

Cross References: 2001-17208
 2001-31110
 2005-4238
 2006-5412
 2006-5413
 200903485

**THIRD AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF NOTTINGHILL SECTIONS ONE AND TWO**

This Amended and Restated Declaration was made as of the date set forth below by the Nottingham Owners Association, Inc.

WITNESSETH:

WHEREAS, the Nottingham planned development located in Hendricks County, Indiana was established by the community's developer upon the filing of plats and a certain "Declaration of Covenants, Conditions and Restrictions of Nottingham, HOA, Inc.," which was recorded on June 19, 2001, as **Instrument No. 2001-17208 in Public Record Book 250, Pages 1583-1630** in the Office of the Recorder of Hendricks County, Indiana, as amended (hereafter, referred to as the "Original Declaration"); and

WHEREAS, the Original Declaration and prior amendments thereto were amended and replaced by an "Amended and Restated Declaration of Covenants, Conditions and Restrictions of Nottingham Sections One and Two," which was recorded on February 17, 2009, as **Instrument No. 200903485** in the Office of the Recorder of Hendricks County, Indiana (hereafter, the "Amended Declaration"); and

WHEREAS, the developer of Nottingham deemed it desirable, for the efficient preservation of the values and amenities in said community, to create the Nottingham Owners Association, Inc., an Indiana nonprofit corporation (hereafter, "Association"), to which was delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges as described in the Original Declaration and Amended Declaration; and

WHEREAS, the Amended Declaration may be amended upon the affirmative vote of not less than sixty-seven percent (67%) of the Owners in Good Standing; and

WHEREAS, not less than 67% of the Owners in Good Standing voted in favor of amending the Amended Declaration as set forth below; and

WHEREAS, the Owners of said Lots desire to amend certain provisions of the Amended Declaration and to restate the same for the convenience of the Owners such that this Amended and Restated Declaration of Restrictions in no way nullifies or changes the Amended Declaration or the effective date(s) of the Amended Declaration. However, upon the date of recording of this Amended and Restated Declaration with the Hendricks County Recorder's Office, the Amended Declaration shall no longer be in effect and shall be replaced by the following; and

WHEREAS, the Original Declaration and Amended Declaration contained exhibits. For historical purposes, these various exhibits may be referred to from time to time, and therefore, for cross-reference purposes, one should refer to them as they were filed with the Hendricks County Recorder. Those exhibits, however, are not exhibits to this Amended and Restated Declaration. Except as to any exhibits to the Original Declaration or Amended Declaration that may remain relevant, all other provisions of the Original Declaration and Amended Declaration are hereby modified in their entirety, and superseded by this Amended and Restated Declaration.

NOW, THEREFORE, the Owners in Nottingham hereby amend and restate the Amended Declaration such that all of the platted dwellings, Lots, Common Areas and lands located within Nottingham as they have been platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are declared and agreed to be in furtherance of a plan for the improvement and sale of said dwellings, Lots, Common Areas and lands in Nottingham. Such restrictions below were and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the development as a whole and of each of said homes and Lots situated therein. All of the restrictions shall run with the land and shall be binding upon the Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of all successors in title to any real estate in the development. Now, therefore, the Amended Declaration which is applicable to all Owners and residents within Nottingham is hereby amended and restated as follows:

ARTICLE I

Definitions

Section 1.1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

(a) “**Act**” shall mean and refer to the Indiana Not-for-Profit Corporation Act of 1991, as amended.

(b) “**Architectural Review Committee**” shall mean and refer to that committee or entity established pursuant to Article VIII Section 3 of the By-Laws.

(c) “**Articles**” shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time.

(d) “**Assessment**” shall mean and refer to any charge against a Lot to pay for Common Expenses and Common Services as explained in Article VII of this Declaration.

(e) “**Association**”, or Corporation, shall mean and refer to **NOTTINGHILL OWNERS ASSOCIATION, INC.**, an Indiana not-for-profit corporation, its successors, and assigns.

(f) “**Board**” or “**Board of Directors**” shall mean and refer to the governing body of the Association, elected, selected, or appointed as provided for in the Articles, By-Laws, and the Declaration.

(g) “**Building**” shall mean and refer to the structure consisting of a “**Dwelling Unit.**”

(h) “**By-Laws**” shall mean the Code of By-Laws adopted by the Association, including any amendments or revisions that may be made to it by the Association.

(i) “**Common Expenses**” shall mean and refer to the actual and estimated expenses for the administration of the Association; the expenses for the upkeep, maintenance, repair and replacement of the Common Properties, all sums lawfully assessed against the Owners of the Association; all sums, costs, and expenses declared by this Declaration to be Common Expenses; and any other cost or expense for materials or services incurred by the Association for the benefit of the Association and/or its Members.

(j) **"Common Properties"** shall mean and refer to those areas shown as common properties or common areas (excluding areas C and D) on any recorded plat of Nottingham subdivision and/or those areas other than Lots and Dwelling Units and shall include any improvements located within the bounds of such area(s).

(k) **"Declaration"** shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Nottingham Sections One and Two, and any amendments or supplements thereto recorded thereafter, in the Office of the Recorder of Hendricks County, Indiana.

(l) **"Dwelling Unit"** shall mean and refer to any building, or structure, situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family.

(m) **"Front"** as in the front of the dwelling. The "front" shall be considered the front of the house where the front door is located to six feet around each front corner. Items located beyond this area are not to be considered in the "front" and are not to be considered in view.

(n) **"Good Standing"** shall mean Owners who are not more than (6) six months delinquent on the payment to the Association of any assessments, and who are not in violation of any restriction set forth in this Declaration as determined by the Board.

(o) **"Lot"** shall mean and refer to any numbered parcel of real estate shown and identified as a Lot on the original recorded plats of Nottingham subdivision.

(p) **"Owner"** also referred to as **"Member,"** means a Person who at any time has or is acquiring any interest in a Lot except a Person who has or is acquiring such an interest merely as security for the performance of an obligation.

(q) **"Mortgagee"** shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit.

(r) **"Person"** shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or combination thereof.

(s) **"Plat"** shall mean and refer to the subdivision plat or plats of the Real Estate (and any additional real estate annexed to the Real Estate) recorded in the office of the Recorder of Hendricks County, Indiana, as the same may be hereafter amended or supplemented.

(t) **"Real Estate"** shall mean and refer to the parcel of the Real Estate in Hendricks County, Indiana, described in the first recital clause of the Declaration, and defined therein as the

"Real Estate" or to any parcel of real estate which may become subject to this Declaration by annexation.

(u) "**Restrictions**" shall mean and refer to the agreements, covenants, conditions, restrictions, easements, Assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time.

Section 1.2. Other terms and words defined elsewhere in this Declaration shall have the meanings attributed to them.

ARTICLE II

Declaration, Common Property and Rights of Tenants Therein; Easements

Section 2.1. In General. The Real Estate shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each subsequent owner, mortgagee, and occupant of any part of the Real Estate, by the acceptance of a deed, the acceptance of a mortgage, the execution of a contract, or the act of occupancy of any part of the Real Estate, shall accept such deed, accept such mortgage, execute such contract, or assume occupancy subject to the covenants, terms and conditions of this Declaration. By acceptance of such deed or execution of such contract, each Owner acknowledges the rights and powers of the Association with respect to this Declaration, the Plats, the Articles, the By-Laws, and all rules and regulations adopted thereto and also for themselves, their heirs, personal representatives, successors and assigns, agrees and consents to be bound by, observe and comply with the provisions, requirements and restrictions set forth in this Declaration, the Plats, the Articles, the By-Laws, and all rules and regulations adopted thereto. Each Owner shall be entitled to the exclusive ownership and possession of his Lot subject to the provisions of this Declaration, the Plats, the Articles, the By-Laws, and all rules and regulations adopted thereto.

Section 2.2. Easement to Owner. Every owner and his family and guests will have a non-exclusive right to use and enjoy the Common Properties. This right runs with the land and will pass with the title to every Lot, subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board according to the By-Laws.

Section 2.3. Association's Easement for Maintenance, Repairs and Access. The Association shall have a non-exclusive easement for the maintenance of the Common Properties

as set forth in this Declaration. Said easement shall permit the Association or its employees, agents or designees to enter any Lot to maintain the Common Properties, to make emergency repairs or to do other work reasonably necessary for the proper maintenance or operation of the Real Estate. Said easement shall also permit the Association or its employees, agents, or designees to enter any Lot for the purpose of reconstruction and restoration of the Common Properties in the event of casualty. In any case, the Association will try as is reasonably practical to notify owners prior to entry onto any Lot.

Section 2.4. Encroachment Easements. If any portion of the Common Properties encroaches on any Dwelling Unit or any Dwelling Unit encroaches upon the Common Properties or another Dwelling Unit as a result of construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements, a valid easement shall be deemed to exist and run to the Association or to the Owner of the encroaching Dwelling Unit or improvement for the encroachment and for the maintenance thereof so long as the encroachment exists.

ARTICLE III

Association; Membership; Voting; Functions

Section 3.1. Membership in Association. Each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member until such Owner ceases to be an Owner, at which time membership will be transferred. However, any such person or entity who holds an interest merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and Member of the Association.

Section 3.2. Voting Rights. Unless otherwise suspended, each Lot is entitled to cast one (1) vote on each issue properly brought before the membership. If a Lot is owned by more than one person, the Owners will decide among themselves which co-Owner of the Lot will cast the vote(s) for that Lot. In the event the Lot is owned by a corporation or other entity, that entity may appoint a representative to cast the vote(s) for the Lot.

Section 3.3. Functions. The Association has been formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Properties, to pay taxes assessed against and payable with respect to the Common Properties, and to perform such other functions as may be designated for it to perform under this Declaration. The Association will also enforce the covenants and restrictions contained in this Declaration, as well as any properly adopted rules and regulations. In addition, the Association will collect the Assessments and other charges described in the Declaration for the operation of the Association and will pay the Common Expenses and Common Services.

ARTICLE IV

Real Estate Taxes; Utilities

Section 4.1. Real Estate Taxes. Real Estate taxes on each Dwelling Unit shall be paid by the Owner thereof. Any real estate taxes or other Assessment against the Common Properties shall be paid by the Association and treated as a Common Expense and included in the Assessments against each Lot.

Section 4.2. Utilities. Utilities which are not separately metered to an Owner's Dwelling Unit shall be treated as and paid as part of the Common Expenses, unless otherwise determined by the Association, and included in the Assessments against each Lot.

ARTICLE V

Maintenance, Repairs, and Replacements

Section 5.1. By Owners. Except for the lawn maintenance provided by the Association on the Lots, it shall be the duty of the Owner of each Dwelling Unit and Lot to keep the property in a neat and attractive appearance including without limitation, the proper maintenance of the exterior of any Dwelling Unit on such Lot. If the Owner of any Lot fails to do so in a manner reasonably satisfactory to the Board of Directors, following written notification, the Association shall have the right (but not the obligation), through its agents, employees and contractors, to enter upon said Lot and clean, repair, maintain or restore the Lot, as the case may be, and the exterior of the improvements erected thereon. The cost of any such work shall be and constitute a Special Assessment against such Lot and the Owner thereof and may be collected and enforced in the manner provided in this Declaration for the collection and enforcement of Assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable to the offending Owner for any damage which may result from any maintenance work performed hereunder.

Section 5.2. Common Services. In addition to maintenance of the Common Properties, the Association, as part of its duties, and as part of the Common Expenses, shall provide for:

(a) Maintenance of Dwelling Unit lawns shall include but shall not be limited to the mowing, trimming, cleanup, and lawn treatment of the grass (including fertilization, weed control, and grub control). It shall not include watering of the lawn or the care and maintenance of shrubs and trees, flowers or other plants that are located on an Owner's Lot.

(b) Snow removal will be provided at the level of service determined by the Board of Directors.

Section 5.3. Common Properties. Maintenance, repairs and replacement, and upkeep of the Common Properties shall be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expense. The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use, and enjoyment of the Common Properties as it deems necessary.

Section 5.4. Owner Negligence. Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Properties or to provide the Common Services, if, due to the willful, intentional, or negligent acts or omissions of the Owner, or the invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Properties or an Owner's lawn, or if maintenance, repairs, or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay the Association for such damage and such maintenance, repairs, and replacements. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the Assessment to which such Owner's Dwelling Unit is subject and collectible in the same fashion as other Assessments levied by the Association.

Section 5.5. Association Access. The authorized representative of the Association, the Board and the Managing Agent for the Association (if any) shall be entitled to reasonable access as may be required in connection with maintenance, repairs, or replacements of or to the Common Properties and for the provision of Common Services for purposes of maintenance, including, but not limited to, access to any easements reserved by any subdivision Plat of any portion of the Real Estate for such purposes. In any case, the Association will try as reasonably practical to notify owners prior to entry onto any lot.

ARTICLE VI

Development Standards

AREA 'A' – Lots Three (3) through Sixty-two (62)

1. Minimum *Lot Area* – 6,600 square feet

(a) Town of Plainfield public water and sanitary sewer facilities shall be mandatory for this development.

2. Minimum *Lot Width* – 60 feet

3. Minimum *Lot Frontage* – 25 feet on a Public Street and gain direct Access from said Public Street.

4. Maximum *Lot Coverage* – 45 Percent

5. Minimum *Yards and Building Setbacks*

(a) Front – A minimum *Front Yard* and *Building Setback* measured from the Proposed Right-of-Way shall be provided as follows:

Primary Arterial Street:	60 feet
Secondary Arterial Street:	40 feet
Collector Street:	20 feet
Local Street/Cul-de-Sac Street:	20 feet

(b) Side – A minimum *Side Yard* of 6 feet shall be provided along all *Side Lot Lines*.

(c) Aggregate Side – A minimum *Aggregate Side Yard* of 12 feet shall be provided on all Lots.

(d) Rear – A minimum *Rear Yard* shall be provided along all *Rear Lot Lines* as follows:

- (1) Primary Building – 20 feet
- (2) Accessory Building, i.e., shed or mini-barn – not allowed

6. Maximum *Building Height* –

(a) Primary building – 35 feet

(b) Accessory Building, i.e., shed, or mini barn – not allowed

7. Minimum *Main Floor Area* – The minimum main floor area of the primary building, exclusive of garages, carports, decks, patios, and open porches:

(a) One-story building – 1,500 square feet

(b) Two or more story building – 1,700 square feet

8. Off-Street Parking – each Dwelling Unit shall be provided with at least two (2) Off-Street Parking Spaces.
9. Roof pitch on all primary buildings shall be a minimum of 8/12 pitch.
10. Exterior colors of brick, roof and trim shall remain consistent with those originally approved for Nottingham by the Town of Plainfield, Indiana, and/or those existing at the time of recording of this Declaration.
11. All homes are to be custom built and shall consist of 100% masonry exterior, of which at least 80% must be brick or stone, utilizing the same brick or stone originally approved for Nottingham by the Town of Plainfield, Indiana, and/or that currently being used for Dwelling Units existing at the time of recording of this Declaration. Stone accents shall not be required; however, they shall remain an optional feature for owners of newly constructed Dwelling Units. There will be no vinyl or aluminum soffits or trim. There will be no horizontal lap siding.
12. Carriage-house style garage doors shall be required; however, cupolas shall remain an optional feature for Owners of newly constructed Dwelling Units. Nevertheless lot 61 garage door shall be grandfathered into our covenants.
13. Storm doors that comply with the approved association standard are permitted. Specifications for entry doors and storm doors are contained in the By-Laws, Article XVI.
14. Each Owner must properly maintain his Lot and the exterior of his Dwelling Unit in good repair as needed. This includes regular painting of the Dwelling Unit as needed to ensure a neat and attractive appearance consistent with surrounding properties in the neighborhood. The paint color must be harmonious in style and color with other Dwelling Units in the community. Acceptable paint colors and formulas will be determined by the Architectural Review Committee.
15. The Association and Owners may utilize white-colored vinyl window frames and/or white-colored vinyl patio door frames for any Dwelling Unit. Windows may also consist of white-colored grillwork. These items may be left the unpainted white or painted the Nottingham trim color as approved by the Architectural Review Committee.
16. Privacy screen, storm door, and entry specifications are contained in the By-Laws.
17. Exterior replacement items such as doors and windows, shall be consistent with the original construction or approved by the Architectural Review Committee.

AREA 'B' – LOTS ONE (1) AND TWO (2)

1. Minimum *Lot Area* – 60,000 square feet
 - (a) Town of Plainfield public water and sanitary sewer facilities shall be mandatory for this Development.

2. Minimum *Lot Width* – 90 feet

3. Minimum *Lot Frontage* – 90 feet on a Public Street and gain direct Access from said Public Street.

4. Maximum *Lot Coverage* – 25 percent

5. Minimum *Yards and Buildings Setbacks*

(a) Front – a minimum *Front Yard and Building Setback* measured from the Proposed Right-of-Way shall be provided as follows:

Primary Arterial Street:	60 feet
Secondary Arterial Street:	40 feet
Collector Street:	30 feet
Local Street/Cul-de-Sac Street:	30 feet

(b) Side – a minimum *Side Yard* of 30 feet shall be provided along all *Side Lot Lines*.

(c) Aggregate Side – a minimum *Aggregate Side Yard* of 70 feet shall be provided on all Lots.

(d) Rear – a minimum *Rear Yard* shall be provided along all *Real Lot Lines* as follows:

- (1) Primary Building – 35 feet
- (2) Accessory Building – 20 feet

6. Maximum *Building Height*

(a) Primary Building – 35 feet

(b) Accessory Building – 25 feet

7. Minimum Main Floor Area – the minimum *Main Floor Area* of the Primary Building, exclusive of Garage, Deck, Patio, and open Porches:

(a) One-story Building – 3,000 square feet

(b) Two or more story Building – 2,000 square feet, provided that the total *Finished Floor Area* shall be at least 3,000 square feet.

8. Off-Street Parking – each Dwelling Unit shall be provided with at least two (2) Off-Street Parking Spaces.

ADDITIONAL AREA ‘A’ AND ‘B’ COMMITMENTS

1. The single-family product that will be substantially constructed within Area “A” of this subdivision is on file with the Town of Plainfield.

2. All the homes shall have an attached garage capable of storing at least two (2) vehicles.

3. All Lots shall have a landscaping package that is in harmony and consistent in design and substance with existing Lots.

4. All Lots shall have a concrete driveway, except for Lot 1, which already contains an asphalt driveway.

5. Satellite dishes of no more than one (1) meter in diameter shall be the only antennae permitted. A radio or ham radio towers antennae is not permitted. The location of the dish should be below the roof line to minimize visibility. If an internet signal cannot be received by the satellite dish located below the roof line, the Owner should notify the Architectural Review Committee. The Owner, installer and Architectural Review Committee shall work together to agree on an acceptable location for the dish.

6. No swimming pools shall be permitted, except the existing pools located on Lots 1 and 2.

7. All Lots shall have uniform mailboxes for aesthetics. Mailboxes shall be uniform in style and appearance. Street numbers on mailboxes must be uniform in style and color. If a mailbox becomes in need of replacement, the Owner should notify the Architectural Review Committee so that an acceptable replacement can be established. Any change in design from the present mailbox style must be approved by the Architectural Review Committee.

8. Outbuildings in Area “B” will be constructed of the same materials as the Dwelling Units.

9. No recreational or sports equipment (jungle gyms, playhouses, basketball goals, trampolines, etc.) may be placed on any Lot.

ARTICLE VII

Assessments

Section 7.1. Fiscal Year. The fiscal year of the Association begins at the beginning of the first day of January in each calendar year and ends at the close of the last day of December of the same calendar year.

Section 7.2. Liability for Assessment. Each Owner by accepting a deed or other conveyance document to a Lot, whether or not it shall be so expressed therein, shall be and is deemed to covenant and agree to pay to the Association: (A) annual assessments or charges, which shall be payable in regular installments, for the payment or provision of all expenses of administration of the Association, expenses associated with the Common Properties and Common Services, and all other expenses incurred or to be incurred by the Association or the Board of Directors for or in connection with the performance by the Association or the Board of Directors of its duties, obligations and responsibilities under this Declaration, which expenses may include, but shall not be limited to the following: (i) the expenses and costs of hazard and liability insurance for the Common Properties, and (ii) an adequate reserve fund for the periodic maintenance, repair and replacement of those improvements and elements of the Common Properties and any other property that must be maintained, repaired or replaced on a periodic basis and which the Association may be obligated to maintain; and (B) Special Assessments for capital improvements, repairs, and operating deficits, such assessments to be established and collected as hereinafter provided.

Any assessments authorized herein, together with interest, costs and reasonable attorney's fees, shall be a continuing lien from the first day of January (for Regular Assessments) and from the date the first installment is payable (for Special Assessments) against the Lot assessed. Such annual assessments shall be due and payable in full by a due date set by the Board of Directors unless the Board votes to permit annual assessments to be paid semi-annually or such other installments. Each assessment, together with interest, late fees, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot on the date said assessment became due and payable. Said personal obligation of an Owner shall not pass to his successors in title or interest unless expressly assumed by them. No Owner shall escape liability for any assessment which became due while he was the Owner by reason of non-use of the Common Properties or non-use, transfer or abandonment of his Lot or the Dwelling Unit on his Lot.

Section 7.3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the community, to construct, manage, improve, maintain, repair and administer the Common Properties, and for payment of any other costs and expenses incurred by the Association in connection with the performance of its duties, obligations and responsibilities hereunder. An adequate reserve fund shall be maintained for working capital and for the periodic maintenance, repair and replacement of those improvements and elements of the Common Properties and any other amenity that must be replaced on a periodic basis.

Section 7.4. Proposed Annual Budget. The Board of Directors shall prepare a proposed annual budget for the next fiscal year and shall furnish a copy of such proposed budget to each Owner prior to an annual meeting. The proposed Budget shall be presented at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (herein defined) for the next fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part and may be amended in whole or in part by a majority vote of the Owners; provided that any increase to the Regular Assessment of more than ten percent (10%) must be approved by a vote of two-thirds (2/3) of all Members in Good Standing, who are voting in person or by proxy at the annual meeting at which a quorum is represented. 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 provided herein, whenever determined. Whenever, before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such next fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget. The annual budget, the Regular Assessments, and all other sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall be drawn to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Properties. Such replacement reserve fund shall not be used for usual and ordinary repair expenses of the Common Properties. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Properties shall be maintained by the Association in an interest-bearing account with one or more banks, savings and loan associations, or in other federally insured accounts as may be selected from time to time by the Board.

Section 7.5. Regular Assessments. The annual budget adopted by the Owners shall be based on the estimated cash requirements for the Common Expenses in the upcoming fiscal year as set forth in such budget, contain a proposed assessment against each Lot, which shall be equal for all Lots. Immediately following the adoption of the annual budget, each Owner shall be

given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). The aggregate amount of the Regular Assessment shall be equal to the total amount of expenses provided and included in the final annual budget. The Regular Assessment against each Lot may be paid either annually or semi-annually, unless such other installments are approved by the Board. Payment of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors.

Section 7.6. Special Assessment. In addition to the Regular Assessments, the Association may find it necessary to 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 that the Association is responsible for maintaining; or to cover any operating deficits that may occur if the Regular Assessments levied for the fiscal year are insufficient to pay for all of the Common Expenses and Common Services of the Association.

A Special Assessment must be approved by a two-thirds (2/3) vote of the Members in Good Standing who are voting in person, by proxy or ballot at a meeting of the Association at which a quorum is present. Any approved Special Assessment will be due and payable on the dates(s) set by the Board of Directors.

Section 7.7. Date of Commencement; Due Dates. An Owner becomes liable for Assessments beginning on the date the Owner takes title to his Lot. Each Assessment(s) becomes due and payable beginning on the due date as set by the Board. The Association may approve Regular Assessments to be paid on a monthly, quarterly, or semi-annual basis.

Section 7.8. Failure of Owner to Pay Assessments. If an Assessment is not paid within thirty (30) days after the Assessment becomes due, the Assessment may bear simple interest from the date of delinquency at the annual rate of eight percent (8%) or the current statutory maximum annual interest rate, whichever is less. In lieu of interest, the Association may impose reasonable late fees on all delinquencies. The Board will determine the amount of the late fee, the time period before the late fee is imposed, the rate of the late fee (i.e. annually, monthly, quarterly, etc.) and to make any other provisions for late fees or interest charges on late payments as the Board, in its sole discretion, deems appropriate.

If the Association incurs administrative fees or expenses as a result of collecting delinquent amounts, including fees charged to the Association by the Association's management company as part of a contractual agreement for the handling of collection matters for the Association, the Owner must reimburse the Association these fees.

If the Association employs legal counsel to pursue the collection of unpaid amounts owed to the Association, the Owner must reimburse to the Association any collection costs or expenses

for the sending of collection letters or other correspondence or communication prior to the filing of legal action, or for the Association's attorney to take any other action in an attempt to collect the unpaid amounts.

The Association may bring an action at law against the Owner personally obligated to pay the Assessments or charges, or it may foreclose the lien against the property, or both, and there will be added to the amount of the Owner's account balance the costs of preparing the collection notices and letters, preparing and filing the complaint in such action, interest or late fees on any Assessment as above provided, administrative or management company charges for the handling of the collection account, and reasonable attorneys' fees, together with the court costs of the action.

In addition, an Owner who becomes more than six (6) months delinquent on any Assessment or other payment due to the Association will not be eligible to: a) vote on any Association matter, either in person or by proxy; b) act as a proxy for another Owner; c) be elected or serve on the Association's Board of Directors; or d) use any of the Common Area facilities, if any. Once a delinquent Owner is no longer delinquent, his/her voting privileges and use of Common Properties will be immediately reinstated.

Section 7.9. Subordination of Assessment Lien to Mortgage Lien. Notwithstanding anything contained in this Declaration, the By-Laws, or the Articles, any sale or transfer of a Lot to a Mortgagee as the result of a foreclosure on its mortgage or conveyance in lieu of foreclosure, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, will extinguish the lien of any unpaid Assessments which became due prior to the sale, transfer or conveyance; provided, however, that the extinguishment of the lien does not relieve the prior owner from the personal liability for any unpaid Assessments. No sale, transfer or conveyance will relieve the Lot or the purchaser of the Lot at a foreclosure sale, or the grantee in the event of conveyance in lieu of foreclosure, from liability for any Assessments that become due after the sale, transfer or conveyance. Such unpaid share, the lien for which has been divested as provided above, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Dwelling Unit from which it arose).

ARTICLE VIII

Mortgages

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his Dwelling Unit, or the Mortgagee, may notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the

Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise, shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to which such Mortgage as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and the Mortgagee shall not be entitled by virtue of this Declaration, or the By-Laws, to a proxy granted to such Mortgagee in connection with the mortgage, any notice to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such corporate record at the time provided.

Section 8.2. Notice of Certain Actions or Conditions. The Association shall, upon request of a Mortgagee (or insurer or guarantor) who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee (or insurer or guarantor) with written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the subdivision or any Lot on which there is a first mortgage;
- (b) any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days;
- (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) any proposed action which would require the consent or approval of Mortgagees under the terms of this Declaration or the regulations of either FNMA or FNMLC.

Section 8.3. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed Mortgagee or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Assessments and other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of a Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid Assessments or charges in excess of the amounts set forth in such statement.

Section 8.4. Unpaid Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which have or may become a lien against any Common Properties (excluding items deemed Common Properties for maintenance) and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on

the lapse of a policy, for any Common Properties (including items deemed Common Properties for purposes of maintenance).

ARTICLE IX

Insurance

Section 9.1. Casualty Insurance. The Association shall obtain and maintain without interruption a comprehensive coverage of public liability and hazard insurance covering the Common Properties existing on the Real Estate, based on a current replacement cost basis, in an amount not less than the one-hundred percent (100%) of the insurable value (based on current replacement only); and shall use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable Common Properties, including the private streets and insured improvements and amenities, if any. Such insurance policy shall contain a severability of interest clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage shall include all coverage in kinds and amounts commonly obtained with regard to projects similar in construction, location and use as determined by the Board of Directors. Further, the public liability insurance must provide coverage of at least Two Million Dollars (\$2,000,000.00) for bodily injury and property damage for any single occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Properties and shall insure the Association, the Board of Directors, any committee of the Association or Board, and the Managing Agent (if any). The cost of all such insurance policies shall be a Common Expense.

Section 9.2. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workers' compensation and occupational disease 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, the 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 the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

Section 9.3. Insurance by Owners. Each Owner shall be solely responsible for insurance on his Dwelling Unit and Lot and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his

Dwelling Unit, his Lot, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and/or his personal liability.

ARTICLE X

Casualty and Restoration; Condemnation; Termination

Section 10.1. Casualty and Restoration of Common Properties. In the event of damage to or destruction of any of the Common Properties due to fire or any other casualty or disaster, the proceeds of insurance carried by the Association, if any, shall be applied to the cost of such repair and reconstruction at the discretion of the Association.

If the insurance proceeds, if any, received by the Association as a result of any such fire and 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 any Common Property so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Association against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of Assessment as provided herein. For the purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Properties so damaged or destroyed 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.

Immediately after a fire or other casualty or disaster causing damage to any Common Property for which the Board of Directors or Association has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any Common Properties shall not constitute a claim or basis of a proceeding or action for the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the original plans and specifications or as the Common Properties were originally constructed. If any such encroachment results in damage to another person's property, it will be restored back to its original condition at the encroaching owner's expense.

Section 10.2. Total or Partial Condemnation of Common Properties.

(a) In the event of the condemnation of all or any part of the Common Properties, the Board is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Properties for the purpose of such negotiation and/or of contest of such award to the Board.

(b) Awards for the taking of all or part of a Common Property shall be collected by the Board and distributed evenly to all Owners. The Board shall act as an agent for all Owners or appoint an arbitrator.

Section 10.3. Termination. In the event of condemnation of three-fourths (3/4) or more of the Lots, the remaining Owners may terminate this Declaration and dissolve the Association, provided, however, that the restrictions set forth in the Plats and in Article XI shall remain in full force and effect, and shall remain enforceable as set forth in Article XV of this Declaration.

ARTICLE XI

Restrictions, Covenants and Regulations

The following covenants and restrictions on use and enjoyment of the Lots, Dwelling Units and Common Properties shall be in addition to any other covenants or restrictions contained herein or in any Plat of any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit and protection of the present and future Owners and be enforceable by an Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) **Residential Use.** All Dwelling Units shall be used for residential purposes.

(b) **Impacting Association Insurance.** No Owner shall permit anything to be done or kept in his Dwelling Unit or on any Real Estate or on any of the Common Properties which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Properties, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(c) **Nuisances and Annoyances.** No nuisance shall be permitted, and no waste shall be accumulated in or on any Dwelling Unit or their respective Lot or Lots. No Dwelling Unit or

Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the houses developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or cause damage to other Owners and occupants of Dwelling Units or neighboring property, including without limiting the generality of the forgoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.

(d) **Exterior Decorative Objects.** No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of the Dwelling Unit without the prior consent of the Architectural Review Committee. Provided, however, that an American flag, no larger than 3 feet by 5 feet, may be mounted on a pole that is attached to the Dwelling Unit. Nevertheless, the flagpole as erected on lot 50 shall be grandfathered into these Covenants.

(e) **Animals and Pets.** No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or any of the Common Properties, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit not to exceed a total of two (2), provided that such pet is not kept, bred or maintained for any commercial purpose and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its Owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Properties, caused by his pet. The tethering of pets in any area does not constitute "attended." Owners shall clean up after their pets, including scooping and removal of all pet waste from the Lots and Common Properties. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. The Owner is liable for all injury and damage to persons or property caused by his pets, or the pets of his guests, invitees, and occupants. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance of noise, shall be permanently removed from the Real Estate within ten (10) days after written notice from the Board to the respective Owner to do so. No animal shelters are allowed on the Lots. Absolutely no animal may be killed, slaughtered, butchered, or prepared on any Lot.

(f) **Structural and Grading Changes.** Nothing shall be done or permitted in any Dwelling Unit which will impair the structural integrity of any of the Common Properties or which would structurally change any of the Common Properties

(g) **Clothesline.** No clothes, sheets, blankets, rugs, laundry, or other similar things shall be hung out or exposed so as to be visible from any part of the Common Properties, Dwelling

Units, or public streets. The Dwelling Units and Lots shall be kept free and clear of rubbish, debris, and other unsightly materials.

(h) **Business Use.** No industry, trade or other commercial activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate; provided, however, that an Owner may maintain an office or home business in the Dwelling Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Dwelling Unit; (3) there are no employees or independent contractors within the Dwelling Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner complies with all provisions of the municipal ordinances, including the home occupations ordinance; and (6) all other provisions of this Declaration are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs incurred by the Association which may result from such use. Garage sales are not permitted.

(i) **Signs.** No signage shall be permitted on any part of the Real Estate without the prior consent of the Board. "For Sale" signs may not be displayed at or across from the entrance of the community. Open house signs shall be displayed in accordance with the town of Plainfield ordinance. Owners will be permitted to place a "For Sale" sign for the purpose of the marketing of their Lot for sale. The Architectural Review Committee may impose guidelines as to the size and location of such "For Sale" signs.

Under Indiana State law, political signs may be displayed no more than thirty (30) days prior to an election date and must be removed within five (5) days after the election date. Political signs shall be no larger than two (2) square feet (e.g. the size of a standard political or "for sale" sign). An Owner may display only two (2) political signs on his Lot at the same time. Political signs may only be displayed in the front and rear yard areas of a Lot, and no political signs may be displayed, hung, or attached to the exterior surface of a Dwelling Unit.

(j) **Common Areas.** All Owners and members of their families, their guests, or invitees, and all occupants with a right to use and enjoy the Common Properties or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Properties.

(k) **Commercial Vehicles.** Commercial vehicles primarily used or designed for commercial purposes (includes semi-trucks, box trucks, utility trucks, tow trucks, and vehicles with storage boxes, ladder racks, etc.), tractors, buses, mobile homes, recreational vehicles

(RV's), trailers of all styles, campers, boats and other watercraft, may not be parked on any Lot unless within an enclosed garage, except for vehicles that are temporarily in the community to provide delivery, moving, home construction or repair, or health care services. No repair work shall be done on the Real Estate on any vehicles, including passenger vehicles in clear public view. The overnight parking of RV's for loading and unloading is permitted.

(l) **Trees.** No Owner may plant trees, landscape, or do any gardening in any of the Common Properties, except with express permission from the Board of Directors.

(m) **No Removing Trees.** No Owner shall remove any mature, healthy tree without the written approval of the Board of Directors, unless said tree was planted by the Owner.

(n) **Maintenance and Repair.** Each Owner shall keep his Dwelling Unit and Lot in good order, condition, and repair and free of debris, all in a manner and with such frequency as is consistent with good property management. In the event an Owner shall fail to so maintain the exterior of his Lot, the Association, shall provide a verbal and subsequent written (if necessary) notice to the Owner. If no response or repair is completed within thirty (30) days, the Board of Directors shall have the right to correct, repair, maintain and restore the Lot after a majority vote of the Board of Directors. All costs incurred by the Association related to such correction, repair, maintenance or restoration shall be and constitute a Special Assessment against such Lot, collectable in the same manner and subject to the same remedies as set forth in Article VII herein for collection of Assessments.

(o) **Trash.** All garbage, trash and refuse shall be stored in appropriate containers inside the Dwelling Units (including garages) and shall be kept therein until not earlier than the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collections as are designated by the Board or the Department of Public Works.

(p) **No Renting or Leasing.** The Association's members recognize that an Owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus Owner-occupants maintain their property better than renters generally. The Association's members wish to ensure that the residents within Nottingham share the same proprietary interest in and respect of the Dwelling Units, the Lots, and the Common Areas. They also want to encourage residents to not only maintain property values but also to improve them and recognize that Owner-occupants have more incentive to do so compared to non-Owner occupants. Thus, no Dwelling Unit can be rented or leased. If at any time a Dwelling Unit is not occupied by one of the Owners thereof, there shall be a presumption that the Dwelling Unit is being rented or leased, and the Owners shall have the burden of proving to the satisfaction of the

Board of Directors that the occupancy is not in violation of this restriction, including but not limited to the delivery to the Board of Directors of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this provision, any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease or rental, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot. Any land contract, seller-financed sale contract, or similar agreement must be recorded in the Hendricks County Recorder's Office at the time of execution. If such land contract, seller-financed sale agreement, or similar agreement is not recorded at the time of execution, it will be deemed a lease agreement for the purpose of this provision. Furthermore, such land contract, seller-financed sale agreement, or similar agreement will be deemed a lease unless the purchaser has paid at least a minimum down payment of 10% as part of their initial purchase price of their purchase contract. Owners shall not lease, rent, or otherwise operate their Dwelling Unit on a hotel, transient or short-term rental basis. For the purpose of this provision, "short-term rental" is defined as any term of less than one (1) year. This short-term rental prohibition includes, but is not limited to, the use of a short-term rental platform through which unaffiliated parties offer to rent a Dwelling Unit or portion thereof to an occupant and collects consideration for the rental from the occupant. Any lease or attempted lease of a Lot in violation of this provision is voidable at the election of the Board of Directors. In the event of a violation, the Association shall have the right to exercise any available remedies at law or equity, including the right to pursue injunctive relief for removal of the tenant(s).

(q) **Yard Ornaments.** There shall be no lawn ornaments, fountains, statues, or similar items permitted to be located in the front of or affixed to the front of Dwelling Units. Exceptions to this shall be non-folding outdoor furniture, flowerpots, and wreaths. The "front" shall be considered the front of the house where the front door is located to six feet around each front corner. Items located beyond this area are not to be considered in the "front" and are not to be considered in view.

(r) **Holiday and Special Event Decorations.** Holiday decoration displays are permitted. Decorations should be confined to the front area of the house and eaves and the landscaping beds immediately adjacent to the house. The displays should be installed and removed in a timely manner. If it becomes necessary, timetables for setup and teardown will be established by the Board of Directors. No displays are to become a public attraction or nuisance.

(s) **Gardens.** No vegetable garden plots are allowed.

(t) **Fences.** No fences are allowed. The existing fences on Lots 1, 2, 6, 7, 8 and 49/50 shall be grandfathered from this restriction. These fences shall be maintained exactly as originally installed or removed.

(u) **Curb Marking Poles.** All curb marking poles used to designate an Owner's driveway during the winter months must be removed by April 1.

(v) **Solar Power, Electric Charging Stations, and 5G Cells.** No solar energy collector panels or attendant hardware, electric charging stations, 5G Cells, or other energy conservation equipment may be constructed or installed on any Lot without the prior written approval of the Architectural Review Committee. Unless prohibited by state or federal law, the Committee may deny any request for solar panels, electric charging stations, 5G Cells, and other energy conservation equipment unless the Committee, as determined in the sole discretion of the Committee pursuant to the provisions of the Declaration, determines said equipment can be installed as an integral and harmonious part of the architectural design of the home and surrounding Dwelling Units. The Committee reserves the right to adopt additional rules regarding solar panels, electric charging stations, 5G Cells, and other energy conservation equipment if the Committee deems such rules necessary or advisable in the future.

ARTICLE XII

Amendment of Declaration

This Declaration may be amended or changed, in whole or in part, at any time upon approval by the Owners of two-thirds (2/3) of the Lots who are in Good Standing. Such approval for an amendment to this Declaration may be obtained:

(a) at a meeting of the members of the Association duly called and held in accordance with the provisions of this Declaration and Bylaws; or

(b) by written consent or approval received from the Owners; or

(c) pursuant to any other procedure recognized under Indiana law, including those recognized under the Indiana Nonprofit Corporation Act of 1991, as amended, including but not limited, written mail-in ballots; or

(d) any combination of the above.

The President and Secretary of the Association shall execute the amendment, certifying that two-thirds (2/3) Owners who are in Good Standing approved such amendment. Thereafter, the amendment shall be filed with the Hendricks County Recorder.

ARTICLE XIII

Acceptance and Ratification

This Declaration should have been provided to each Owner on or before the closing of the sale of such Owner's Lot, but the failure of an Owner to actually receive a copy does not negate the Owner's obligation to comply with the provisions herein and in the By-Laws. All present and future Owners or Mortgagees of the Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the By-Laws, and the rules and regulations adopted by the Board of Directors, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the By-Laws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot, Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance or mortgage thereof. All Persons who may own, occupy, use, enjoy or control a Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XIV

Negligence

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any members of his family or his guest(s), employees, agents, or invitees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association.

ARTICLE XV

Enforcement

Section 15.1. In General. Enforcement of these covenants and restrictions and of the provisions contained in the Articles of Incorporation and By-Laws of the Association as well as the rules and regulations of the Association, together with all amendments to said documents, may be by any proceeding at law or in equity instituted by the Association or by any Owner against any person violating or attempting to violate any covenant or restriction or rule or regulation, either to restrain any such violation, to compel compliance, or to recover damages, and against any Lot, to enforce any lien created by these covenants.

Section 15.2. Delay or Failure to Enforce (Non-Waiver Clause). No delay or failure by any party to take immediate action to stop or prevent a violation of the Declaration or any of the Association's properly adopted rules, regulations or guidelines, waives or stops that party's right to take action at any time to stop or prevent the occurrence, recurrence, or continuation of a violation of the Declaration, the Articles, the By-Laws, or any of the Association's properly adopted rules, regulations or guidelines. Likewise, no delay or failure of a party to enforce any particular section of the Declaration or any of the Association's properly adopted rules, regulations or guidelines waives or stops that party's right to enforce a different section of the Declaration, Articles, By-Laws or any of the Association's properly adopted rules, regulations or guidelines.

Section 15.3. Costs and Attorney Fees. The provisions of the Declaration, Articles, By-Laws and any rules, regulations and architectural guidelines for Nottingham, including any amendments or modifications made to them, are binding and enforceable upon each and every Lot and Lot Owner in Nottingham. For any violation of the Declaration, Articles, By-Laws and any rules, regulations, and architectural guidelines adopted by the Board or the Committee, each owner in violation may be subject to an action at law or in equity by the Association to enjoin the violation or pursue any other relief or remedy as may be set forth in the Declaration, Articles, By-Laws or rules and regulations.

In the event of any litigation arising from or related to the Declaration of Covenant and the Code of By-Laws or the services provided, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorney's fees and all other related expenses in such litigation.

ARTICLE XVI

Miscellaneous

Section 16.1. Waiver. No Owner may exempt himself from liability for Annual or Special Assessments by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Lot/Dwelling Unit.

Section 16.2. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws and each shall be enforceable to the greatest extent permitted by law.

Section 16.3. Pronouns. Any reference to the masculine, feminine, or neuter gender herein shall, unless the context clearly requires the contrary be deemed to refer to and include all genders. Words in the singular shall refer to and include all genders. Words in the singular shall include and refer to the plural and vice versa, as appropriate.

Section 16.4. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of the Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration of any provision hereof.

Section 16.5. Conveying, Granting Easement, or Transferring Ownership of Common Property.

(a) In the event that a Utility Company, Municipality, or the Town of Plainfield would require easement or ownership of any of the Common Properties for the purpose of safety or beautification, the Board can negotiate a proper settlement. A simple majority vote by members present or by proxy at a meeting is necessary to ratify the agreement.

(b) Any action for the purpose of adding Amenities to the Common Properties needs to be ratified by a simple majority of Members present or by proxy at a meeting.

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Certification. The undersigned officers of the Nottinghill Owners Association, Inc. hereby represent and certify that all requirements for and conditions precedent to the foregoing Third Amended and Restated Declaration of Covenants, Conditions and Restrictions of Nottinghill Sections One and Two have been fulfilled and satisfied.

In witness whereof, NOTTINGHILL OWNERS ASSOCIATION, INC., has caused this document to be executed by two of its officers.

NOTTINGHILL OWNERS ASSOCIATION, INC.

BY Michael J. Comer
Signature of President

MICHAEL J. COMER
Printed

BY Edward Malone
Signature of Secretary

Edward Malone
Printed

STATE OF INDIANA)
)
COUNTY OF _____)

Before me a Notary Public in and for said County and State, personally appeared Michael Comer and Edward Malone, the President and Secretary, respectively, of Nottinghill Owners Association, Inc., for and on behalf of said corporation, and who, having been duly sworn, stated that the representations contained herein are true.

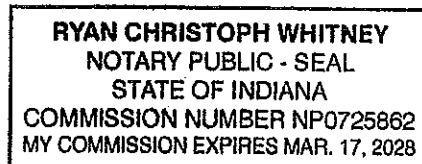
Witness my hand and Notarial Seal this 29 day of July, 2020.

My Commission Expires:
March 17 2028

Residence County:
Hendricks

Ryan Christoph Whitney
Notary Public

Ryan Christoph Whitney
Signature



EXECUTED AND DELIVERED IN MY PRESENCE:

Steve Klinger (Witness's Signature)

STEVE KLINGER (Printed Witness's Name)

Before me a Notary Public in and for said County and State, personally appeared Steve Klinger (Witness's Name), being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and states that the foregoing instrument was executed and delivered by Michael L. Comer and Edward Molone, the President and Secretary, respectively, of Nottingham Owners Association, Inc., for and on behalf of said corporation, in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

Witness my hand and Notarial Seal this 29 day of July, 2020.

My Commission Expires:

March 17 2028

Residence County:

Hendricks

Notary Public

Signature

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." Gregory A. Chandler, Esq.

This instrument prepared by the Board of Directors of Nottingham Owners Association, Inc. Upon recording, it should be returned to Gregory A. Chandler, EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th St., Suite B, Indianapolis, IN 46216. Telephone (317) 536-2565.

RYAN CHRISTOPH WHITNEY
NOTARY PUBLIC - SEAL
STATE OF INDIANA
COMMISSION NUMBER NP0725862
MY COMMISSION EXPIRES MAR. 17, 2028