

DECLARATION OF COVENANTS AND RESTRICTIONS
OF
BERSOT CROSSING

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**DECLARATION OF COVENANTS AND RESTRICTIONS OF
BERSOT CROSSING PROPERTY OWNERSHIP**

THIS DECLARATION made this 31 day of January, 2019, by Bersot Crossing Homeowners Association (**Declarant**), an Indiana Non-for-Profit Corporation.

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant by execution of this Declaration assures that all properties which are conveyed which are a part of all Tracts shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Tract and be binding upon all parties having any right, title or interest in the Tract, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.

(b) "Bersot Crossing" means the name by which the Real Estate which is the subject of this Declaration, shall be known.

(c) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the By-laws of the Corporation.

(d) "By-laws" shall mean the By-laws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation.

(e) "Common Area" means the ground designated as such upon the recorded Plat of Bersot Crossing.

(f) "Common Expense" means expenses for administration of the Corporation, expenses for the upkeep, maintenance, repair and replacement of the Common Area and Landscape Improvements and all sums lawfully assessed against the Members of the Corporation.

(g) "Corporation" means Bersot Crossing Homeowners Association Inc., (HOA and homeowners), its successors and assigns, a not-for-profit corporation, whose Members shall be the Owners of Lots, or appointees as provided in Paragraph 11 of this Declaration; such Corporation being more particularly described in Paragraph 11 of this Declaration.

(h) "Declarant" shall mean and refer to Bersot Crossing Homeowners Association, an Indiana Not-for-Profit Corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(i) "Dwelling Unit" means one of the living units located upon a Lot.

(j) "Landscape Maintenance Access Easement" shall mean and refer to those areas identified in any recorded Plat to be burdened by such easement. The landscaping located within the Landscape Maintenance Access Easement shall be maintained by the Corporation and the Corporation shall have an easement of ingress and egress on and over the areas adjacent thereto for this maintenance obligation. The landscaping and other improvements planted or installed by the Declarant and/or the Corporation within the Landscape Maintenance Access Easement may not be removed by any Owner, nor may any Owner add any landscaping or improvements to such easement area without the prior approval of the Architectural Review Board.

(k) "Lot" means any plot of ground designated as such upon the recorded Plat of Bersot Crossing and upon which one (1) Dwelling Unit is constructed, may be constructed or exists thereon. When Lot is used it shall be deemed to include the Dwelling Unit, if any, located thereon.

(l) "Member" means a member of the Corporation (Homeowner).

(m) "Mortgagee" means the holder of a first mortgage lien on a Lot.

(n) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(o) "Plat" means the survey of Bersot Crossing, Sections 1, 2, 3A, 3B, and 4 as per plats thereof recorded as Instrument Numbers 200406951, 200510833, 201027634, 201201617, and 201305272, respectively, in the Office of the Recorder of Hendricks County, Indiana.

(p) "Sign Landscape Easement" means those areas identified in any recorded Plat to be burdened by such easement. Each such area shall contain signage for Bersot Crossing together with any landscaping associated with such signage in such area. The signage and landscaping located within the Sign Landscape Easement shall be maintained by the Corporation and the Corporation shall have an easement of ingress and egress on and over the areas adjacent thereto for the purpose of this maintenance obligation. The signage and landscaping installed by the Declarant and/or the Corporation within the Sign Landscape Easement may not be removed by any Owner, nor may any Owner add any improvements to such area without the approval of the Architectural Review Board.

(q) "Tract" means the real estate described in Paragraph B of the recitals above and such other portions of the Real Estate and other property which have, as of any given time, been subjected to this Declaration, either by this Declaration or a Supplemental Declaration as herein provided.

(r) "Utility, Drainage and Sewer Easements" means the areas of ground on the Plat marked Drainage, Utility and Sanitary Sewer Easement; Drainage, Utility and Sewer Easement; and Drainage and Utility Easement. The Utility, Drainage and Sewer Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Corporation for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Utility, Drainage and Sewer Easements are hereby created and reserved for (i) the use of Declarant for access to and construction, maintenance, operation, repair and control of any retention and detention ponds and improvements comprising and/or related to the storm water drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) the use of the Corporation and The Town of Brownsburg for access to and maintenance, repair and replacement of such drainage system. The Owner of any Lot subject to a Utility, Drainage and Sewer Easement shall be required to keep the Easement area on his Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without a permit from The Town of Brownsburg and prior written approval of the Declarant. The Utility, Drainage and Sewer Easements are hereby created and reserved for the use of The Town of Brownsburg for installation and maintenance of an underground sanitary sewer system. The delineation of the Utility, Drainage and Sewer Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any portion of any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this Paragraph. Except as installed by Declarant or by third parties as provided above, no structures or improvements, including, without limitation, decks, patios, fences, walkways or landscaping, shall be erected or maintained upon said Utility, Drainage and Sewer Easements.

2. Description of Bersot Crossing. Bersot Crossing consists of one hundred eighty four (184) Lots numbered 34 through 217 inclusive, together with the Common Area and Easements as designated on the Plat. The Common Area, Easements and the size of the Lots are as designated on the Plat. The legal description for each Lot in Bersot Crossing shall be as follows:

Lot ____ in Bersot Crossing, a subdivision in Hendricks County, Indiana as per plat thereof recorded _____ as Instrument Number _____, in the Office of the Recorder of Hendricks County, Indiana.

3. Lot Boundaries and Access. The boundaries of each Lot in Bersot Crossing shall be as shown on the Plat. All Lots shall be accessed only from the interior streets of the Tract.
4. Common Area. Common Area includes all the area designated as such on any recorded Plat of Bersot Crossing, including, but not limited to, the lakes, ponds, drainage areas and recreational areas, if any, but excluding all Lots and Easements. Declarant has the right, but not the obligation, to construct recreational facilities in

any of the Common Area, and if such facilities are constructed, such facilities shall be part of the Common Area.

5. Landscape Maintenance Access Easement. Declarant hereby declares, creates, grants and reserves the Landscape Maintenance Access Easement as shown on the Plat as a non-exclusive easement for the use of the Declarant and the Corporation for installation, maintenance and removal of trees, shrubbery, flowers and other plantings, entryway signage and additional similar landscape improvements (all of which items, as existing from time to time, shall constitute "Landscape Improvements"). Except as installed by the Declarant or the Corporation, and except for any utility facilities or drainage facilities which may be installed in any easement that may now or hereafter be declared, granted or reserved in or upon any portion of the Real Estate and designated on the Plat as a Landscape Maintenance Access Easement, no structures or other improvements shall be installed or maintained in or upon any Landscape Maintenance Access Easements. Notwithstanding the foregoing provisions of this Paragraph and the provisions of any Plat or other recorded instrument executed by Declarant designating a Landscape Maintenance Access Easement, a Landscape Maintenance Access Easement shall automatically terminate as to that portion of such easement area that is located within or upon any public right-of-way hereafter dedicated to the public upon the recording of a Plat or other instrument creating such public right-of-way.

6. Ownership of Common Area. The Common Area shall be conveyed to or owned by the Corporation, and shall be held for the use and enjoyment of the Members, all of whom shall have the right and easement of enjoyment in and to the Common Area which right shall pass with title to every Lot, subject to the provisions of this Declaration, including but not limited to, the following:

(a) The right of the Corporation, upon approval by a written instrument signed by two-thirds of all members, and by two-thirds of all first mortgagees, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such Common Area purposes and subject to such conditions as may be agreed by the Corporation.

(b) The right of the Corporation to adopt such rules and regulations regarding the Common Area as it deems necessary as provided in Paragraph 12.

7. Delegation of Use of the Common Area. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Corporation, his right of enjoyment and use of the Common Area and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.

8. Easements in Common Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in the Common Area and Easements. Such easement and right to use shall pass with title to the Lot even though not expressly mentioned in the document passing title.

An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation to enter in or to cross over the

Common Area, Easements and Lots to perform its duties; provided, however, except in the case of an emergency, reasonable notice shall be given the Lot Owner.

9. Corporation; Membership; Voting; Functions.

(a) Membership in Corporation. Each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of the Corporation and shall remain a Member until such time as his ownership of a Lot ceases at which time his membership shall terminate and will be transferred to the new Owner of his Lot; provided, however, that any person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a Member of the Corporation.

(b) Voting Rights. Members shall be all Owners. Each Member shall be entitled to one (1) vote for each Lot. Each Member is entitled to vote upon a matter in which the Member is entitled to vote. In no event, shall more than one (1) vote be cast with respect to any such Lot.

(c) Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Area to pay taxes assessed against and payable with respect to the Common Area and to pay any other necessary expenses and costs in connection with the Common Area and to perform such other functions as may be designated for it to perform under this Declaration.

10. Board of Directors.

(a) Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is or is deemed in accordance with this Declaration to be, an Owner.

(b) Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

(c) Term of Office and Vacancy. The Board of Directors will consist of five (5) members, elected by the Owners. Two (2) members of the Board of Directors shall be elected for a three (3) year term, two (2) members for a two (2) year term, and one (1) for a one (1) year term so that the terms of at least one-fifth (1/5) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of subparagraph (b) of this Paragraph 12, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with subparagraph (e) of this Paragraph 12. The Director so filling a vacancy shall serve until the next annual

meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

(d) Removal of Directors. A Director or Directors, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

(e) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including, but not limited to, providing for the administration of the Corporation, the management, maintenance, repair, upkeep and replacement of the Common Area and Landscape Improvements (unless the same are otherwise the responsibility or duty of Owners) and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Corporation, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

(i) Protection, surveillance and replacement of the Common Area; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(ii) Landscaping, maintenance and upkeep of the Common Area and Landscape Improvements (except as is otherwise the obligation of an Owner); such maintenance obligation specifically includes, but is not limited to, signage, drainage areas, facilities and ponds and lakes.

(iii) Assessment and collection from the Owners of each Owner's respective share of the Common Expenses;

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

(v) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(vi) Procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under this Declaration and such other

insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;

(vii) Paying taxes assessed against and payable with respect to the Common Area and paying any other necessary expenses and costs in connection with the Common Area;

(viii) Cause to be maintained any and all street lights originally installed by Declarant with photo cells in quantity and content approximately equal to those originally installed by Declarant; and

(ix) Compliance with the Commitments (as defined in paragraph 22(b).

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

(i) To employ a Managing Agent to assist the Board in performing its duties; or a third-party management company for a term not to exceed three (3) years with either party having the right to terminate upon ninety (90) days' notice under which Declarant, such affiliate of Declarant or such third-party management company will provide supervision, management and maintenance of the Common Area from paragraph 13

(ii) To purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

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

(iv) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;

(v) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

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

(vii) To promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Tract and the Common Area (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners. Such rules and regulations may provide that an Owner's failure to comply with such rules and regulations may result in (i) the imposition of fines by the Corporation

against such Owner; and/or (ii) such Owner losing the right to use the Common Area and related facilities.

(g) Limitation on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00) without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

(i) Contracts for replacing or restoring portions of the Common Area damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds received;

(ii) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget; and

(iii) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

(h) Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(i) Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

(j) Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in actions, suits or proceedings where such Director is adjudged liable for bad faith, gross negligence or willful misconduct in the performance of his duties. The Corporation shall also reimburse any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or

deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

(k) Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Corporation, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

11. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Real Estate or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Real Estate or that part thereof that is assessed as a whole, which shall be the ratio that the square footage in his Lot bears to the total square footage of all the land comprising the Real Estate or part thereof assessed as a whole. Real estate taxes assessed on the improvements on the Real Estate shall be paid by the Owner of such improvements. Any real estate taxes or other assessments which are chargeable against the Common Area shall be paid by the Corporation and treated as a Common Expense.

12. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered, if any, shall be treated as and paid as part of the Common Expense unless otherwise determined by the Corporation.

13. Maintenance, Repairs and Replacements. Maintenance, repairs, replacements and upkeep of the Common Area and Landscape Improvements (except as such is the obligation of the individual Owners) shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

Each Owner shall be responsible for maintaining and keeping his Lot, Dwelling Unit, and all other structural improvements located on his Lot in a good, clean, neat, sanitary and well-maintained condition and shall do such work thereon as is required to cause such Lot and structural improvements to be so maintained. The obligation to maintain a Lot shall exist, whether a Dwelling Unit exists on such Lot, and the Owner of such Lot shall keep such Lot maintained in the same manner as such Lot would be maintained if a Dwelling Unit existed thereon.

Each Owner shall also maintain (i) the dusk-to-dawn lights installed on his Lot in good working condition, including but not limited to, replacement of photo cells; and (ii) the mailbox and post installed on his Lot in good working condition. Any repair or replacement of mailboxes and/or posts shall be of the same design and quality as originally installed by the developer.

Notwithstanding any obligation or duty of the Corporation to repair or maintain the Common Area or Landscape Improvements, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

If any Owner shall fail (i) maintain and keep his Lot, Dwelling Unit and other structural improvements located on his Lot in a good, clean and sanitary condition as determined by the Board of Directors or (ii) comply with the terms of this Paragraph 16, the Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Corporation's lien on the Owner's Lot.

So long as the Tract is subject to this Declaration each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Corporation, its agents and employees, the right, in the form of a permanent easement, to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair, landscaping or other work contemplated herein.

14. Architectural Control.

(a) The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is, established an Architectural Review Board. The Architectural Review Board shall consist of three (3) or more persons who shall be appointed by the Board of Directors and may be different than or the same as the Board of Directors. At least one member of the Architectural Review Board must be an elected Board member.

(b) Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Tract (including the Common Area, Easements, Landscape Improvements and Lots) and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures and improvements.

(c) Conditions. No improvements, alterations, excavation or changes in grade or other work which in any way alters any Lot or the exterior of any Dwelling Unit or other improvement thereon shall be made or done without the prior written approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. There shall be no requirement that the Architectural Review Board approve the initial construction of a Dwelling Unit on a Lot. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the plans by the Architectural Review Board other than the initial construction of a Dwelling Unit. The approval of all architectural review applications is subject to any jurisdiction of the Town of Brownsburg, including but not limited to the Building and Planning Department.

(d) Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a majority vote.

(e) The Architectural Review Board, and or the HOA Board of Directors may require a hold or cease order on any architectural review request in order to receive any required permits, applications, or other required documentation to complete the process. Written notice of the hold will be provided within the initial 30 days after application.

(f) No architectural review application will be approved when the homeowner is delinquent on regular or special assessments or is non-compliant with any rule or regulation within these by-laws or covenants.

(g) The decision of the Architectural Review Board may supersede any decision or approval given by any outside organization.

15. Assessments.

(a) Annual Accounting. Annually, after the close of each fiscal year of the Corporation, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by an accounting group approved by the Board, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget. Annually, before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners, notwithstanding any other provision in this Declaration, the Articles or the By-laws, the budget may be approved in whole or in part or may be amended in whole or in

part by a majority vote of those Owners present either in person or by proxy; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments, and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and Landscape Improvements that must be repaired and replaced on a periodic basis, which replacement reserve fund shall be used for those purposes and not for usual and ordinary maintenance expenses. By way of example only, the replacement reserve fund will be used for repairing and replacing items such as pumps, filters, landscaping (other than annual plantings and mulch), equipment, playground facilities and clubhouse furnishings and equipment. Usual and ordinary expenses which will not be paid out of the replacement reserve fund include but are not limited to, snow removal, fertilization, annual plantings, mulch, and preventive maintenance contracts. Such replacement reserve funds for capital expenditures and replacement and repair of the Common Area shall be maintained by the Corporation in a separate interest-bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hendricks County, Indiana selected from time to time by the Board.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) Regular Assessments. The annual budget, as adopted by the Owners, shall, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment, against each Lot equal to the Common Expenses multiplied by a percentage equal to one divided by the total number of Lots in the Tract. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"); provided however, that any Regular Assessments, Special Assessments or Additional Assessments may be applied to Lots owned by Declarant only with the written consent of Declarant which written consent shall not be inferred or implied by Declarant's execution and recordation of this Declaration. In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as herein above provided. The Regular Assessment against each Lot shall be paid

in advance in two equal semi-annual installments with payments due on the first day of the first and seventh months of each fiscal year. Payment of the semi-annual installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, the Owners may elect to pay assessments annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget:

(i) If the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(ii) If the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Paragraph 19 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Semi-annual installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

(d) Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

(e) Additional Assessments. In the event that Declarant constructs any recreational or similar facilities which recreational or similar facilities are for the sole benefit and use of the Owners of Lots in a particular section of Bersot Crossing, the expenses associated therewith shall be an Additional Assessment. Any Additional Assessment will be assessed against each Lot in that section in an amount equal to the expenses multiplied by a percentage equal to one (1) divided by the total number of Lots in the affected section. Such Additional Assessment shall be included in the annual budget and shall be due at the same time as the Regular Assessment.

(f) Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Regular Assessments, Additional Assessments and Special Assessments or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular, Additional and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment, Additional Assessment or Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment, Additional Assessment or Special Assessment when due the Board may, in its discretion, accelerate the entire balance of unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. The Board may, at its option, bring suit to recover a money judgment for any unpaid Regular Assessment, Additional Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Corporation shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such assessments were due until paid at the rate equal to the prime interest rate as announced by PNC Bank, Indianapolis, IN, from time to time by (or if said bank is no longer in existence then such rate charged by a national bank in Hendricks County, Indiana, selected by the Board of Directors) during the unpaid period plus ten percent (10 %).

(g) Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the Articles or the By-laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment, Additional Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments, Additional Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments, Additional Assessments or Special Assessments, the lien for which has been divested as aforesaid shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

16. Mortgages and Unpaid Assessments.

(a) Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee, as may be otherwise required by this Declaration, the By-laws or otherwise, shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-laws which is not cured within sixty (60) days.

(b) Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments, Additional Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Paragraph 18 hereof.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any mortgagee making such payment shall be owed immediate reimbursement by the Corporation.

17. Insurance.

(a) Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Common Area and Landscape Improvements in an amount equal to the full replacement value of the improvements which in whole or in part, comprise the Common Area and Landscape Improvements, unless the Board determines that a lesser amount of insurance is appropriate. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. The proceeds shall be used or disbursed by the Corporation or Board of Directors, as appropriate.

Such master casualty insurance policy, and "all risk" coverage, if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) contains an endorsement that such policy shall not be terminated for nonpayment of premiums without at least thirty (30) days prior written notice to Mortgagees.

Each Owner shall be solely responsible for loss or damage to his Dwelling Unit and the contents thereof, however caused, and his personal property stored elsewhere on the Tract and the Corporation shall have no liability to the Owner for such loss or damage. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

(b) Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Tract. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

(c) Other Insurance. The Corporation shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including, but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers' and directors' liability policies. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

(d) General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses.

(e) Owners to Maintain Insurance. Each Owner of a Dwelling Unit shall at all times maintain fire and extended coverage insurance in an amount equal to the full insurable replacement cost of such Residence Unit.

18. Casualty and Restoration of Common Area.

In the event of damage to or destruction of any of the Common Area or Landscape Improvements due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction.

In the event the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Area or Landscape Improvements, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Area or Limited Common Area to as near as possible the same condition as it existed immediately prior to the damage or destruction.

19. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units, Common Area shall be in addition to any other covenants or restrictions contained herein and in the Plat, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of

reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family. No Lot shall be subdivided to form lots of less area.

(b) Nothing shall be done or kept in any Dwelling Unit, or on any Lot, or on the Common Area which will cause an increase in the rate of insurance on any Common Area. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Area which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Area, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(c) No nuisance shall be permitted on any Lot. In addition to remedies within the Covenants, the Town of Brownsburg will be notified of such violations as they pertain to the Town of Brownsburg Code of Ordinances.

(d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building. One (1) small sign no larger than six (6) square feet may be displayed on each lot. One sign of not more than six (6) square feet may be displayed at any time solely for advertising a property for sale. No sign shall be placed on the mailbox post or within the area between the street and sidewalk. Paragraph (d) does not exclude political campaign signs

(e) Household animals as defined by the Town of Brownsburg as "Household Pet" and according to Town of Brownsburg standards. All housing and areas for keeping the animals must be approved by the ACR committee. All animals must be kept in a properly hygienic condition (As outlined by the Hendricks County Health Department and Hendricks County Animal Control), or they will be asked to be removed by the HOA board. Pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance.

(f) All rubbish, trash or garbage shall be stored in closed sanitary containers, shall be regularly removed from the Lots, and shall not be allowed to accumulate.

(g) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Tract; provided, however, that notwithstanding the foregoing, lawful home offices and home business activities conducted by the Owner of such Dwelling Unit are permissible provided all the following conditions are met:

(i) there is not significant increased traffic in and around the Tract as a result of such use or activity;

(ii) no signs, billboards, or other advertising materials are displayed or posted on the exterior of any Dwelling Unit or anywhere else on the Tract;

(iii) the use or activity does not violate existing zoning laws;

(iv) the use or activity does not violate any of the other provisions of this Declaration, including, but not limited to, this paragraph 22;

(v) the Owner of the Dwelling Unit shall maintain all necessary casualty and public liability insurance; and

(vi) such use or activity is conducted during reasonable hours.

(h) No structure of a temporary character, trailer, boat, camper, bus or tent shall be parked or stored on any Lot for more than 6 consecutive days plus a total of 10 days per calendar year, nor shall any garage or other building, except a permanent residence, be used on any Lot at any time as a residence or sleeping quarters either temporarily or permanently.

(i) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Area or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Area. No owner and member, or their guest or invitee shall be permitted to do the following: No ice skating, boating, or trapping in any retention pond. The use of any motorcycle, ATV, snowmobile or horse in the common areas is strictly prohibited.

(j) No boat docks, decks, rafts or similar structures or improvements shall be permitted on or near the lakes. No Owner of any Lot shall do or permit to be done any action or activity which could result in the pollution of the lakes, diversion of water, change in elevation of the water level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper lake management or otherwise impair or interfere with the use of the lake for drainage and related purposes. No Owner, members of their families, guests or invitees or occupants of any Dwelling Unit or other persons entitled to use the same, may swim, boat, ice skate or engage in similar activities on the lake.

(k) No boats, campers, trailers of any kind, buses, mobile homes, recreational vehicles, trucks (larger than 3/4 ton), motorcycles, minibikes or mopeds shall be permitted, parked or stored anywhere within the Tract, unless stored completely enclosed within a garage. No repair work shall be done on the Tract on any vehicles, including passenger automobiles unless completely enclosed within a garage.

(l) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Area or Easements, except with express prior permission from the Board through the Architectural Review Board.

(m) No Owner may rent or lease his Dwelling Unit for transient or hotel purposes.

(n) Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease which shall provide that the lease is subject to the provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.

(o) There are no-build areas designated on the Plat building lines. Except as required for utilities to serve the Tract or a Lot, no building or structure will be permitted within this no-build area.

provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.

(p) There are no-build areas designated on the Plat building lines. Except as required for utilities to serve the Tract or a Lot, no building or structure will be permitted within this no-build area.

(q) Each Owner by acceptance of a deed to a Lot shall be deemed to have waived such Owner's right to remonstrate against annexation of all or any portion of the Tract.

(r) No detached structure shall be maintained on any Lot except with express prior permission of the Architectural Review Board.

(s) Any fences to be constructed on a Lot must be constructed in accordance with the Town of Brownsburg's Developmental Standards and the provisions hereof and must be approved by the Architectural Review Board prior to the installation of any fence. The Architectural Review Board will not approve any fence unless it complies with the previously mentioned requirements. following requirements:

(i) the fence is located in the rear yard of the Lot (the fence shall adjoin the rear side of the Dwelling Unit or be located no more than 50% of the side of the Dwelling Unit); there shall be no fences whatsoever constructed in the front yard of any Lot;

(ii) there shall be no fence, or any other permanent improvements constructed in any part of any Lot which is part of the Common Area.

(iv) only Picket Fences or wrought iron fences of four (4) feet or less will be allowed on any Lot adjoining a lake, a trail or any part of the Common Area.

(v) Unless otherwise required by the Town of Brownsburg or the Architectural Review Board, all fences must be located on the property line and must adjoin any existing fence(s) on adjacent Lot(s).

(t) No permanent above ground swimming pools shall be erected, constructed or installed on any Lot. Seasonal swimming pools, not to exceed 10 feet in diameter, are permitted only from May 1st to October 1st and must be placed or stored in the rear of the residence. The construction or installation of any in-ground pool, deck, hot tub, spa, trampoline or similar structure requires the prior written approval of the Architectural Review Board.

20. Amendment of Declaration.

(a) Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

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

(ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

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

(iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) of all Owners in attendance, or by proxy at a regular or specially called meeting with a proper quorum.

(v) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of this Declaration of Paragraph 19 with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Paragraph 21 of this Declaration with respect to reconstruction or repair of the Common Area in the event of fire or any other casualty or disaster, or (4) the provisions of Paragraph 17 of this Declaration establishing the Architectural Review and providing for its functions, or (5) the provisions of Paragraph 18 of this Declaration with respect to the commencement of assessments on any Lot.

(vi) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the Office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.

21. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles, and the By-laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles, the By-laws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Tract in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-laws, and

the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

22. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation.
23. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the By-laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Corporation shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.
24. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or Limited Common Area or by abandonment of his Lot.
25. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-laws, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles, or the By-laws, and each shall be enforced to the greatest extent permitted by law.
26. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa as appropriate.
27. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and sub-paragraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.
28. The Plat. The Plat of Bersot Crossing, to include Sections 1, 2, 3a, 3b and 4, is incorporated into this Declaration by reference and has been filed in the office of the Recorder of Hendricks County, Indiana, of even date herewith.
29. Controlling Document. In the event there is a conflict between the provisions of this Declaration and the Plat, the terms of this Declaration shall be controlling. Conflict, as used herein, shall mean a situation where the application of the language in one document contradicts the language in another document. Conflict does not occur where language in one document is simply more restrictive than language in another document.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

Bersot Crossing Homeowners Association

By: [Signature]

Printed: James Nicely

Title: Board President

By: [Signature]

Printed: Corey Frederick

Title: Board Vice-President

By: [Signature]

Printed: Randy Johnson

Title: Board Secretary

By: [Signature]

Printed: Steve Marusich

Title: Board Treasure

By: [Signature]

Printed: Yvonne Hurd

Title: Board Member

STATE OF INDIANA)

) SS:

COUNTY OF HENDRICKS)

Before me, a Notary Public in and for said County and State, personally appeared James Nicely, Corey Frederick, Steve Marusich, and Randy Johnson, and Yvonne Hurd by me known to be officers of Bersot Crossing Homeowners Association, who acknowledged the execution of the foregoing "Declaration of Covenants and Restrictions of Bersot Crossing" on behalf of said Corporation.

Witness my hand and Notarial Seal this 31 day of January, 2019.



Hendricks County
Jamie Nicely
658194
Expires: 09/16/2022

Notary Public

[Signature]
JAMIE NICELY
(Printed Signature)

My Commission Expires: 09-16-2022

My County of Residence: Hendricks

I affirm under the penalties of perjury that I have taken reasonable care in redacting each social security number in this document, unless required by law.

[Signature]
Printed

[Signature]
Signature

This instrument prepared by the Board of Directors for Bersot Crossing Homeowners Association Inc. Signature page is number 26 of this document