WINDING CREEK

# CONVENANTS AND RESTRICTIONS

# FOR

# WINDING CREEK SUBDIVISION

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SEP 15 1999

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## DEDICATION AND DECLARATION OF PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED TO AS PART OF THE DEDICATION AND PLAT OF WINDING CREEK SUBDIVISION, A SUBDIVISION OF TIPPECANOE TOWNSHIP, TIPPECANOE COUNTY, INDIANA

Winding Creek Development LLC, an Indiana Limited Liability Company hereby declares that it is the owner and Developer of real estate which includes Winding Creek Subdivision and does hereby layoff, plat and subdivide real estate in accordance with the information shown on the final plat, being the certified plat appended hereto and incorporated herein. The Subdivision shall be known and designated as Winding Creek Subdivision, in Tippecanoe Township, Tippecanoe County, Indiana.

The Lots shall be subject to and impressed with the covenants, agreements, restrictions, easements and limitations hereinafter set forth, and they shall be considered a part of every conveyance of land in Winding Creek Subdivision, without being written therein. The provisions herein contained are for the mutual benefit and protection of the Owner's present and future of any and all land in the Subdivision, and they shall run with and bind the land and shall inure to the benefit of and be enforceable by the Owner's of land included therein, their respective legal representatives, successors, grantees and assigns.

Lots for Phase I are numbered and consist of 24 Patio Home Lots (Nos. 24 through 47); 27 Executive Lots (Nos. 1 through 13, 110 through 122, and 226); 28 Estate Lots (Nos. 123 through 150), inclusive; and all dimensions are shown in feet and decimals of a foot on the plat. Existing conditions on lots 274, 275, and 276 are exempt from this agreement. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

## PREFACE

Winding Creek Subdivision is a portion of a tract of real estate, which has been and will be ultimately subdivided, all to be included in and known as Winding Creek Subdivision, separately designated by sequentially numbered phases. Each owner of a Lot(s) in Winding Creek Subdivision, shall become a member of the Homeowners Association known as Winding Creek Homeowners Association, Inc., and shall be bound by the Articles of Incorporation and by-laws of said corporations. Pre-existing improvements on lot numbers 274, 275, and 276 shall be exempt from the convenants and restrictions.

It shall be the obligation of the Winding Creek Homeowners Association, Inc., to make provisions for the maintenance of the common areas designated on the face of the Plat, and the common areas in all sections of Winding Creek Subdivision.

This Preface and its statement shall be deemed a covenant of equal force and effect as all others herein set forth.

## ARTICLE I

### Definitions

The terms hereinafter set forth shall have the following meanings:

**Section 1. Architectural Control Committee** ***or A.C.C.*** shall mean the body designated herein to review plans and to grant or withhold certain approvals in connections with improvements and developments. Any vacancies from time to time shall be filled pursuant to the terms of these Restrictions or the by-laws of the Association.

**Section 2.** "***Association***" shall mean and refer to Winding Creek Homeowners Association, Inc., or Condominium Association, its successors and assigns.

**Section 3.** "***By-laws***" shall mean the by-laws initially adopted by Winding Creek Homeowners Association, Inc., and all amendments and additions thereto.

**Section 4.** "***Common Area or Outlots***" shall mean all real property owned by the Association for the common use and enjoyment of the Owners in the Subdivision, as shown on the respective plat of said Subdivision, and as may be added in accordance with Article 11, Section 3 of these Restrictions.

**Section 5.** "***Developer***" shall mean Winding Creek Development LLC, an Indiana limited liability corporation, its assigns, successors or successors in interest, and any person, firm or corporation designated by it or its said successor or successor in interest.

**Section 6.** "***Dwelling Unit***" shall mean and refer to the structure used as a residential living unit located upon a Lot, including the garage and any appurtenances.

**Section 7.** "***Lot***" shall mean any of said buildable Lots in Winding Creek Subdivision as platted or any tract of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots, upon which a dwelling may be erected in accordance with the restrictions hereinafter set forth. PROVIDED, HOWEVER, no tract of land consisting of part of any one Lot or parts of more than one Lot shall be considered a "Lot" unless said tract of land has a minimum footage width approved by the Architectural Committee and the Tippecanoe Area Plan Commission.

**Section 8.** "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the plat, including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

**Section 9.** "***Restrictions***" shall mean and refer to the Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to as part of the Dedication and Plat of Winding Creek Subdivision.

Section 10. "*Subdivision*" shall mean Winding Creek and all of its various phases, a Subdivision located in Tippecanoe Township, Tippecanoe County, Indiana.

Section 11. "*Winding Creek*" shall mean and refer collectively to each phase of the Winding Creek development, as it may be changed from time to time.

Section 12. *"Golf Course"* shall mean Coyote Creek Golf Course, and any of its land, buildings, or property. The Golf Course is not owned or operated by the Developer.

Section 13. *Annual Assessment* shall mean any and all assessments levied by Homeowners Association, Condominium Association (Patio Home Lots), Club, Tax Recoupment or Special Assessment.

## ARTICLE II

## Property Rights

Section 1. *Owner's Easements of Enjoyment.* Every Owner shall have a right and easement of enjoyment in and to the Common Areas and Outlots, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against said Owner's Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction by said Owner, or the Owner's family, tenants, contract purchasers or invitees of its published rules and regulations after hearing by the Board of Directors of the Association;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members of the Association agreeing to such dedication or transfer has been recorded.

(d) Areas that have a designated easement right of way to common areas and outlots shall be accessible to all lot owners.

(e) Facilities belonging to the Association can be leased or rented with the majority of the lot owners approval or by decision of proper committee or association.

Section 2. *Delegation of Use.* Any Owner may delegate, in accordance with the By-Laws, said Owner's right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. Non-immediate members of the family not residing in the development shall be accompanied by resident while on premises of association facilities. Owner's right to Golf course privileges or memberships, if any, are not assignable or transferable, in whole or in part to any other person.

Section 3. *Additions to Common Area.* The Developer reserves the right so long as Class B members of the Association exist, to convey and transfer to the Association such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the Association shall accept such transfer and shall hold such property as a part of the Common Area of the Subdivision.

## ARTICLE III

## Architectural Control

In General: No building, improvement, construction, excavation, fence, wall, swimming pool or spa, exterior lighting, swing set, play equipment, statues, landscaping, lawn ornaments or other non-living landscaping ornamentation device, or other structure shall be commenced, erected, altered or maintained upon any Lot, nor shall any exterior addition, change or alteration of any Dwelling Unit be made until two (2) sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee ( A.C.C.). Review of and approval of plans shall be subject to the following: (1) harmony of external design, color, and location in relation to surrounding structures and topography, and (2) the standards and guidelines established by the A.C.C. from time to time. Design as well as square footage will be equal criteria for review. All plans submitted to the A.C.C. shall be drawn to a one quarter (1/4) scale. There shall also be submitted, when applicable, the permits or plot plans which shall be prepared by either a registered land surveyor, engineer, or architect. Plot plans submitted for Building Permits, shall bear the stamp or signature of the A.C.C. acknowledging the approval thereof. Any party to whose benefit these restrictions insure, including Developer, Association in the Development, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce, or carry out any of these Restrictions. The failure of the A.C.C. to act in any particular situation with any particular party shall in no way be a waiver of any right of action or enforcement in the future. Additionally, the A.C.C. shall have the power to authorize minor deviations form the standards set forth in Articles IV and V.

*Inspections:* The A.C.C. may inspect work being performed to assure compliance with these Restrictions and applicable regulations. The A.C.C. reserves the right to stop construction, if it deems the builder or owner is not following the plans as submitted.

*Developer Improvements:* The A.C.C. shall have no power with respect to any improvements or structures erected or constructed by the Developer (or any Builder, if Developer has approved the plans).

*Required Submittal Information:* All decisions levied by the A.C.C. are final. All approvals shall be requested by submission to the A.C.C. of plans and specifications in duplicate, showing the following:

(a) The Dwelling Unit, and other improvements, access drives, drainage, and other improved areas, and the locations thereof on the site;

(b) All mail boxes and exterior ornamentation;

(c) Plans for all floors and elevations, including projections and wing walls;

(d) the color and composition of all exterior materials proposed to be used and any proposed landscaping and exterior lighting plans;

(e) Walls, fencing, and screening;

(f) Non-Golf Course adjoining Lots: Landscaping plans front yard.
Golf Course adjoining lots: Landscaping plans front and rear yards.

(g) Patios, decks, pools, and porches.

(h) Lots adjoining Golf Course have special requirements as noted herein.

*Liability of Committee:* Neither the Developer, the A.C.C., the Association, nor any member, officer or director thereof, or any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted. Nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting therefrom. Every person and entity who submits plans to the A.C.C. agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee, the Association, or the Developer to recover any damages, or to require the Committee or the Developer to take or refrain from taking any action whatever in regard to such plans or in regard to any building or structure erected in accordance therewith. Neither the submission of any complete set of plans to the Developer's office for review by the A.C.C., nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent Lot Owner may claim any reliance upon the submission and/or approval of any such plans or the building or structures described therein.

*Committee Composition:* The original Architectural Control Committee shall consist of no more than five (5) members appointed by the Developer. The appointed members may or may not be directors or members of the Association. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee,

the remaining member shall have full authority to designate a successor along with the approval of the Developer.

*Power of Disapproval:* The A.C.C. may refuse to grant permission to remove trees, repaint, construct, build, place, or make the requested improvement, when: 1) the plans, specifications, drawings, or other material submitted are inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions; 2) the design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or 3) the proposed improvement, or any part thereof, would, in the opinion of the A.C.C., be contrary to the interests, welfare, or rights, of all or any part of the other Owners.

*Duties of Committee:* The A.C.C. shall approve or disapprove the proposed improvements within fifteen (15) days after all required information is received by it. One (1) copy of submitted material shall be retained by the A.C.C. for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval. In the event that a written approval is not received from the A.C.C. within fifteen (15) days from the date of receipt of the information required to be submitted by these Subdivision Restrictions, the failure to issue such written approval shall be construed as the DISAPPROVAL of any such plans submitted. The submitting party can re-submit and if no written approval or denial is received, after the next fifteen (15) days, the no action shall be construed as approval.

## ARTICLE IV

## Winding Creek Homeowners Association, Inc.

**Section 1.** ***Organization.*** There has been organized in connection with the development of Winding Creek Subdivision, an incorporated not-for-profit association known as Winding Creek Homeowners Association. Inc., (the "Association").

**Section 2.** ***Membership and Voting Rights.*** Every Owner of a Lot shall be a member of the Association, together with all other lot owners in the Subdivision. The powers. limitations on powers. compensation. duties, qualifications. terms of office. method of selection/removal and other provisions concerning the Board of Directors are as set forth in the Bylaws and the Articles of Incorporation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. which is subject to assessment.

**Section 3.** ***Classes of Membership.*** The Association shall have two (2) classes of voting membership:

> ***Class 'A'.*** Class 'A' members shall be all Owners. together with all other lot owners in the Subdivision exclusive of the Developer. Owners shall be entitled to one (1) vote for each Lot owned.

*Class B.* The Class B member(s) shall be the Developer, and shall be entitled to three (3) votes for each Lot owned in the Subdivision. The Class B membership shall cease and be converted to Class 'A' membership on the happening of either of the following events, whichever occurs earlier:

(a) title to all lots in all sections of the Subdivision, and the Master Plan, has been conveyed, or

(b) on or before December 31, 2010, or another date as selected by the Developer.

Section 4. ***Membership Transfer.*** Membership in the Association will transfer from the Developer or its successor in interest to the Owner upon delivery of the Deed to Owner's Lot.

Section 5. ***Continuing Membership.*** The Owner of any Lot shall continue to be a member of the Association so long as such Owner continues to be the Owner of a Lot for the purpose herein mentioned. Membership shall pass with the transfer of title to the Lot.

Section 6. ***Transfer of Membership Rights and Privileges in the Association.*** Each Owner, and in lieu thereof, (and with the written consent of such Owner to the Association) each lessee of a Lot shall be a member of the Association and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee, will pass with the lease, except if the Owner withdraws his consent in writing to the Association. The Owner may withdraw his membership assignment to any lessee in his discretion by issuing a sixty (60) day notice in writing to the Association. No assignment of membership shall relieve an Owner of the Lot from the obligation to pay any assessment authorized by these Restrictions. Transfer of membership rights to the Golf Course is prohibited.

Section 7. ***Creation of the Lien and Personal Obligation of Assessments.*** Each Owner of any Lot, excepting Developer, by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments; (2) Special assessments: (3) Club assessment (if applicable); (4) Tax Recoupment Assessment; and/or (5) Condominium Association assessment. Such assessments shall be established and collected as hereinafter provided. The Annual, Special, Club and Tax Recoupment Assessments, together with interest, costs, and reasonable attorney fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them

Section 8. ***Purpose of Annual Assessments & Maintenance Obligations.*** The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, and welfare of the Owners in all sections of Winding Creek Subdivision. Including, but not limited to, the improvement and maintenance of the Common Areas, maintenance of the street medians in the street right of ways, maintenance of street lighting, maintenance of the irrigation system situated on the Common Area, insurance and taxes on common areas, all of which shall be an obligation of the Winding Creek Homeowners Association to maintain. Owners of lots

located on private lanes will be responsible for the maintenance, and the removal of snow from said private lane.

Section 9. *Maximum Annual Assessment.* Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be $250.00 per Lot. Patio Lot Owners will be subject to both the annual assessments due to the Homeowners Association and to the Patio Homeowners assessments for the Patio Homes exterior maintenance.

(a) From and after January I of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than ten percent (10%) above the maximum annual assessment for the prior year, without the vote or written consent of fifty-one percent (51 %) of each class of members of the Homeowners Association and the Condominium Association.

(b) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum without the vote or written assent of fifty-one percent (5 1 %) of each class of members of the Association.

Section 10. *Special Assessments.* In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part: (1) the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; (2) any budget shortfall; or (3) emergency need of the Association, *provided that* any such assessment shall have the vote or written assent of fifty-one percent (51 %) of each class of members of the Association.

Section 11. *Notice and Quorum for Any Action Authorized Under Section 9 and 10.* Any action authorized under Sections 9 and 10 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51 %) of each class of members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Association no later than thirty (30) days from the date of such meeting.

Section 12. *Uniform Rate of Assessment.* Any and all Annual Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis as the Board of Directors may determine from time to time. All members/owners of lots shall be liable with no exception for any and all assessments levied or created by the Association that apply to each lot owners group.

Section 13. *Date of Commencement of Annual Assessments: Due Date.* The annual assessments provided for herein shall commence as to all Lots (excepting Lots owned by the Developer) on the date of the original recording of these Restrictions with the Recorder of

Tippecanoe County. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board of Directors of the Association shall establish the due date. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 14. ***Club Membership, Operating Fund Assessment.*** The Developer plans to construct (including but not limited to) a clubhouse, swimming pool, and tennis court after 150 of the lots have been sold, within Winding Creek Subdivision, which facilities will be owned and operated by the Association, and will be available for use by members of the Association. Upon the substantial completion of the clubhouse, swimming pool, and tennis court, as determined by the Board of Directors of the Association, a Club Operating Fund will commence.

For each lot owned within Winding Creek Subdivision,except those owned by the Developer, the owners shall be charged a Club Assessment (in addition to the Annual Assessments, and Special Assessments provided in Sections 9 and 10, respectively), with respect to the operation, maintenance, insurance, and taxes of said facilities. This Club Assessment will be assessed against each lot owner irrespective of whether a Dwelling Unit is located thereon. Such Club Assessment shall bear interest, shall become a lien upon the Lot against which it is assessed, shall become the personal obligation of the Owner of such Lot, and may be collected in accordance with the provisions of this Article.

Except for the first Club Assessment, the Board of Directors of the Association shall establish the due date. All Club Assessments shall be determined by and paid to the Association, and the Association shall be responsible for carrying out the purposes of such Club Assessments. All members shall be subject to all rules and regulations governing Membership and use, as may be established by the Association from time to time.

The amount of the annual Club Assessment shall be established as follows:

(a) Commencing prior to the substantial completion of the clubhouse, swimming pool, and tennis court, the Board of Directors of the Association shall establish a budget for the fiscal year and shall determine therefrom the annual Club Assessment for each Lot required to meet said budget. Such budget and Club Assessment for each fiscal year shall be established by the Board of Directors. The Board of Directors shall mail to all Association members a copy of a proposed budget and notice of the proposed Club Assessment.

(b) Said Club Operating Fund shall be used exclusively for the purpose of operating and maintaining said clubhouse, swimming pool, and tennis court, as well as all recreational facilities therein or used in connection therewith, including, but not limited to, repair, maintenance, cost of labor, equipment, supervision, taxes, insurance, and all other things necessary or desirable in the opinion of the Board of Directors of the Association.

Section 15. *Tax Recoupment Assessments.* In addition to all other assessments provided for in this Article, the Association may levy in any assessment year, an assessment ("Tax Recoupment Assessment") applicable to that year only for the purpose of defraying, in whole or in part, any cost or expense incurred by the Association in the form of a tax, and/or penalty and/or interest on a tax imposed upon, assumed by or assessed against the Association or its properties, and arising out of or in any way related to the acceptance of title to, the ownership of and/or operation or maintenance of any plant or equipment (including utility lines, lift stations, and other property) for the transmission, delivery or furnishing of water, or for the collection, transmission and disposal of liquid and solid waste and sewage, and/or the ownership of any real estate or easements or other rights with respect to real estate owned and/or possessed in connection with such plant or equipment.

Section 16. *Effect of Nonpayment of Assessments: Remedies of the Association.* Any assessment (Annual, Special, Club or Tax Recoupment) not paid within thirty (30) days after the due date shall bear interest from the due date, at a rate of ten percent (10%) per annum or higher. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. In any successful action, the Association shall be entitled to recover all of its costs and expenses, including attorney fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, the Club facilities, or abandonment of the Owner's Lot.

Section 17. *Subordination of the Lien to Mortgages.* The lien of the assessments shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceedings in lieu thereof, shall extinguish the lien for such assessments, as to payments, which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 18. *Condominium Association.* There also has been organized in connection with the development of Winding Creek Subdivision, the Condominium Association. Phase I lots 24 through 47 shall be governed by the Condominium Association and lots developed in future phases shall be added as they become available. Owners of lots/dwellings as described above are members of the Condominium Association. The Condominium Association has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation, and ownership of the exterior of all residences (including staining of siding as needed and minor roof repairs not covered by a standard insurance deductible, but not roof replacement), the lawns, landscaping, and lighting fixtures of each lot, the enforcement of the convenants contained herein, the payment of insurance and taxes assessed against, and the performance of such other functions as may be designated to it to be performed under this document. The Condominium Association Committee Members: The powers, limitations on powers, compensation, duties, qualifications, terms of office, method of removal and other provisions concerning the Committee Members are as set forth in the Articles of Incorporation and the Bylaws. The Committee Members shall be elected annually by the Members of the Homeowners Association, in accordance with the procedures set forth in the Bylaws, with the approval of the Developer. The Condominium Association will levy it's own annual assessment, each member of the Condominium Association will be required to pay this assessment in

addition to the other assessments as described in this instrument. Non-Condominium Association Members (i.e. Estate lot owners) will not be required to pay a Condominium Association assessment. Only Condominium Association Members can vote on Condominium Association issues.

## ARTICLE V

## General Provisions

**Section 1.** ***Residential Purposes.*** No Lot shall be used except for residential purposes. No dwelling shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height. Each dwelling shall include, at a minimum, a two-car attached garage. Basements may be constructed as a part of the dwelling.

**Section 2.** ***Home Occupations.*** No Lot shall be used for any purpose other than as a single family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that indicates from the exterior that the Dwelling Unit is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such a home occupation other than a member of the immediate family residing in the Dwelling Unit, no business that would require employees or clients to visit the residence shall be allowed; (d) no mechanical or electrical equipment is used; provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, licensed child care center or other licensed/unlicensed or regulated/unregulated babysitting service, animal hospital, or any form of animal care or treatment, such as dog trimming, be construed as a home occupation; and (e) no storage of business equipment or inventory shall be stored outside of the residence.

**Section 3.** ***Building Sizes.*** No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, basements, breezeways, or garages, of less than:

| | Single Story | Two Story | Garage (min.) |
|---|---|---|---|
| Patio Homes | 1,500 SF | N/A | 370 SF |
| Executive Homes | 2,100 SF | 2,400 SF | 484 SF |
| Estate Homes | 2,500 SF | 2,900 SF | 530 SF |

***NOTE: Minimum ceiling/wall height for first floor of all sections is to be nine (9) feet, except for Estate ranch homes which is suggested to be ten (10) feet.***

**Section 4.** ***Garages.*** All Dwelling Units must have a minimum of a two-car attached garage. Minimum sizes as setforth above and architecturally compatible with the home design.

**Section 5.** ***Building Setback.*** No Dwelling Unit or any improvements or structures shall be located on any Lot nearer to the front Lot line, or nearer to the side street line or the rear property line than the minimum building setback lines shown on the recorded plat. In any event, no Dwelling Unit shall be located nearer than a distance of six (6) feet to a side Lot line, and no nearer than a distance of twenty-five (25) feet to a rear property line, if there is no rear setback line shown on the recorded plat.

| | Side Setback | Front Setback | Rear Setback |
|---|---|---|---|
| Patio Homes | 6' | 25' | 25' |
| Executive Homes | 6' | 40' | 25' |
| Estate Homes | 8' | 40' | 25' |

**Section 6.** ***Minimum Lot Size.*** No Dwelling Unit shall be erected or placed on any Lot having a width of less than fifty (50) feet at the minimum building setback line, nor shall any Dwelling Unit be erected or placed on any Lot having an area of less than 7,000 square feet. All dwellings must be approved by the A.C.C. before being constructed.

**Section 7.** ***Utility and Drainage Easements.*** Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No Owner of any Lot shall erect or grant to any person, firm or Corporation, the right, license or privilege to erect, use or permit the use of overhead wires, poles or overhead facilities of any kind for electrical, telephone, or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting, serviced by underground wires or cables. All easements for public and private utilities and sewers as dedicated on the face of the plat shall be kept free of all permanent structures and any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit, to install, repair, maintain, or replace their utility or sewage facilities. The removal of any such obstructions by utilities or sewage treatment work shall in no way obligate them in damages or to restore the obstruction to its original form. Electrical service entrance facilities installed for any dwelling or other structure connecting the same to the electrical distribution system of any electric public utility shall be provided by the Owners of all Lots and shall carry not less than three (3) wires and have a capacity of not less than 200 amperes. All utility lines in the Development shall be placed underground. Utility lines shall be placed under completed street by jacking or boring methods. street cuts will not be permitted.

**Section 8.** ***Surface Drainage.*** Surface Drainage Easements and Common Areas used for drainage purposes, as shown on the plat, are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet. The land surface shall be constructed and maintained so as to achieve this intention. Such easement shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage, shall have the right to determine if any obstruction exists, and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

**Section 9.** ***Maintenance of Lots and Dwelling Units.*** No Lot and no Dwelling Unit shall be permitted to become overgrown, unsightly or to fall into disrepair. All Dwelling Units shall at all times be kept in good condition and repair, and adequately painted or otherwise finished in accordance with specifications established by the A.C.C. Specifically the Owner shall perform: 1) Establish and mow the grass with reasonable frequency to prevent growth from exceeding four (4) inches in height. This mowing requirement shall not apply to Lots owned by the Developer.; 2) Keep lot free of debris and rubbish; 3) Prevent conditions of any kind from evolving which in the A.C.C. opinion may detract from or diminish in any way the aesthetic value or the Development; 4) Remove dead trees and replace with like species; and, 5) Maintain the exterior of all improvements in a state of good repair.
Each Owner, for himself and his successors and assigns, hereby grants to the Association, jointly and severally, the right to make any necessary alterations, repairs or maintenance approved by the A.C.C. to carry out the intent of this provision. They further agree to reimburse the Association for any expenses actually incurred in carrying out the foregoing. The Association may assess and collect such reimbursement in the same manner as it assesses and collects yearly assessments pursuant to Article IV, above, and such amounts shall become a lien upon the Lot and be subject to the same collection rights and remedies granted to the Association in Article IV. For lots not occupied by a dwelling unit within one (1) year of purchase, a regular maintenance program must be implemented and maintained until such time as a residence occupies said lot. Such maintenance program shall keep lot in a neat, orderly, and safe condition by regularly performing such tasks as, including but not limited to: mowing grass or vegetation, and removal of trash debris.
*Please note: Estate Homes that adjoin the Golf Course are pleasantly burdened with the special duty to create and maintain their home, landscaping, and fencing at a high level of beauty and order at all times.*

**Section 10.** ***Landscaping & Sprinkler System Requirements.*** All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. No screen planting shall be placed on the rear of any Lots with golf course frontage, nor in any other location which has the effect of blocking or restricting any other Golf Course Lot Owner's view of the golf course. All Owners shall be required to mow the grass in the public right-of-way including the areas between the sidewalk and the for their respective lots. Landscaping shall be installed no later than ninety (90) days following occupancy of or completion of the Dwelling Unit, whichever occurs first. If such date occurs during the months of November through March, the landscaping shall be complete 90 days from March 15th. Patio and Executive lots shall plant two (2) trees in the right of way (between the sidewalk and the street curb). Estate lots shall plant three (3) trees in the right of way. All trees required by this section shall have a minimum of 2-1/2" caliper. The caliper measurement shall be measured at one (1) foot from the base of the tree. The quantity of trees required on cul-de-sac lots shall be determined by the A.C.C.. The A.C.C. shall also be responsible for the species and location of placement of all trees required by this section. Any trees planted without prior approval and authorization from the A.C.C. may be required to remove the planted trees and replace or replant at the committee's discretion. All trees, and labor to plant, required by this section shall be at the individual lot owners expense. Automatic Underground Sprinkler Systems are preferred, but not required.

Section 11. *Nuisances.* Noxious or offensive activities may not be carried upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting any of the foregoing, no exterior lights, the principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, or which otherwise causes unreasonable interference with the use and enjoyment of a Lot by the occupants thereof are permitted. No speakers, horns, whistles, bells, or other sound devices shall be located, used or placed on a Lot which are audible, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

Section 12. *Temporary Structures and Storage Buildings.* No structure of a temporary or permanent character including but not limited to trailers, boats, trucks, commercial vehicles, recreational vehicles (RV), camper shells, all terrain vehicles (ATV), campers or camping trailers, motor homes, buses, detached basements, tents, shacks, detached garages, barns, pet houses (or runs), or any other type of outbuilding shall be either used or located on any Lot, or adjacent to any Lot, public street or right-of-way within the Subdivision at anytime, or used as a residence either temporarily or permanently, except for personal automobiles, vans, and pick-up trucks. No additional parking shall be permitted on a Lot other than in the existing driveway. An exterior pool house may be constructed only with the prior written approval of the A.C.C.

Section 13. *Signs.* No sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than five (5) square feet, advertising such Lot for sale. Signs used by a builder to advertise such Lot during the construction and sales period shall be no more than twelve (12) square feet. All signage to be clean, neat, and posted in appropriate manner.

Section 14. *Radio & Television Antennas, & Other Exterior Appurtenances.* No radio or television antenna shall be attached to any Dwelling Unit. No freestanding radio or television antenna shall be permitted on any Lot. No television receiving disk or dish that exceeds two (2) feet in diameter shall be permitted on any Lot or on any Dwelling Unit. Dishes shall not be visible from any road or street frontage. No solar panels attached or detached shall be permitted.

Section 15. *Drilling, Refining, Quarrying and Mining Operations.* No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, unless approved by sixty-six (66%) percent of members of the Association. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 16. *Animals.* No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot. Dogs, cats or other household pets must be kept primarily inside the dwelling. Animals of any type shall not be kept, bred or maintained for any commercial purposes. Exotic or dangerous pets, such as snakes, pot belly pigs, or viscous breeds of dogs, are not allowed

Section 17. *Building Materials.* All Dwelling Units and other permitted structures shall be constructed in a substantial and good workman like manner, and of new materials.
*ROOFING, SIDING, & GUTTERS:* No roll siding, asbestos siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any Dwelling Unit or other permitted structure on any Lots of said Subdivision. Estate homes shall not have

any vinyl or aluminum siding, soffit, or fascia. All gutters and downspouts shall be painted, except copper gutters. All roofing shingles shall be approved by A.C.C. and shall be of a dimensional design with a minimum 240 pounds per square weight rating. No three tab shingles of any description or character shall be used on the roof of any Dwelling Unit or other permitted structure on any of said Lots. Minimum roof pitch shall be not less than seven-twelve (7/12), excluding porches and small areas. No vinyl or aluminum windows shall be permitted. All awnings must be approve before installation for color, size, style, and material by the A.C.C.

*DECKS:* The following shall serve as a guideline: 1) All structural elements of the deck can be pressure treated lumber; 2) Post, railings, and other material above the deck floor shall be redwood, cedar, vinyl, metal, etc.; 3) if the bottom of the band joist is more than one (1) foot above finish grade, then lattice skirting must be installed; 4) all deck components, exclusive of the horizontal floor decking, shall be finished, i.e. stained or painted, except for vinyl or aluminum decking material. Final approval by the A.C.C.

*EXTERIOR FINISHES:* **Front Elevations:** Patio Homes shall be one hundred percent (100%) masonry, brick, or EIFS (Dryvit or equal); Executive Homes shall be seventy five percent (75%) masonry, brick, or EIFS; Estate Homes shall be one hundred percent (100%) masonry, brick, EIFS. **Side & Rear Elevations:** All Homes located on corner lots, shall have a minimum of nine (9) feet of masonry, brick, or EIFS on the side facing the street. Estate Homes must have rear elevations of fifty percent (50%) masonry, brick, or EIFS, and side elevations shall have a minimum of nine (9) feet of masonry, brick, or EIFS. All percentage calculations shall be exclusive of doors, windows, gables, and areas above porches. The design of certain unique homes may not fit the above criteria. In those special cases the final decisions regarding this section to be made by the A.C.C.

**Section 18.** ***Driveways.*** All driveways from the street to the garage shall be poured concrete or masonry, and not less than sixteen (16) feet in width. Private lanes or private drives may be asphalt if approved by A.C.C. All owners shall install driveways during original construction of Dwelling Unit.

**Section 19.** ***Individual Water and Sewage Systems.*** No individual water supply system, or individual sewage disposal system shall be installed, maintained, or used on any Lots in this Subdivision.

Section 20. *Geothermal Systems.* Any geothermal system installed shall be vertical or horizontal closed loop system. Any Systems so installed must: (1) Satisfy regulations of the Indiana Department of Natural Resources, and all applicable federal, state, and local laws, ordinances, and regulations. (2) Be installed according to approved guidelines of, and by technicians Certified by, the International Ground Source Heat Pump Association.

Section 21. *Use of Public Easements.* In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to the Developer, the Association, and any public or quasi-public utility company engaged in supplying one or more of the utility services contemplated in Sections 7 and 8, or this Section 21 of Article V, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair,

replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets.

Section 22. *Sanitary Sewer Restrictions.* No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above mentioned Storm Water and Surface Water Runoff Sewer System.

Section 23. *Improvements.* Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent Owner of such Lot shall install improvements serving such Lot as provided in the plans and specifications for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities may authorize or require. This covenant shall run with the land and be enforceable by any governmental authority having jurisdiction over the Subdivision, by the Association, or by any aggrieved Lot Owner in this Subdivision.

Section 24. *Permits and Certificates.* Before any Dwelling Unit located on any Lot may be used or occupied, such user or occupier shall first obtain from the Tippecanoe County Building Commission an Improvement Location Permit and a Certificate of Occupancy, as required by the Tippecanoe County Zoning Ordinance.

Section 25. *Pools and Hot Tubs.* No above ground pool, regardless of size, shall be placed or maintained on any Lot. No swimming pool, hot tub or spa may be placed or maintained on any Lot without the prior written approval of the A.C.C., in accordance with Article III.

Section 26. *Swing Sets, Play Equipment, Basketball Goals, & Similar Structures.* No swing sets or play equipment will be permitted on any Lot without prior written approval from the A.C.C., in accordance with Article III. Play equipment allowed by A.C.C. shall be regularly maintained to a clean and neat appearance. To preserve the natural quality and aesthetic appearance of the Development, basketball goals or similar structures shall be approved by the A.C.C. for size, location, height, composition, and color prior to installation. No goal or structure, temporary or permanent, may be installed or maintained such that playing any sport occurs in the street. No clothes lines of any type or size will be permitted in the Development.

Section 27. *Fencing.* All proposed fencing must be submitted to and approved, before installation, by the A.C.C. in writing, in accordance with Article III. All owners shall maintain their respective fences in good condition including repainting and/or restaining wood fences, removing rust and repainting metal fences, and repairing any structural defects or signs of deterioration. Solid fencing along streets shall not be permitted In any case, any fencing that is approved for installation by the A.C.C. must be painted or stained, or for pre-manufactured

fencing shall be of a color, to blend with the color of the respective dwellings. The A.C.C. shall have the discretion to approve/disapprove styles, types, heights, and colors of fencing.

Section 28. *Storage Areas & Storage Tanks.* Garbage and refuse shall be placed in containers, which shall be concealed and contained within the dwelling unit. Firewood must be placed adjacent to the Dwelling Unit behind a visual barrier screening this area so that it is not visible from neighboring streets or the golf course. The A.C.C. must approve the visual barrier screening, and the area to be used. Gasoline or other fuel storage tanks will not be permitted in the development.

Section 29. *Mailboxes.* Subject to U.S. Postal Regulations, the Developer will provide to the Builder, at the Developer's actual cost, a uniform type of mailbox to be maintained by the Owner. No other mailboxes or newspaper boxes will be permitted. Location upon individual lots to be determined by the A.C.C. prior to placement.

Section 30. *Time for Building Completion and Restoration.* Every Dwelling Unit on any Lot shall be completed within seven (7) months after the beginning of such construction. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage. Homes exceeding 3500 square feet will be allowed additional time. It is understood homes with unique features, qualities, size, and expense can take as long as one (1) year to complete.

Section 31. *Single Owner Contiguous Lots.* Whenever two (2) or more contiguous Lots shall be owned by the same person and such Owner shall desire to use two (2) or more of said Lots as a site for a single Dwelling Unit, said Owner shall apply in writing to the A.C.C. or Board of Directors of the Association for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single Dwelling Unit. Notwithstanding the foregoing, each of the Lots constituting the site for such single Dwelling Unit shall remain as individual Lots for purposes of all assessments permitted by the terms of these Restrictions. For the Common Area assessment Owner will be assessed for each Lot used as a site for a single Dwelling Unit.

Section 32. *Enforceability.* The Association, and the Developer shall each have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Association or the Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and shall not operate to deprive an Owner from enforcing said covenant or restriction.

Section 33. *Right of Entry.* The Developer, the A.C.C., and the Association, acting through their respective representatives, shall have the right, during reasonable hours, to enter upon and inspect the Lot and Dwelling Unit, whether prior to, during, or after completion of any construction, for the purpose of determining whether or not the provisions of these restrictions are being complied with and exercising all rights and powers conferred upon the Developer, the

A.C.C., and the Association with respect to the enforcement or correction or remedy of any failure of the Owner to observe these restrictions. The Developer, A.C.C., and the Association and such representatives shall not be deemed to have committed a trespass as a result thereof. Notwithstanding the foregoing, an occupied Dwelling Unit may not be entered hereunder unless written notice of such proposed entry shall have been given to the Owner at least five (5) days prior to such entry.

**Section 34.** ***Partial Invalidation.*** Invalidation of any one of these Restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**Section 35.** ***Covenants, Restrictions and Extensions.*** The covenants and restrictions herein contained shall run with the land, and be effective for a term of twenty (20) years from the date these Restrictions are recorded, after which time they shall automatically be extended for successive period of ten (10) years, provided these Restrictions may be amended by an instrument signed by not less than seventy-five percent (~~66~~%) of the Lot Owners, and provided further, the Developer, its successors or assigns shall, with the approval of the Tippecanoe County Area Plan Commission, have the exclusive right for each phase of the Development for a period of two (2) years from the date of recording of these Restrictions to amend any of the Covenants and Restrictions. 75% amended

**Section 36.** ***Subdivision of Lots.*** No Lot or combination of Lots may be further subdivided unless sixty-six percent (66%) of the Lot Owners have approved by signing an instrument of approval, and until said approval has been obtained from the Tippecanoe County Area Plan Commission. This section shall not apply to the Developer.

**Section 37.** ***Vehicular Access.*** No vehicular access is permitted from County Road 500 or County Road 600, except as provided by the Development. This clause does not pertain to houses that existed prior to the construction of this Development.

**Section 38.** ***Chimneys.*** All exterior fireplace chimney veneers shall be masonry, brick or EIFS construction, excluding direct vent models.

**Section 39.** ***Dwelling Unit Exterior.*** All windows, porches, balconies and exteriors of all Dwelling Units shall at all times be maintained in a neat and orderly manner. No outside toilets shall be permitted on any Lot in the Development. (except during the period of construction of the dwelling, in fact this practice is encouraged).

**Section 40.** ***Utility Meters and HVAC Units:*** Wherever possible, all utility meters and HVAC units in the Development shall be located in place not seen from the street or shall be appropriately screened, if located in the front of the Dwellings.

**Section 41.** ***Fire.*** No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted to burn upon any street, roadway, or Lot in this Subdivision. No outside incinerators shall be kept or allowed on any Lot.

Section 42. *Access to Golf Course.* Access to the grounds of the Coyote Crossing Golf Course shall only be permitted at such locations as shall be agreed to and designated by the Coyote Crossing Golf Club and the Developer of Winding Creek. These accesses shall be used by patrons of the Golf Course only. Golf carts are not to be driven on private property and any damaged caused by such activity shall be at violator's expense. Children and young adults of the community shall refrain from using the Golf Course as a right of way.

Section 43. *Easement Across Lots Adjacent to Golf Course.* Every lot is burdened with an easement permitting golf balls unintentionally to come upon such property, and for golfers at reasonable times and in a reasonable manner, to come upon the exterior portions of a residence to retrieve errant golf balls; provided, however, if a Dwelling Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. Each Owner shall be solely responsible to undertake necessary measures and improvements to protect their Lot, Residence, property, guests, family members, invitees and other Persons and property on such Owner's property from errant golf balls, which improvements shall be subject to the approval of the A.C.C. All Owners, Members and their family, guests, invitees, licensees and other persons in the Project hereby indemnify and hold Developer, the Association, Builder, and the Owner, Developer, Operator and Manager of the Golf Facility and other such people harmless from and against all damages, claims, and liabilities arising from the use and operation of the Golf Course, errant golf balls of the exercise of the easements, including but not limited to, any damage or injury to person or property.

Section 44. *Assumption of Risk and Indemnification. Each* Owner, by its purchase of a Lot, hereby expressly assumes the risk of noise, personal injury, or property damage and all other losses, damages, costs and liabilities caused by the use, maintenance, and operation of the Golf Course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset), (b) deduction in privacy caused by constant golf traffic on the golf facilities or the maintenance of the golf facilities, (c) design of the golf course, and (d) use of any easements specified in this Instrument. The Association, each Sub-Association, and each Owner agrees to hold harmless and indemnify the Declarant and Developer, manager and operator, and golf course designor of the Golf Facilities from any claim or action for any such risk.

Each Owner agrees that neither Developer, the Association, nor any of Declarant's affiliates or agents shall be liable to any Owner or any other person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage, arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of Owner's Lot to the Golf Facilities, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents or the Association. The Owner hereby agrees to indemnify and hold harmless the Declarant, Declarant's affiliates and agents, and the Association against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

Section 45. *Interference with Play on Golf Course.* Owners of Lots bordering on fairways of the Golf Course shall be obligated to refrain from any actions which would detract from the

playing qualities of the course. It is understood in turn golfers playing Coyote Creek Golf Course do not have the right to enter upon private lots on a golf cart, any damage arising from such activity shall be the responsibility of the violating individual. Winding Creek Development and/or Coyote Crossing Golf Course shall not bear any responsibility for any such activity or related damage to persons or property.

Section 46. *Cost and Attorney Fees.* In the event the Association or Developer is successful in any proceeding, whether at law or in equity brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, assessment, or charge now or subsequently imposed by the provisions of these Covenants, they shall be entitled to recover from the party against whom the proceeding was brought, the attorney fees and all related costs and expenses incurred in such proceeding.

Section 47. *Sidewalks.* Plans and specifications for this subdivision on file with the Tippecanoe County Area Plan Commission requires the installation of four (4) foot wide concrete sidewalks, within the street right-of-ways in front of all Lots. Installation of said sidewalks shall be the obligation of the Owner of any such Lot, exclusive of the Developer, shall be completed in accordance with said plans and specifications and prior to the issuance of a Certificate of Occupancy for any such Lot and the cost of said installation shall be a lien against any such Lot enforceable by the Tippecanoe County Plan Commission or its successor agency. To whom Certificates of Occupancy are issued, said individual or Corporation shall be considered an Owner for the purposes of the enforcement of this restrictions. Curb cuts must follow guidelines as set forth by the Tippecanoe County Highway Department and the Developer.

Section 48. *Non-Access Statements.* No vehicular access statements are shown upon the plat along the County Road 500 North right of way, on Grapevine Boulevard as required by the Tippecanoe County Highway Department, on Winding Place for lots 25 and 34, on Grapevine Boulevard, and Milkweed Drive, where these streets border the golf course. These no vehicular access restrictions are enforceable by the Area Plan Commission and irrevocable by the lot owners.

Section 49. *Outlots/Common Areas.* All outlots and common areas shall be owned and maintained by the Winding Creek Homeowners Association for the use and benefit of said association.

Purpose of Outlots:
Outlot 'A' - Drainage, Utilities, & Landscape
Outlot 'B' - Drainage, Utilities, Landscape & Clubhouse
Outlot 'C' – Drainage, Utilities, & Landscape
Outlot 'D' – Access, & Landscape

## ARTICLE VI

### Notary Public & Notice of Record

IN WITNESS WHEREOF, WINDING CREEK DEVELOPMENT, LLC, an Indiana Limited Liability Company organized and existing under the laws of the State of Indiana, Owner of the real estate described in said Plat, has hercunto set its hand and seal, by its duly authorized officer, this 15 day of Sept., 1999.

**WINDING CREEK DEVELOPMENT, L.L.C.**

By: Stephen B. Connors Manager
Stephen B. Connors, Manager
Winding Creek Development LLC

STATE OF INDIANA )
):
COUNTY OF Tippecanoe )

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared Stephen B Connors, known by me to be the duly authorized and acting Officer of Winding Creek Development, L.L.C., an Indiana Corporation, and acknowledged the voluntary execution of the above and foregoing instrument on behalf of said Corporation for the purposes and uses therein set forth, this 15 day of September, 1999.

My Commission Expires:
May 25, 2000

Linda K. Toman
Notary Stamp

Notary Public A Resident of Tippecanoe County.

Linda K. Toman
Notary Public, State of Indiana
Tippecanoe County
My Commission Expires 05/25/00

This document was prepared by Jack L. Walkey, Attorney at Law of the firm Ball, Eggleston, Bumbleburg, McBride, Walkey, Stapleton, 810 Bank One Building, Lafayette, In. 47902.

03046478 11/17/2003 10:02am
PAMELA K BERGLUND, TIPPECANOE COUNTY RECORDER

# FIRST AMENDMENT TO COVENANTS AND RESTRICTIONS FOR WINDING CREEK SUBDIVISION

Pursuant to paragraph 35 of Article V of the Covenants and Restrictions for Winding Creek Subdivision, as recorded September 15, 1999, as Instrument No. 9924454, in the office of the Recorder of Tippecanoe County, Indiana (hereinafter referred to as the "Restrictions"), the undersigned, consisting of at least seventy-five percent (75%) of the Lot Owners, does hereby amend the Restrictions as follows:

1. The definition of "Association" in Section 2 of Article I is amended to provide that "Association" shall mean and refer to Winding Creek of Tippecanoe County Homeowners Association, Inc., its successors or assigns.

2. The definition of "Golf Course" in Section 2 of Article I and any reference in the Restrictions to Coyote Creek Golf Course is amended to provide that "Golf Course" or "Coyote Creek Golf Course" shall mean Coyote Crossing Golf Course and any of its land, buildings or property. The Golf Course is not owned or operated by the Developer.

3. Section 8 of Article IV is amended to provide: The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and the occupants of the Subdivision, and for the improvement and maintenance of the Subdivision and its Common Areas and of the services and facilities located within or serving the Subdivision. Proper uses of the assessments shall include, but are not limited to, the

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER.

NOV 17 2003

AUDITOR OF TIPPECANOE CO.

1/86

improvement, landscaping, lighting, irrigation, and the maintenance of the Common Areas, street medians, and entrances; repair, replacing, renovating and maintaining the storm water drainage system, structures, and detention ponds located within or serving the Subdivision; obtaining and maintaining insurance and real estate taxes on the Common Areas; establishing, and maintaining reserves for repairs, replacement, maintenance, capital improvements, and other purposes deemed necessary to carry out the purposes of the Association, all of which shall be an obligation of the Association. Owners of lots located on and using private lanes (a road or lane not dedicated to and maintained by the County or other governmental unit) shall be responsible for repair and maintenance and snow removal of their respective private lane. With regard to the storm water drainage system, it is understood that if the Association fails to exercise its obligations of maintenance with regard to the storm water structures, storm water detention ponds, and drainage system within or serving the Subdivision that the Tippecanoe County Drainage Board may perform such maintenance and take all actions necessary for the proper maintenance of the storm water drainage system; and that the cost of any such maintenance benefitting the lots in the Subdivision performed by the Tippecanoe County Drainage Board shall be paid by the Association. In the event the Association fails to pay such costs, the Tippecanoe County Drainage Board shall have the right to assess each lot or parcel in the Subdivision a proportionate amount for the costs of such maintenance and, if the Owner of a lot fails to pay the assessment for such lot, file a Notice of Lien against the Owner's lot in the Office of the Recorder of Tippecanoe County, Indiana. Upon recording, such lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include all court and legal costs, including reasonable attorney fees. In the event that the storm water drainage system within or serving the Subdivision shall become or be proposed to become a legal drain, the Owner of each lot or parcel in the Subdivision shall, by virtue of ownership, be deemed to agree and consent to the storm drainage system becoming a legal drain and to all legal requirements and

assessments imposed by the Tippecanoe County Drainage Board and the applicable drainage ordinance.

4. Section 5 of Article V is amended to provide: The minimum front building setback lines for Lots 114, 121, 123, and 226 in Phase I (which are corner lots having two "front" lot lines, one along each street) shall be twenty-five (25) feet rather than forty (40) feet. Except as such lots, no Dwelling Unit or any improvements or structures shall be located on any Lot nearer to the front Lot line or nearer to the side Lot line or rear Lot line than the minimum building setback lines shown on the recorded plat.

does not apply to OK Secs 5, 6 + 8

5. Section 18 of Article V is amended to provide that Owners of Patio Homes or Villas on Lots 24-47 of Phase I shall belong to the Winding Creek of Tippecanoe County Homeowners Association, Inc. (rather than Condominium Association); that such lots shall be subject to the Restrictions, governed by such Association, and that the Owners of such lots shall pay all dues, assessments or other charges levied by the Association; and that the Owners of such lots shall, in addition to the dues and assessments of Owners of the other lots in Winding Creek Subdivision, pay an additional assessment for snow removal for driveways, sidewalks and front porches of the Patio Homes or Villas on such lots.

does not apply to Secs 5, 6 + 8

6. Section 10 of Article V is amended to add the following: The A.C.C. may require additional tree plantings on lots sold after the date of execution of this instrument based upon the size and location of the lot and plantings on adjoining lots.

7. Section 35 of Article V is amended to provide that seventy-five percent (75%) of the Lot Owners are required to amend the Restrictions. The Restrictions previously stated confusingly that the Restrictions may be amended by an instrument signed by not less than "seventy-five percent (66%)" of the Lot Owners.

8. Section 48 of Article V is amended to provide: "No vehicular access" statements shown on the final plats of the Subdivision (Winding Creek and all of its phases) are restrictions upon vehicular access, shall be enforceable by the Association and the Tippecanoe County Area Plan Commission, and irrevocable by Owners of Lots in the Subdivision.

9. Section 49 of Article V is amended to provide: All outlots and common areas designated on the final plats of the

Subdivision shall be owned and maintained by the Association for the use and benefit of the Association and the Owners of the Lots. The purpose of the outlots in Section One of the Subdivision are as follows:

Outlot "A" – drainage, utilities, and landscaping.
Outlot "B" – drainage, utilities, landscaping and the clubhouse.
Outlot "C" – drainage, utilities and landscape.
Outlot "D" – access and landscaping.
Outlot "E" – drainage, utilities, and landscaping
Outlot "F" – drainage, utilities, and landscaping

does not apply
OK

The purpose of future outlots in subsequent phases or sections of Winding Creek shall be as designated on the final plats of the Subdivision.

10. In Article III, an Item (i) shall be added to provide: All builders must be approved by the A.C.C. and must be members in good standing in the Builders Association of Greater Lafayette (or it successor) as of January 1 of the year of commencement of construction of the residence and all all times during construction.

yes

11. This amendment shall become effective when recorded in the Office of the Recorder of Tippecanoe County, Indiana.

Winc

Lot 1
Lot 2
Lot 3
Lot 4
Lot 4
Lot 4
Lot 2
Lot 3
Lot 3
Lot 3
Lot 3
Lot 1
Lot 1
Lot 1
Lot 1
Lot 1
Lot 1
Lot 1
Lot 1
Lot 1
Lot 2
Lot 2

IN WITNESS WHEREOF, the undersigned have executed this instrument as of this 12 day of ~~October~~ November, 2003.

WINDING CREEK DEVELOPMENT LLC

By: Stephen B. Connors Mgr.

Stephen B. Connors, Manager

123, 138, 139, 140, 145, 149, 226, 24 in Section One, and I 150 through and icluding 204, Section Two.

Owner, Lots 1, 2, 38, 40, 41, 46, 26, 31, 32, 34, 37, 114, 121,

STATE OF INDIANA )
) SS:
COUNTY OF TIPPECANOE )

Before me, a Notary Public in and for said County and State personally appeared Stephen B. Connors, Manager of Winding Creek Development LLC, an Indiana limited liability company, who acknowlec the execution of the above and foregoing First Amendment to Covenant and Restrictions for Winding Creek Subdivision for and on behalf of Winding Creek Development LLC this 12th day of ~~October~~ November, 2003.

My Commission Expires

June 26, 2008

Signature: Jack L Walkey

Printed: JACK L WALKEY

Notary Public, residing in Tippecanoe County, Indiana

After recording, return to:
Jack Walkey
Ball Eggleston Firm Box

This instrument prepared by: Jack L. Walkey, of the firm of BALL, EGGLESTON, BUMBLEBURG, McBRIDE, WALK STAPLETON, PC, 201 Main Street, Suite 810, P.O. Box 1535, Lafayette, IN, 47902, Telephone: (765) 742-9046

Document #: 06 001121

Date: 1-19-2006 Time: 3:54

Pamela K. Berglund, Tippecanoe County Recorder

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER.

JAN 19 2006

AUDITOR OF TIPPECANOE CO.

SECOND AMENDMENT TO COVENANTS AND

RESTRICTIONS FOR WINDING CREEK SUBDIVISION

Pursuant to paragraph 35 of Article V of the Covenants and Restrictions for Winding Creek Subdivision, as recorded September 15, 1999, as Instrument No. 9924454, and a First Amendment thereto recorded NOVEMBER 17, 2003 as Instrument No. 03-046478 (collectively, hereinafter referred to as the "Restrictions"), the undersigned, being at least seventy-five percent (75%) of the Lot Owners in Winding Creek Subdivision, does hereby amend the Restrictions as follows:

1. The reference to Lots 274, 275, and 276 on page 4 of the Restrictions is amended to refer to Lots 251, 252, and 253 in Winding Creek Subdivision, Section Four; except as to the existing improvements on Lot 251, which shall be "grandfathered" with regard to the restrictions on construction of the residence, Lots 251, 252, and 253 of Winding Creek Subdvision, Section Four, shall be subject to the Restrictions and shall pay all dues and assessments.

2. Lots 242, 243, and 244 of Winding Creek Subdivision, Section Four, may be used as a recreational amenity to the Coyote Crossing Golf Course and a swimming pool, tennis courts, bath house, exercise facility or other such improvements may be located thereon. While used for such purposes, such lots shall not be subject to Association dues and assessments. If such lot(s) shall cease to be so used, the lot(s) shall become subject to dues and assessments at such time the lot is sold and transferred by the builder or occupied by a resident.

3. Lots 245, 246, 247, 248, 249 and 250 shall not be subject to Association dues and assessments until a lot is sold and transferred by the builder or occupied by a resident.

4. Section 16 (entitled "Animals") of Article V of the Restrictions is amended to read:

> 16. No animals (including, but not limited to horses, fowl, livestock, reptiles, insects or poultry) shall be raised, bred, kept, or permitted to remain on any Lot, except that domestic dogs, cats, birds, fish and other common household pets may be kept as household pets on a Lot provided they do not cause a nuisance and provided they are not kept, bred or raised thereon for commercial purposes or in unreasonable quantities. The term "unreasonable quantities" shall be deemed to limit the number of dogs and cats to two (2) each, and no more than three (3) in total, without the prior written consent of the Association; however, any litter may be retained for a reasonable time. No Owner shall permit, allow, or cause the pet to run, stray, be uncontrolled or in any manner be in, upon, or at large on the streets and Lots in the Subdivision unless it is properly restrained by a leash and under the control and supervision of its owner or another responsible adult. Pet owners shall be responsible for the prompt pick-up and disposal of, in a sanitary manner, solid pet wastes left by their pets. Notwithstanding the foregoing, no exotic animals and no dogs of the breed or breeds of dogs with a reputation for ferocity, ill temper or brutality (including but not limited to Dobermans, Rotweillers and "Pit Bull Terriers" or "Pit Bulls") or deemed by the Association to be vicious and potentially dangerous dogs shall be kept or maintained on any Lot. The Association shall have the right to remove a dog found to be in violation of this section, to levy a fine of up to fifty dollars $50.00) per day against the Owner for violation of this section, to place a lien on the Owner of the Lot for such fine, and to seek other remedies to enforce the same pursuant to the Restrictions.

5. This amendment shall become effective when recorded in the Office of the Recorder of Tippecanoe County, Indiana.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this 12th day of December, 2005.

WINDING CREEK DEVELOPMENT LLC

By: Stephen B. Connors Manager
Stephen B. Connors, Manager

STATE OF INDIANA )
) SS:
COUNTY OF TIPPECANOE )

Before me, a Notary Public in and for said County and State, personally appeared Stephen B. Connors, Manager of Winding Creek Development LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing Second Amendment to Covenants and Restrictions for Winding Creek Subdivision for and on behalf of Winding Creek Development LLC this 12th day of December, 2005.

My Commission Expires

June 26, 2008

Signature: _____

Printed: Jack L Walkey
Notary Public, residing in
Tippecanoe County, Indiana

After recording, return to:

_____

_____

This instrument prepared by:
Jack L. Walkey
BALL EGGLESTON, PC
201 Main Street, Suite 810
P.O. Box 1535
Lafayette, IN 47902
Telephone: 765-742-9046

FILE COPY

Prescribed by the
State Board of Accounts
(2005)

County Form 170

Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a)

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm Under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers.

2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the forgoing declarations are true.

Stephen B. Connors
Signature of Declarant

Stephen B. Connors
Printed Name of Declarant

Indexed By: rec 06/16/2006

06011988 06/09/2006 11:50am
PAMELA K BERGLUND, TIPPECANOE COUNTY RECORDER

# THIRD AMENDMENT TO COVENANTS AND RESTRICTIONS FOR WINDING CREEK SUBDIVISION

Pursuant to paragraph 35 of Article V of the Covenants and Restrictions for Winding Creek Subdivision, as recorded September 15, 1999, as Instrument No. 9924454, a First Amendment thereto recorded November 17, 2003 as Instrument No. 03-046478, and a Second Amendment thereto recorded January 19, 2006 (collectively, hereinafter referred to as the "Restrictions"), the undersigned, being at least seventy-five percent (75%) of the Lot Owners in Winding Creek Subdivision, does hereby amend the Restrictions as follows: 124-04101

1. Lots 245, 246, 247, 248, 249 and 250 of Winding Creek Subdivision, Section Four, shall have front yard minimum building setback lines of thirty (30) feet unless the residence has a front load garage, in which case the minimum setback line shall be forty (40) feet for a forward facing garage door, all as set forth on Exhibit "A" attached hereto and incorporated herein by reference. To the extent necessary, the plat of Winding Creek Subdivision, Section Four, shall be deemed modified accordingly.

OK do not apply to Sects 5, 6 + 7

2. This amendment shall become effective when recorded in the Office of the Recorder of Tippecanoe County, Indiana.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this 7 day of June, 2006.

WINDING CREEK DEVELOPMENT LLC

By: Stephen B. Connors Manager
Stephen B. Connors, Manager

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER.

JUN 09 2006

AUDITOR OF TIPPECANOE CO.

STATE OF INDIANA )
) SS:
COUNTY OF TIPPECANOE )

Before me, a Notary Public in and for said County and State, personally appeared Stephen B. Connors, Manager of Winding Creek Development LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing Third Amendment to Covenants and Restrictions for Winding Creek Subdivision for and on behalf of Winding Creek Development LLC this 7 day of June, 2006.

My Commission Expires

2-20-2011

Signature: Suzanne K. Dickson

Printed: Suzanne K Dickson

Notary Public, residing in Tippecanoe County, Indiana

After recording, return to:
P.O. Box 5791
Lafayette, IN 47903

This instrument prepared by:
Jack L. Walkey
BALL EGGLESTON, PC
201 Main Street, Suite 810
P.O. Box 1535
Lafayette, IN 47902
Telephone: 765-742-9046

07010481 05/25/2007 01:21pm
ONETA TOLLE, TIPPECANOE COUNTY RECORDER

**FOURTH AMENDMENT TO COVENANTS AND**

**RESTRICTIONS FOR WINDING CREEK SUBDIVISION**

Pursuant to paragraph 35 of Article V of the Covenants and Restrictions for Winding Creek Subdivision, as recorded September 15, 1999, as Instrument No. 9924454, a First Amendment thereto recorded November 17, 2003 as Instrument No. 03-046478, a Second Amendment thereto recorded January 19, 2006, as Instrument No. 06001121, and a Third Amendment thereto recorded June 9, 2006 as Instrument No. 06011988 (collectively, hereinafter referred to as the ARestrictions@), the undersigned, being at least seventy-five percent (75%) of the Lot Owners in Winding Creek Subdivision, does hereby amend the Restrictions as follows:

1. The minimum front yard building setback line for Lot 165 of Winding Creek Subdivision, Section Two, as platted in Final Plat dated November 17, 2003, Plat Cabinet 7, Page 95, recorded November 17, 2003 as Instrument No. 03-046479, and commonly known as 5333 Gardenia Court, West Lafayette, Indiana, is reduced from forty (40) feet to thirty (30) feet. To the extent necessary, the plat of Winding Creek Subdivision, Section Two, shall be deemed modified accordingly.

OK does not apply to Lot 5, 6, 7

2. Section 5 or Article V is further amended to provide: No Dwelling Unit or other improvement in Winding Creek Subdivision (including Sections One, Two, Three, Four and any subsequent Sections) shall be located on any Lot nearer to the front Lot line, the side-yard Lot line, or rear Lot line than the minimum building setback line shown on the recorded plat without the written approval of the Architectural Control Committee.

* 020.:
front - 25
rear - 25
side - 6

* subsequent sections will be determined by plat

3. This amendment shall become effective when recorded in the Office of the Recorder of Tippecanoe County, Indiana.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this 1 day of March, 2007.

WINDING CREEK DEVELOPMENT LLC

By: Stephen B. Connors
Stephen B. Connors, Manager

STATE OF INDIANA )
) SS:
COUNTY OF TIPPECANOE )

Before me, a Notary Public in and for said County and State, personally appeared Stephen B. Connors, Manager of Winding Creek Development LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing Fourth Amendment to Covenants and Restrictions for Winding Creek Subdivision for and on behalf of Winding Creek Development LLC this 1 day of March, 2007.

My Commission Expires
2-20-2011

Signature: Suzanne K Dickison
Printed: Suzanne K Dickison
Notary Public, residing in
Tippecanoe County, Indiana

After recording, return to:
Ball Eggleston box

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER.
MAY 25 2007
Jennifer Weston
AUDITOR OF TIPPECANOE CO.

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER.
MAY 25 2007
Jennifer Weston
AUDITOR OF TIPPECANOE CO.

This instrument prepared by me and I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document.

Jack L. Walkey
BALL EGGLESTON, PC
201 Main Street, Suite 810
P.O. Box 1535
Lafayette, IN 47902
Telephone: 765-742-9046

*201010024771 123*
201010024771
FILED FOR RECORD IN
TIPPECANOE COUNTY, IN
OWETA FOLLE, RECORDER
12/29/2010 02:12:13PM
MISCELLANEOUS 260.00

# FIFTH AMENDMENT TO COVENANTS AND RESTRICTIONS FOR WINDING CREEK SUBDIVISION

The undersigned, being at least seventy-five (75%) percent of the Lot Owners of certain real estate known as the Winding Creek Subdivision, pursuant to Article V Section 35 of the Covenants and Restrictions for Winding Creek Subdivision, which are dated September 15, 1999 and were recorded September 15, 1999 as Instrument Number 9924454, and amended by a First Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated November 12, 2003 and recorded November 17, 2003 as Instrument Number 03046478, and amended by a Second Amendment to Revised Covenants and Restrictions for Winding Creek Subdivision, dated December 12, 2005, and recorded January 19, 2006 as Instrument Number 06001121, and further amended by a Third Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated June 7, 2006 and recorded June 9, 2006 as Instrument Number 06011988, and further amended by a Fourth Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated March 1, 2007 and recorded May 25, 2007 as Instrument Number 07010481, ("the Covenants"), do hereby amend the Covenants as follows:

1. Article I, Section 1, shall now read as follows:

**Section 1. Architectural Control Committee or *A.C.C.*** shall mean the body designated herein to review plans and to grant or withhold certain approvals in connection with improvements and developments. As to Sections One, Two, Three and Four of Winding Creek Subdivision, the composition of the A.C.C. shall be determined by Winding Creek Development, LLC. As to Sections Five, Six and Seven of Winding Creek Subdivision, the composition of the A.C.C. shall be determined by Timberstone Development, LLC and/or Tippecanoe Development, LLC. Any vacancies from time to time shall be filled pursuant to the terms of these Restrictions or the by-laws of the Association.

2. Article I, Section 5, shall now read as follows:

**Section 5.** Except as otherwise provided herein, "***Developer***" shall mean Winding Creek

Development LLC, an Indiana limited liability company, its assigns, successors or successors in interest, and any person, firm or corporation designated by it or its said successor or successor in interest. For purposes of ARTICLE IV of these Restrictions, *"Developer"* shall mean Timberstone Development, LLC and/or Tippecanoe Development, LLC, Indiana limited liability companies, their assigns, successors or successors in interest, and any person, firm or corporation designated by them or said successors or successors in interest. For purposes of ARTICLE V of these Restrictions, *"Developer"* shall mean Winding Creek Development, LLC, Timberstone Development, LLC and/or Tippecanoe Development, LLC, Indiana limited liability companies, individually or jointly as the case may be, and their assigns, successors or successors in interest, and any person, firm or corporation designated by them or said successors or successors in interest.

3. Article IV, Section 3, shall now read as follows:

**Section 3.** ***Classes of Membership.*** The Association shall have two (2) classes of voting membership:

*Class 'A'.* Class 'A' members shall be all Owners together with all other lot owners in the Subdivision exclusive of the Developer. Owners shall be entitled to one (1) vote for each Lot owned.

*Class B.* The Class B member(s) shall be the Developer, and shall be entitled to three (3) votes for each Lot owned in the Subdivision. The Class B membership shall cease and be converted to Class 'A' membership on the happening of either of the following events, whichever occurs later:

(a) title to all lots in all sections of the Subdivision, and the Master Plan, has been conveyed, or

(b) on or before December 31, 2020, or another date as selected by the Developer.

4. Article IV, Section 7, shall now read as follows:

**Section 7.** ***Creation of the Lien and Personal Obligation of Assessments.*** Each Owner of any Lot excepting the Developer, Winding Creek Development LLC, Skyline Corporation of Lafayette, d/b/a Steve Connors Builder, Stephen B. Connors, or a builder designated by the Developer, by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments; (2) Special assessments; (3) Club assessment (if applicable); and/or (4) Tax Recoupment Assessment. Such assessments shall be established and collected as hereinafter provided. The Annual, Special, Club and Tax Recoupment Assessments, together with interest, costs and reasonable attorney fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the

assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner=s successors in title unless expressly assumed by them.

5. Article IV, Section 12, shall now read as follows:

**Section 12.** ***Uniform Rate of Assessment.*** Any and all Annual Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis as the Board of Directors may determine from time to time. All members/owners of lots, except Developer, Winding Creek Development, LLC, Skyline Corporation of Lafayette d/b/a Steve Connors Builder, and Stephen B. Connors, shall be liable for any and all assessments levied or created by the Association that apply to each lot owners group.

6. The second paragraph of Article IV, Section 14, shall read as follows:

For each lot owned within Winding Creek Subdivision, except those owned by (1) the Developer, (2) Winding Creek Development LLC, (3) Skyline Corporation of Lafayette d/b/a Steve Connors Builder, (4) Stephen B. Connors or (5) a builder designated by the Developer, the owners shall be charged a Club Assessment (in addition to the Annual Assessments, and Special Assessments provided in Section 9 and 10, respectively), with respect to the operation, maintenance, insurance, and taxes of said facilities. This Club Assessment will be assessed against each lot owner irrespective of whether a Dwelling Unit is located thereon. Such Club Assessment shall bear interest, shall become a lien upon the Lot against which it is assessed, shall become the personal obligation of the Owner of such Lot, and may be collected in accordance with the provisions of this Article.

Amended 6th Amend.

7. Article IV, Section 18 is deleted.

8. Article V, Section 3 shall read as follows:

**Section 3.** ***Building Sizes.*** No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, basements, breezeways, or garages, of less than:

| | Single Story | Two Story | Garage (min.) |
|---|---|---|---|
| Patio Homes | 1,500 SF | N/A | 370 SF |
| Executive Homes | 2,100 SF | 2,400 SF | 484 SF |
| Estate Homes | 2,500 SF | 2,900 SF | 530 SF |

***NOTE: Minimum ceiling/wall height for first floor of all sections is to be nine (9) feet, except for Estate ranch homes which is suggested to be ten (10) feet.***

The Developer shall determine the location of Patio Homes, Executive Homes and Estate Homes, which determination may be made regardless of lot size.

9. The Amendment to Section 18. of Article V as set out in the First Amendment to Covenants and Restrictions for Winding Creek Subdivision dated November 12, 2003 and recorded November 17, 2003 as Instrument Number 03046478 is deleted.

This Amendment shall run with the land and shall inure to the benefit of and be binding upon the respective heirs, successors and assigns of the parties hereto.

This document may be executed in two or more counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and caused this instrument to be executed on this 29 day of December, 2010.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

*201010024770 1*
201010024770
FILED FOR RECORD IN
TIPPECANOE COUNTY, IN
ONETA TOLLE, RECORDER
12/29/2010 02:12:19PM
COVENANTS 12.00

# NOTICE OF MODIFICATION OF CLASS B CONTROL PERIOD

Winding Creek Development, LLC, (hereinafter the "Developer") of Winding Creek Subdivision, a subdivision of Tippecanoe Township, Tippecanoe County, Indiana, pursuant to the terms of the covenants and restrictions for said subdivision which are dated September 15, 1999 and were recorded September 15, 1999 as Instrument #9924454 and the By-Laws (hereinafter the "By-Laws") of the Winding Creek of Tippecanoe County Homeowner's Association, Inc. (hereinafter the "Association") does hereby notify the Association that the Developer has selected the date of December 31, 2020, as the date for terminating the "Class B Control Period."

Executed this 29th day of December, 2010.

WINDING CREEK DEVELOPMENT, LLC

By: Stephen B. Connors Manager
Stephen B. Connors, Manager

STATE OF INDIANA )
) SS:
COUNTY OF TIPPECANOE)

Before me, a Notary Public in and for said County and State, personally appeared **Stephen B. Connors, the Manager of Winding Creek Development, LLC,** and acknowledged the execution of the foregoing Notice for and behalf of said organization.

WITNESS my hand and Notarial Seal, this 29th day of December, 2010.

Vickie L. Walker, Notary Public
residing in Tippecanoe County, IN

My commission expires:
9/27/17

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, Robert S. Laszynski.

This instrument prepared by: Robert S. Laszynski

*201111004389 111*
201111004389
FILED FOR RECORD IN
TIPPECANOE COUNTY, IN
ONETA TOLLE, RECORDER
03/14/2011 12:28:17PM
COVENANTS 241.00

(111 pgs)

# SIXTH AMENDMENT TO COVENANTS AND RESTRICTIONS FOR WINDING CREEK SUBDIVISION

The undersigned, being at least seventy-five (75%) percent of the Lot Owners of certain real estate known as the Winding Creek Subdivision, pursuant to Article V Section 35 of the Covenants and Restrictions for Winding Creek Subdivision, which are dated September 15, 1999 and were recorded September 15, 1999 as Instrument Number 9924454 ("Original Covenants"), and amended by a First Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated November 12, 2003 and recorded November 17, 2003 as Instrument Number 03046478, and amended by a Second Amendment to Revised Covenants and Restrictions for Winding Creek Subdivision, dated December 12, 2005, and recorded January 19, 2006 as Instrument Number 06001121, and further amended by a Third Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated June 7, 2006 and recorded June 9, 2006 as Instrument Number 06011988, and further amended by a Fourth Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated March 1, 2007 and recorded May 25, 2007 as Instrument Number 07010481, and further amended by a Fifth Amendment to Covenants and Restrictions for Winding Creek Subdivision, dated December 29, 2010 and recorded December 29, 2010 as Instrument Number 201010024771 ("the Covenants"), do hereby amend the Covenants as follows:

1. Article IV, Section 14, of the Original Covenants and as amended in the Fifth Amendment shall be deleted in its entirety and replaced with the following:

**Section 14. Club Membership, Operating Fund Assessment.** The Developer has constructed a swimming pool and bath house within Winding Creek Subdivision, which pool facility is owned and operated by the Association, and is available for use by members of the Association. The Board of Directors of the Association shall establish a Swimming Pool Operating Fund.

For each lot owned within Winding Creek Subdivision, except those owned by (1) the Developer, (2) Winding Creek Development LLC, (3) Skyline Corporation of Lafayette d/b/a Steve Connors Builder, (4) Stephen B. Connors or (5) a builder designated by the Developer, the owners shall be charged an assessment designated as a Pool Assessment (in addition to the Annual Assessments and Special Assessments provided in Section 9 and 10 respectively) with respect to the operation, maintenance, insurance and taxes of the Pool Facility. This Pool Assessment will be assessed against each lot owner irrespective of whether a Dwelling Unit is located thereon. Such Pool Assessment shall bear interest, shall become a lien upon the Lot against which it is assessed, shall become the personal obligation of the Owner of such Lot, and may be collected in accordance with the provisions of this Article.

The Board of Directors of the Association shall establish the due dates for the Pool Assessments. All Pool Assessments shall be determined by and paid to the Association, and the Association shall be responsible for carrying out the purposes of such Pool Assessments. All members shall be subject to all rules and regulations governing Membership and use, as may be established by the Association from time to time of the Pool Facility.

The amount of the annual Pool Assessment shall be established as follows:

(a) The Board of Directors of the Association shall establish a budget for the fiscal year and shall determine therefrom the annual Pool Assessment for each Lot required to meet said budget. Such budget and Pool Assessment for each fiscal year shall be established by the Board of Directors. The Board of Directors shall mail to all Association members a copy of a proposed budget and notice of the proposed Pool Assessment.

(b) Said Swimming Pool Operating Fund shall be used exclusively for the purpose of operating and maintaining said swimming pool and bath house as well as all recreational facilities therein or used in connection therewith, including, but not limited to, repair, maintenance, cost of labor, equipment, supervision, taxes, insurance, and all other things necessary or desirable in the opinion of the Board of Directors of the Association.

Winding Creek Development, LLC ("Winding Creek") shall pay the sum of Two Hundred Forty Thousand

Dollars ($240,000.00) to the Association for the construction of additional facilities and other uses, including reserves, and complete certain landscaping for the benefit of all the Lot Owners as follows:

(a) One Hundred Twenty Thousand Dollars ($120,000.00) on March 14, 2011; and

(b) One Hundred Twenty Thousand Dollars ($120,000.00) on July 31, 2011.

The Board of Directors of the Association shall establish a separate interest-bearing fund for the Winding Creek payment (the "Club Fund"). The Club Fund may be used for the construction of a clubhouse, tennis court and/or other recreational facilities, together with any ancillary uses such as parking lots and landscaping or any other use, including reserves for any facility erected or to be built on any Common Area or Outlot, as determined by the Class 'A' members of the Association. Upon the written consent or vote of at least sixty-six percent (66%) of the Class 'A' members, the Class 'A' members or any committee established by said members shall construct the requested facilities with the Club Fund.

(c) Winding Creek shall landscape the golf course maintenance easement area, including mounding, irrigation, seeding, planting and sidewalk connections on or before July 31, 2011.

This Amendment shall run with the land and shall inure to the benefit of and be binding upon the respective heirs, successors and assigns of the parties hereto.

This document may be executed in two or more counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and caused this instrument to be executed on this 14th day of March, 2011.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

TIMBERSTONE DEVELOPMENT, LLC

By: _____
(written)
JOHN B SCHEUMANN, MEMBER
(printed) (title)

STATE OF INDIANA )
) SS:
TIPPECANOE COUNTY )

Before me, a Notary Public in and for said County and State, personally appeared Timberstone Development, LLC, by John B Scheumann, its member, who acknowledged the execution of the foregoing Sixth Amendment to Covenants and Restrictions for Winding Creek Subdivision for and on behalf of said Company.

WITNESS my hand and Notarial Seal this 11th day of March, 2011.

TERRY L. KING
Resident of Carroll County, IN
My commission Expires
January 17, 2017

_____
(written)

_____
(printed)
NOTARY PUBLIC
Resident of _____ County

My Commission Expires:

_____

WINDING CREEK DEVELOPMENT, LLC

By: Stephen B. Connors Mg
Stephen B. Connors, Manager

STATE OF INDIANA )
) SS:
TIPPECANOE COUNTY )

Before me, a Notary Public in and for said County and State, personally appeared Winding Creek Development, LLC, by Stephen B. Connors, its Manager, who acknowledged the execution of the foregoing Sixth Amendment to Covenants and Restrictions for Winding Creek Subdivision for and on behalf of said Company.

WITNESS my hand and Notarial Seal this 14 day of March, 2011.

DONA M. POOL
Tippecanoe County
My Commission Expires
June 12, 2016

Dona M. Pool
(written) Dona M. Pool
(printed)
NOTARY PUBLIC
Resident of Tippecanoe County

My Commission Expires:
6.12.2016

This instrument prepared by Daniel A. Teder of the firm of REILING TEDER & SCHRIER, 415 Columbia Street, Suite 3000, P. O. Box 280, Lafayette, Indiana 47902, Telephone: (765) 423-5333, Fax: (765) 423-4564, E-mail: dat@rtslawfirm.com

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Daniel A. Teder

c

*201414016213 3*
201414016213
FILED FOR RECORD IN
TIPPECANOE COUNTY, IN
ONETA TOLLE, RECORDER
09/19/2014 02:28:55PM
COVENANTS 23.00

# SUPPLEMENT TO COVENANTS AND RESTRICTIONS FOR WINDING CREEK SUBDIVISION SECTION SEVEN

This Supplement ("Supplement") to Covenants and Restrictions for Winding Creek Subdivision Section SEVEN is entered into this 28th day of August, 2014 ("Effective Date") by Tippecanoe Development, LLC ("Developer").

WHEREAS, Covenants and Restrictions for all sections of Winding Creek Subdivision were recorded on September 15, 1999 as instrument number 9924454 in the office of the Recorder of Tippecanoe County, Indiana; First Amendment to Covenants and Restrictions for Winding Creek Subdivision was recorded on November 17, 2003 as instrument number 03046478 in the office of the Recorder of Tippecanoe County, Indiana; Second Amendment to Covenants and Restrictions for Winding Creek Subdivision was recorded on January 19, 2006 as instrument number 06001121 in the office of the Recorder of Tippecanoe County, Indiana; Third Amendment to Covenants and Restrictions for Winding Creek Subdivision was recorded on June 9, 2006 as instrument number 06011988 in the office of the Recorder of Tippecanoe County, Indiana; Fourth Amendment to Covenants and Restrictions for Winding Creek Subdivision was recorded on May 25, 2007 as instrument number 07010481 in the office of the Recorder of Tippecanoe County, Indiana; Notice of Modification of Class B Control Period was recorded on December 29, 2010 as instrument number 201010024770; Fifth Amendment to Covenants and Restrictions for Winding Creek Subdivision was recorded on December 29, 2010 as instrument number 201010024771 in the office of the Recorder of Tippecanoe County, Indiana; and Sixth Amendment to Covenants and Restrictions for Winding Creek Subdivision was recorded on March 14, 2011 as instrument number 201111004389 in the office of the Recorder of Tippecanoe County, Indiana; (collectively, "Covenants");

WHEREAS, pursuant to the Fifth Amendment to the Covenants dated December 29, 2010 and recorded on December 29, 2010 as instrument number 201010024771 in the office of the Recorder of Tippecanoe County, Indiana, Tippecanoe Development, LLC was designated as a Developer;

WHEREAS, on November 12, 2013 Developer received primary approval from the Area Plan Commission of Tippecanoe County ("APC") for a twenty-five (25) lot subdivision plus one (1) outlot to Winding Creek Subdivision on 17.12 acres located at the southwest corner of County Road 600 North and County Road 75 East in Tippecanoe County, Indiana which shall be known as Winding Creek Subdivision Section 7 ("Section 7") subject to certain conditions imposed by the APC; and

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER.

SEP 19 2014

Jennifer Weston

AUDITOR OF TIPPECANOE CO.

WHEREAS, this Supplement is hereby executed and shall be recorded for the purpose of satisfying the conditions for approval of Section Seven requested by APC.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, Developer does hereby supplement the Covenants as follows:

1. The above recitals ("Recitals") are true and correct and the Recitals are by reference incorporated into and made a part of this Supplement.

2. Developer shall require at such time that a community water system ("System") should become accessible along street frontage for each Lot in Section Seven, that a Lot Owner shall install a water service lateral, in accordance with local jurisdictional requirements, to facilitate connection to the System.

3. There shall be no vehicular access for certain lots pursuant to the recorded Plat, which vehicular access shall be enforceable by the Tippecanoe County Area Plan Commission and irrevocable by the Association.

4. "Outlot" means Outlot 2 which shall be used for drainage, utility and landscape easement as shown on the Plat. All Outlots are a part of the Common Area which are to be conveyed to and maintained by the Association at the time of conveyance of the first Lot to an Owner.

This Supplement shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of Developer.

TIPPECANOE DEVELOPMENT, LLC

By: _____
(written)

Darrin P. Sorenson member
(printed) (title)

STATE OF INDIANA )
) SS:
TIPPECANOE COUNTY )

Before me, a Notary Public in and for said County and State, personally appeared Tippecanoe Development, LLC, by Derrin P Sorenson, its Member, who acknowledged the execution of the foregoing Supplement to Covenants and Restrictions for Winding Creek Subdivision Section 7 for and on behalf of said Company.

WITNESS my hand and Notarial Seal this 28th day of August, 2014.

TERRY L. KING
Resident of Carroll County, IN
My commission Expires
January 17, 2017

Terry L King
(written)

(printed)

NOTARY PUBLIC

My Commission Expires:

Resident of _____ County

This instrument prepared by Daniel A. Teder of the firm of REILING TEDER & SCHRIER, 250 Main Street, Suite 601, P. O. Box 280, Lafayette, Indiana 47902, Telephone: (765) 423-5333, Fax: (765) 423-4564, E-mail: dat@rtslawfirm.com

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Daniel A. Teder