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# DECLARATION OF COVENANTS AND RESTRICTIONS

FOR  
HARRISON WEST

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STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD  
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# DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

## HARRISON WEST

*THIS DECLARATION*, made this 4<sup>th</sup> day of JANUARY, 2001, by Harrison West L.L.C., an Indiana limited liability company (hereinafter sometimes referred to as the "Declarant").

### WITNESSETH:

Whereas, the Declarant is the owner of the real estate legally described herein and commonly known as Harrison West (hereinafter sometimes referred to as the "Subdivision"); and

Whereas, the Declarant desires the Subdivision to develop as a residential community; and

Whereas, the Declarant desires to promote the orderly development of the Subdivision and to provide for the maintenance of common area by subjecting the real estate owned by the Declarant to the covenants, restrictions, conditions, reservations, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and real estate comprising the Subdivision; and

Whereas, the Declarant deems it desirable to subject the real estate to the said covenants, restrictions, conditions, reservations, easements, charges and liens for the mutual benefit of the real estate and under a general plan and scheme of development and improvement of the Subdivision.

*NOW THEREFORE*, the Declarant hereby declares that all of the platted lots and real estate located within the Subdivision as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following covenants, restrictions, conditions, reservations, easements, charges and liens, all of which are declared and agreed to be in furtherance of a plan for the improvement of the real estate and sale of the said lots in the Subdivision, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision as a whole and of each of the said lots situated therein.

### ARTICLE I

#### Introduction

Congratulations and welcome to Harrison West. Harrison West is a unique and one of a kind development in Valparaiso. A tremendous amount of time and effort were expended by the Declarant to provide an atmosphere of tranquility, safety, serenity, quality, ecological balance and



prestige. The rules and regulations imposed by this Declaration are intended to insure that Harrison West becomes and remains the landmark subdivision the Declarant desired it to ultimately be and the one in which you chose to build your "dream home." From its beautifully landscaped entries, private streets with unique intersections, security and privacy provided by gated entrances, meticulous attention to environmental protection, and walking trails throughout the community and around a protected wetland, Harrison West is truly a special place. As an owner of property in Harrison West, you will be the envy of many and part of a very special community.

Accordingly, there are many rules and regulations imposed by this Declaration. Consider these restrictions as a benefit to your property, not a hindrance of your use of it. By complying with the Declaration, your property, the common areas, and that of your neighbors will create a development and community of unparalleled quality and beauty.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a residential community of the highest quality, prestige and character.

## **ARTICLE II**

### **Definitions**

The terms used in the Declaration shall generally be given their natural, commonly accepted definitions unless otherwise specified.

**Section 2.01 "Area of Common Responsibility":** The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

**Section 2.02 "Articles":** Harrison West Property Owner's Association, Inc.'s Articles of Incorporation, filed with the Indiana Secretary of State, as they may be amended.

**Section 2.03 "Association":** Harrison West Property Owner's Association, Inc., an Indiana nonprofit corporation, its successors or assigns.

**Section 2.04 "Base Assessment":** Assessments levied on all Lots subject to assessment under this Declaration to fund Common Expenses for the general benefit of all Lots.

**Section 2.05 "Board of Directors" or "Board":** The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Indiana corporate law.

**Section 2.06 "Builder":** Any construction company approved by the Declarant who purchases one or more Lots for the purpose of constructing improvements for later sale to consumers within Harrison West.

**Section 2.07 "By-Laws":** The By-Laws of Harrison West Property Owner's Association, Inc., as they may be amended.

**Section 2.08 "Common Area":** All real and personal property, including easements, streets, gates, or otherwise which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

**Section 2.09 "Common Expenses":** The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the initial development or other original construction costs unless Members representing a majority of the Association approve. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

**Section 2.10 "Community-Wide Standard":** The standard of conduct, maintenance, or other activity generally prevailing at Harrison West, or the minimum standards established pursuant to the Design Guidelines, Restrictions and Rules, and Board resolutions, whichever is a highest standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Harrison West change.

**Section 2.11 "Declarant":** Harrison West, L.L.C., an Indiana limited liability company, or any successor or assign, who takes title to any portion of the property that is subject to this Declaration for the purpose of development and/or sale.

**Section 2.12 "Design Guidelines":** The guidelines and standards for architecture, design, construction, landscaping and exterior items on Lots pursuant to this Declaration, as they may be amended.

**Section 2.13 "Governing Documents":** A collective term referring to this Declaration and any applicable Supplemental Declarations, the By-Laws, the Articles, the Design and Landscape Guidelines, the Restrictions and Rules, and Board resolutions, all as they may be amended.

**Section 2.14 "Harrison West":** The real property described herein in Section 3.01 together with such additional property as is subjected to this Declaration, also known as the "Subdivision."

**Section 2.15 "Lot":** Any lot or other tract in the Subdivision or property described in Section 3.01, subject to this Declaration and any amendments thereto, together with any and all

improvements thereon, as shown on the plat or plats thereof and designated thereon with a number for identification on which a residential structure could be constructed, whether or not one has been constructed.

**Section 2.16 "Member":** A Person subject to membership in the Association.

**Section 2.17 "Modifications Committee":** The Modifications Committee (MC) shall have exclusive jurisdiction over modifications, additions, or alterations made on a Lot on which a residence exists, or to then existing residential units, structures containing residential units, accessory structures, and the open space, if any, on any portion of the Subdivision.

**Section 2.18 "Mortgage":** A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

**Section 2.19 "New Construction Committee":** The New Construction Committee (NCC) shall have exclusive jurisdiction over all original construction on any portion of the Subdivision.

**Section 2.20 "Owner":** The record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Subdivision or property described in Section 3.01, subject to this Declaration and any amendments thereto, including the Declarant, and including contract sellers, but not including contract purchasers.

**Section 2.21 "Person":** A natural person, a corporation, a partnership, a trustee, or any other legal entity.

**Section 2.22 "Special Assessment":** Assessments levied in accordance with Section 12.04.

**Section 2.23 "Specific Assessment":** Assessments levied in accordance with Section 12.05.

### **ARTICLE III**

#### **Property Subject to this Declaration; Additions thereto, Deletions Therefrom**

**Section 3.01 "Legal Description":** The real property which is and shall be held, transferred, sold, conveyed and occupied, subject to this Declaration, is located in Porter County, Indiana, and comprises all of the property, Lots, tracts and easements shown and/or platted within or upon the property legally described as follows:

##### **PARCEL I**

A parcel of land located in the South  $\frac{3}{4}$  of the Northeast  $\frac{1}{4}$  of Section 15, Township 35 North, Range 6 West, Center Township, Porter County, Indiana, more particularly described as follows: Commencing at the Southeast corner of the Northeast  $\frac{1}{4}$  of said Section 15;

Thence South 89°53'58" West, along the South line of the Northeast ¼ of Section 15 and the South line of Manchester Meadows Subdivision which is recorded in Plat File 18-F-1, a distance of 265.46 feet to a 5/8" iron bar with cap marking the Southwest corner of Manchester Meadows Subdivision, the "Point of Beginning" of said parcel of land herein described;

Thence North 00°02'41" East, along the West line of Manchester Meadows Subdivision, a distance of 645.00 feet to the Southeast corner of the parcel of land described in Deed Book 449, Page 321;

Thence along the South, West, and North boundaries of the parcel of land described in Deed Book 449, Page 321, the following three (3) courses:

- 1.) North 89°07'19" West, a distance of 330.00 feet;
- 2.) North 00°02'41" East, a distance of 250.00 feet;
- 3.) South 89°07'19" East, a distance of 330.00 feet to the West line of Manchester Meadows Subdivision;

Thence North 00°02'41" East, a distance of 1098.29 feet to the North line of the South ¾ of the Northeast ¼ of said Section 15;

Thence South 89°50'05" West, along said North line, a distance of 728.89 feet;

Thence South 50°10'28" West, a distance of 575.32 feet;

Thence South 00°03'06" West, a distance of 1624.78 feet to the South line of the Northeast ¼ of said Section 15;

Thence North 89°53'58" East, along said South line, a distance of 1170.65 feet to the "Point of Beginning".

Containing 49.791 acres, more or less. .

## PARCEL II

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence South 0 degrees 02 minutes 41 seconds West along said West line, 60.0 feet; thence North

89 degrees 07 minutes 19 seconds West, 60.0 feet; thence North 0 degrees 02 minutes 41 seconds East, 60.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 60.0 feet to the Point of Commencement, containing 0.08 Acre and subject to all Legal Highways and Easements.

### PARCEL III

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence North 0 degrees 02 minutes 41 seconds East along said West line, 250.0 feet; thence North 89 degrees 07 minutes 19 seconds West, 330.0 feet; thence South 0 degrees 02 minutes 41 seconds West, 250.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 330.0 feet to the Point of Commencement, containing 1.89 Acres and subject to all Legal Highways and Easements. (Parcel III is hereinafter referred to as the "Eleanor Property")

**Section 3.02 "Platting and Subdivision Restrictions":** The Declarant shall be entitled at any time and from time to time, to plat, replat or vacate existing plattage of all or any part of the real estate subjected to this Declaration, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion, or portions of, or additions to the Subdivision.

**Section 3.03 "Additional Real Estate":** Declarant may, but shall have no obligation to, add at any time or from time to time to the scheme of this Declaration additional real estate, provided only that (a) any portion of the real estate from time to time added to the scheme of this Declaration shall be contiguous to property then subject to the scheme of this Declaration, (b) any portion of such real estate shall, at the time of addition to the scheme of this Declaration, be platted as single family residential lots, (c) said plat of added real estate shall dedicate, or commit to dedicate, the Common Area of said plat of real estate to the Association, and (d) upon addition of the real estate to the scheme of this Declaration, the owners of the property therein shall be and become subject to this Declaration, and shall have all privileges and obligations set forth in this Declaration, including assessment by the Association for their *pro rata* share of Association expenses. The addition at any time or from time to time of all or any portion or portions of the real estate to the scheme of this Declaration shall be made and evidenced by filing in the Office of the Recorder of Porter County, Indiana, a Supplementary Declaration with respect to that portion of real estate to be added. Declarant reserves the right to so amend and supplement this Declaration without the consent or joinder of the Association or of any Owner and/or Mortgagee of land in the Subdivision. If the Declarant elects to petition for annexation of the Declarant's future additional property into the City of Valparaiso, each Owner, and any successor to Declarant as an Owner of all or any portion of the Subdivision shall be deemed to have waived the right to remonstrate against any annexation of Declarant's future additional property, if any. In

furtherance thereof, each Owner and any other person acquiring all or any portion of the Subdivision from Declarant, shall give and shall be deemed to have given to Declarant upon the acquisition of title to all or any portion of the Subdivision an irrevocable power of attorney to Declarant to act on such Owner's and other person's account in connection with annexation proceedings involving the Subdivision and the Declarant's additional property. Such power of attorney shall be deemed to be coupled with an interest and shall be irrevocable. Pursuant to said power of attorney, Declarant may execute any and all documents, consents, petitions and any other items related to annexation proceedings involving Declarant's additional property to the Subdivision.

**Section 3.04 "Retractable Real Estate":** At the sole election of the Declarant, all of the real estate specifically described in Section 3.01 of this Article and subject to this Declaration may be withdrawn from submission hereunder at one time, or portions thereof at different times; provided, however that no real estate may be withdrawn which has been developed. All Owners, mortgagees and the Association are hereby deemed to consent to the vacation, and waive all right to remonstrate thereto, of any portion of the plat of the Subdivision not developed in which the Declarant has withdrawn from this Declaration.

**Section 3.05 "Easements":** There are platted on the plat of the Subdivision certain easements which shall be and are hereby reserved for the installation, construction, maintenance, repair or replacement of any and all public utilities and drainage and their poles, ducts, wires, pipelines, lines, conduit, sewers, manholes or other related utility or drainage facility. Additionally, all utility providers shall have the right of access, use, and an easement over and upon all of the Common Area for the purpose of installation, construction, maintenance, repair or replacement of any and all utilities, their poles, ducts, wires, pipelines, conduit, sewers, manholes or other related utility facility. There are also platted certain landscaping easements which shall be and are hereby reserved for the installation, construction, maintenance and repair of any and all landscaping within said easements including, but not limited to, the Association, Declarant, or a party designated by either, installing sprinkler systems to irrigate said landscape easements. No permanent structure shall be erected or allowed to be maintained on any easement except by the Declarant or Association. No Owner except Declarant, shall grant an easement, license or permit others to use any Lot, or portion thereof, in the Subdivision for access to any property or real estate not located within the Subdivision. No Owners shall alter, change, modify, or maintain the landscaping within the landscape easements, except as provided herein. Maintenance of landscape easements, other than lawn maintenance, shall be performed by Association.

## ARTICLE IV

### Declarant's Rights

**Section 4.01 "Marketing and Sales Activities":** Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the

construction or sale of Lots including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge. Only the Declarant and Builders authorized by Declarant may construct and maintain model homes in the Subdivision.

**Section 4.02 "Right to Develop":** Declarant and its employees, agents, and designees shall have a right of access and use and a perpetual easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in Harrison West acknowledges that the development of Harrison West is likely to extend over many years, and agrees not to protest, challenge or otherwise object to inconveniences caused by additional and continuing construction and development by the Declarant. Declarant shall conduct itself in a good faith manner so as to limit such inconveniences.

**Section 4.03 "Right to Approve Additional Covenants":** No Person shall Record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of Harrison West without Declarant's prior review and written consent. Any attempted recordation of such an instrument without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and recorded by Declarant.

**Section 4.04 "Right to Approve Changes in Harrison West Standards":** No amendment to or modification of any restrictions and rules, Design Guidelines, or Landscaping guidelines, shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration.

**Section 4.05 "Right to Transfer or Assign Declarant's Rights":** Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument Declarant signs and records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

**Section 4.06 "Exclusive Rights To Use Name of Development":** No Person shall use the name "Harrison West" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent.

However, Owners may use the name "Harrison West" in printed or promotional matter where such term is used solely to specify that particular property is located within Harrison West and the Association shall be entitled to use the words "Harrison West" in its name.

**Section 4.07 "Easement to Inspect and Right to Correct":** Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement or condition which may exist on any portion of the property within Harrison West, including Lots, and a perpetual nonexclusive easement of access throughout Harrison West to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

**Section 4.08 "Termination of Rights":** The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded; or (b) recording by Declarant of a written statement that all sales activity has ceased.

## ARTICLE V

### Property Rights

**Section 5.01 "Title to Common Area":** Declarant may retain the legal title to the Common Area so long as it owns at least one Lot in the Subdivision. On or before conveyance by Declarant of the last Lot which Declarant owns in the Subdivision, Declarant shall convey the Common Area to the Association subject to taxes for the year of conveyance and to restrictions, conditions, limitations, reservations and easements of record; subject, however, to a reservation hereby perpetually reserved to the Developer, its successors and assigns, of the non-exclusive right to use and enjoy the common utility easements, easements of drainage, and ingress and egress easements for the benefit of real estate owned and to be owned by the Declarant located on real estate which is contiguous to the Subdivision.

**Section 5.02 "Easements":** Every Owner of a Lot shall have a non-exclusive common right and easement of enjoyment and ingress and egress in and to the Common Area which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

- (a) The right of the Association to take such steps as reasonably necessary to protect the above-described properties against foreclosures;
- (b) All provisions of this Declaration, any plat of all or any part or parts of the property, and the Articles and By-Laws of the Association;
- (c) Rules and Regulations governing the use and enjoyment of the Common Area adopted by the Association;



(d) Restrictions contained on any and all plats of all or any part of the Common Area or filed separately with respect to all or any part or parts of the property; and

(e) Easements for installation and maintenance of utilities, and drainage facilities, and Landscaping and gated entries, as shown on the recorded plat of the Subdivision. Within these easements, no structure, planting other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, impede, or change the direction of flow of drainage facilities in the easements or bio-swales. The easement areas shown on each Lot and all improvements thereon shall be continuously maintained by the Owner of such Lot, except for improvements for maintenance of which a public authority or utility company is responsible. No dwelling unit or other structure of any kind shall be built or erected or maintained on any such easement, reservation or right-of-way, and such easements, reservations and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to Declarant, it's successors and assigns of the right to use and enjoy the same non-exclusive easements, for the benefit of additional real estate owned or later acquired by Declarant located or real estate contiguous to the Subdivision. The installation utilities and infrastructure to serve Harrison West, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(f) The Board's right to:

- (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (ii) suspend an Owner's right to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Lot remains delinquent; and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
- (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
- (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of use fees.

(g) Reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the party claiming the benefit of such easement.

(h) Declarant's rights for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in Declarant's sole discretion, in connection with the orderly development of any property described in this Declaration. The Owner of any property to be burdened by any easement granted pursuant to this subsection shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(i) All work associated with the exercise of the easements described in this section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the party exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot, and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

(j) Easements for the Declarant, the Association, and their successors, assigns, and designees, for the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any of Harrison West abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Also perpetual, nonexclusive right and easement of access and encroachment for the Declarant, the Association, and their successors, assigns and designees, over the Common Area and Units (but not the dwellings thereon) adjacent to bodies of water and wetlands within Harrison West, in order to alter in any manner and generally maintain any bodies of water and wetlands within the Area of Common Responsibility; and to maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.

**Section 5.03 "Right of Entry":** The Declarant and the Association, through their duly authorized employees and contractors, shall have the right, after reasonable notice to the Owner thereof, to enter any Lot or tract of real estate at any reasonable hour on any day to perform such maintenance as may be authorized herein. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

**Section 5.04 "No Partition":** There shall be no judicial partition of the Common Area, nor shall Declarant, or any Owner or any other person acquiring any interest in the Subdivision, or any part thereof, seek judicial partition thereof of the Common Area. However, nothing contained herein shall be construed to prevent judicial partition of any Lot owned in cotenancy.

## ARTICLE VI

### Restrictions, Rules, and Regulations

The following restrictions, rules and regulations shall apply to all of Harrison West until such time as they are amended, modified, repealed, or limited pursuant to the terms of this Declaration.

**Section 6.01 "Residential Use":** The real estate subject to these covenants and restrictions may be used for single family residential living units and for no other purpose. There shall be no more one (1) principal dwelling on any one (1) Lot. No business or commercial building may be erected on any Lot. No business may be conducted on any Lot without the express written consent

of the Declarant or Association pursuant to the terms of this Declaration. No building or other improvements shall be erected upon any Lot without prior approval of the Committee as provided herein. No accessory building shall be erected prior to erection of the principal dwelling or house.

(a) Subdivision of a Lot. No Lot shall be divided, subdivided or reduced in size unless each divided or subdivided portion thereof is consolidated with one or more contiguous Lots under one ownership. In the event of the division or subdivision of any Lot as aforesaid, which results in the division of more than ten (10%) percent of any one Lot, the obligation for Association expenses attributable to the divided or subdivided Lot shall be and become proportionately attributable and chargeable to the contiguous Lot or Lots, and the Owner or Owners thereof, to and with which all or portions of the divided or subdivided Lot or Lots become consolidated.

(b) Consolidation of Two or More Lots. In the event that one or more Lots are developed as a unit, the provisions of these covenants and restrictions, with the exception of assessments, shall apply thereto as a single Lot. No dwelling or other structure or improvement shall be erected, altered, placed, or permitted to remain on any site not including at least one (1) full platted Lot according to the recorded plat or plats of the Subdivision.

**Section 6.02 "Boats and Motor Vehicles"**: No boats, recreational vehicles or other motor vehicles, except four-wheel passenger automobiles, shall be placed, parked or stored upon any Lot or in the Common Area, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a fully enclosed building and totally isolated from public view.

**Section 6.03 "Trees"**: In the restoration zone shown on Exhibit "B", which may be modified from time to time by Declarant, no tree or shrub, the trunk of which exceeds four (4) inches in diameter, shall be cut down or otherwise destroyed without the prior express written consent of the NCC or MC.

**Section 6.04 "Artificial Vegetation"**: No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the NCC or MC.

**Section 6.05 "Signs"**: No sign of any kind shall be displayed to public view on any Lot or any Common Area, except for the following:

(a) The Declarant and/or any approved Builder in the Subdivision may place one professional sign on any Lot or Lots advertising the Lot or Lots and its respective improvements, if any, for sale.

(b) Owners or Owner's sales agent shall not display or place any sign of any character, including "for rent" or "for sale" signs on any Lot, except that a sign displaying the word "open", not to exceed two square feet, may be displayed during any time the Owner or his sales agent is in attendance at the dwelling for sale or for rent. Without limiting the foregoing, the prohibition of displays or signage included in this section specifically prohibits the display of commercial real estate signs or advertising signs of the Owner's designated sales agent. The Declarant shall design any and all signs to be used to advertise an existing dwelling for sale.

The size and design of all signs shall be subject to approval by the Committee.

**Section 6.06 "Common Area":** Nothing shall be altered in, constructed on or removed from, any of the Common Area except upon the written consent of the Declarant or Association.

**Section 6.07 "Miscellaneous":** No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Lot or any Common Area, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that any Owner shall fail or refuse to keep Owner's Lot free of weeds, underbrush or refuse piles, or other unsightly growths or objects, then the Association may enter upon said Lot and remove the same at the expense of the Owner as provided for herein, and such entry shall not be deemed a trespass.

**Section 6.08 "Residential Setback Requirements":** No dwelling, house or other above-grade structure designed to be used in connection with such house shall be constructed or placed on any Lot in the Subdivision except as provided herein.

(a) Front Setbacks. All dwellings or houses and above-grade structures designed to be used in connection therewith shall be constructed or placed on Lots in the Subdivision so as to comply with the front yard setback lines as established in the plat or plats of the various portions of the Subdivision, and as approved by the NCC or MC, or as shown on recorded plat.

(b) Side Yards. The side yard setback lines for each Lot shall be established by the NCC or MC, or as shown on recorded plat.

(c) Rear Yards. The rear yard setback line for each Lot shall be established by the NCC or MC, or as shown on recorded plat.

**Section 6.09 "Yard Lights":** Each Owner of a Lot in the Subdivision shall install a yard light with a dusk to dawn photo cell on the Lot when the dwelling or house is constructed upon said Lot. The light shall be of type designated by the Declarant.

**Section 6.10 "Owner's Obligation to Maintain Lot":** The Owner of a Lot in the Subdivision shall at all times maintain the Lot, real estate and improvements in such a manner as to prevent the Lot and improvements from becoming unsightly, and specifically such Lot Owner shall (a) mow and otherwise tend to the landscaping on the Lot as such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds; (b) cut down and remove dead trees; (c) remove all debris and rubbish and prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Lot or Subdivision; and (d) keep the exterior of the improvements in such a state of repair or maintenance as to avoid the improvements from becoming unsightly. The landscaping material in the bio-swales shall not be disturbed or mowed.

**Section 6.11 "Heating Plants":** Every dwelling or house in the Subdivision must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation.

**Section 6.12 "Diligence in Construction":** Every dwelling, house or other structure whose construction or placement on any Lot in the Subdivision is begun shall be completed within twelve (12) months after the beginning of such construction or placement and the Lot sodded or seeded within four (4) months of completion of the dwelling as set forth in Section 9.13 of this Declaration. No improvement which has partially or totally been destroyed by fire, windstorm or other casualty shall be allowed to remain in such state for more than three (3) months from time of such destruction or damage. Upon the request of an Owner, the NCC or the MC, as the case may be, may grant extensions of the time restrictions of this section when in the sole and absolute discretion of the NCC or MC such extensions are necessary. All extensions must be in writing. The grant of any extension shall not constitute a waiver, express or implied, of the NCC or MC to deny any additional requests for extensions.

**Section 6.13 "Time in Which to Build Structures":** An Owner of a Lot within the Subdivision must select an approved Builder to build a dwelling on its Lot within twelve (12) months after closing on the Lot and enter into a written construction contract with one of the approved Builders within twenty-four (24) months after closing on the Lot. The Owner shall notify the Declarant of its selected Builder and shall provide the Declarant a copy of the signed contract within the respective times set forth above. If the Owner fails to select a Builder or enter into a written contract within the times allowed herein, the Declarant shall have the option, at Declarant's sole discretion, to buy back, in cash, the Lot at a cost of ninety percent (90%) of the purchase price the Owner paid for the Lot without paying the cost of any improvements or other costs incurred by the Owner up to the time of repurchase according to the terms and conditions of the purchase agreement in which the Owner acquired the Lot. This option shall expire if Declarant has not notified the Owner of Declarant's intent to exercise the option prior to the time of commencement of the construction. The Declarant in its sole discretion may grant extensions to the time set forth herein. Any extension must be in writing to be enforceable. The grant of any extension shall not constitute a waiver, express or implied, of the Declarant to deny any additional requests for extensions.

**Section 6.14 "Necessary Exceptions for Development":** Declarant, or the transferees of Declarant, shall undertake the work of developing all Lots included within the Subdivision. The completion of that work and the sale, rent, or other disposition of the dwellings is essential to the establishment and welfare of the Subdivision as an on-going residential community. In order that such work may be completed and the Subdivision established as a fully-occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to prevent the Declarant, Declarant's transferees, or the employees, contractors or sub-contractors of Declarant, or of Declarant's transferees, from doing whatever they may determine to be reasonably necessary or advisable for the completion of the work and the establishment of the Subdivision as a residential community, and the disposition of Lots by sale, lease or otherwise. Owner, upon commencement of construction of any residence, dwelling unit or other structure, which is not prohibited by this Declaration shall pursue the performance of any construction diligently and continuously until completion of the structure involved. As used in this Section, the words, "its transferees" specifically exclude purchasers of an individual Lot or Lots improved with completed residences or intended for construction at a later date by someone other than the Declarant.

**Section 6.15 "Parking and Storage of Vehicles":** There shall be no outside storage or parking upon any Lot, street, or the Common Area of any commercial vehicle, truck, van, tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, travel-trailer recreational vehicle, snowmobile, motorcycle, boat or other watercraft, boat trailer, or any other such transportation device of any kind, except within the parking spaces in the Owner's garage (with the door closed) and for visitors and providers of services temporarily parking in driveway or street and in accordance with rules and regulations designated and promulgated by the Board. No unlicensed automobiles shall be parked longer than forty-eight (48) hours within any seven (7) day period on any Lot in the Subdivision. No Owners shall repair or restore any vehicle of any kind upon any Lot, street or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonable be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed. For purposes of the preceding, commercial vehicle shall also include any and all automobiles, station wagons, utility vehicles which shall bear signs or have printed advertisements on the side or top of same a reference to any commercial undertaking or enterprise. Construction, service and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. For purposes of this section, the aforementioned parking and storage limitations do not apply to usual and customary private automobiles, station wagons, passenger mini-vans and similar vehicles all currently registered and licensed for daily use. All homes erected upon a Lot shall have a garage attached to and architecturally consistent with the home. Detached "carriage house" type garages may be permitted with the express written consent of the NCC or MC. No automobile garage shall be permanently enclosed or converted to other use without the substitution of another enclosed automobile storage area upon the Lot. No carports shall be permitted unless approved by the Committee and all garages shall be at least

adequate to house two (2) standard size American automobiles. All garages must have doors that are to be maintained in useable condition.

**Section 6.16 "Animals":** No raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a total of three (3) dogs, cats, or other usual and common household pets may be permitted for each Lot. No pets are permitted to roam free or run loose. Pets shall be registered, licensed and inoculated as required by law. No animal shelters, containment pen structures or exercise run areas, enclosed or open, shall be permitted, placed or erected on any Lot. The Board shall have the absolute power to prohibit a pet from being kept on any Lot in the Subdivision, including inside residences constructed thereon. Each Owner shall be responsible for immediately cleaning, removing and disposing of the waste created by their pet in the Subdivision. A scoop, sanitary bag, or similar method of collecting animal waste shall be utilized to clean, remove and dispose of said waste.

**Section 6.17 "Nuisance":** No activity which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Lot. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots. No outside toilets shall be permitted on any Lot in the Subdivision (except during a period of construction and then only with the consent of the New Construction Committee), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system, nor shall any sump pump extend or discharge to a point within ten (10) feet from any property line. By purchase of a Lot, each Owner agrees that any violation, of this paragraph constitutes a nuisance which may be abated by Declarant, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees shall become a charge of lien upon the Offending Owner's Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Subdivision. Neither the Declarant, nor any officer, agent, employee or contractor thereof, the Association, or any Owner enforcing the provisions of this paragraph shall be liable for any damage which may result from enforcement hereof.

**Section 6.18 "Compliance with Laws":** No activity which violates local, state, or federal laws or regulations may be undertaken by any Owner in the Subdivision; however, the Board shall have no obligation to take enforcement action in the event of a violation.

**Section 6.19 "Hobbies":** No pursuit of hobbies or other activities are permitted which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Lot.



**Section 6.20 "Burning":** No outside burning of trash, leaves, debris, or other materials, except for warming fires during the normal course of construction of a dwelling on a Lot. All warming fires shall at all times be maintained in containers or barrels approved by the Declarant and only wood shall be burned in said warming fires.

**Section 6.21 "Noise Pollution":** No use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device that is audible to occupants of other Lots, except alarm devices used exclusively for security purposes is permitted.

**Section 6.22 "Fireworks":** No use and discharge of firecrackers and other fireworks is permitted.

**Section 6.23 "Dumping and Disposal of Refuse":** No dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, Lot or elsewhere within Harrison West, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site.

**Section 6.24 "Rubbish, Trash and Garbage":** No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot or on the Common Area, except in sanitary containers approved by Declarant, located in appropriate areas concealed from public view. If the City of Valparaiso discontinues trash collection services, the Association may designate a trash collection day and a trash collection service to be used and paid for by Owners in the Subdivision in furtherance of this paragraph. Additionally, the Association may enter into a master contract for trash collection with a refuse disposal service with the costs thereof to be included as a Common Expense of the Association to be paid by Owners as part of their normal assessments. Additionally, the Association may designate standard trash container as acceptable by the City of Valparaiso or a private disposal company, all at the expense of each Lot Owner, if applicable.

**Section 6.25 "Drainage":** No obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent. It shall be the duty of every Owner of every Lot to keep any ditches, swales, including vegetative plantings in bio-swales, waterways, or storm drainage portion areas as may be situated upon his Lot continuously unobstructed and in good repair and to repair all erosion with respect to such areas situated on such Owner's Lot even if said ditch or swale or waterway is not specifically referenced by an easement on the plat or elsewhere. In the event any ditch, bio-swale, waterway or storm drainage area is altered, destroyed, changed, the Owner shall promptly repair same to its original condition. If the Owner does not remedy the problem within a reasonable amount of time as determined by the Board, the Board may correct the problem and impose a specific

assessment at three (3) times the cost to correct and a lien against the Lot as contemplated by this Declaration. The vegetation in the bio-swales shall not be disturbed or mowed.

**Section 6.26 "Water and Wetlands":** No swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within Harrison West, except that fishing from the shore shall be permitted with appropriate licenses. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to Harrison West.

**Section 6.27 "Firearms":** No discharge of firearms is permitted; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

**Section 6.28 "Hazardous Material and Fuels":** No on-site storage of hazardous material, gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. No above ground storage tanks shall be permitted for the storage of gasoline, propane, kerosene, or other liquid fuels.

**Section 6.29 "Business Use of Lot":** Garage sales, moving sales, auctions, rummage sales, or similar activity are expressly prohibited. An Owner or occupant residing on a Lot may only conduct other business activities within the Lot with the express written consent of the Declarant, Association or the Board, so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (ii) the business activity conforms to all zoning requirements for Harrison West; (iii) the business activity does not involve door-to-door solicitation of residents of Harrison West; (iv) the business activity does not, in the Declarant's, Association's, or Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Harrison West which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Harrison West and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Harrison West, as may be determined in the Declarant's, Association's, or Board's sole discretion.

This subsection shall not apply to any activity conducted by Declarant or any Builder approved by Declarant with respect to its development and sale of Harrison West or its use of any Lots which it owns within Harrison West.

**Section 6.30 "Wildlife":** No capturing, trapping, or killing of wildlife is permitted within Harrison West, except in circumstances posing an imminent threat to the safety of persons using Harrison West.

**Section 6.31 "Environment":** No activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Harrison West or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution is permitted.

**Section 6.32 "Well and Septic":** No septic system shall be constructed or utilized on any Lot. No well shall be drilled on any Lot without express written consent of the NCC or MC;

**Section 6.33 "Recreational Vehicles":** No minibikes, go-carts, snowmobiles, electric or gas engine non-licensed vehicles or similar motor-driven vehicles shall be operated within the Subdivision.

**Section 6.34 "Use of Yard":** No basketball goals or standards, permanent clotheslines, playground equipment, outside storage, flag poles, tennis courts, gazebos, or other similar uses of yards which may prove detrimental to the value of the adjoining Lots shall be permitted, except as approved by the NCC or MC. Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of this Declaration. Lawn ornamentation is expressly discouraged from use in the Subdivision. No lawn ornamentation shall be placed on any Lot if able to be seen from any adjacent or other Lot and only with the express written approval of the NCC or MC.

**Section 6.35 "Antennae":** No exposed radio or television antennae or solar heat panels shall be allowed on any residence on any Lot which is visible from outside such residence. Satellite dish antennae, the dish for which does not exceed eighteen (18) inches in diameter, shall be permitted subject to the approval of the NCC or MC in accordance with generally acceptable Committee standards. Any permitted satellite dish must be properly screened from the view of surrounding Lots and screening of the satellite dish must be approved by the NCC or MC.

**Section 6.36 "Leasing":** The leasing of any Lot for a term of less than twelve months is prohibited. "Leasing", for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. The Board shall receive copies of all leases. Leased premises shall be kept in the same manner as those occupied by an Owner.

**Section 6.37 "Additional Restrictions":** In addition to the any other rules or restrictions contemplated by this Declaration, the Declarant, so long as it owns a Lot, the Association, and the Board may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, canceled, or modified by the Board or the Association in a regular or special meeting by the vote of Owners

holding a two-thirds (2/3) majority of the total votes in the Subdivision present or by proxy or with the written approval of the Declarant for so long as Declarant owns a Lot in the Subdivision. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure.

**Section 6.38 "Model Homes":** No Owner of any Lot in the Subdivision other than Declarant or Builders having the written permission of Declarant shall build, or permit the building upon any such Lot of any dwelling that is to be used as a model home or exhibit house.

**Section 6.39 "Soliciting":** No Common Area may be used for partisan political purposes, or for the proselytizing of sectarian religious or philosophical causes. Provided, however, that persons engaged in civic and nonpartisan political activities such as registration of voters may be invited upon said Common Areas by the Association upon application for a permit for such purposes by a member of the Association. Subject to Constitutional Protection, if available, no person may enter upon any Common Area for purposes of solicitation, commercial, political or religious activity, except upon the express authorization or invitation of the Association, upon application for a permit for such purposes by a member of the Association provided however, that this rule shall not prohibit the use of said Common Areas by the Declarant for purposes of advertising, solicitations and sale of any of the properties within Subdivision, so long as the Declarant owns any property therein.

**Section 6.40 "Fencing and Hedges":** Fencing is expressly discouraged. No line fence or wall shall be built in any front yard or to a greater height than five (5) feet from the grade adjacent to the wall or fence at all points. All fence or wall materials shall be in conformity and harmony with the residence on that Lot. In no case shall "chain-link," "farm field" type fence, or wood fencing be permitted. Fencing of entire lot perimeters is prohibited except a "living" fence is permitted consisting of trees, evergreens, hedges and bushes. No fence, hedge, wall or other dividing instrumentality shall be constructed or maintained on any Lot unless approved by the NCC or MC. All fencing installed along the exterior boundaries of the Subdivision shall be of the same materials and design so as to appear that the entire fence was constructed at the same time.

**Section 6.41 "Swimming Pools":** No above ground swimming pools shall be installed on any Lot. All in-ground pools shall be approved by the NCC or MC. All in-ground pools shall be continuously fenced, surrounding said pool with a non-climbable fence at least five (5) feet high or protected with a State of Indiana approved pool cover. Swimming pools should be designed with adequate buffers to minimize impact on adjacent lots and must be located within setbacks as established by the NCC or MC. When fencing around a swimming pool is required, the area fenced shall be no larger than necessary to adequately define the pool area.

**Section 6.42 "Temporary Structures":** No tents, trailers, vans, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot or in the Common Area without the written consent of the Declarant, or of the Association after Declarant has conveyed the last Lot which Declarant owns in the Subdivision, except for occasional Lot

Owner's children camp-out activities and further excepting any party/reception tent, which tent shall not be erected for a period to exceed seventy-two (72) hours and which tent shall not be placed or erected on the front lawn of any Lot.

**Section 6.43 "Prohibition of Used Structures and Modular Homes":** All structures constructed or placed on any numbered Lot in the Subdivision shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

**Section 6.44 "Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited":** No dwelling house Constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the building plan therefor approved by the NCC and a Certificate of Occupancy from the City of Valparaiso has been issued. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the NCC and such decision shall be binding on all parties.

**Section 6.45 "Mailboxes and Address Identification":** The Declarant shall select and designate a standard mailbox, post, and individual address identification devices for the Subdivision. No exterior newspaper receptacles shall be permitted in the Subdivision. All repairs and replacements to such standard mailboxes, posts, and identification devices shall be consistent in color, quality and appearance with the original mailbox, post, and identification devices unless the advance written approval of the MC is obtained. The Declarant shall determine the address identification to be used throughout the Subdivision for each Lot and the ultimate location for address identifier.

**Section 6.46 "Modifications to Lots and Residences":** In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within Subdivision, any outside storage, flag pole (building bracket mounted permissible), garden, shrubs, trees or other landscaping items, playground equipment, fence, light fixture, tennis court, basketball goal, awnings (canvas only), or other structure of any kind must be approved by the appropriate Committee as to acceptability, size, location, height and composition before it may be installed.

## ARTICLE VII

### Architectural Review

**Section 7.01 "Architectural Standards Jurisdiction":** The Declarant or the Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the NCC and MC.

No construction, as defined herein, shall take place except in strict compliance with this Article or with the express written consent of the Declarant, and then only for the limited purpose of conducting preliminary investigation of a Lot to determine any unique building conditions or

characteristics of said Lot which could potentially render the Lot unbuildable or pose an undue hardship, until the requirements thereof have been fully met, and until the approval of the appropriate architectural review committee has been obtained. Written approval must be obtained from the NCC prior to owner or owners agent receiving a building permit from the City of Valparaiso and the commencement of any clearing, grading or construction activity.

For purposes of this Section, "Construction" shall mean:

- (a) Original construction of any kind.
- (b) Modifications, additions, or alterations of any kind.
- (c) Final staking, clearing, excavating, grading and other site work.
- (d) Planting or removal of plants, trees, shrubs, gardens or other landscaping items.
- (e) Installation of lawn carpeting, fences, walls, awnings, tennis courts, swimming pools, playground equipment, basketball goals, mailboxes, yard light fixtures, gazebos, or any other structure or appurtenance of any kind.

It is understood and agreed that the purpose of architectural regulations and controls is to secure an attractive, harmonious residential development with continuing appeal by assuring materials and design elements are harmonious in conjunction with the way building and improvements relate to each other and the environment.

**Section 7.02 "New Construction Committee":** The New Construction Committee (NCC) shall consist of the Declarant and the builder group. The builder group shall be comprised of Wagner Homes Inc., Drake Builders, Ltd., and Charlson Construction (hereinafter collectively referred to as the "Builder Group"). The Declarant and each individual builder of the Builder Group shall have one (1) vote in all matters relating to the NCC. Each individual builder shall be a member of the Builder Group and a voting member on the NCC so long as said builder is a participating contractor building new homes in the Subdivision. In the event an individual builder is no longer a member of the Builder Group, the Declarant shall appoint a person, party or entity to replace said builder on the NCC. If a new builder is added to the Builder Group, said new builder shall be made a part of the NCC. The NCC shall have exclusive jurisdiction over all original construction on any portion of the Subdivision until such time as all real estate has been conveyed to purchasers in the normal course of development and sale, or until the right of the Declarant to submit or to annex additional property expires. The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners and Builders who seek to engage in development of or construction upon all or any portion of the Subdivision and who shall conduct their operations strictly in accordance therewith. After all the

real estate included in the Subdivision has been conveyed to purchasers in the normal course of development and sale, or until the right of the Declarant to submit or to annex additional property expires, the Declarant retains the right to appoint all members of the NCC which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC. Additionally, a professional architect and/or engineer may serve on or act as a consultant to the NCC. The Declaration empowers the NCC to review, revise, approve or disapprove any and all submissions, plans, drawings and specifications of each and every proposed structure within Harrison West.

**Section 7.03 "Modifications Committee":** The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Declarant or the Board of Directors, if in existence. At the same time when the Declarant turns over control of the Association, the MC shall be turned over to the Association. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to then existing residences or related structures, and the open space, if any, on any portion of the Subdivision appurtenant thereto; provided, however, the MC may delegate this authority to the appropriate board or committee of any residential association subsequently created or subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of his or her Lot without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structure shall be subject to approval.

**Section 7.04 "Procedures for Approval":** The Owner and/or Owner's approved agent shall request a meeting with the NCC or MC prior to submitting a plan for approval. The NCC or MC will review preliminary design sketches to confirm the appropriateness of the design concept and that the Design Guidelines are understood and followed. Approvals required by this Article shall be in written form by the appropriate Committee, and shall be forthcoming only after written application has been made and application fee paid, if any, to the appropriate Committee by the Owner of the Lot requesting authorization from such Committee (or such owner's duly authorized representative). Such written application shall be in the manner and form prescribed from time to time by the applicable Committee. Three (3) copies of the plans and drawings listed in this section shall be submitted to the NCC or MC for plan review. Following their review, the NCC or MC will retain two (2) sets of plans, and one set of plans will be returned to Owner or Owner's agent.

- (a) Plans Returned to the Owner will be marked "Resubmit", "Approved As Noted" or Approved As Submitted".

- (i) Resubmit. Plans marked "Resubmit" will be accompanied by a list of required modifications or a request for further information or materials. Owner must then resubmit plans in accordance with the procedures noted above.
- (ii) Approved As Noted. Plans will be marked "Approved as Noted" if modifications required are not substantial. The modification(s) required will be noted on the plans and must be made to the residence, but resubmittal of the plans is not necessary. Owner shall acknowledge and accept such modification(s) in writing. Construction of any improvement must be in strict conformity with the approved plans.
- (iii) Approved As Submitted. Plans marked "Approved as Submitted" do not need any further modification or resubmittal. Upon Plan and Plat approval by the NCC or MC, one set of plans stamped with the NCC's or MC's approval will be returned to the owner or owner's agent along with a statement of construction authorization which must be provided to the City of Valparaiso when submitting application for a building permit. Absolutely no construction activity may begin before approval by the NCC or MC and the City of Valparaiso. Construction of any improvement must be in strict conformity with the approved plans.
  - (1) As Builts. Upon completion of all construction and development, owner or owner's agent must provide to the NCC or MC an as built Plat of Survey showing all site improvements including locations for sewer, water, gas, electric and phone lines. Scale of the plat should be 1" = 20' or larger.
  - (2) NCC or MC Occupancy Permit. Owner or Owner's agent must also receive from the NCC or MC written approval for occupancy prior to occupancy. The NCC or MC reserves the right to make inspections to verify compliance with the Design Review Guidelines. All requirements set forth above do not relinquish owner from meeting all state, county and city ordinances. No NCC or MC occupancy permit will be issued until a certificate of occupancy is issued by the City of Valparaiso and a copy of the city's certificate is provided to the NCC or MC.

(b) . All written applications for construction shall be accompanied by three (3) of all of the following:

- (i) Plans and Specifications. Complete sets of plans and specifications drawn to scale setting forth the nature, kind, shape, height, color and composition



of all exterior materials proposed to be used; and the square footages, level by level, at well as the total square footage of the residence (excludes below grade).

- (ii) Site Plan. Site plan drawn to scale showing street(s) location, all lot dimensions; all structures proposed or existing on the lot, their size, location and distance from each other and to adjacent property or right-of-way lines; location/width of driveways and walk(s); required set-back distances from property or rights-of-way; topography and physical features. Plans must indicate the existing elevation of the all corners of the Lot, final site grades, and the elevation of the proposed improvement as it relates to the existing street elevation and adjoining land(s) as drawn, prepared and sealed by either a registered land surveyor engineer or architect.
- (iii) Landscaping Plan. Landscaping plan drawn to scale setting forth the nature, kind, shape, height of all materials to be used; sod and seed areas as specified in Article IX.
- (iv) Soil erosion and sedimentation control plan. Soil erosion and sedimentation control plan drawn to scale including soil survey.
- (v) Drainage, grading and site plan. Drainage, grading, and site plan indicating topography and proposed plans for handling of on site drainage, including but not limited to, sump pump discharge, gutter drains, driveway drains, ditches, swales, sedimentation basins or berms; show physical features such as existing plant life, tree groups, creeks, etc. All drainage must be in continuation and furtherance of the "bio-drain" system used throughout the Subdivision. Bio-swales must be used. All bio-swales must be clearly identified on all plans demonstrating they will be incorporated in the drainage scheme of the specific Lot and the remaining parts of the Subdivision in order to encourage absorption rather than buried drain lines in furtherance of promoting an environmentally sensitive and conservative development. A site plan of adjacent lots indicating drainage, building elevations and any other documentation required by the NCC or MC shall be provided if construction is proposed on any Lot adjacent to a Lot upon which a completed residence sits or upon an adjacent Lot which a residence in the process of construction is proposed.
- (vi) Copies of all permits, plans and design. Copies of all permits, plans and design relating to the construction of a sanitary sewer service line.

- (vii) Resume of builder. A resume' evidencing quality experience and demonstrated achievements including references of each builder shall be required. Also include proof of builder's financial capability.

**Section 7.05 "Power of Disapproval"**: The applicable Committee may refuse to grant approvals required under this Article when:

- (a) The plans, specifications, drawings or other materials submitted are themselves inadequate or incomplete, or show the proposed improvements to be in violation of these restrictions or the requirements of any applicable Supplemental Declaration;
- (b) The design or color scheme of a proposed exterior repainting, modification or improvement is not in harmony with the general surroundings of the Lot, with adjacent buildings or structures, or with Community-Wide Standards, all as determined in the sole and absolute discretion of the Committee; or
- (c) The proposed improvement, construction or modification, or any part thereof, would be contrary to the interests, welfare or rights of all or any part of the other Owners, all as determined in the sole and absolute discretion and opinion of the applicable Committee.
- (d) In the event that said Committee has not acted upon the submission within thirty (30) days by the issuance of a written approval, the submission will be deemed to have been denied.

**Section 7.06 "Hold Harmless & Limitation of Liability"**: The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Harrison West; they do not create any duty to any Lot owner. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the applicable committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a builder in Indiana; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot. In all matters, the Board, the NCC, the MC and the members of each shall be defended and indemnified by the Association.

**Section 7.07 "Certificate of Compliance":** Any Owner may request that the Committee issue a certificate of compliance certifying that there are no known violations of this Article or the Design Guidelines. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall preclude the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Neither the Association, its directors, the NCC, or the MC, nor any member thereof, shall be liable for any damage, loss or prejudice suffered or claimed by any Owner, Builder, or contractor who submits such plan on account of (a) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions; (b) any structural or other defects in any work done according to such plans and specifications; (c) the approval or disapproval of any plans, drawings and specifications, whether or not defective. (d) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, and (e) the development of any property within Harrison West. Any person submitting plans to either or both of such Committees shall indemnify and hold the Declarant, the Association, its Directors, the Committees, and any member thereof, harmless from all damage, loss or prejudice suffered or claimed by any third party, including attorneys' fees.

**Section 7.08 "Inspection":** The NCC and MC or their duly authorized agents, may inspect work being performed with their permission to assure compliance with these guidelines, the requirements of the applicable Supplemental Declaration and any applicable regulations of the Association.

**Section 7.09 "Declarant Improvements":** The NCC and MC shall have no powers with respect to any construction, improvements or modifications undertaken by the Declarant, its agent, contractors, suppliers, subcontractors, successor (or any assignee of Declarant if the Declarant has approved the plans therefor).

**Section 7.10 "Remedies for Failure to Obtain Approval":** In the event any construction or modifications are made without first obtaining approval of the appropriate Committee as required herein, the Association and/or the Declarant and the applicable Committee shall have the powers of enforcement granted to the Association generally for purposes of this Declaration and may require any modifications, construction, changes or improvements undertaken or installed without the approval of the applicable Committee to be removed or renovated by whatever means the Association, the Declarant and/or applicable Committee deems appropriate, with all the costs thereof, including costs of collection and attorneys fees to become a lien against the defaulting Owner's Lot.

**Section 7.11 "Power to Grant Variances":** The NCC and MC may allow reasonable variances or adjustments of the Restrictions where literal application, in the sole and absolute discretion of the NCC or the MC, would result in unnecessary hardship, but any such variance or adjustment

shall be granted in conformity with the general intent and purposes of the guidelines contained herein, and no variance or adjustment shall be granted which is materially detrimental or injurious to other Lots in the Subdivision.

## ARTICLE VIII

### Design Guidelines

**Section 8.01 "Introduction and Philosophy":** The Design Guidelines that follow have been established pursuant to the Declaration of Covenants, Conditions and Restrictions for Harrison West to provide property owners, their architects, builders, landscape architects and contractors with the proper direction for the planning and construction of a residence in keeping with the Harrison West design concept. The purpose of the Design Guidelines is to ensure that quality homes desired by the Declarant when creating Harrison West are constructed of adequate stature and presence. The Design Guidelines are provided to allow an Owner to be sure home meets the standards envisioned by the Declarant, but also a means of security so that an Owner can be confident that the remaining Lots in Harrison West are developed in the same professional and quality manner as its own. These Design Guidelines are binding upon all persons who at any time construct, reconstruct, refinish, alter or maintain any improvement upon property in Harrison West.

The Design Guidelines are intended to supplement to the existing State of Indiana laws, and ordinances of Porter County and City of Valparaiso governing the development of Harrison West. The guidelines may contain restrictions which are more stringent than correlating City of Valparaiso, Porter County or State of Indiana regulations. Such restrictions shall take precedence over the lesser City, County or State regulations. However, the Harrison West Design Guidelines shall not be construed under any circumstances to permit the design or construction of any structure, any portion thereof, or any related facility which is not in conformance with any or all applicable codes, ordinances or regulations.

These guidelines have been established by the New Construction Committee and are subject to change from time to time. Administration and enforcement of these guidelines shall be done by the New Construction Committee or the Modification Committee as applicable. It shall be the responsibility of each property owner and his building team to obtain and review the most recently revised Design Guidelines.

The basic concept of Harrison West is for each home design to conserve and enhance the natural beauty of each individual Lot and the natural beauty and prestige of the one of a kind development, Harrison West.

Structures shall be designed so as to encompass the very purpose of Harrison West. Specifically, the design of any residence must be in furtherance of the goal to create a development and community of the highest quality and character. As such, Avant-garde or highly

contemporary styles are strongly discouraged and may be rejected by the NCC in its sole and absolute discretion.

The design standards are intended to neither promote nor discourage any one particular design style, but to promote appropriateness of design style whereby the NCC shall have the sole and absolute discretion to determine whether the proposed design will reflect the distinguished character of Harrison West. Many factors are considered and include, but in no way are limited to plan layout, exterior elevations, detailing and use of color, building materials, architectural balance, curb appeal, attention to detail, and any other criteria deemed appropriate by the NCC in its sole and absolute discretion. Also, compatibility with the Lot whereby the proposed design style must be compatible with the natural topographic features of the Lot. Design styles which would require excessive disturbance to the natural topographic features of the Lot, or which would excessively dominate the site or adjacent homes and Lots, will not be permitted.

**Section 8.02 "Location on Individual or Combined Lots":** Proper placement of a residence on a Lot is vital. Improper location can destroy the apparent balance throughout the subdivision as well as harm the carefully and painstakingly designed drainage system. The ultimate location for each home must be sensitive to the Lot's unique characteristics and inherent design opportunities. The location of a home on a Lot will be affected by and shall take into consideration building setback lines, existing topographic features, existing vegetation and landscape features, existing wetlands, water and drainage, utility easements, proposed design style of the home, location of adjacent homes, and views from adjacent homes, common areas and streets within Harrison West.

Each Lot shall consider each site independently by the NCC or MC during plan review, but shall give considerable weight will be given to the individual impact of each plan upon adjacent Lots. All Owners should consider their neighbors when determining the location of their home.

Site surveys and topographical information are the responsibility of the Owner or Owner's Agent. The Owner or Owners Agent must use a registered surveyor to obtain this information, and must plot significant trees and site conditions; however, if the NCC or MC has plans on file for the adjacent properties, the owner may copy any site plans submitted and in the possession of the NCC or MC at their own expense.

The NCC or MC shall have the right and authority to require the modification of proposed home placement based on any or all of the above criteria, or as the NCC MC reasonably determines.

The plans must consider the homesite's natural amenities, including existing vegetation, environmentally sensitive areas and drainage channels, as well a, location to the golf course. Existing grades shall be maintained in their original condition, if possible. All elevation plans will be closely reviewed by the NCC or MC.

**Section 8.03 "Grading and Drainage of the Lot":** Drainage considerations for individual Lots play a vital role in the keeping with the progressive and environmentally sensitive manner in which Harrison West is developed. All drainage must be in continuation and furtherance of the "bio-drain" system used throughout the Subdivision. Bio-swales must be used, and be clearly demonstrated on all plans indicating how they will be incorporated in the drainage scheme of the specific Lot and the remaining parts of the Subdivision in order to encourage absorption rather than buried drain lines in furtherance of promoting an environmentally sensitive and conservative development. Water runoff for each individual building site must be handled by sloping all areas so that run-off can be directed into the natural drainage areas or to the storm drainage facilities. Any alteration or damage done to any of the bio-swales must not adversely impact the Subdivision and must be brought into compliance by the Owner or the Owner's agent with the drainage system approved by the City of Valparaiso and possibly shown on the recorded plat of Harrison West. The vegetation in the bio-swales must not be disturbed or mowed.

Recommendations or requirements by the NCC or MC regarding grading and drainage will be based upon individual Lot locations, terrain, soil condition, drainage, cuts and fills, and any other condition the NCC or MC feels will impact upon the site grading design. Although the NCC or MC will view the drainage plans, the Owner and his Builder are fully responsible for water runoff and drainage control at the Lot. In addition, the Owner and Builder recognize and acknowledge responsibility to grade the Lot in accordance with the final engineering grading plan approved by the City of Valparaiso, and further recognizes that the City of Valparaiso shall not be obligated to issue occupancy permits for homes erected on a Lot unless the final engineering grading plan has been complied with.

**Section 8.04 "Height and Size Restrictions":** The NCC or MC shall carefully review plans submitted to ensure that the height, size and/or coverage ratio of the proposed residence is suitable to the individual Lot and the overall community. Restrictions may be imposed by the NCC or MC on Lots when necessary to protect the prestige and beauty of Harrison West.

**Section 8.05 "Exterior Design Materials":**

- (a) Proportional Use of Materials. The same materials, or combination thereof, used in substantially the same proportion (except to the extent windows and doors require otherwise) shall be utilized on the front, sides and rear exterior of each home and accessory buildings constructed on a Lot, to ensure the appearance of the front, sides and rear thereof are substantially similar.
- (b) Building Materials.
  - (i) Exterior surfaces must be of materials which harmonize with the aesthetic goals of Harrison West. The use of wood, brick, stone, Exterior Insulated Finish Systems ("EIFS", e.g., DRYVIT) or stucco is highly encouraged.

- (ii) Specifically prohibited are: metal siding, vinyls and plastics, reflective materials, reflective exterior artwork and sculptures, and other materials, whose appearance, in the sole and absolute judgment of the NCC, does not convey strength, permanence or durability.

**Section 8.06 "Use of Materials":**

(a) Masonry/Stone/Stucco.

- (i) All exposed foundation walls shall be either landscaped or be faced with brick, EIFS, stone or stucco; cement parge coat shall not be approved.
- (ii) At front corners of homes where brick, EIFS, stone or stucco turns to meet another exterior finish material, there shall be a minimum of 2'-0" return along the sides of the dwelling.
- (iii) The exterior of all chimneys shall be constructed of brick, stone, EIFS, stucco or simulated stone as approved by the NCC.

(b) Roofing.

- (i) Minimum pitch for all gable roofs shall be 6/12. There shall be no flat roofs except over covered porches.
- (ii) Dutch Colonial roofs must be properly framed. The furring out of an exterior wall to simulate a Dutch Colonial roof shall not be approved.
- (iii) No exposed metal chimneys shall be permitted.

**Section 8.07 "Driveways":** Subject to written approval by the NCC, there is no limitation as to how many driveways a lot may have or its maximum or minimum widths, except as set forth herein. No driveway on any corner Lot shall enter the adjoining street at a point closer than seventy-five feet (75') to the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended. The driveway shall be cut stone or gravel placed thereon prior to any development or improvement on a Lot to the extent necessary to avoid the transmittal of mud from construction traffic to roads. As soon as practicable following substantial completion of construction on a Lot, the driveway shall be finished and paved to the street right-of-way line shown on the plat in a manner consistent with and of the same material and design of the streets at the intersections, within the cul-de-sacs, pocket parks, and as shown on the attached Exhibit "B". Each driveway, shall be reasonably maintained at periodic intervals for both appearance purposes and to minimize mud onto roads. Colors of brick and/or concrete must be approved by the NCC. Each Lot shall have a minimum of one (1) driveway entrance. Driveways shall be constructed in such a manner and with sufficient

compaction to withstand conditions likely to occur in the area. Owners shall be responsible to maintain their driveway in a condition satisfactory to the Declarant, the NCC or the MC.

(a) **"Common Driveway"** In addition to the foregoing, Lots 20, 21, and 22 shall have a single common drive (hereinafter referred to as the "Common Drive") as determined by the Declarant, as shown on the plat, as described in a separate recorded easement document, and/or as described herein. All rights, privileges, obligations, conditions, and requirements of the Common Drive shall be set forth on the plat, in a recorded easement document, and/or as set forth herein. The exact location of the Common Drive within the easement area shown on the plat shall be determined by the Declarant. The single Common Drive entering Lots 20, 21, and 22 from Throughwoods Drive, in the Common Driveway Easement shown on the plat, shall extend for a minimum distance of fifty feet (50') from the right of way of Throughwoods Drive. Only one individual drive to each of Lots 20, 21, and 22 shall be extended from the end of the Common Drive, that is to say, an individual drive shall be extended to each Lot 20, 21, and 22 at a point not closer than fifty feet (50') from the right of way of Throughwoods Drive. No gates, barriers, or other obstructions shall be located within the Common Driveway Easement. The Association shall be responsible for the maintenance, repair and replacement of the Common Drive for the first fifty feet (50') the Common Drive extends from the right of way of Throughwoods Drive. Approval of the individual drive to each Lot shall be approved by the Declarant or the NCC.

**Section 8.08 "Mailboxes":** The Declarant will control the selection and construction of all mailboxes within Harrison West.

**Section 8.09 "Exterior Post Light":** Every improved Lot shall have an exterior post light operated by an automatic dusk to dawn sensor. The Declarant will control the selection and construction of all exterior post lights within Harrison West. It is the responsibility of the owner or the owner's agent to assure compliance with this guideline. Fixture type and location shall be submitted to the NCC for review.

**Section 8.10 "Building Projections":** All projections from a dwelling including, but not limited to, chimney caps, vents, gutters, downspouts, utility boxes, porches, railings, and exterior stairways shall be visually integrated into the overall design of the structure and generally match the color of the surface from which they project, unless otherwise approved by the NCC.

**Section 8.11 "Design Duplication":** Design duplication within Harrison West will be reviewed by the NCC on a Lot by Lot basis. The NCC in its sole and absolute discretion may determine that the contemplated design is too similar to an existing structure and can reject the plan on that basis alone. All plan copyrights will be strictly honored.

**Section 8.12 "Sidewalks":** Sidewalks shall be installed by the Owner of each Lot in accordance with the recorded plat. Sidewalks shall be constructed of concrete. Each Owner is responsible for maintenance and replacement of the sidewalk located on or abutting his or her Lot. Sidewalks must run continuous through the driveway. Any sidewalk not installed in accordance with these



guidelines must be removed and corrected. In the event the incorrectly installed sidewalk is not corrected by the Owner within thirty (30) days after written notice is given to the Owner, the Declarant, Association, or the Board may initiate removal of the sidewalk and replacement for the Owner without consent of the Owner. All costs for said correction, including attorney fees, shall be reimbursed to the party correcting the deficiency within thirty (30) days. Delay in payment may result in a specific assessment in the amount of three (3) times the actual cost, and possibly a lien against the Lot as contemplated by this Declaration.

## ARTICLE IX

### Landscaping Control, Design and Guidelines

**Section 9.01 "Purpose of Landscape Planting and Policy":** The purpose of the landscaping policy and design requirements is to promote and guide Owners to create the beautiful and quality community envisioned by the Declarant while maintaining the highest degree of care to protect the environment. The guidelines are in place to ensure a natural transition from the street and entry landscaping to each individual Lot, while considering the manner in which each Lot works together. The proposed landscaping for each lot should try to maintain all natural features of the lot and implement new plantings to enhance the existing vegetation. Front yard plantings should be sympathetic to the Harrison West streetscape in form, texture and simplicity of design. Plantings should be designated to provide privacy for the homeowner and the neighbors. Plantings along common property lines between houses to provide additional privacy are encouraged. Plantings which screen driveways, garage doors, service courts, blank walls and outdoor patios and pools are encouraged. All plantings shall be designed so that they do not obscure an adjacent Lot's view of the natural beauty features of Harrison West.

**Section 9.02 "Submittal and Review Process":** A complete landscape plan shall be approved by the NCC prior to construction. The NCC has the sole and absolute discretion to approve all landscaping plans. The NCC has the ability to waive any and all provisions of this Article in its sole and absolute discretion in furtherance of promoting the best interests of Harrison West.

**Section 9.03 "Grading":** Proposed grading shall:

- (a) aesthetically and functionally enhance the proposed structures and plantings;
- (b) transition well with existing topography, roads and adjacent lots;
- (c) preserve existing healthy trees wherever possible, and;
- (d) provide positive drainage without concentrating water across property line or causing erosion.

**Section 9.04 "Existing Conditions":** Where wetlands occur on Lots, the removal of existing plant material, except dead plants, may be restricted by federal and state regulations and will not be permitted without prior governmental and/or approval of the NCC.

Planting within wetlands may be restricted by federal and state regulations and limited to native wetland species and will not be permitted without prior governmental and/or approval of the NCC.

In order to limit the likelihood of soil erosion, steep slopes (areas of land steeper than 15% or one foot in seven) may not be regraded without prior approval of the NCC.

**Section 9.05 "Tree Preservation":** No trees having a trunk in excess of 4" in diameter measured at a point 2 feet above the ground shall be removed from the property without prior approval of the NCC unless the removal is in connection with the construction of an approved single-family dwelling house, accessory building or recreational facility. This prohibition shall not apply to dead, decayed and/or trees which pose a personal hazard.

Care shall be taken to protect the root system of all existing trees to be preserved during construction. The existing grade should be maintained from the trunk to the drip line of the tree. Small retaining walls may be used to create tree wells or earthen walls around the drip line of a tree to be protected. Temporary fencing shall be erected around all trees and plantings required to be protected at the drip line of each, and said temporary fencing shall remain in place until final grading of the Lot is ready to begin.

No construction vehicles or materials shall be driven, parked, stored or stock-piled within the drip line of existing trees to be preserved. No spoil from any site shall be placed or dumped at any time within the drip line of any tree or planting required to be protected.

Any variance or derivation from these guidelines shall be reviewed and approved by the NCC or MC prior to commencing any construction or site-clearing activities.

**Section 9.06 "Screening/Buffer Planting":** Accessory structures, decorative objects, play structures, decks, patios, and water features, not screened from the view of adjacent homesites or streets by screening walls or fences, shall be screened with shrub and tree masses.

Garage doors facing adjacent homesites shall be screened with shrubs and trees.

Driveways and entry courts should have a massing of plant material to screen automobiles from the street and adjacent properties.

Large blank or long site walls shall have grouped plantings to reduce their visual impact from off the property. All exposed concrete or other foundation material shall be screened from view with plantings.

**Section 9.07 "Special Siting Provisions":** All trees shall be pruned to a height equal to and even with the eave height of the residence nearest the tree. Variances may be obtained from the NCC in its sole and absolute discretion.

**Section 9.08 "Planting Requirements/Installation":** Simple plantings with a limited variety of plant species should be used to create a well integrated neighborhood landscape. Layers of plant materials is encouraged. Plants of different heights shall be planted together with lower plants in front of the taller plants.

Plant material foliage and flower color shall be chosen to compliment the Lot. The minimum required number of type of planting and size for each Lot is set forth as follows: A recommended Plant Palette is provided herein for guidance in selecting plants which will perform well within the climate and soil condition found at Harrison West.

<u>Quantity</u>	<u>Plant Type</u>	<u>Size</u>	<u>Condition</u>
1	Canopy Tree-Deciduous	3-3 ½"	Balled & Burlapped caliper
1	Flowering Tree-Deciduous	6-8 ft. ht.	Balled & Burlapped
	OR		
	Multistem, Tree-Deciduous	8-10 ft. ht.	Balled & Burlapped
2	Evergreen Tree	8-10 ft. ht	Balled & Burlapped
12	Deciduous Shrub	18-24 in. ht.	Balled & Burlapped or Container
6	Evergreen Shrub	15-18 in. ht	Balled & Burlapped or Container
50	Groundcover Shrub	6-12 in. ht.	Container

**Section 9.09 "Recommended Species":**

(a) Canopy Trees - Deciduous

Acer rubrum	Red Maple
Acer saccharum	Sugar Maple
Quercus rubra	Red Oak-
Tilia spp.	Lindens
Celtis, occidentalis	Hackberry
Koelreuteria paniculata	Golden raintree
Ostrya virginiana	Ironwood
Carya ovata	Shagbark- Hickory

(b) Multistem Trees - Deciduous

Acer ginnala	Hedge Maple
Betula nigra	River Birch (Also single stemmed)
Cercidiphyllum japonicum	Katsura Tree
Magnolia virginiana	Sweetbay magnolia

(c) Flowering Trees - Deciduous

<i>Cornus kousa</i>	Kousa Dogwood
<i>Crataegus viridis</i>	Winter King Hawthorn Winter King
<i>Crataegus monogyna</i>	Glastonbury Hawthorn "Biflora"
<i>Crataegus phaenopyrum</i>	Washington Hawthorn
<i>Prunus subhirtella</i>	Higan Cherry
<i>Prunus sargentii</i>	Sargent Cherry
<i>Prunus serrulata</i>	Japanese Flowering Cherry
<i>Helesia carolina</i>	Carolina Silverbell

(d) Evergreen Trees

<i>Ilex opaca</i>	American Holly, (shelter locations)
<i>Pinus bungeana</i>	Lace-bark- Pine
<i>Tsuga canadensis</i>	Canadian hemlock-
<i>Picea abies</i>	Norway Spruce
<i>Pinus thunbergiana</i>	Japanese Black Pine

(e) Deciduous Shrubs

<i>Clethra alnifolia</i>	Summersweet
<i>Cornus</i> spp.	Shrub Dogwoods
<i>Euonymus alatus</i>	Winged Euonymus
<i>Fothergilla</i> spp.	Fothergillas
<i>Hamamelis</i> spp.	Witchhazels
<i>Hydrangea quercifolia</i>	Oakleaf Hydrangea (Shelter locations)
<i>Viburnum</i> spp.	Norway Spruce
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Ligustrum</i> spp.	Privet

(f) Evergreen Shrubs

<i>Berberis thunbergii</i>	Japanese Barberry
<i>Juniperus</i> spp.	Junipers
<i>Viburnum x burkwoodii</i>	Mohawk Viburnum "Mohawk"

(g) Groundcovers

<i>Vinca minor</i>	Periwinkle
<i>Pachysandra terminalis</i>	Japanese Spurge
<i>Hedera helix</i>	English Ivy

**Section 9.10 "Prohibited Plantings":**

- (a) The NCC shall not approve, and an Owner shall not plant plants which:
  - (i) are weakwooded;
  - (ii) are prone to disease and insect infestation;
  - (iii) spread too aggressively unless otherwise contained;
  - (iv) lack sufficient aesthetic characteristics to justify their use; or
  - (v) produce excessive amounts of trash and/or litter.
  
- (b) The following plant material are prohibited:
  - (i) Norway Maple
  - (ii) Tree of Heaven
  - (iii) Black Walnut (except to replace an existing Black Walnut tree in a natural area)
  - (iv) Black Cherry
  - (v) Cottonwood
  - (vi) Silver Maple
  - (vii) Catalpa spp.
  - (viii) Mulberry spp.
  - (ix) Black Locust (and all thorned honey locusts)
  - (x) Horse chestnut (toxic)
  - (xi) Yucca spp.
  - (xii) Ginkgo (Female)

**Section 9.11 "Lawns":** All lawns must be installed by the time requirements set forth in this Article for plant and tree material. All lawns shall consist entirely of sod or "hydro-seed." Each Lot Owner shall consider the topography and related conditions when determining the lawn material. The NCC will be the final authority on method of planting.

**Section 9.12 "Irrigation":** All homesites shall have a full-coverage irrigation system for the front and side yards. This time controlled automatic system shall operate different watering zones in order to meet the varying needs for planting beds and lawns.

The system shall be designed and controlled so that over spray will not fall on adjoining homesites and/or streets. All above ground pumps and other irrigation equipment shall be screened from view. The system shall be designed to use public water only. No wells are permitted without the express written consent of the Declarant or Association. The Declarant and Association may utilize natural water features for irrigation purposes if permitted by law and only if such use will not result in any damage to the natural water feature.

**Section 9.13 "Time Requirements":** All proposed planting, including lawns, that is approved with the initial house plans shall be installed within four (4) months of occupancy of any structure on a Lot. If the approved planting is not completed in the time frame provided herein, the Declarant and/or the Association may complete the proposed approved planting without notice to the Owner and a lien shall be placed against the Lot on which the planting is done.

**Section 9.14 "Landscape Maintenance":**

(a) Maintenance of Lots and Improvements. Each homesite owner shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly which is determined at the sole discretion of the Declarant, Association, or NCC. Vacant Lots must be maintained and kept clear of dead material, including standing dead trees or shrubs. Dead branches on a standing tree, fallen branches and unsightly undergrowth must be promptly moved. However, removal of any dead trees must be approved by the NCC prior to such removal. Specifically, each such Owner shall:

- (i) Mow such portion of the Lot at such times as may be reasonably required;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of Harrison West;
- (iv) Maintain the exterior of all improvements in such a state of repair and maintenance as to avoid their becoming unsightly; and
- (v) Fertilize as needed to promote growth and remove weeds.

(b) Vegetation. A Lot Owner shall not permit the growth of weeds and volunteer trees or bushes within its Lot, and shall keep the Lot reasonably clear from such unsightly growth at all times. Failure to comply with this restriction shall authorize the Association to weed and clear the Lot of such growth at the reasonable expense of the Owner thereof and the Association shall be authorized to place a lien against such Lot for such reasonable expense.

(c) Landscape. The landscape of a Lots shall at all times meet the minimum sizes, quantity and quality which were originally installed. If plant material is damaged by freeze, storm, accident or other natural event, or if plants die due to lack of maintenance, the Lot Owner will have sixty (60) days to replace the plant(s) with material that meets the original specifications.

Maintenance of a lawn will not be required prior to construction, however, existing grass and lawn areas must be trimmed or cut to a height of 3" or less and must be cleared of all weeds and unsightly vegetation.

If the height of existing grass and lawn areas exceeds 3" and/or is not kept clear of dead material or unsightly undergrowth, the Harrison West Homeowners Association shall perform the maintenance necessary, to restore the Lot to an acceptable condition and such expense shall be a specific assessment levied against the Lot and all lien provisions provided for in this Declaration shall be in effect.

## ARTICLE X

### Construction Rules and Regulations

**Section 10.01 "Builder Responsibility":** It shall be the responsibility of the Builder to comply with all construction regulations contained herein. If any Builder or contractor is found deficient in the performance of any of these construction requirements, the NCC or Declarant reserves the right to take any corrective action necessary, including the right to deny any Builder or contractor access to Harrison West.

**Section 10.02 "Speed Limit & Vehicle Tires":** The established speed limit within the community is 20 miles per hour for construction vehicles, including light trucks and autos. This speed limit will be strictly enforced and must be obeyed. Violators will be subject to a fine and/or denied access to Harrison West.

Only rubber-tired vehicles are allowed on the streets; "tracked" equipment will not be permitted to run on the streets.

**Section 10.03 "Access to the Homesite/Contractor Parking":** Individual Lots shall be accessed only via the streets. No other access will be permitted.

Access onto the Lots from the street shall be restricted to the driveway curb cut. The curb cut, and sidewalk cut, if necessary, shall be located by the surveyor, then cut and the access leveled with gravel fill prior to any vehicular traffic or construction is permitted on the Lot. The gravel drive shall run from the curb to the foundation at the garage entry.

The driveways of homes under construction and any area available for parking are to be kept stoned for access by suppliers and parking for contractor's vehicles. All vehicles shall be parked within the Lot boundaries whenever possible.

If the Lot driveway is occupied, parking on one side of the road will be allowed. Street parking will be limited to the north and east sides of the road. Street parking will only be allowed when parking on the Lot is impossible. Cars or trucks parked on the street when there is ample

parking space on the site will not be allowed, and the vehicle owner or contractor shall be subject to a fine and/or denied access to Harrison West.

Construction vehicles shall not be permitted to park overnight. Construction equipment may be left on site while needed, but must be kept on the Lot unless approved in writing by the NCC or MC.

**Section 10.04 "Delivery and Storage of Materials":** Delivery of supplies and equipment shall be limited to normal hours of operation. Supplies and equipment shall be unloaded promptly and in an orderly fashion. Delivery vehicles shall exit the Lot and subdivision immediately after delivery. The delivered equipment or materials shall immediately be stored in an orderly manner within the Lot boundaries.

The storage of materials and supplies shall be confined within the Lot boundaries of the specific Lot. Such materials and supplies are to be maintained in a neat and orderly manner and, whenever possible, located in the rear of the residence. Such stored materials shall not under any circumstances be permitted to obstruct the flow or drainage patterns of the Lot or any adjacent Lots.

**Section 10.05 "Lot Maintenance":** The Builder shall be required to keep the entire Lot clean at all times. Each Lot shall have a dumpster for refuse during construction. All debris and refuse shall be deposited into the dumpster. Debris is not to be allowed to accumulate on the Lot. The dumpster shall not be allowed to fill to the point of overflowing. If the Owner or Builder fails to clean the site at the end of the day, the Declarant or Association may enter the site to effect clean up and charge the Owner three times the actual cost of the clean up. Failure to pay upon request will result in a lien against the Lot.

The burning of construction debris or of removed landscape material is prohibited, except as provided for herein.

Erosion control methods shall be in place on each Lot prior to and throughout any construction on a Lot. Erosion control shall be installed as required by the Declarant, the City of Valparaiso, or in a manner approved by the NCC or MC. Silt fences shall be installed and maintained on all property lines to minimize erosion and flow of silt to adjacent property and street. Care should be taken to minimize excessive drainage onto the roadway and adjacent lots, including sump pump discharge and natural drainage. If the Owner or Builder fails to clean the street at the end of the day, the Declarant or Association may effect clean up and charge the Owner three times the actual cost of the clean up. Failure to pay upon request will result in a lien and/or specific assessment against the Lot.

Debris materials which drift or are windblown onto the street or adjacent Lots shall be collected by the Builder and removed from the Lot.



Materials which may spill or fall from vehicles (whether they be delivery, equipment of construction personnel vehicles) on any street within Harrison West shall immediately be removed and the street cleaned.

The washing or cleaning of concrete delivery trucks, shall be confined to within the Lot boundaries in which the concrete was dispensed. Such activities shall not be permitted on any street or common area and not on any other Lot within Harrison West. If any party associated with the construction of or development of a Lot fails to comply, the Declarant or Association may effect clean up and charge the Owner three times the actual cost of the clean up. Failure to pay upon request will result in a lien and/or specific assessment against the Lot.

Construction workers are prohibited from eating meals anywhere within Harrison West except on the Lot at which they are employed. All food debris must be deposited into the dumpster.

All earth removed from excavations must be placed where designated on the grading plan. All excess excavation spoils and debris not removed by the Builder will be removed by the Declarant or the Association and the Owner or Builder shall be billed for the cost of such services at the rate of three times the actual cost incurred. Failure to pay upon request will result in a lien and/or specific assessment against the Lot.

**Section 10.06 "Insurance":** All Builders shall provide and maintain the following insurance policies at all times while performing any work in Harrison West, and the amount of these policies may be amended by the Committee from time to time.

Workmen's Compensation Insurance	Statutory limits
Comprehensive General Liability	\$2,000,000
Owner's and Builder's Protective Liability	*Based on contract price
Automobile Liability Insurance	\$1,000,000

All Builders are required to submit current copies of these coverages to the New Construction Committee.

Builders and all subcontractors shall be responsible for any and all injuries or damage to any persons or property, including loss of human life arising directly or indirectly from or in connection with work performed or to be performed under this Declaration, and shall indemnify and hold the Declarant harmless of any and all loss or damage from such injuries, damage or death.

Builders and all subcontractors further agrees to maintain such insurance as will fully protect Declarant from any and all claims under any Worker's Compensation Act, Employer Liability Laws, and from any and all other claims of whatsoever kind and nature for the damage to property or for personal or bodily injury including death, made by anyone whosoever, which

may arise from the operation carried on under this Declaration, either by the Declarant, owner, contractor or subcontractor or by anyone directly or indirectly or indirectly engaged or employed by either of them.

**Section 10.07 "Restrooms":** All Builders shall provide and maintain portable toilets on the job site at the start of excavation or as permitted by the NCC. All portable toilets shall be removed immediately upon completion of the residence. Notwithstanding the foregoing, with the written approval of the NCC, Builders may share and utilize a single portable toilet for more than one job site.

**Section 10.08 "Subcontractors and their Conduct":** Builders are responsible for their subcontractors and making them aware of these rules and regulations. Each Builder must keep a current list of subs on file with the Declarant. Each Builder is responsible for all damage, fines, or otherwise caused by its subcontractors or independent contractors.

**Section 10.09 "Excess Noise":** All Builders, subcontractors and their employees, making loud noise or using offensive language shall be denied access to the community. The Builder is responsible and subject to a fine determined by the Board or Declarant for excessive noise. No radio shall be played on any Lot during construction that is able to be heard from a distance more than fifty (50) feet from the radio.

## ARTICLE XI

### Transfer of Unimproved Lots

**Section 11.01 "Developer's Right of First Refusal":** So long as Declarant owns at least one Lot in the Subdivision, no Lot and no interest therein, upon which construction of a single family residence has not begun, shall be sold or transferred unless and until the Owner of such Lot shall have first offered to sell such Lot to Declarant and Declarant has waived, in writing, the right to purchase said Lot. This section shall not apply to Builders.

**Section 11.02 "Notice to a Declarant":** Any Owner or Owners intending to make a bona fide sale of a Lot or any interest therein shall give to Declarant notice of such intention, together with a fully executed copy of the proposed contract of sale (the "Proposed Contract"). Within thirty (30) days of receipt of such notice and information, Declarant shall either exercise, or waive exercise of, the right of first refusal. If Declarant elects to exercise the right of first refusal, Declarant shall, within thirty (30) days after receipt of such notice and information, deliver to the Owner an agreement to purchase the Lot upon the following terms:

- (a) The price to be paid is 90% of the price paid by the Owner for the Lot, and the terms of payment shall be that stated in the Proposed Contract or other terms agreed to by the Owner.

(b) The sale shall be closed within thirty (30) days after the delivery or making of the Declarant's agreement to purchase.

**Section 11.03 "Certificate of Waiver":** If Declarant shall elect to waive the right of first refusal, or shall fail to exercise said right within thirty (30) days of receipt of the Proposed Contract, Declarant's waiver shall be evidenced by a certificate executed by Declarant in recordable form which shall be delivered to the Owner or the Proposed Contract purchaser.

**Section 11.04 "Unauthorized Transactions":** Any sale of a Lot, or any interest therein, upon which a single-family residence has not been constructed, without notice to Declarant and waiver of Declarant's right of first refusal as aforesaid, shall be void.

**Section 11.05 "Exceptions":** This Article shall not apply to a transfer to or sale by any bank, life insurance company, Federal or State savings and loan association, or real estate investment trust which acquires its title as a result of owning a purchase money mortgage upon the Lot concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successors in title or through foreclosure proceedings; nor shall this Article apply to a sale by any such institution which so acquires title. Neither shall this Article require the waiver by Declarant as to any transfer of title to a Lot at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

## ARTICLE XII

### Association

**Section 12.01 "Association Powers and Responsibilities":**

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of this Declaration. The Association may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no considerations as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants and residents of Harrison West.

(b) The Association shall be responsible for management, operation and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regarding use of the Common Area as it deems appropriate.

(c) The Board of Directors of the Association shall have all of the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law in this Declaration:

- (i) to own, maintain and otherwise manage the storm drainage detention basins located within the Subdivision and vacant and unimproved property, if any, and to do any and all other things necessary or desirable in the sole judgment of the Officers or Directors of the Association.
- (ii) to care for and maintain the landscaping, plantings and signs located within the Subdivision in a good and neat appearance.
- (iii) to make such improvements to the facilities under its control within the Subdivision, and to provide such other facilities and services as may be authorized from time to time by the affirmative vote of a simple majority of the Members of the Association acting in accordance with its constitution and Bylaws provided, however, that any such actions so authorized shall always be for the express purpose of keeping the Subdivision a highly desirable and exclusive residential community.
- (iv) until such time as the Board of Directors is duly elected, all the powers and duties enumerated above shall be exercised exclusively by the Board of Directors, as appointed by the Declarant. The Declarant, at Declarant's discretion may appoint Owners to serve on the Board of Directors at such time as it deems appropriate. The first elected Board shall be elected not later than one year after 100% of those Lots which have been subjected to this Declaration have been sold and title has been conveyed from the Declarant to an Owner. All Owners of record who have been subjected to this Declaration shall be eligible to vote for said Board. All Directors of the first elected and all subsequent Boards of Directors of the Association, shall be nominated and elected pursuant to the Bylaws of the Association.

**Section 12.02 "Budgeting and Allocating Common Expenses":** At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Lots.

The Association is authorized to levy Base Assessments equally against all Lots to fund the Common Expenses. In determining the Base Assessment rate per Lot, the Board may consider

any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy, which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least thirty (30) days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total votes in the Association.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to notifying the Members the right of the Members to disapprove the revised budget as set forth above.

The Board shall fix the date of commencement, and the amount of the assessment against each Lot for each assessment, at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by the Owners. Written notice of the assessment shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement thereof. The Association shall, on demand, and for a reasonable charge, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**Section 12.03 "Purpose of Assessments":** The base and special assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Subdivision, including, but not limited to the following:

- (a) Improvement, maintenance and repair of the Common Area including the entrance gates;
- (b) Water, sewer, garbage, electrical lighting, telephone, gas and other necessary utility services for the Common Area;

(c) Maintenance and repair of all storm drains, drainage easements, storm water detention or retention easements, sanitary sewers, parks, private roads, and easements shown on the plat or plats of the Subdivision recorded in the Office of the Recorder of Porter County, Indiana.

(d) Fire insurance covering the full insurable replacement value of all improvements located on the Common Area with extended coverage;

(e) Liability insurance insuring the Association and the Board, as well as each Director in their individual capacity, against any and all liability to the public, to any Owner, or to the licensees, invitees, or tenants of any Owner arising out of their occupation and/or use of the Common Area. The policy limits shall be set by the Association and shall be reviewed at least annually and increased or decreased in the discretion of the Association;

(f) Worker's compensation insurance to the extent necessary to comply with the Indiana law, and any other insurance deemed necessary by the Board;

(g) Acquisition of furnishings and equipment for the Common Area as may be determined by the Association, including without limitation, all equipment, furnishings, and personnel necessary or proper for use of the Common Area.

(h) Any other materials, supplies, equipment, labor, management, supervision, services, personnel, repairs, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration, or by law, or which shall be necessary or proper in the opinion of the Board for the operation of the Common Area, for the benefit of the Owners; or for the enforcement of these restrictions.

**Section 12.04 "Special Assessments":** In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment shall be levied against the entire membership. Any Special Assessment shall require the affirmative vote or written consent of Members representing more than two-thirds ( $\frac{2}{3}$ ) of the total votes at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance, and shall set forth the purpose of the meeting. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

**Section 12.05 "Specific Assessments":** The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

(a) To cover the costs, including overhead and administrative costs, of providing services to Lots upon request of an Owner pursuant to any menu of special services which

may be offered by the Association. Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) To cover costs incurred in bringing the Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection.

(c) In addition to maintenance upon the Common Area, the Association may provide upon any Lot requiring same, when necessary in the opinion of the Board to preserve the beauty, quality and value of the Subdivision maintenance, including paint, repair, roof repair and replacement, gutters, down-spouts, exterior building surfaces, and yard clean-up and/or maintenance; provided, however, that ten (10) days written notice must first be given to the Owner of any such Lot or Lots of the need of such clean-up and/or maintenance.

(d) The cost of such maintenance shall be assessed against the Lot or Lots upon which such maintenance is performed, or, in the opinion of the Board, against the Lot or Lots benefitting from same. The assessment shall be apportioned among the Lots involved in the manner determined to be appropriate by the Board. If no allocation is made, the assessment shall be uniformly assessed against all of the Lots in the affected area. The exterior maintenance assessments shall not be considered a part of the annual or special assessments. Any exterior maintenance assessment shall be a lien on the Lot or Lots and the personal obligation of the Owner and shall become due and payable in all respects, together with interest, reasonable attorney's fees, and cost of collection, as provided for the other assessments of the Association and shall be subordinate to mortgage liens as provided for herein.

(e) For the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or Lots or the exterior of any improvements thereon at reasonable hours any day except Sunday.

**Section 12.06 "Authority to Assess Owners and Time of Payment":** Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Lot at the closing of the Lot. If a budget has not been established by the Declarant or the Board, assessments shall begin the month in which the Declarant or the Board first determines a budget and levies assessments pursuant to this Article. The first annual Base Assessment, if any, on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on any Lot and shall be paid at closing. The

Base Assessment for the succeeding fiscal year after the year of closing may be required to be paid at the closing of any Lot at the sole choosing of the Declarant or the Board.

Assessments shall be paid in such manner and on such dates as the Declarant or the Board may establish. The Declarant or Board may require advance payment of assessments at closing or the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessment or other charges levied on his or her Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

**Section 12.07 "Personal Obligation for Assessments":** Each Owner, by accepting a deed or entering into a Recorded contract for sale for any portion of Harrison West, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum, or such higher rate as the Board may establish, subject to the limitations of Indiana law), late charges as determined by Board resolution, costs, and reasonable attorney's fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The lien of the assessment for which provision is herein made shall be subordinate to the lien of any first mortgage to a bank, life insurance company, Federal or State savings and loan association, or real estate investment trust provided such mortgage is a purchase money mortgage. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure of such mortgage. No such sale or transfer or proceeding in lieu of



foreclosure shall relieve any Lot or Lots from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment. The written opinion of either the Developer or the Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

**Section 12.08 "Uniform Rate of Assessment":** All regular and special assessments shall be at a uniform rate for each Lot in the Subdivision without adjustment for size of Lots, number of residents or use or nonuse of the Common Area.

**Section 12.09 "Maintenance of Area of Common Responsibility":** The Association shall own, maintain, and manage in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

(a) All portions of and structures, including signage, situated on the Common Area including the maintenance and operation of the gates located at the entrances to Harrison West. The Association must keep the gates operating in a safe, defect free, useable manner to allow residents, guests, utility providers, emergency vehicles, and other necessary parties access to the property of Harrison West; a sign shall be place outside the entrances to Harrison West indicating that the property is privately owned and maintained and that the City of Valparaiso is not responsible for maintenance of the property;

(b) Landscaping within public rights-of-way within or abutting Harrison West and landscaping areas shown as easements on the plat;

(c) Such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, the Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association;

(d) All ponds, streams and/or wetlands located within Harrison West which serve as part of the stormwater drainage system for Harrison West, including improvements and equipment installed therein or used in connection therewith;

(e) Any property and facilities which Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

(f) Any and all roads, streets, cul-de-sacs located in Harrison West; and

(g) Any and all leisure trails located throughout Harrison West.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless representing 75% of the votes in the Association and the Declarant agrees in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property subject to this Declaration.

The cost associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other persons or parties responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration or any other recorded covenants, or agreements with the owner(s) thereof.

#### **Section 12.10 "Insurance":**

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available. Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses.

- (i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

- (ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;
- (iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;
- (iv) Directors and officers liability coverage;
- (v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and
- (vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified persons, at least one of whom must be familiar with insurable replacement costs in the Porter County area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of this Declaration. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

- (c) All insurance coverage obtained by the Board shall:
- (i) be written with a company authorized to do business in Indiana;
  - (ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members.
  - (iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
  - (iv) contain an inflation guard endorsement;
  - (v) include an agreed amount endorsement, if the policy contains a coinsurance clause;
  - (vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);
  - (vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;
  - (viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and
  - (ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.
- (d) In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:
- (i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

- (ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- (v) a cross liability provision; and
- (vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(e) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total votes in the Association, and the Declarant, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagees shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs or reconstruction, the Board may, levy Special Assessments to cover the shortfall.

**Section 12.11 "Compliance and Enforcement":**

(a) Every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing. Such sanctions may include, without limitation:

- (i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot;
- (ii) suspending an Owner's right to vote;
- (iii) suspending any person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (iv) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;
- (v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;
- (vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;
- (vii) without liability to any person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in Harrison West; and
- (viii) levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents.

(b) In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents:

- (i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or
- (ii) bringing suit at law or in equity to enjoin any violation to recover monetary damages or both.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(c) The decision to pursue enforcement action in any particular case shall be left to the Board's sole discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) the Association's position is not strong enough to justify taking any or further action; or
- (ii) the covenant restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or
- (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances and permit Porter County and/or the City of Valparaiso to enforce ordinances within Harrison West for the benefit of the Association and its Members.

**Section 12.12 "Implied Rights; Board Authority":** The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except where applicable law or the Governing Documents specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

**Section 12.13 "Indemnification of Officers, Directors, and Others":** Subject to Indiana law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles of Incorporation and Indiana law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers and directors liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 12.14 "Safety and Security":** Each Owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and security of their property in Harrison West. The Association may, but shall not be obligated to, maintain or support certain activities within Harrison West designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within Harrison West nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.



No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Harrison West, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Lot that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each person within Harrison West assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lot, resulting from acts of third parties. The gated entrances are not meant to provide an impenetrable barrier and there is no guarantee the gates will prevent unauthorized persons from entering Harrison West.

**Section 12.15 "Provision and Services":** The Association may provide, or provide for, services and facilities for the Members and their Lots and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Lots. By way of example, such services and facilities might include, landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

**Section 12.16 "Relationships with Other Properties":** The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

**Section 12.17 "Gated Community Agreement":** The Declarant has entered into a "Gated Community Agreement" with the City of Valparaiso to establish and define the Declarant's role and the City's role in regard to ownership, maintenance, liability and other related issues. The "Gated Community Agreement" and its contents are expressly incorporated into this Declaration. Said Agreement is attached as Exhibit "A."

**Section 12.18 "Eleanor Property":** The Owners of the Eleanor Property as defined in Section 3.01, shall be Members of the Association with all privileges and benefits associated with said membership in the Association without being subject to any Association dues and/or assessments

during the time that Morris A. Sunkel and Denise C. Sunkel, or either of them, reside in the residence on the Eleanor Property.

## ARTICLE XIII

### Maintenance and Repair

**Section 13.01 "Maintenance of Lots":** Each Owner shall maintain his or her Lot and all landscaping improvements comprising the Lot in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Lot boundary and any wall, fence or curb located on the Common Area or public right-of-way within 10 feet of the Lot boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to this Declaration.

**Section 13.02 "Responsibility for Repair and Replacement":** Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible, unless the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefitted Lot and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved by the NCC or MC. Alternatively, the Owner shall clear the Lot and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

### **Section 13.03 "Compliance with Soil Erosion Control Plan":**

(a) The Declarant has established and implemented an erosion control plan pursuant to the requirements and conditions of Rule 5 of 327 IAC 15 relating to Storm Water Run-off Associated with Construction Activity. Each Owner shall undertake all erosion control measures contained therein as the plan applies to "land disturbing activity" initiated by Owner or Owner's builders, contractors and their subcontractors and to comply with the Declarant's general permit under Rule 5 as well as all other applicable state, county or local erosion control authorities. All erosion control measures shall be performed by personnel in erosion control practices and shall meet the design criteria, standards, and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the Division of Soil Conservation, Indiana Department of Natural Resources.

(b) Owner shall indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or are claimed to arise out of or connected with, any work done by Owner, Owner's employees, agents, or subcontractors which is not in compliance with the erosion control plan implemented by the Declarant.

(c) Owner or Builder shall be responsible to maintain cleanliness of streets at all times during and after construction. All dirt and debris shall be removed the same day.

## **ARTICLE XIV**

### **Membership and Voting Rights in the Association**

**Section 14.01 "Purpose of the Association":** The primary purpose of the Association shall be to insure high standards of maintenance and operation of all property and real estate in the Subdivision, including that property reserved by the Declarant for the detention and management of storm water easements, to insure the provision of services and facilities of common benefit, and in general to maintain and promote the desired character of the Subdivision. In addition, the Association shall consider its primary purpose to manage and support financially all real estate owned by the Association, if any, as well as the storm drainage detention easements located within the Subdivision.

**Section 14.02 "Creation of the Association":** As soon as is practicable following the recordation of this Declaration, Declarant shall cause the Association to be incorporated as an Indiana Not-for-Profit Corporation. Prior to the appointment of the Board of Directors by the Developer, responsibility for the control of the Association shall remain the exclusive responsibility and obligation of the Declarant or its designated agents and employees.

**Section 14.03 "Membership":** Every Owner, including the Declarant, at all times so long as the Declarant owns all or any part of the property subject to this Declaration, shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from ownership of any Lot which is subject to assessment, including the Eleanor Property.

**Section 14.04 "Classes and Voting":** The Association shall have such classes of membership, which classes shall have such voting rights, as are set forth in the Articles of Incorporation.

**Section 14.05 "Board of Directors":** The Association shall have a Board of three (3) Directors who shall constitute the Board of Directors.

(a) The Directors and Officers of the Association shall not be liable to any Owner for any mistake of judgment or any acts or omissions made in good faith by such Director or Officer. The Owners shall indemnify and hold harmless each of the Directors or Officers against all liability arising out of contracts made by such Directors or Officers on behalf of the Owners and Members of the Association, unless any such contracts shall have been made in bad faith or contrary to the provisions of this Declaration.

(b) The Board shall have the authority to and shall obtain comprehensive public liability insurance, as it shall deem desirable, and other liability insurance or insurances as it may deem appropriate in the circumstances. The premiums for such insurance shall be an expense to be paid by the Association.

(c) The initial Board shall be selected by the Declarant.

## ARTICLE XV

### General Provisions

**Section 15.01 "Duration and Remedies for Violation":** The covenants and restrictions of this Declaration shall run with and bind the real estate submitted pursuant to Article III hereof, and shall inure to the benefit of and be enforceable by the Declarant, the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifteen (15) years from the date this Declaration is recorded, after which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years unless amended as provided for elsewhere in this Declaration. Violation or breach of any condition, covenant or restriction herein contained shall give the Declarant, Association, or Owner (or any two or more of them in concert or individually) in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of said conditions, covenants or restrictions, and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the then Owner or Owners of the subject property, provided such proceeding results in a finding that such Owner was in violation of said covenants or restrictions. Expenses of litigation shall include reasonable attorneys' fees incurred by Declarant and/or the Association in seeking such

enforcement but attorney fees specifically shall not be allowed to an Owner enforcing these restrictions, unless granted by a Court and based upon an independent finding of entitlement to such damages.

**Section 15.02 "Notices":** Any notices required to be sent to any Member or Owner under the provision of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**Section 15.03 "Severability":** Invalidation of any one or more of these covenants and restrictions by judgment or Court Order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 15.04 "Amendment":** This Declaration may be amended, modified or terminated at any time and from time to time upon the execution and recordation of an instrument executed by the Declarant, so long as Declarant is the Owner of any Lot or property affected by this Declaration or, by Owners holding not less than two-thirds (2/3) of the voting interests of the Association, provided that so long as Declarant is the Owner of any Lot or any property affected by this Declaration, said amendment shall not be effective without Declarant's express written joinder and consent.

**Section 15.05 "Usage":** Whenever used the singular shall include the plural and singular, and the use of any gender shall include all genders.

**Section 15.06 "Effective Date":** This Declaration shall become effective upon its recordation in the Office of the Recorder of Porter County, Indiana.

## ARTICLE XVI

### Condemnation

**Section 16.01 "Condemnation":**

(a) Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by an authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

(b) If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the

remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in this Declaration regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## ARTICLE XVII

### Mortgages

**Section 17.01 "Notices of Action":** An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder), will, upon payment of the reasonable expenses of the Association therewith, be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) condemnation, damage or destruction to the Subdivision or which affects any Lot on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
- (c) any delinquency in the payment of assessments or charges owned by an Owner of a Lot subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;
- (d) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (e) any proposed action which would require the consent of eligible holders.

**Section 17.02 "Rights of Mortgagees":** Except to the extent otherwise provided herein, no breach of these Restrictions 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 these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to these Restrictions which materially impairs the rights of any Mortgage holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

**ARTICLE XVIII**

**Enforcement**

**Section 18.01 "In General":** Any party to whose benefit these Restrictions inure, including Declarant, the Association and any Owner, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Declarant nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

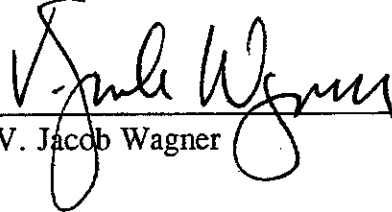
Notwithstanding any other provision in this Declaration of Covenants, Conditions, Easements and Restrictions to the contrary, the Association acting through its Board of Directors may elect to enforce any provision of the Declaration, the Association's By-Laws, the Rules and Regulations by self help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both. If any such action, to the maximum extent permissible the Owner or occupant responsible for a violation for which abatement is sought or for which other action shall be taken pay all costs including attorneys fees actually incurred.

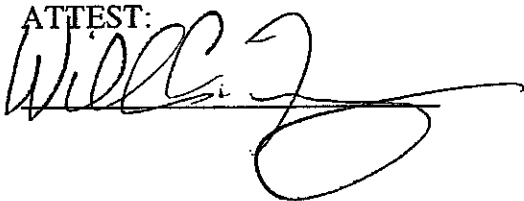
In addition thereto, any judgment for monetary damages arising from any such enforcement action, if not paid, within thirty days from the due date, shall constitute a lien on such Owner's lot in favor of the Association. Said lien shall have the same priority as a lien for assessment set forth in this Declaration and shall be subject to foreclosure and such other provisions of this Declaration not inconsistent with this section.

**Section 18.02 "Delay or Failure to Enforce":** No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of the parts of this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

*IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants and Restrictions to be executed on the date first written above.*

HARRISON WEST L.L.C., Declarant

By:   
V. Jacob Wagner

ATTEST:  


**GATED COMMUNITY AGREEMENT**

THIS AGREEMENT, dated the 10<sup>th</sup> day of NOVEMBER, by and between the City of Valparaiso (hereinafter referred to as the "City") and Harrison West LLC (hereinafter referred to as "Developer")

**WITNESSETH:**

WHEREAS, Developer owns the following described real estate located in Porter County, Indiana (hereinafter referred to as the "Property"):

**PARCEL I**

A parcel of land located in the South  $\frac{3}{4}$  of the Northeast  $\frac{1}{4}$  of Section 15, Township 35 North, Range 6 West, Center Township, Porter County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the Northeast  $\frac{1}{4}$  of said Section 15;

Thence South  $89^{\circ}53'58''$  West, along the South line of the Northeast  $\frac{1}{4}$  of Section 15 and the South line of Manchester Meadows Subdivision which is recorded in Plat File 18-F-1, a distance of 265.46 feet to a  $\frac{5}{8}$ " iron bar with cap marking the Southwest corner of Manchester Meadows Subdivision, the "Point of Beginning" of said parcel of land herein described;

Thence North  $00^{\circ}02'41''$  East, along the West line of Manchester Meadows Subdivision, a distance of 645.00 feet to the Southeast corner of the parcel of land described in Deed Book 449, Page 321;

Thence along the South, West, and North boundaries of the parcel of land described in Deed Book 449, Page 321, the following three (3) courses:

- 1.) North  $89^{\circ}07'19''$  West, a distance of 330.00 feet;
- 2.) North  $00^{\circ}02'41''$  East, a distance of 250.00 feet;
- 3.) South  $89^{\circ}07'19''$  East, a distance of 330.00 feet to the West line of Manchester Meadows Subdivision;

Thence North  $00^{\circ}02'41''$  East, a distance of 1098.29 feet to the North line of the South  $\frac{3}{4}$  of the Northeast  $\frac{1}{4}$  of said Section 15;

Thence South  $89^{\circ}50'05''$  West, along said North line, a distance of 728.89 feet;

Exhibit "A"



Thence South 50°10'28" West, a distance of 575.32 feet;

Thence South 00°03'06" West, a distance of 1624.78 feet to the South line of the Northeast ¼ of said Section 15;

Thence North 89°53'58" East, along said South line, a distance of 1170.65 feet to the "Point of Beginning".

Containing 49.791 acres, more or less.

## PARCEL II

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence South 0 degrees 02 minutes 41 seconds West along said West line, 60.0 feet; thence North 89 degrees 07 minutes 19 seconds West, 60.0 feet; thence North 0 degrees 02 minutes 41 seconds East, 60.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 60.0 feet to the Point of Commencement, containing 0.08 Acre and subject to all Legal Highways and Easements;

WHEREAS, Developer wishes to develop the Property as a single family residential subdivision (hereinafter referred to as "Harrison West");

WHEREAS, Harrison West will be a private subdivision with gated entrances and with private streets, as shown on the recorded plat, being owned and maintained by the Harrison West Property Owners Association (hereinafter referred to as "Association");

WHEREAS, the City's Zoning Ordinance and/or Subdivision Control Ordinance do not contain regulations, restrictions, or developmental standards for a gated community or its related equipment; and

WHEREAS, the City and the Developer wish to establish and define the City's role and the Developer's role in regard to ownership, maintenance, liability and other related issues to the gated community Harrison West by the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

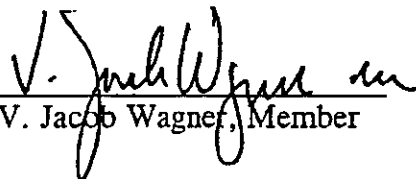
1. Location of Gate Systems. The gate systems will be located entirely on private property owned and maintained by the Association. Gated entrances to Harrison West will be located at the Harrison Boulevard and Eleanor Drive entrances.
2. Gate System.
  - a. Swinging gates. Gates at both entrances will be a "swinging" gate. The directional swing of each gate shall be into Harrison West.
  - b. Power Source. Gates at both entrances will be powered with electrical power supplied by the local utility providing power to Harrison West. A battery back up power system will be provided at both entrances to ensure that the gates are operable in the event power from the utility is lost or disrupted.
  - c. Operation. The gates will be operable in the following manners:
    1. Keypad & Swipe-card. Each gate shall be operable by entering a numerical code or the use of a "swipe-card", whichever the Developer decides to install. If a keypad system is employed, all emergency response vehicles and utility providers will be provided with the numerical code to access Harrison West. In the event the numerical code changes, the President of the Association shall inform all emergency response vehicles and utility providers of the new code number. If a "swipe-card" system is employed, all necessary emergency response vehicles and one "swipe-card" per utility provider will be provided. The location of the keypad or "swipe-card" sensor will be clearly visible and accessible.
    2. Emergency Access. Each gate shall be equipped with a siren operated sensor which will open or close the gate when an emergency vehicle operates its siren in the "yelp" mode.
    3. Shear Pin. Each gate shall be equipped with a shear pin so that in the event the keypad, swipe-card, or siren operated sensor fails, emergency vehicles may "bump" the gate to allow access.
    4. Order of Operation. All operators of emergency response vehicles shall use their discretion to determine the method by which entrance to Harrison West is obtained. Operators of emergency response vehicles may operate the gate systems by any of the above described methods in any order, at its discretion.

3. Maintenance. Maintenance of each gate shall be the sole and exclusive responsibility of the Association. The City shall not be responsible for maintaining any part of the gate system. The Association shall at all times maintain the gate systems in a safe, operable, and reliable manner consistent with industry standards.
4. Operational Problems. If any emergency response units or utility provider experience difficulty or a problem with operating the gate system, said emergency response unit or utility providers will use its best effort to contact the President of the Association to notify the Association of the date, time, and nature of the problem. The President of the Association shall inquire into the alleged problem and take the necessary steps to remedy the situation. The parties expressly agree that the City of Valparaiso need not, through any of its departments, inspect or maintain a gate system in Harrison West.
5. Insurance. The Association shall at all times maintain adequate insurance coverage for the gate systems, surrounding areas, and otherwise so that in the event of material damage to the gate system rendering the gate inoperable or operable in an unsafe manner, the damaged gate may be returned to a safe and operable condition. Said insurance shall include coverage for damage to emergency vehicles as a result the emergency vehicle "bumping" the gate to obtain entry. All insurance coverage obtained by the Association shall be written with a company acceptable to both parties and authorized to do business in Indiana. Commercial general liability insurance shall be maintained for the gate systems and surrounding areas, known as the Common Area. The amount of coverage shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person or municipal corporation, i.e., similar to the City of Valparaiso, would obtain, the Association shall obtain such additional coverages or limits.
6. Hold Harmless. The Developer and the Association agree to hold harmless the City, its officers, directors, employees, successors, or assigns from any and all claims, demands, or actions, that may hereafter be made or brought by any person, or person claiming through any person for any injury, death, or otherwise caused by the gate system, it's failure, or malfunction, except for any and all claims, demands, or actions arising from the negligence or recklessness of the City.
7. Suspension. The Board of Public Works of the City of Valparaiso may, in its discretion, suspend the operation and/or utilization of any gate, barrier or device designed to regulate the traffic flow in and out of Harrison West when, in its discretion, the public health, welfare, and safety will be served. The parties further agree that the Mayor of the City of Valparaiso, upon declaring an emergency, may also suspend the operation and/or utilization of any gate, barrier or device designed to regulate traffic flow in and out of Harrison West, a subdivision in the City of Valparaiso, Indiana.

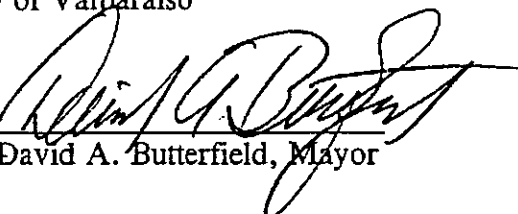
8. Maintenance Contract. The Association will obtain and maintain a maintenance contract for the operation of any such gate, barrier or device designed to regulate traffic flow in and out of Harrison West. The name, address and telephone number of the parties so contracting will be on file with the Clerk's Office of the City of Valparaiso, Indiana.
9. Enforcement. The City of Valparaiso, through its City Council and/or Board of Public Works and/or Plan Commission and/or Office of the Mayor, may enforce all the terms and provisions of this contract concerning the *Gated Community Agreement*.
10. Continuing Covenants and Merger. This contract is binding upon the heirs, successors and assigns of the parties, including, but not limited to, a Home Owners Association or a like or similar organization established by the Developer and/or residents of Harrison West.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

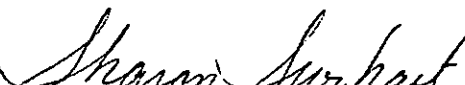
Harrison West LLC, Developer

By:   
V. Jacob Wagner, Member

City of Valparaiso

By:   
David A. Butterfield, Mayor

Attest:

By:   
Sharon Swihart, Clerk-Treasurer

# LOT RESTORATION PROGRAM

NON - WOODED LOTS: 1-12, 27, 33-50

HARRISON  
*of West*

**A**s an estate owner at Harrison West, you'll be happy to know that there are a number of steps being taken before, during and after construction to preserve and protect trees both inside and outside of the building envelope of each lot. These techniques, which are being used on overall site development, can then be implemented on the individual homesites to maintain the greatest natural assets the Harrison West community has to offer.

## DEFINITION OF TERMS

### • BUILDING ENVELOPE

The building envelope is the approved area within the limits of the foundation and extending out five feet (5') from the foundation on all sides. No tree replacement is required after approval of the review committee is obtained.

### • DRIVEWAY CORRIDOR

Each lot shall have a twenty-five foot (25') driveway corridor extending from the public right-of-way to the building envelope. Within this corridor all utilities shall be located on either side of the driveway.

### • TRANSITION ZONE

This is the area on the lot which extends twenty-five feet (25') from the building foundation. In the transition area all trees with a trunk diameter of six inches (6") or greater that are damaged or removed in the construction process must be replaced with a number of trees whose combined diameter equals the total diameter of the trees removed.

### • PRESERVATION ZONE

The zone between the transition zone and conservation zone shall be designated as the preservation zone within each lot. Within this zone any activity that includes the removal of existing trees with a trunk diameter of six inches (6") or greater shall be first approved by the neighborhood control committee.

### • RESTORATION ZONE

A ten foot (10') restoration zone is established on all side lot lines and a twenty foot (20') restoration zone is established on all rear lot lines to recreate the natural woodland appearance of the site. A minimum of two hardwood overstory trees, one native ornamental and five shrubs will be required for every one hundred feet (100') of property line. The restoration zones shall be seeded with native grasses. The plant material minimum size shall be two and one-half inches (2.5") in diameter for overstory trees, six feet (6') in height for ornamental trees and twenty-four inches (24") in height for shrubs.

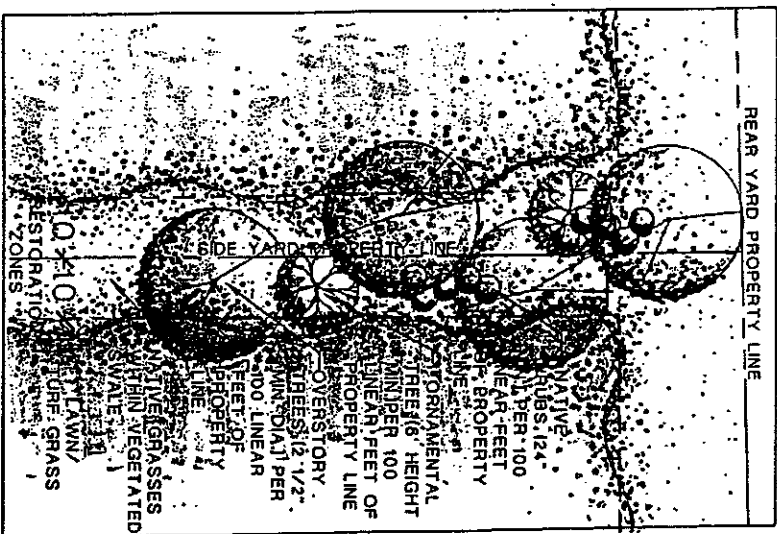
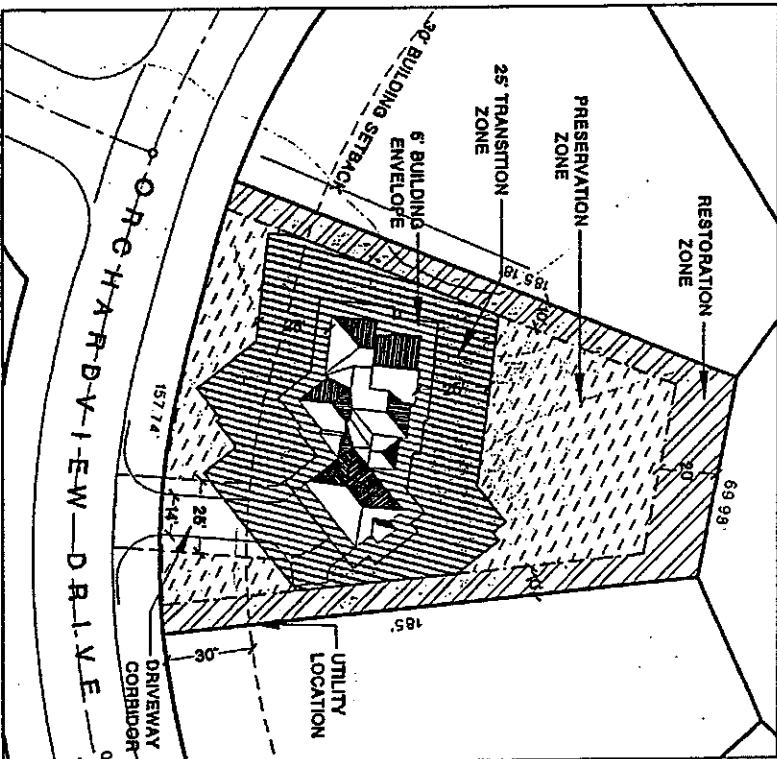


Exhibit "B"

HARRIS EST, LLC

VADP/MD/03/11/10314



Lannert Group  
Landscape Architecture • Planning • Community Consulting  
30 South Michigan Avenue  
Suite 700  
Ann Arbor, MI 48106

LAND 2012-0108  
ANN ARBOR 1281772

# TREE PRESERVATION PROGRAM

WOODED LOTS; 13-26, 28-32



an estate owner at Harrison West, you'll be happy to know that there are a number of steps being taken before, during and after construction to preserve and protect trees both inside and outside of the building envelope for each lot. These techniques, which are being used on overall site development, can then be implemented on the individual homesites to maintain the greatest natural assets the Harrison West community has to offer.

## DEFINITION OF TERMS

**BUILDING ENVELOPE**  
The building envelope is the approved area within the limits of the foundation and extending out five feet (5') from the foundation on all sides. No tree replacement is required after approval of the review committee is obtained.

## DRIVEWAY CORRIDOR

A lot shall have a twenty-five foot (25') driveway corridor extending from the public right-of-way to the building envelope. Within this corridor utilities shall be located on either side of the driveway.

## TRANSITION ZONE

This is the area on the lot which extends twenty-five feet (25') from the building foundation. In the transition area all trees with a trunk diameter six inches (6") or greater that are damaged or removed in the construction process must be replaced with a number of trees whose combined diameter equals the total diameter of the trees removed.

## RESERVATION ZONE

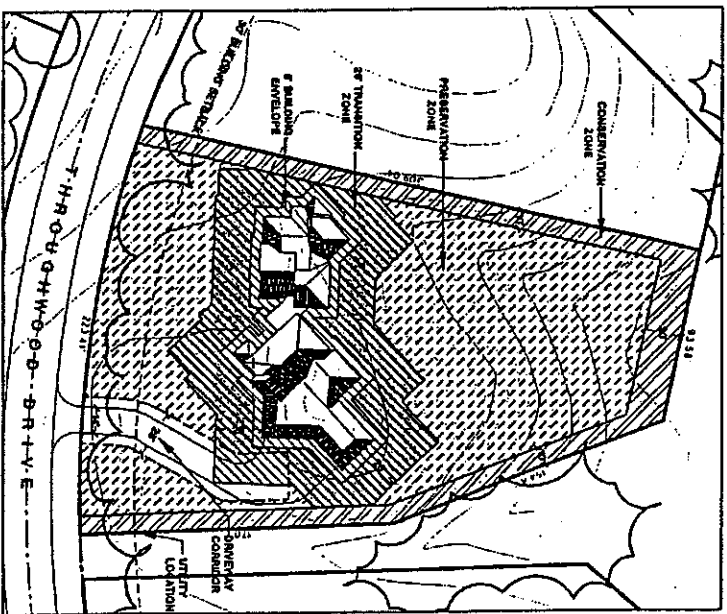
A zone between the transition zone and conservation zone shall be designated as the reservation zone within each lot. Within this zone any utility that includes the removal of existing trees with a trunk diameter six inches (6") or greater shall be first approved by the neighborhood level committee.

## CONSERVATION ZONE

A ten foot (10') conservation zone is established on all side lot lines and a ten foot (10') conservation zone is established on all rear lot lines. Tree removal, site grading, and clearing are prohibited within these areas.

To understand how to preserve trees, one must first know a few basics of tree structure and growth.

1. Like any other living thing, trees need to eat and breathe. This is accomplished through the xylem. Contrary to popular belief, a tree's root structure extends not well past the drip line. The canopy, however, is the top of the crown. Eighty-five percent (85%) of a tree's water consumption is from the top of the canopy. Maintaining this root environment is critical to preserving existing trees.



TREE PRESERVATION DIAGRAM



## HOMESOWNER CONSTRUCTION TECHNIQUES

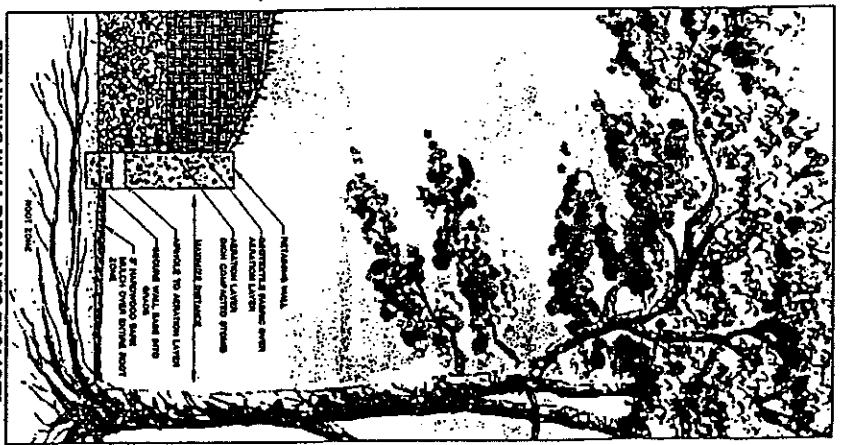
Locate and map the tree root areas to be preserved and carefully fence these areas off to prohibit all construction activity. The slightest compaction of tree roots by vehicles and machinery can cause irreparable harm to trees. Avoid parking over trees, roots where possible. If necessary, apply a vapor barrier over the ground before placing pavement in order to prevent harmful chemicals contained in the paving materials from leaching into the soil. Install PVC pipe under paved surfaces and beneath retaining walls for attraction of roots.

Locate construction parking, equipment storage and concrete washout areas away and downhill from tree root areas.

Stockpile topsoil away from root zone areas and redistribute after construction to provide a good growing medium for trees and other plant material.

When locating utilities, water, sewer, gas, or other utilities, dig through root zones, avoid using trenches or backhoes. This will prevent excessive and irreparable damage to feeder roots.

Prune, fertilize and mulch trees in the winter. They will receive stress due to construction. This will make it easier for them to return to a vigorous, healthy condition.



RETAINING WALL DESIGN TO PROMOTE HEALTHY TREE GROWTH

Adherence to the above procedures will greatly reduce the possibility of harm to trees on your lot due to construction. Members of the Harrison West team, including the landscape architect, will be available to answer any questions and provide additional suggestions as you develop your homesite.

**HARRISON WEST LLC**  
Lanport Group  
20 State Street  
P.O. Box 800  
Walden, NJ 07463  
(201) 465-1985

# SUSTAINABLE SITE DESIGN



What is sustainable site design?

Development creates an increase of impervious surfaces...  
 and walks. Conventional landscape systems, particularly dominated by a turf grass lawn, can generate significant amounts of dirty surface water runoff. Discharged water carries soil sediments, grease and oils from roadways, driveways, excess fertilizers and pesticides from typical lawn care. Left unattended, this nonfiltered runoff can enter creeks, streams and bodies where it can be detrimental to plants and wildlife.

essential component of sustainable design and planning...  
 es the ecological restoration of natural areas with native plant systems that have specific water holding and filtering abilities. A diverse native landscape adapted to local conditions has other benefits as well, including improvement of air quality, creation of habitats for birds, insects and other animals.

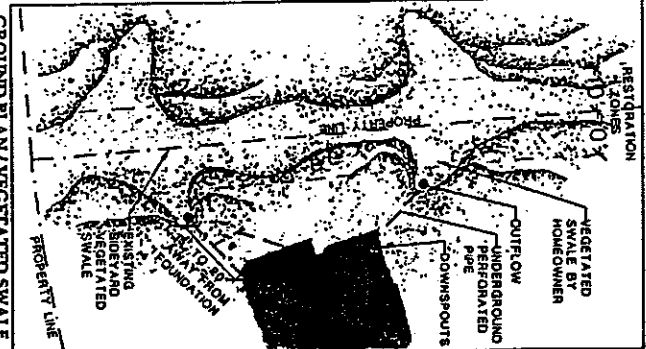
Wray, Dittelle - Roadway widths have been reduced to fifty feet...  
 (50') rather than the standard sixty-six feet (66') found in developments. By limiting the amount of impervious surface area more land is available for vegetation and landscapes allow storm water runoff and help prevent sedimentation and reduce erosion.

ON CURB - Throughout the Harrison West development, a curb system found in typical developments. A ribbon curb is used to allow runoff from roadways to enter directly into the vegetated swale. Here the water is dispersed and allowed to filter back into the ground. This slows the rate of runoff and by channeling the runoff into the underground pipe and by removing the water off site contributing to potential stream flooding.

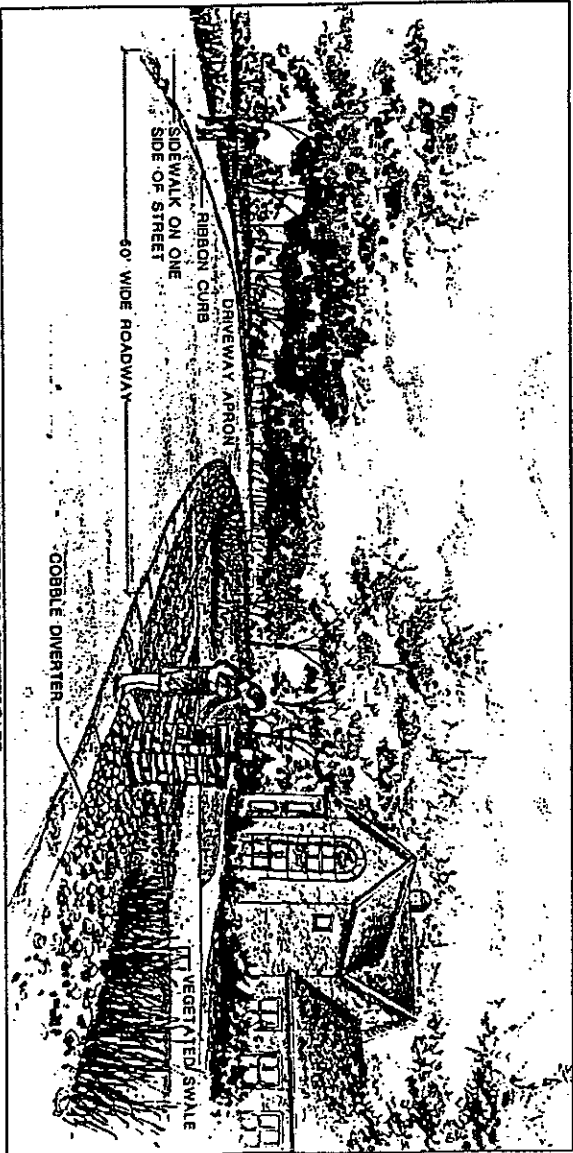
Vegetated Swales - Vegetated swales are used throughout Harrison West rather than the conventional storm treatment of containment through inlets and underground pipes. Native grasses or other vegetation is planted within the swales for the convergence of storm water runoff. Native grasses and other vegetation provides filtration of pollutants including oil, grease, fertilizer and other contaminants found on the roadways and within yards. The swales also increase infiltration. In turn, this reduces the amount of water runoff that can cause erosion. The landscape swales provide for the ability of wildlife, improve air quality and are generally less costly to establish and maintain.

Diverters/Sidewalks - In order to reduce the amount of impervious hard surface area, sidewalk establishment on only one side of the street. The cobble diverter strip on the other side slows the water by entering the vegetated swale and lessens erosion at the pavement edge. Likewise cobble help filter and as the water before entering the vegetated swale.

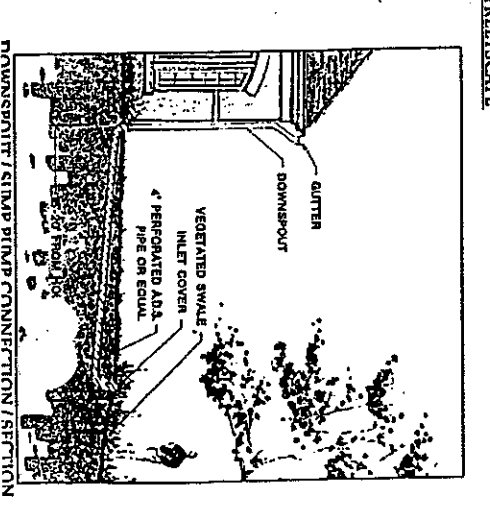
Traditional storm water management techniques have been used to a minimum throughout Harrison West. The conventional method includes curb and gutter, inlets, downspout, ground pipe and detention basins. Regulated by city ordinances, there is a limited amount of underground pipe nearby within the development. Whenever water is allowed to enter a vegetated swale before being released into the downstream wetland, Beauty Creek. Once again, the water velocity is slowed and filtered before reaching sensitive areas.



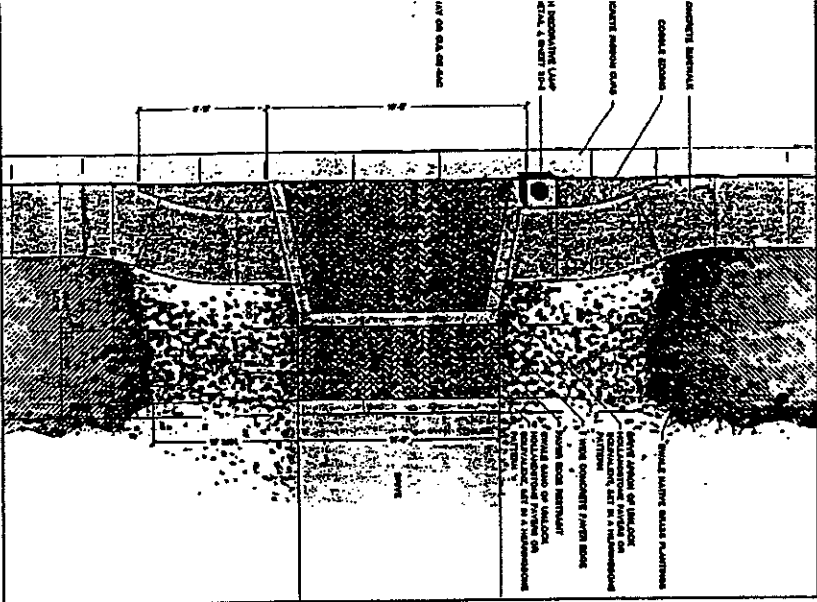
Lannett Group  
 Landscape Architecture - Planning - Consulting - Designing  
 30 South Michigan Avenue  
 Suite 700  
 Chicago, Illinois 60602  
 Phone: (773) 342-1438  
 Fax: (773) 342-1439  
 Website: www.lannett.com



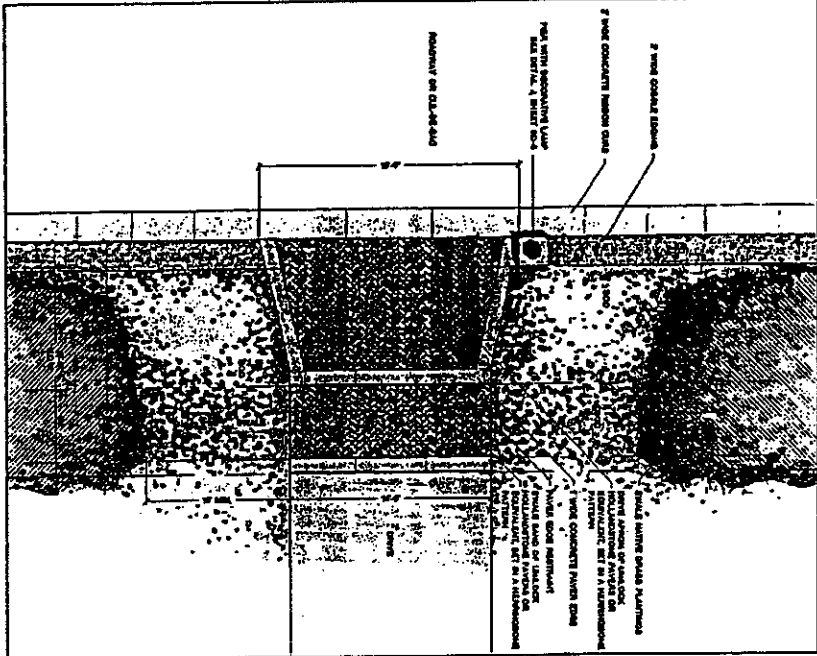
Each homeowner at Harrison West is encouraged to develop their own individual sustainable design elements within their own property. Simple techniques can be developed including:  
 Maintaining the natural grass vegetated swales along the front side and rear lot lines.  
 Connecting downspouts and sump pump drain pipes into subsurface pipes and diverting this runoff into vegetated swales.  
 Maintaining existing natural vegetation within your property which will lessen soil erosion and provide for a more diverse animal habitat.  
 Minimizing soil compaction wherever possible.  
 Establishing a vegetated cover on soil exposed more than 14 days.  
 Establishing a rooted vegetation on all slopes.



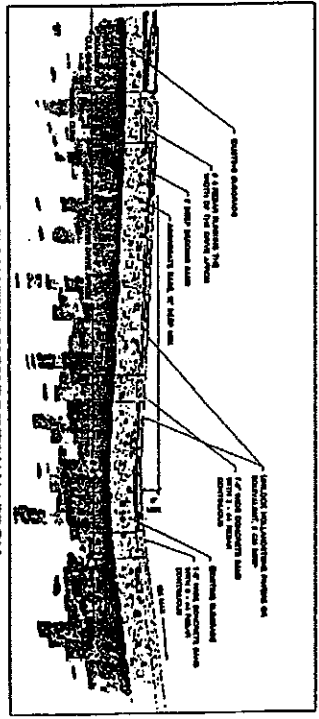
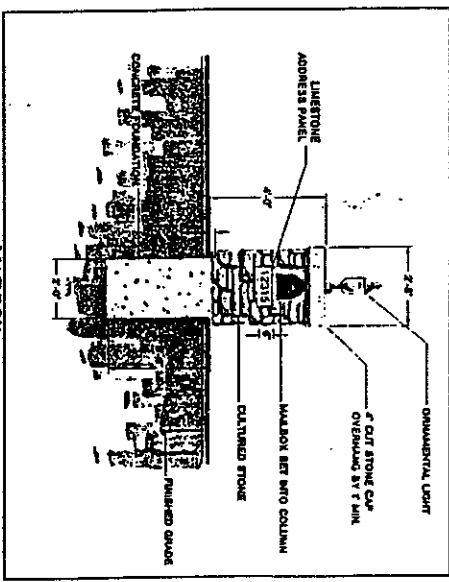
# BUILDER REQUIRED AMENITIES



TYPICAL DRIVEWAY APRON WITH SIDEWALK



TYPICAL DRIVEWAY APRON WITHOUT SIDEWALK



SECTION THROUGH DRIVEWAY APRON

HARRISON WEST, LLC  
 V.A.P. # 25-0995  
 CHICAGO, ILLINOIS 60603

Lannert Group  
 Landscape Architecture - Planning - Community Consulting  
 30 South Michigan Avenue  
 Suite 700  
 Chicago, Illinois 60603  
 Tel: 312.467.1100  
 Fax: 312.467.1100  
 www.lannertgroup.com



2001-008282

STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD

04-04-2001 1:48 PM

JACQUELYN M. STERLING  
RECORDER

**AMENDMENT TO DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
HARRISON WEST**

THIS AMENDMENT is made this 3<sup>rd</sup> day of April, 2001 by the Harrison West LLC (hereinafter referred to as "Declarant").

**WITNESSETH:**

WHEREAS, the Declarant has submitted certain real property to a Declaration of Covenants and Restrictions for Harrison West dated the 4<sup>th</sup> day of January, 2001, which was recorded on the 8<sup>th</sup> day of January, 2001 as Document Number 2001-000556 in the Office of the Recorder of Porter County, Indiana (hereinafter referred to as "Original Declaration"); and

WHEREAS, the real property described in the Original Declaration is commonly known as Harrison West, and the property subject to the Original Declaration is more specifically described as follows (hereinafter referred to as "Property"):

**PARCEL I**

A parcel of land located in the South  $\frac{3}{4}$  of the Northeast  $\frac{1}{4}$  of Section 15, Township 35 North, Range 6 West, Center Township, Porter County, Indiana, more particularly described as follows: Commencing at the Southeast corner of the Northeast  $\frac{1}{4}$  of said Section 15;

Thence South  $89^{\circ}53'58''$  West, along the South line of the Northeast  $\frac{1}{4}$  of Section 15 and the South line of Manchester Meadows Subdivision which is recorded in Plat File 18-F-1, a distance of 265.46 feet to a  $\frac{5}{8}$ " iron bar with cap marking the Southwest corner of Manchester Meadows Subdivision, the "Point of Beginning" of said parcel of land herein described;

Thence North  $00^{\circ}02'41''$  East, along the West line of Manchester Meadows Subdivision, a distance of 645.00 feet to the Southeast corner of the parcel of land described in Deed Book 449, Page 321;

DULY ENTERED FOR TAXATION SUBJECT TO  
FINAL ACCEPTANCE FOR TRANSFER

APR 04 2001

*Jacquelyn M. Sterling*  
AUDITOR PORTER COUNTY

✓✓

Box

Thence along the South, West, and North boundaries of the parcel of land described in Deed Book 449, Page 321, the following three (3) courses:

- 1.) North 89°07'19" West, a distance of 330.00 feet;
- 2.) North 00°02'41" East, a distance of 250.00 feet;
- 3.) South 89°07'19" East, a distance of 330.00 feet to the West line of Manchester Meadows Subdivision;

Thence North 00°02'41" East, a distance of 1098.29 feet to the North line of the South  $\frac{3}{4}$  of the Northeast  $\frac{1}{4}$  of said Section 15;

Thence South 89°50'05" West, along said North line, a distance of 728.89 feet;

Thence South 50°10'28" West, a distance of 575.32 feet;

Thence South 00°03'06" West, a distance of 1624.78 feet to the South line of the Northeast  $\frac{1}{4}$  of said Section 15;

Thence North 89°53'58" East, along said South line, a distance of 1170.65 feet to the "Point of Beginning".

Containing 49.791 acres, more or less.

#### PARCEL II

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence South 0 degrees 02 minutes 41 seconds West along said West line, 60.0 feet; thence North 89 degrees 07 minutes 19 seconds West, 60.0 feet; thence North 0 degrees 02 minutes 41 seconds East, 60.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 60.0 feet to the Point of Commencement, containing 0.08 Acre and subject to all Legal Highways and Easements.

#### PARCEL III

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in

Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence North 0 degrees 02 minutes 41 seconds East along said West line, 250.0 feet; thence North 89 degrees 07 minutes 19 seconds West, 330.0 feet; thence South 0 degrees 02 minutes 41 seconds West, 250.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 330.0 feet to the Point of Commencement, containing 1.89 Acres and subject to all Legal Highways and Easements (Parcel III is referred to in the Original Declaration and hereinafter as "Eleanor Property").

**WHEREAS**, pursuant to Article XV, Section 15.04 of the Original Declaration, the Original Declaration may be amended, modified, or terminated at any time and from time to time upon the execution and recordation of an instrument executed by the Declarant, so long as Declarant is the Owner, as defined therein, of any Lot or property affected by the Original Declaration; and

**WHEREAS**, the Declarant is the owner of all of the Property, except the Eleanor Property, and the owners of the Eleanor Property consent to the Original Declaration and this amendment; and

**WHEREAS**, the Declarant desires to amend to the Original Declaration and to reaffirm said submission and intent that the Owners, mortgagees, occupants, and other persons or entities acquiring any interest in the Property as described in Article III, Section 3.01 of the Original Declaration shall hold their interest subject to the rights, easements, privileges, and restrictions hereinafter set forth and contained in the Original Declaration.

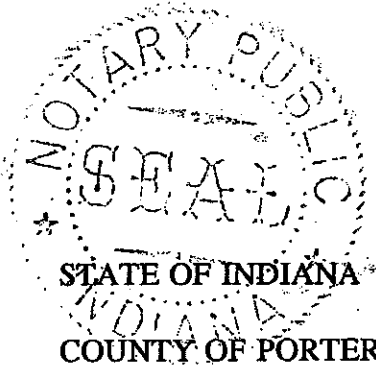
**NOW THEREFORE**, this Amendment is executed and placed of record in the Office of the Recorder of Porter County, Indiana to amend and modify the Original Declaration.

1. **Addition of Section 12.19 to Article XII of the Original Declaration.** The Declarant does hereby amend the Original Declaration by adding Section 12.19 to Article XII of the Original Declaration as follows:

**Section 12.19 "No Assessments on Property Owned by Declarant":** The Declarant shall not be required to pay any assessments, base, specific, or special, nor shall any assessments accrue or be incurred, base, specific, or special, on any Lot or any part of the real estate subject to this Declaration for which the Declarant or its designated assignee is the Owner.

2. **Scope and Effective Date.** This Amendment to Declaration of Covenants and Restrictions for Harrison West shall be effective as of the date of recording in the Office of the Recorder of Porter County, Indiana. Except as to those terms expressly modified by this Amendment to Declaration of Covenants and Restrictions for Harrison West, the Original Declaration shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Declarant has caused this Amendment to Declaration of Covenants and Restrictions for Harrison West to be executed on the date first written above.



HARRISON WEST LLC Declarant

By: *V. Jacob Wagner*  
V. Jacob Wagner, Member

STATE OF INDIANA )  
INDIANA ) SS:  
COUNTY OF PORTER )

Before me, the undersigned, a Notary Public for Porter County, State of Indiana, personally appeared V. Jacob Wagner, member of Harrison West L.L.C., and acknowledged the execution of the foregoing instrument to be his free and voluntary act. Signed and sealed this 3<sup>rd</sup> day of April, 2001.

My Commission Expires:  
May 16, 2007

*Leila J. Buford*  
Notary Public  
Printed Name: Leila J. Buford  
County of Residence: Porter

**This Instrument Prepared By:**  
**William A. Ferngren**  
**Hoepfner Wagner & Evans LLP**  
**103 E. Lincolnway**  
**Post Office Box 2357**  
**Valparaiso, Indiana 46384-2357**  
**(219) 464-4961**

2001-012112

STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD

05-08-2001 1:02 PM

JACQUELYN M. STERLING  
RECORDER

**SECOND AMENDMENT TO DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
HARRISON WEST**

THIS AMENDMENT is made this 7<sup>th</sup> day of May, 2001 by the Harrison West LLC (hereinafter referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, the Declarant has submitted certain real property to a Declaration of Covenants and Restrictions for Harrison West dated the 4<sup>th</sup> day of January, 2001, which was recorded on the 8<sup>th</sup> day of January, 2001 as Document Number 2001-000556 in the Office of the Recorder of Porter County, Indiana (hereinafter referred to as "Original Declaration");

**WHEREAS**, the Original Declaration was amended by a certain Amendment to Declaration of Covenants and Restrictions for Harrison West dated the 3<sup>rd</sup> day of April, 2001, which was recorded on the 4<sup>th</sup> day of April, 2001 as Document Number 2001-008282 in the Office of the Recorder of Porter County, Indiana (hereinafter referred to as "First Amendment");

**WHEREAS**, the owners of the Eleanor Property, as described in the Original Declaration, consent to the First Amendment and this Second Amendment by virtue of a certain Consent to Submission of Property to Covenants and Restrictions dated the 10<sup>th</sup> day of April, 2001 and recorded on the 12<sup>th</sup> day of April as Document Number 2001-009277 in the Office of the Recorder of Porter County, Indiana;

**WHEREAS**, the real property described in the Original Declaration is commonly known as Harrison West, and the property subject to the Original Declaration is more specifically described as follows (hereinafter referred to as "Property"):

**PARCEL I**

A parcel of land located in the South  $\frac{3}{4}$  of the Northeast  $\frac{1}{4}$  of Section 15, Township 35 North, Range 6 West, Center Township, Porter County, Indiana, more particularly described as follows: Commencing at the Southeast corner of the Northeast  $\frac{1}{4}$  of said Section 15;

live  
box



Thence South 89°53'58" West, along the South line of the Northeast ¼ of Section 15 and the South line of Manchester Meadows Subdivision which is recorded in Plat File 18-F-1, a distance of 265.46 feet to a 5/8" iron bar with cap marking the Southwest corner of Manchester Meadows Subdivision, the "Point of Beginning" of said parcel of land herein described;

Thence North 00°02'41" East, along the West line of Manchester Meadows Subdivision, a distance of 645.00 feet to the Southeast corner of the parcel of land described in Deed Book 449, Page 321;

Thence along the South, West, and North boundaries of the parcel of land described in Deed Book 449, Page 321, the following three (3) courses:

- 1.) North 89°07'19" West, a distance of 330.00 feet;
- 2.) North 00°02'41" East, a distance of 250.00 feet;
- 3.) South 89°07'19" East, a distance of 330.00 feet to the West line of Manchester Meadows Subdivision;

Thence North 00°02'41" East, a distance of 1098.29 feet to the North line of the South ¾ of the Northeast ¼ of said Section 15;

Thence South 89°50'05" West, along said North line, a distance of 728.89 feet;

Thence South 50°10'28" West, a distance of 575.32 feet;

Thence South 00°03'06" West, a distance of 1624.78 feet to the South line of the Northeast ¼ of said Section 15;

Thence North 89°53'58" East, along said South line, a distance of 1170.65 feet to the "Point of Beginning".

Containing 49.791 acres, more or less.

## PARCEL II

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence

South 0 degrees 02 minutes 41 seconds West along said West line, 60.0 feet; thence North 89 degrees 07 minutes 19 seconds West, 60.0 feet; thence North 0 degrees 02 minutes 41 seconds East, 60.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 60.0 feet to the Point of Commencement, containing 0.08 Acre and subject to all Legal Highways and Easements.

### PARCEL III

A parcel of land in the Northeast Quarter of Section 15, Township 35 North, Range 6 West, bounded and described as follows: Commencing at a point on the West line of Manchester Meadows Subdivision, as per plat thereof, recorded in Plat File 18-F-1, in the Office of the Recorder of Porter County, Indiana, which is 5.0 feet North of the Southwest corner of Lot 5 in Manchester Meadows, thence North 0 degrees 02 minutes 41 seconds East along said West line, 250.0 feet; thence North 89 degrees 07 minutes 19 seconds West, 330.0 feet; thence South 0 degrees 02 minutes 41 seconds West, 250.0 feet; thence South 89 degrees 07 minutes 19 seconds East, 330.0 feet to the Point of Commencement, containing 1.89 Acres and subject to all Legal Highways and Easements (Parcel III is referred to in the Original Declaration and hereinafter as "Eleanor Property").

**WHEREAS**, pursuant to Article XV, Section 15.04 of the Original Declaration, the Original Declaration may be amended, modified, or terminated at any time and from time to time upon the execution and recordation of an instrument executed by the Declarant, so long as Declarant is the Owner, as defined therein, of any Lot or property affected by the Original Declaration; and

**WHEREAS**, the Declarant is the owner of all of the Property, except the Eleanor Property; and

**WHEREAS**, the Declarant desires to amend to the Original Declaration and to reaffirm said submission and intent that the Owners, mortgagees, occupants, and other persons or entities acquiring any interest in the Property, as described in Article III, Section 3.01 of the Original Declaration, shall hold their interest subject to the rights, easements, privileges, and restrictions hereinafter set forth and contained in the Original Declaration.

**NOW THEREFORE**, this Amendment is executed and placed of record in the Office of the Recorder of Porter County, Indiana to amend and modify the Original Declaration.

1. **Amendment to Section 6.13 of the Original Declaration.** The Declarant does hereby amend the Original Declaration by deleting Section 6.13 and replace the following in lieu thereof:

**Section 6.13: "Time in Which to Build Structures":** An Owner of a Lot within the Subdivision shall have twenty-four (24) months after closing on the Lot (hereinafter referred to as "Grace Period") to (a) select one of the approved participating Builders, (b) enter into a construction contract with one of the approved participating Builders for construction on the Lot, and (c) begin construction of a single family home by an approved Builder on the Lot. The Owner shall notify the Declarant of its selected Builder and shall provide the Declarant a copy of the signed contract within fourteen (14) days of signing the contract, but in no event after the expiration of the Grace Period. If the Owner fails to comply with any its obligations set forth herein, the Declarant shall have the option, but no obligation whatsoever, at the Declarant's sole discretion, to buy back the Lot at a cost of ninety percent (90%) of the purchase price paid by the Owner for the Lot. Said cost shall not include the cost of any improvements or other costs incurred by the Owner up to the time of the Declarant repurchasing the Lot. The Declarant may exercise this option at any time after the expiration of the twenty-four (24) month Grace Period until construction by an approved Builder of a single family home has begun on the Lot. If this option is exercised by the Declarant, the Owner shall provide the Declarant title insurance in the amount of the purchase price and shall convey marketable title to the Lot by Warranty Deed to subject only to (a) current taxes not yet payable and liens arising therefrom; (b) covenants, conditions, restrictions and public utility easements of record (c) matters which would be disclosed by inspection of the premises or by an accurate survey of the premises, (d) any matter that a title insurance company would ordinarily insure against without additional premium, (e) zoning regulations and local ordinances and other ordinary and customary encumbrances. The Declarant may in its sole discretion grant extensions of the Grace Period. Any and all extensions must be in a writing, signed by the Declarant, to be enforceable. The grant of any extension of the Grace Period shall not constitute a waiver by the Declarant, express or implied, to deny in its sole discretion any additional requests for extensions.

2. **Scope and Effective Date.** This Second Amendment to Declaration of Covenants and Restrictions for Harrison West shall be effective as of the date of recording in the Office of the Recorder of Porter County, Indiana. Except as to those terms expressly modified by this Amendment to Declaration of Covenants and Restrictions for Harrison West, the Original Declaration shall remain in full force and effect.



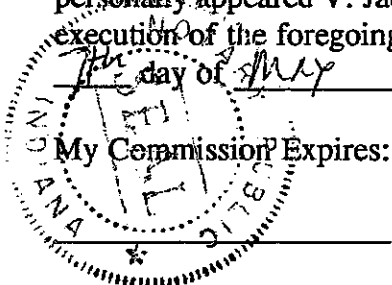
**IN WITNESS WHEREOF**, the Declarant has caused this Amendment to Declaration of Covenants and Restrictions for Harrison West to be executed on the date first written above.

HARRISON WEST LLC, Declarant

By: *V. Jacob Wagner*  
V. Jacob Wagner, Member

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF PORTER     )

Before me, the undersigned, a Notary Public for Porter County, State of Indiana, personally appeared V. Jacob Wagner, member of Harrison West L.L.C., and acknowledged the execution of the foregoing instrument to be his free and voluntary act. Signed and sealed this 7<sup>th</sup> day of May, 2001.



*William Ferngren*

Notary Public  
Printed Name: William Ferngren  
County of Residence: Commission expires Nov. 3, 2007  
County of Residence: Porter

**This Instrument Prepared By:**  
**William A. Ferngren**  
**Hoepner Wagner & Evans LLP**  
**103 E. Lincolnway**  
**Post Office Box 2357**  
**Valparaiso, Indiana 46384-2357**  
**(219) 464-4961**

2001-009277

STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD

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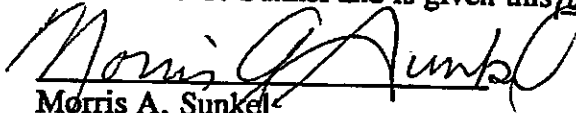
JACQUELYN M. STERLING  
RECORDER

**CONSENT TO SUBMISSION OF PROPERTY TO  
COVENANTS AND RESTRICTIONS**

The undersigned, **Morris A. Sunkel and Denise C. Sunkel**, owners of the real estate described on the attached Exhibit "A" ("Sunkel Property") located in Porter County, Indiana, hereby expressly acknowledge and consent to the submission of the Sunkel Property to a certain Declaration of Covenants and Restrictions for Harrison West dated the 4<sup>th</sup> day of JANUARY, 2001 and recorded on the 8<sup>th</sup> day of January, 2001 as Document Number 2001-000556 in the Office of the Recorder of Porter County, Indiana ("Original Declaration") and all amendments or supplements thereto placed of record in the Office of the Recorder of Porter County, Indiana.

This Consent is being given in consideration of Article XII, Section 12.18 of the Original Declaration wherein the owners of the Sunkel Property shall be Members of the Harrison West Property Owners Association with all privileges and benefits associated with being Members in said Association without being subject to any dues and/or assessments during the time that Morris A. Sunkel and Denise C. Sunkel, or either of them, reside in the residence on the Sunkel Property.

In witness whereof, this Consent to Submission of Property to Declaration of Covenants and Restrictions is intended to be binding on successors in interest and assigns of Morris A. Sunkel and Denise C. Sunkel and is given this 10<sup>th</sup> day of April, 2001.

  
\_\_\_\_\_  
Morris A. Sunkel

  
\_\_\_\_\_  
Denise C. Sunkel

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