his respective Lot. The aggregate amount of the assessments shall be equal to the total amount of expenses plus reserves provided and included in the final annual budget.

The assessment against each Lot shall be paid in advance in one annual installment, payable in advance on or before the first day of each fiscal year of the Corporation. Payment of the assessment shall be made to the person designated by the Board of Directors.

The assessment for the current fiscal year of the Corporation shall become a lien on each Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such assessment may not have been made by that date. Any statement of unpaid assessments furnished by the Corporation pursuant hereto prior to the final determination and adoption of the annual budget and assessment for the year in which such statement is made shall state that the matters set forth therein are

subject to adjustment upon determination and adoption of the final budget and assessment for such year, and all parties to who any such statement may be delivered or who may rely thereon shall be bound by such final determinations.

Section 4. Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all assessments. Where the Owner constitutes more than one person the liability of such persons shall be joint and several. If any assessment is not paid when due, a late charge of \$25.00 may be assessed for each month, or portion thereof, that the amount is due and unpaid. If any Owner shall fail, refuse or neglect to make any payment of any assessment when due, the lien for such assessment on the Owner's Lot may be filed and foreclosed by the Corporation as a mortgage on real property or as otherwise provided by law. The Board of Directors may at its option bring suit to recover a money judgment for any unpaid assessment without foreclosing or waiving the lien securing the same. In any action to recover an assessment whether by foreclosure or otherwise, the Board of Directors for and on behalf of the Corporation shall be entitled to recover from the Owner of the respective Lot costs and expenses of such action incurred (including but not limited to reasonable attorneys fees) and interest from the date such assessments were due until paid at the rate equal to the prime rate published from time to time in the Wall Street Journal.

Section 5. Non-Waiver. The failure or delay of the Corporation to assess or notify the Owner of any assessment shall not constitute a waiver or release of the Owner's obligation to pay any assessment as herein provided whenever the same shall be determined and, in the absence of any annual estimate or assessment, the Owner shall continue to pay the assessment at the then existing monthly rate established for the previous year until the assessment shall have been established. No Owner may exempt himself from liability for the assessment imposed by the restrictive Covenants and these Bylaws.

Section 6. Books and Records. The Corporation shall keep books of account of its receipts and expenditures specifying and itemizing the maintenance and repair expenses and any other expenses incurred. Upon ten (10) days written notice to the Corporation and payment of a reasonable fee, any Owner shall be furnished a certificate of his account setting forth the amount of any unpaid assessment or other charge due or owing from such Owner. Any purchaser of a Lot may rely on the accuracy of such certificate and such purchaser shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the Owner which were incurred prior to the date of such certificate and which are in excess of the amount therein set forth.

ARTICLE VII Business Management

Section 1. Contracts. The Board of Directors may authorize any officer or agent to enter into any contract or execute and deliver any instrument in the name of

and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or agent of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 3. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 4. Insurance. The Corporation, as a Common Expense, may purchase and maintain insurance as determined by the Board of Directors.

Section 5. Fiscal Year. The fiscal year of the Corporation shall commence on January 1 and end on December 31 of each year.

ARTICLE VIII Consent and Maintenance

In the event the storm water drainage system servicing the Subdivision or servicing any immediate adjacent subdivision or area (including future development areas of Wyndham) shall become or be proposed to become a legal drain, each Member shall, by virtue of being an Owner of a Lot, be deemed to agree and consent to the storm water drainage system becoming a legal drain and all legal requirements and assessments imposed by the Tippecanoe County Drainage Board and applicable drainage ordinances.

If the Corporation fails to exercise the Corporation's maintenance obligation in regard to the Real Estate, the County of Tippecanoe may perform such maintenance and take all other actions necessary for the proper maintenance of the Real Estate, including, without limitation, any storm water facilities. The County of Tippecanoe shall have the right to assess the Corporation and the Members for the cost of such maintenance and, if necessary, to file a Notice of Lien against such lots in the office of the Recorder of Tippecanoe County, Indiana. Such Notice of Lien shall perfect the lien of the County of Tippecanoe for the cost of maintaining such portion of the storm water facilities, and said lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include attorneys' fees, title expenses, interest and costs of collection.

ARTICLE IX
Amendments

The power to adopt, alter, amend, add to and repeal these Bylaws shall be vested in the Board of Directors, subject to the subsequent approval of at least fifty-one percent (51%) of the Members of the Corporation at any annual or special meeting of Members; provided, however, pursuant to Section 22 of the Restrictions of the Covenants, the requirements of Article II, Section 1, Article VI, Section 1, and Article X shall run to the benefit of the of the County of Tippecanoe and may not be altered, amended or repealed by the Members without the written consent of the Area Plan Commission of Tippecanoe County.

Exhibit B Restrictions

1. All numbered lots in the Addition will be known and described as residential building lots except for the designated commercial lot. No building will be erected or placed on any residential building lot other than a one family dwelling unit on a duplex lot with private garage for not less than two automobiles, a four unit dwelling on the R-3 lots and a commercial building conforming to NB development restrictions on the commercial lot. Other structures which are consistent with the high quality residential character of the neighborhood, including without limitation, fences and storage sheds, may be erected or placed on residential building lots only with the express written approval of the building committee established by these restrictions.
2. The ground living area of a one story dwelling unit on a duplex lot will not be less than nine hundred (900) square feet and the living area of a two story dwelling on a duplex lot will not be less than thirteen hundred (1300) square feet, exclusive in all cases of porches, decks patios garages and similar areas not regarded as living areas.

The living area of a one bedroom dwelling unit on a four-plex lot will not be less than eight hundred (600) square feet, the living area of a two bedroom dwelling on a four-plex lot will not be less than eight hundred (800) square feet and the living area of a three bedroom dwelling on a four-plex lot will not be less than thirteen hundred (1300) square feet.
3. No building, wall, fence or other structure will be erected or placed on any lot until the building plans, specifications and plot plans showing the location and elevation of such structure have been approved in writing as to the conformity and harmony of the external design and appearance by a committee composed of Jon Caron, Greg Milakis and Barry Rubin or by a representative designated by a majority of the members of the said committee. In the event of disagreement among the committee members on any matter officially before the committee, the vote of the majority among such members of the committee will be controlling. In the event of death or resignation of any members of said committees, the remaining member or members will be authorized to select a replacement, but prior to such selection the remaining member or members will have full authority by unanimous action to perform all of the duties of the full committee. In the event said committee or its designated representative fails to approve or disapprove building plans, specification and plot plans within 30 days after said documents have been submitted to the committee, committee approval will not be required and full compliance with this covenant will be assumed. Neither the members of such committee nor its designated representative will be entitled to any compensation for services performed pursuant to this covenant.
4. No building shall be located nearer to the front lot line nor nearer to the side street line than the building setback lines shown on the plat. No fence of any

kind shall be constructed or maintained between the building setback line and the front property line of any lot.

5. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, twenty-five (25) feet from the intersection of the street property lines extended. No lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any lot within the triangular areas formed by street property lines and the edges of any driveway or alley (whether on such lot or adjacent thereto) and lines connection them at points ten (10) feet from the intersection of the street property lines and the edges of the driveway or alley. No tree shall be permitted to remain within such triangular areas unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

6. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and out of view of other lots and the street.

7. No garbage or other out-building , no shack or other temporary structure, no trailer, no tent, and no basement (other than a basement which is part of a completed dwelling unit) shall be used either permanently or temporarily as a residence. Garages containing finished living quarters in the upper level or loft shall not be subject to this restriction.

8. All lawns, exclusive of those areas on the lot which are left in a natural state, shall be sodded or seeded to prevent erosion onto adjoining real estate. Such lawns must be established by sodding or seeding within two (2) months after completion of the dwelling unit, season permitting.

9. Easements for installation and maintenance of utilities and facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. Enforcement of this provision to be by the Homeowners Association.

Additionally, notwithstanding any other provision in this Declaration to the contrary, each lot shall have an easement in common with another lot or lots

to use all pipes, wires, ducts, cables, conduits, utility lines, and other facilities of any kind or nature located in or running through any of the other lots and serving his lot. Lots which share sanitary laterals shall share the cost and expenses of the repair, maintenance, and replacement of such laterals equally.

10. No business or business activity shall be conducted on any lot other than that activity which is customarily considered to be purely incidental to residential use.

11. All driveway shall be at least sixteen (16) feet wide. All driveways and walks shall be of concrete or blacktop and shall be built no later than thirty (30) days after a new dwelling is occupied, weather permitting.

12. No permanent outside clothesline shall be erected, placed or allowed to remain upon any lot.

13. No signs of any kind shall be displayed to the public view upon any lot other than one (1) sign of no more than five (5) square feet advertising the property for sale or rent.

14. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept on any lot, provided that they are not kept, bred or maintained for commercial purpose, and provided further that they do not become an unreasonable annoyance or a nuisance to other residents.

15. Vegetable gardens may be raised on any lot provided the garden is planted and maintained in an orderly fashion.

16. No vehicle of any kind may park on any street other than in designated overflow parking areas. Trucks making deliveries or present in connection with service, repair or construction within the Addition are excepted. Other vehicles of any kind except conventional passenger cars shall not be parked or permitted to remain on any street or lot in the Addition for a period in excess of forty-eight (48) hours unless enclosed by a garage and not exposed to view. The purpose of this restriction is to preserve the overall appearance and integrity of the Addition, provide for efficient mail service and snow removal.

17. Unless a delay is caused by strikes, war, court injunctions or acts of God, the exterior of any dwelling or structure built upon any lot shall be completed within twelve (12) months from the date of commencement of the building process.

18. All fuel tanks shall be buried in the ground, and installation and maintenance thereof shall comply with all applicable safety regulations.

19. The building committee established under paragraph 3, subject to U.S.

postal regulations, reserves the right to approve the type of mailboxes installed in the Addition as well as the location.

20. None of the streets (private drives) within Wyndham Trace shall be accepted for public maintenance. No vehicular access shall be permitted from the commercial/business lot onto US Highway 52. This restriction shall be enforceable by the Tippecanoe County Area Plan Commission, and is irrevocable by the lot owner.

21. No exterior television or radio antenna, satellite dish or ground station shall be placed, allowed or maintained on any lot without the prior written approval of the building committee, which may require appropriate enclosure or screening as a condition of any approval.

22. A Homeowner's Association shall own Outlot "A" in the Wyndham Trace Planned Development, and be responsible for the maintenance thereof, including the storm water detention facility and all tributary piping within Wyndham Trace that is located on Outlot "A" and any associated appurtenances not maintained by the Tippecanoe County Drainage Board.

Each and every lot owner within the Addition shall be part of the Association. The cost of maintenance of the Outlot "A" shall be paid for by the Association in accordance with the bylaws of the Association.

In the event the storm water drainage system servicing the Addition or servicing any immediate adjacent subdivision or area (including existing parts of Wyndham Trace Planned Development and any future development areas of Pine Meadows, if any) shall become or be proposed to become a legal drain, each owner of a lot in the Addition shall, by virtue of ownership, be deemed to agree and consent to the storm water drainage system becoming a legal drain and all legal requirements and assessments imposed by the Tippecanoe County Drainage Board and applicable drainage ordinances.

If the Association fails to exercise such maintenance obligation, the Tippecanoe County Drainage Board may perform such maintenance and take all other actions necessary for the proper maintenance of such storm water facilities. The Tippecanoe County Drainage Board shall have the right to assess such Association and the individual lot owners thereof for the cost of such maintenance and, if necessary, to file a Notice of Lien against such lots in the office of the Recorder to Tippecanoe County, Indiana. Such Notice of Lien shall perfect the lien of the Tippecanoe County Drainage Board for the cost of maintaining such portion of the storm water facilities, and said lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include attorney's fees, tile expenses, interest and costs of collection.

The requirements of this paragraph 22 shall run to the benefit of the Tippecanoe County Drainage Board and may not be altered, amended or repealed by the lot owners without the written consent of Tippecanoe County Drainage Board.

23. The Association shall also install, maintain, repair and replace the street lighting within the Wyndham Trace Planned Development. The cost of installation, maintenance, repair and/or replacement shall be paid for by the Association in accordance with the bylaws of the Association.

24. The foregoing covenants, restrictions and conditions shall run with the land and shall be binding upon all the parties claiming or owning any interest in Wyndham Trace Planned Development or any lot therein, until January 1, 2018, at which time said covenants, restrictions and conditions shall be automatically extended for successive periods of ten (10) years, unless amended or declared null and void by a vote of the owners of a majority of the lots covered by these covenants, restrictions and conditions, it shall be lawful for any party, person or persons owning any lot in Wyndham Trace Planned Development to prosecute any proceedings at law or in equity against whom such action is taken shall pay court costs and reasonable attorney fees in the event judgment is rendered against him or them.

25. Except as specifically provided in paragraph 3 above, the failure for any period of time to compel compliance with any restrictions, conditions or covenants shall in no event be deemed as a waiver of the right to do so thereafter, and shall in no way be construed as permission to deviate from said restrictions, conditions and Covenants.

26. Invalidity of any one of these covenants by judgment or decree shall in no way affect any of the other provisions which shall remain in full force and effect.

27. Except as otherwise provided in the Declaration, amendments to this Declaration shall be proposed and adopted through the procedures detailed in Section 2-27-12 of the Unified Zoning Ordinance of Tippecanoe County, Indiana. Any changes to this Declaration or the Association corporate documents may be initiated only by a majority of the lot owners. For the purposes of this Section, multiple owners of a single lot shall be considered a single lot owner and the Declarants shall be considered a single lot owner until all the lots are sold.

The Administrative Officer for Tippecanoe County may determine that the changes referenced in Section 27 constitute a minor modification if they meet the requirements of Section 2-27-12-a-2 of the Unified Zoning Ordinance of Tippecanoe County, Indiana. Changes to the documents which would alter design aspects of the Wyndham Trace Planned Development, or which are determined by the Administrative Officer to be beyond the scope of minor modification require rezoning of the Addition.

Amendments to this Declaration shall be proposed and adopted in the following manner:

(1) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(2) Resolution. A resolution to adopt a proposed amendment may be

proposed by the Association Board of Directors or owners having in the aggregate at least a majority of the votes of all owners.

(3) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Association bylaws.

(4) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than fifty percent (50%) in the aggregate of all owners; provided, that any such amendment shall require the prior written approval of the Declarants so long as the Declarants, or any entity related to the Declarants, own any lot within and upon the Addition. In the event any lot is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors of the Corporation in accordance with the provisions of this Declaration.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if the Mortgagee or a representative thereof fails to appear at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee) or if the Mortgagee does not send its written objection to the proposed amendment prior to such meeting. In the event that a proposed amendment is deemed by the Board of Directors of the Corporation to be one which is not of a material nature, the board of directors shall notify all Mortgagees, whose interests have been made known to the Board of Directors, of the nature of such proposed amendment, and such amendment shall be conclusively deemed not material if no Mortgagee so notified objects to such proposed amendment, within thirty (30) days of the date such notices are mailed and if such notice advises the Mortgagee of the time limitation contained in this sentence.

Declarants hereby reserve the right, so long as Declarants, or any entity related to Declarants, own any Lot or Dwelling Unit within and upon the Addition, to make any amendments to this Declaration, without the approval of any other person or entity, for any purpose reasonably deemed necessary or appropriate by the Declarants, statute, ordinance, regulation or order of any public agency having jurisdiction thereof, to conform with zoning covenants and conditions; to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or to induce any of such agencies to make, purchase, sell, insure, or guarantee first mortgages; or to correct clerical or typographical errors in this Declaration or any amendment or supplement, hereto; provided that in no event shall Declarants be entitled to make any amendment which has a material adverse effect on the rights of any Mortgagee, or which substantially impairs the rights granted by this Declaration to any owner substantially increases the obligations imposed by this Declaration on any owner. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarants to vote in favor of, make, or consent to any amendments described in this Section 27 on behalf of

each owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarants to vote in favor of, make, execute and record any such amendments. This right of the Declarants to act pursuant to rights reserved or granted under this Section 27 shall terminate at such time as the Declarants no longer hold or control title to any part or portion of the Addition.

Each amendment to this Declaration shall be executed by Declarants only in any case where Declarants have the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary of the Association; provided that any amendment requiring the consent of Declarants shall contain Declarants' signed consent. All amendments shall be recorded in the Office of the Recorder of Tippecanoe County, Indiana, and no amendment shall become effective until so recorded.

Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration until the Declarants no longer hold any interest in the Addition without the consent and approval of Declarants.

IN WITNESS WHEREOF, the Declarants, Wyndham, LLC an Indiana limited liability company, have caused these restrictions, conditions and covenants to be executed this ____ day of _____, 2001.

DECLARATION OF RESTRICTIVE COVENANTS
WYNDHAM TRACE PLANNED DEVELOPMENT

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR Wyndham Trace ("Declaration"), made this 10 day of April, 2001 by, Jon Caron, Greg Milakis and Barry Rubin and Wyndham, LLC are (hereinafter referred to as "Declarant"),

WITNESSETH:

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

WHEREAS, Declarant is developing the Real Estate as a PDMX development which shall be known as Wyndham Trace; and

WHEREAS, Declarant desires to subject the Real Estate to certain additional covenants ("Covenants") and restrictions (Exhibit "B") in order to further ensure that the development and use of the various lots on the Real Estate are harmonious and do not adversely affect the value of surrounding lots on the Real Estate or surrounding areas; and

WHEREAS, Declarant desires to provide for maintenance of the Common Areas and other improvements located or to be located in Wyndham Trace, for the common benefit to the Owners of certain lots within said development, and to that end desires to establish certain obligations on said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of Wyndham Trace;

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

ARTICLE I
GENERAL PURPOSE OF THIS
DECLARATION

The Real Estate is hereby subjected to the covenants herein declared to preserve the value of the Real Estate, to ensure proper use and appropriate improvement of the Real Estate, to encourage the construction of attractive buildings and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may be inharmonious with other improvements on the Real Estate, to provide for adequate and proper maintenance of the Real Estate so as to ensure a high quality appearance and condition of the Real Estate, all for the purpose of preserving the values of all lots within Wyndham Trace.

ARTICLE II

DEFINITIONS

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

Section 1. Assessment. "Assessment" means the share of the Common Expenses imposed upon certain lots, as determined and levied pursuant to the provisions of Article IV.

Section 2. Association. "Association" means Wyndham Trace Association, Inc., an Indiana not-for-profit corporation, formed or to be formed for the purpose of determining and collecting the Assessments and overseeing and enforcing the terms of this Declaration, and its successors and assigns.

Section 3. Wyndham Trace. The term "Wyndham Trace" means and includes the Real Estate as platted in accordance with the provisions of this Declaration.

Section 4. Declarant. "Declarant" means, Jon Caron, Greg Milakis and Barry Rubin and Wyndham Trace or any other person, firm, corporation or partnership which succeeds to the interest of the above as developers of Wyndham Trace.

Section 5. Easements. "Easements" refer to those areas reserved as easements on the plat of Wyndham Trace as the same may be recorded from time to time, and as set forth in this Declaration. Such easements shall be appurtenant to, and shall pass with the title to every lot.

Section 6. Board. "Board" shall mean the Board of Directors of the Association.

Section 7. Lot or Lots. "Lot" or "Lots" means any of the separate parcels now or hereafter identified within the designated and identified on the plat of Wyndham Trace, as the same is recorded, and does not include the Common Areas thereof.

Section 8. Common Areas. "Common Areas" means all areas within Wyndham Trace not designated as a Lot or Lots within the three designated phases on the plat of Wyndham Trace, as the same may be recorded from time to time, and which is intended for the common use, benefit, and enjoyment of the Owners.

Section 9. Common Expense. "Common Expense" means the actual or estimated cost of the Association for maintenance, management, operation, liability insurance, real estate taxes, repair, waste collection, improvement, and replacement of Common Areas, personal property taxes on equipment or property owned by the Association, lighting and any other cost or expense incurred by the Association for the benefit of the Common Areas or of the Owners.

Section 10. Common Sign. "Common Sign" means the "Wyndham Trace" identification sign now or hereafter located on the Real Estate.

Section 11. Owner or Owners. "Owner" or "Owners" means any person or persons who owns, after the date to this Declaration, legal and/or equitable title to any Lot; provided, however, that "Owner" shall not include any holder of any mortgage of all or any part of any Lot or any others having an interest merely as security for the performance of an obligation, so long as such holder does not hold both legal and equitable title thereto.

ARTICLE III GENERAL RESTRICTIONS

Section 1. Purpose. In order to maintain the standards of the property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall

warrant (but not require) the Declarant to cut weeds or clear the refuse from the Lot at the expense of the Owner, and there shall be a lien against said Lot for the expense thereof.

Section 2. Plans. No building, wall, fence, antennas, satellite dishes, appurtenances or other structures will be erected or placed on any lot until the building plans, specifications and plot plans showing the location and elevation of such structure have been approved in writing as to the conformity and harmony of the external design, quality of workmanship and materials, harmony of external design with existing structures and Declarant's overall plan of development of Wyndham Trace and the approved PDMX plan (Planned Development Mixed Use), and as to location with respect to topography and finish grade elevation by a committee composed of Jon Caron, Greg Milakis and Barry Rubin or by a representative designated by a majority of the members of the said committee. Other than the existing structure, all buildings are required to construct a minimum 6/12 roof pitch and provide at least 25% brick on the street elevation. In the event of disagreement among the committee members on any matter officially before the committee, the vote of the majority among such members of the committee will be controlling. In the event of death or resignation of any members of said committees, the remaining member or members will be authorized to select a replacement, but prior to such selection the remaining member or members will have full authority by unanimous action to perform all of the duties of the full committee. In the event said committee or its designated representative fails to approve or disapprove building plans, specification and plot plans within 30 days after said documents have been submitted to the committee, committee approval will not be required and full compliance with this covenant will be assumed. Neither the members of such committee nor its designated representative will be entitled to any compensation for services performed pursuant to this covenant.

The plans and specifications submitted to the Declarant shall contain a plot plan to scale with adequate provision for landscaping, including the planting of at least 1 front yard canopy tree of 1 1/2" caliper and 3 shrubs per side in a foundation planting for a duplex lot and at least 3 front yard canopy trees of 1 1/2" caliper and 6 shrubs in a foundation planting for a fourplex lot in conformance with the landscape plan for Wyndham Trace approved by the Tippecanoe County Area Plan Commission. The determination of whether adequate provision has been made for landscaping shall be at the sole discretion of the Declarant. The required landscaping and all parking strips and driveways shall be completed at the time of completion of the building, or as soon as weather and season permit.

After initial construction of a building, no alterations, additions or improvements to the exterior of the building shall be made without prior written approval of the Board. The Board shall also be responsible for monitoring and compliance with the PDMX requirements.

Section 3. Encroachments. No building shall be located nearer to the front lot line nor nearer to the side street line than the building setback lines shown on the plat. No fence of any kind shall be constructed or maintained between the building setback line and the front property line of any lot.. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 4. Zoning. All duplex lots shall conform to the use restrictions of the R2-zoning classification, all four-plex lots shall conform to the use restrictions of the R-3 classification and the commercial lot shall conform to the use restrictions of the NB-zoning classification as set out in the New Unified Zoning Ordinance of Tippecanoe County except as otherwise provided hereinor on the plat of Wyndham Trace.

Section 5. Easements. Easements for installation and maintenance of utilities and facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. Enforcement of this provision to be by the Homeowners Association.

Additionally, notwithstanding any other provision in this Declaration to the contrary, each lot

shall have an easement in common with another lot or lots to use all pipes, wires, ducts, cables, conduits, utility lines, and other facilities of any kind or nature located in or running through any of the other lots and serving his lot. Lots which share sanitary laterals shall share the cost and expenses of the repair, maintenance, and replacement of such laterals equally.

Section 6. Landscaping. Landscape easements are reserved over the Common Areas for the collective benefit of all the Owners and the Association. The Association shall be responsible for the maintenance of the landscaping and all green areas within Wyndham Trace, in accordance with the landscape plan of the PDMX approved by the Tippecanoe County Area Plan Commission.

Section 7. Rules and Regulations. The Board shall have the authority to promulgate rules and regulations reasonably necessary to perform its function as herein defined. A majority of the Board may designate a representative to act for it. Neither the members of the Board nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

Section 8. Board Approval. Board approval or disapproval as required in these covenants shall be in writing. In the event the Board or its designated representatives fail to approve or disapprove within thirty (30) days after all required plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced within sixty (60) days of completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Section 9. Drainage. A Homeowner's Association shall own Outlot "A" in the Wyndham Trace Planned Development, and be responsible for the maintenance thereof, including the storm water detention facility and all tributary piping within Wyndham Trace that is located on Outlot "A" and any associated appurtenances not maintained by the Tippecanoe County Drainage Board.

Each and every lot owner within the Addition shall be part of the Association. The cost of maintenance of the Outlot "A" shall be paid for by the Association in accordance with the bylaws of the Association.

In the event the storm water drainage system servicing the Addition or servicing any immediate adjacent subdivision or area shall become or be proposed to become a legal drain, each owner of a lot in the Addition shall, by virtue of ownership, be deemed to agree and consent to the storm water drainage system becoming a legal drain and all legal requirements and assessments imposed by the Tippecanoe County Drainage Board and applicable drainage ordinances.

If the Association fails to exercise such maintenance obligation, the Tippecanoe County Drainage Board may perform such maintenance and take all other actions necessary for the proper maintenance of such storm water facilities. The Tippecanoe County Drainage Board shall have the right to assess such Association and the individual lot owners thereof for the cost of such maintenance and, if necessary, to file a Notice of Lien against such lots in the office of the Recorder to Tippecanoe County, Indiana. Such Notice of Lien shall perfect the lien of the Tippecanoe County Drainage Board for the cost of maintaining such portion of the storm water facilities, and said lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include attorney's fees, tile expenses, interest and costs of collection.

The requirements of this paragraph 9 shall run to the benefit of the Tippecanoe County Drainage Board and may not be altered, amended or repealed by the lot owners without the written consent of Tippecanoe County Drainage Board.

Section 10. Building Maintenance. Each Owner will be responsible, at his sole cost and expense, for all maintenance, repair, decoration, restoration and replacement of the building (both interior and exterior) on the Owner's lot. If an Owner shall fail to provide such exterior maintenance, the Board may, after thirty (30) days' written notice, make such exterior building maintenance on his behalf and such charge shall be deemed a special assessment as to such Lot and shall constitute a lien thereon in favor of the Association until paid. Each Owner shall obtain and maintain, at his sole cost and expense, fire and extended coverage insurance insuring the building and all fixtures, appliances and other improvements thereon. Each Owner shall pay all real estate taxes assessed against the Owner's lot and the improvements (Building) thereon. Each Owner shall obtain and maintain, at his sole cost and expense, comprehensive public liability insurance for the interior of his building.

Section 11. Waste. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall

anything be done thereon which may become an annoyance or nuisance to the neighborhood. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. Provision for equipment for the storage or disposal of such material shall be kept clean and in a sanitary condition and, screened from the vision of surrounding property.

Section 12. For Sale or For Lease . No signs of any kind shall be displayed to the public view upon any lot other than one (1) sign of no more than five (5) square feet advertising the property for sale or rent. The use of all "for sale" signs shall be restricted to one per each building and be governed by rules of the Association.

Section 13. Exterior Lighting. All duplex lots shall be required to place two (2) residential lampposts in the front yard. All four-plex lots shall be required to light parking lots with adequate wall mounted fixtures. The Owner of each building will maintain, at his sole expense, all required front and rear building and security exterior lighting, with controls on timers or automatic controls, at such times as set forth by the Board.

The Association may also install, maintain, repair and replace the street lighting within the Wyndham Trace Planned Development. The cost of installation, maintenance, repair and/or replacement shall be paid for by the Association in accordance with the bylaws of the Association.

ARTICLE IV COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Purpose of the Assessment. The assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Wyndham Trace, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, fencing, lighting, repairing, operating, and maintenance of the Common Areas, the landscape easement, the green areas within dedicated rights-of-way, and Common Sign including, but not limited to, the payment of taxes and insurance thereon and for the cost of labor, equipment, material, and management furnished with respect to the common property, for maintenance of landscape easement and areas, and for compliance with zoning commitments, etc.; provided that the Association shall not be responsible for the replacement, repair or maintenance of any, Common Area which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay to the Association:

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

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

Section 3. Pro-rata Share. The pro-rata share of each Owner for purposes of this Article IV shall be (a) two shares for each duplex lot, 4 shares for each four-plex lot and 6 shares for each commercial lot as the same may be recorded from time to time, that have been conveyed by the Declarant to an Owner, or (b) as

otherwise established by the Association ("Pro-rata Share").

Section 4. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. The annual assessment shall be paid in one annual installment due within 30 days of billing statement received. The owner of record as of the billing date shall be the responsible party for the assessment. A copy of this budget shall be delivered to each Owner responsible for assessment payments within thirty (30) days of the beginning of each fiscal year of the Association.

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

Section 6. Fiscal Year; Date of Commencement of Assessments;
Due Dates. The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association.

The annual assessments on each Lot in Wyndham Trace shall commence on the day on which Declarant first conveys ownership of the Lot to an Owner.

Section 7. Duties of the Association.

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

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

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

Section 8. Non-payment of Assessments; Remedies of Association.

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

If any assessment upon any Lot is not paid within fifteen (15) days after the due date, such assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at an annual rate which is two times the rate in effect for ninety-day U.S. Treasury Bills at the time such assessment is due, but in no event greater than the maximum rate allowable under any applicable usury laws, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

Section 9. Adjustments.

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

Section 10. Declarant's Rights. So long as Declarant owns all Lots, Declarant shall have the right, at their option, to perform all functions of the Association and Board and to manage the Common Areas of Wyndham Trace.

ARTICLE V ORGANIZATION AND DUTIES OF ASSOCIATION

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

Section 2. Membership. The members of the Association shall consist of the Declarant and the Owners of Lots in Wyndham Trace.

Section 3. General Duties of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place and stead of, the individual Owners in all matters pertaining to the maintenance, repair and replacement of the Common Areas, the landscape easement and the green areas within dedicated rights-of-way within Wyndham Trace, the determination of Common Expenses, the collection of annual and special assessments, and the granting of any approvals whenever and to the extent called for by this Declaration, for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of itself or any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in Article III and Article IV of this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color or authority to this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct.

Section 4. Amendment of Declaration. The Association shall have the right to amend this Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors and the subsequent approval of such amendment by a majority of Owners. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Declarant when its approval is required, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit or addendum thereto a certified copy of

Section 2. Prohibition. No Lot Owner or third party shall do or permit to be done any action or activity which could result in an adverse effect upon drainage of the development or proper management of the Common Area.

Section 3. The association shall create and maintain at association expense for the benefit of all lots a walkway as shown on the plat from Wyndham Trace to the adjoining Tippecanoe County School property line.

ARTICLE VII GENERAL PROVISIONS

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

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

Section 3. Attorney's Fees. As to any legal or equitable proceedings for the enforcement of, or to restrain the violation of, this Declaration or any provision thereof, if the party bringing such action is successful in obtaining any remedy against any defaulting Owner, such defaulting Owner shall pay the reasonable attorneys' fees of such successful party, in such amount as may be fixed by the Court in such proceedings.

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

Section 5. Rights of Mortgagees. No breach of this Declaration shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to this Declaration. The provisions hereinabove notwithstanding, the Owners shall have no right to make any amendment to this Declaration which materially impairs the rights of any mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

Section 6. Rights to Common Areas. Title to all Common Areas shall be held in the Association, and each Owner who is a member of the Association shall have, as non-exclusive, reciprocal easements appurtenant to his Lot, a right of access to his Lot over the roadways, parking areas, and walkways, the right to the use and enjoyment of all Common Areas and the right of access thereto over the roadways, and the right of access to and use of the drainage system, the sewage system, and all utility lines and mains abutting or adjacent to his Lot; provided, however, that no Owner's use of any Common Area shall materially interfere with any other Owner's use thereof.

In the event that any Owner's use of any Common Area causes such an interference, the Association or any Owner shall have all rights and remedies provided at law or in equity, for such interference. All use of Common Areas, including parking, shall be subject to rules and regulations adopted by the Board of Directors of the Association; provided, however, the original allocation of parking spaces per building and the location thereof shall be established by Declarant. Any changes to such parking allocation or location

