

**DECLARATION OF COVENANTS
GOVERNING
BLUMBERG ESTATES SUBDIVISION**

Jerry A. Sears, hereinafter referred to as the "Developer," being the owner and developer of the real estate contained within the boundaries of Blumberg Estates Subdivision Phase I as the same is recorded in the records of the Vigo County Recorder's Office.

The real estate which is hereby made and shall henceforth be subject to these protective covenants and restrictions as herein set forth in the real estate in Blumberg Estates Subdivision ("Subdivision") as recorded in Plat Record 33, Page 50 of the records of the Recorder of Vigo County, Indiana, and which real estate is located in Harrison Township, Vigo County, Indiana, is more particularly described as follows, to-wit:

A part of the Southwest Quarter of the Northeast Quarter of Section 36, Township 12 North, Range 9 West of the Second Principal Meridian, Vigo County, Indiana, being more particularly described as follows:

Beginning at the Southwest Corner of the Northeast Quarter of Section 36, Township 12 North, Range 9 West of the Second Principal Meridian: Thence North 00 degrees 25 minutes 20 seconds West (assumed bearing) along the West line of the Northeast Quarter of said Section 36 for a distance of 981.85 feet; thence North 89 degrees 34 minutes 40 seconds East, 175.83 feet; thence North 81 degrees 12 minutes 00 seconds East, 183.3 feet to the center of an existing draw; thence Southeasterly and Southerly along the meandering of said draw to the South line of said Northeast Quarter, said point being 534.80 feet East of the place of beginning; thence North 89 degrees 49 minutes 22 seconds West along said South line, 534.80 feet to the place of beginning, being all situated within the corporate limits of the City of Terre Haute, Vigo County, Indiana and containing 12.35 acres more or less.

(Commonly known as Blumberg Estates Subdivision Phase I, Vigo County, Indiana).

The Developer desires to subject said real estate to the following covenants and restrictions, which covenants and restrictions shall apply to and bind the owners thereof, their successors in interest, grantees and assigns of whatever nature, and shall be held, transferred, sold or otherwise conveyed subject to the following covenants and restrictions:

1. For the purposes of further insuring that the land so platted is developed as an area of high standards, the Committee (as hereinafter described), reserves the right (i) to control the design and placement of buildings, structures and other improvements placed on each lot in the Subdivision, as well as (ii) to make, from time to time, such written exceptions to one or more of these reservations and covenants as the Committee shall deem appropriate and proper. However, any such exception or waiver shall not constitute an exception or waiver for any other lot, lots, parcel or parcels within the Subdivision.

Whether or not the provisions of the Covenants (or any of them) are specifically stated in any conveyance of a lot or lots (or part(s) thereof) made before now or hereafter made by the Developer or future owner(s) of any lot(s)--or part(s) thereof--in the Subdivision, the purchaser/owner and/or occupant of each and every lot and/or part(s) thereof, by acceptance of a deed thereto, or by taking possession thereof, covenants and agrees that no building, wall, fence or other structure shall be erected or placed upon such lot and/or part(s) thereof unless and until the building plans, the specifications therefore, and plot plan have been approved in writing by the Committee. Each such building, wall, fence or structure shall be placed on said lot(s) only in accordance with the building plans, specifications and plot plans so approved. Refusal of approval of building plans, specifications or plot plans by the Committee may be based on any or no grounds, including purely aesthetic grounds, which, in the sole and uncontrolled discretion of the Committee shall be deemed sufficient. No alteration of the exterior appearance of the buildings, walls, fences or structures on any Subdivision lot(s) shall be made without like approval. If the Committee shall fail to approve or disapprove the plans, specifications and/or plot plans within thirty (30) days after written request therefore is delivered to the Committee, then such approval shall not be required, provided, however, that no building, wall, fence or other structure shall be erected on any Subdivision lot(s) which violates any provision of the Plat or any of the provisions herein.

Prior to application for improvement/building permits from Vigo County, Indiana for the construction/alteration of a residential dwelling in the Subdivision, building plans, specifications and plot plan shall be submitted to the Committee for prior written approval. Such approval shall, during the development period as signified by the Developer, include building design, color and location, as well as plans for private drives, tree preservation methods and proposed landscaping. (Conformity and harmony of external design with existing structures in the Subdivision with respect to the topography and finished ground elevations, the destruction/preservation of trees and vegetation and any other matter as may effect the environment and ecology of the

Subdivision, as well as the preservation of streets and the surface and the subterranean draining systems within the subdivision, shall all be proper areas of concern for the Committee). All residences built in the subdivision shall be built by the Developer or a contractor approved by the Developer or Committee.

2. Each lot of the Subdivision shall be used only for single-family residence. No duplex, apartment building, condominium or detached structure shall be permitted in the subdivision. No trailer, tent, shack, barn, or temporary building shall be constructed / erected on any of the lots in the Subdivision. Guest houses, pool houses or detached garages which are constructed on any Subdivision lot, must be approved by the Developer or Committee.

No professional office, business, trade or commercial activity of any kind shall be conducted in any building or on any portion of the property covered by these covenants, except as specifically permitted hereby. It is specifically declared that the developer or its representative may maintain an office and buildings for the sale of lots and for construction or maintenance purposes.

3. The minimum square footage of living space of a residential dwelling constructed on any lot in Phase 1 of the Subdivision (lots 1-26), exclusive of porches, attics, garages, or basements fully below ground level, shall be 1600 square feet of ground level floor living area for a single story structure, or 1800 square feet of any multi-story structure. The minimum square footage of living space of a residential dwelling constructed on any lot in Phase 2 of the Subdivision (lots 26-50, 1a), shall be 2200 square feet of ground level floor living area for a single story structure, or 2400 square feet of any multi-story structure. All residential dwellings shall have no less than a two car attached garage. The exterior of the houses should be sixty percent brick or stone, unless otherwise approved by the Developer or Committee.

4. No building, or any part thereof, including porches or garages, shall be erected so as to violate the setback lines shown on the plat. Where one lot and a fraction of another lot are acquired for a single residence site, the side lot lines shall refer only to the lot lines bordering the adjoining property owners. Notwithstanding anything apparently to the contrary contained in this Declaration, the Developer or Committee shall have the right to permit (prior to construction) reasonable modifications of the setback requirements where, in its discretion, strict enforcement of setback provisions would work hardship, provided, however, that no setback lines shall violate any current provision of the Subdivision Control Ordinance.

5. Storage Buildings are not allowed.

6. Before excavation commences for any house, the owner or the owner's contractor shall rough in the permanent driveway and whit rock same. Thereafter, construction traffic for that house shall be limited to the white rock area(s). The owner or the owner's contractor shall take all precautions to keep erosion of the lot at a minimum and, in any case, if dirt from the lot finds its way onto any street in the subdivision, the Developer and/or Association reserve the right to

have that dirt cleaned up and removed at a cost, in each instance, of \$100.00 to the owner of the lot (the same shall constitute a lien the same as an assessment by the Association). This restriction is necessary to control dirt, silt and soil for the Subdivision. Extra and unneeded dirt from excavation on any lot may not be removed from the Subdivision without the prior consent of the Committee.

X(7. Each lot of the Subdivision must have a four (4) foot sidewalk along street before home is occupied.) *Not required by city ordinance!*

8. All houses must contain a lighted address in front when building is complete.

9. All buildings must be connected to the sanitary sewer system in the Subdivision, and use of any other sort of other sanitary disposal system shall be prohibited. No building shall have its gutters or downspouts connected to the sanitary sewer.

10. The Blumberg Estates Design Committee (referred throughout this document as the "Committee") shall be composed initially of representatives of the Developer (the "Developer"), and after completion of the development (as signified by the Developer by a document stating such recorded in the Vigo County Recorder's Miscellaneous Record) the Committee shall consist of five (5) homeowners in the Subdivision as initially designated by the Developer for a term of three (3) years, serving thereafter until their successors are elected by a majority vote of homeowners within the Subdivision if no homeowners association is hereafter formed, and acting on votes of a simple majority of a quorum (where five (5) members present in person or by proxy constitute a quorum). (However, if a not-for-profit corporation of homeowners within the Subdivision is formed (the "Association"--but until formed, the term "Association" shall refer to the Developer), then the Committee shall consist of five (5) members of the Association as elected for one year terms by the members of the Association).

11. No elevated tank(s) of any kind shall be erected, placed or permitted on any part of the Subdivision, provided, however, that nothing herein shall prevent the Association from erecting, placing or permitting the placing of tanks or water system apparatus into designated parts of the Subdivision for the use of the water company serving the Subdivision. Any tanks or containers for use in connection with any residence constructed on any lot(s), including tanks for the storage of garbage, must be buried or walled sufficiently to conceal them from the view of neighboring lots. Plans for all enclosures of this nature must be approved in writing by the Committee prior to construction.

12. No lot owner may conduct a yard sale, garage sale, rummage sale or flea market sale on any lot unless approved in writing before and by the Association.

13. Unless parked in an enclosed garage, no truck(s), boat(s), motor home(s), mobile home(s), trailer(s), camper(s) or commercial-type vehicle(s) shall be stored or parked on either any Subdivision lot or parked on any street in the Subdivision except while engaged in

transporting goods or services to and from a residence in the Subdivision. Also, no motor vehicle(s) may be parked overnight on any street in the Subdivision.

14. No horses, cattle, swine, goats, poultry or fowl shall be kept on any Subdivision lot. Outside animal or pet pen(s) or area(s) shall be approved by the Committee. No permanent clothes line or drying yard shall be permitted on any Subdivision lot unless concealed by hedges or lattice work or screening acceptable to the Committee. No garbage container(s), trash barrels, trash container(s) or ash pit(s) shall be permitted on any lot unless same is/are subterranean or enclosed in a fashion approved beforehand by the Committee. No breeding of animals for commercial purposes or as a hobby shall be allowed on/at any lot of the Subdivision.

15. All walls or fences to be hereafter erected must be approved by the Committee, in writing, before construction, but in any event chain-link fencing will not be allowed.

16. No boundary wall, except those now existing or to be built by the Developer along the Subdivision's boundaries (and except security fences constructed by the Association) shall be constructed.

17. No structures, fences or improvements shall be placed upon any easement areas within the boundaries of any building area of the Subdivision excepting shrubs and plants, provided that said shrubs and plants do not hamper utility use and/or access.

18. No geothermal heating systems shall extend beyond the lot lines and under no circumstances shall geothermal heating systems extend into the utility easements, except where loops are installed in the Subdivision's Lakes.

19. Maintenance of the surface of any right-of-way for a street from the edge of its hard surface to the property line of a Subdivision lot shall be the responsibility of the owner(s) of the lot whose property line abuts said street right-of-way.

20. Maintenance of remaining erosion control measures shall be the responsibility of the owners of the lots in said Subdivision after the Developer has terminated land disturbing activities.

21. All driveways leading from the street to the garage located on any lot shall be constructed out of concrete. However, only one driveway is allowed per dwelling house.

22. All mailboxes located on the property encompassed by this Agreement shall be designed, located, and approved by Developer prior to their installation.

23. The residents of the lots covered by these Covenants shall not discharge firearms on the property nor carry out any target practice or other sport which involves the discharge of firearms of any type.

24. No obnoxious, offensive, deleterious, or objectional odors, sounds, light or activity of any kind shall be permitted to exist which could be an annoyance or nuisance to the Subdivision.

25. Any conveyance of property within the Subdivision shall be made subject to taxes, liens and other assessments, if any, levied or assessed--by against said property in or prior to the year in which same is conveyed, and shall be subject to all covenants, easements, reservations, restrictions and limitations imposed by governmental authority and/or hereunder.

26. After the date of this indenture, none of the lots in the Subdivision shall at any time be divided into more than two building sites and no building site shall be less in area than the area of the smallest lot platted in the Subdivision. A single lot together with a contiguous portion or portions of one or more other lots in the Subdivision may be used for one building site, but no building or structure or any part thereof shall be erected or maintained nearer the side boundary lines of such integral unit than five (5) feet.

27. Inasmuch as the Committee contemplates that the Association will assume maintenance responsibilities for the Subdivision's subterranean drainage system, as well as all drainage swales, ditches, culverts and the lakes which are a part of the Subdivision's overall drainage system, the following covenants shall apply to and run with all land within the Subdivision:

- A. Drainage swales or ditches along dedicated roadways and within the right-of-way, dedicated drainage easements, the lakes, and other natural drainage areas in the Subdivision which is hereby as a dedicated drainage easement are not to be altered, dug out, filled in, tilled, or otherwise changed without the written permission of the Association. Property owners (i.e. Subdivision lot owners) must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts (12 inch minimum) are installed.
- B. Any property owner altering, changing, or damaging these drainage swales, ditches or underground drains will be held responsible for such action and will be given ten (10) days notice by registered mail to repair said damage, after which time, if no action is taken, the Association will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owner for immediate payment.

28. No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain on any lot in the Subdivision.

29. All claims against the Developer and/or the Committee and/or the Association for damages, if any, arising out of the approval or non-approval of buildings/plans, construction, reconstruction, alteration, maintenance and repair of utilities, street and/or common area lighting system(s), or on account of any temporary or other inconvenience caused thereby, are hereby waived by each owner and/or occupant of property within the Subdivision.

30. The care and maintenance of the Subdivision's Lakes shall be the duty and responsibility of the adjoining lot owners. The owners shall adopt reasonable regulations for said Lakes by majority vote; however, the Lakes cannot be used for swimming and cannot be used by motorized vehicles.

31. Electrical service lines, natural gas lines, telephone and cable television lines shall be placed underground and no outside utility lines of any nature shall be placed overhead. In the event the Subdivision is not served by cable, then antennas and satellite dishes are acceptable if approved in writing by the Committee; however, no satellite dish shall be larger than two feet in diameter.

32. No residence dwelling erected upon any lot shall be occupied in any manner while in the course of construction or at any time prior to its being fully completed, as herein required. Nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans, specifications and plot plan, and all other covenants, conditions, reservations and restrictions herein set forth or on the Plat. All construction shall be completed within twelve (12) months from the start thereof, provided, however, the Committee may (as previously set forth in Section 1 hereof) extend such time when, in its opinion, conditions warrant such extension. Unless the prior written consent of the Committee is given, rental of any guest house, hereafter constructed pursuant to special authorization of the Committee, is prohibited, the occupancy thereof being limited to either non-paying guests or servants. Regular, continuous occupancy of any residence in the Subdivision shall be limited to its owner and/or its owner's immediate family.

33. It is intended that all Subdivision streets, as shown on the Plat of the Subdivision, except the private drive easements which may be noted on the plats of said Subdivision shall be accepted into the City of Terre Haute, Indiana, and said streets shall comply with and meet the specifications for dedicated streets or roadways under the provisions of the Subdivision Control Ordinance.

34. For the purpose of maintaining the Subdivision streets, traffic control, and any other general purpose within the Subdivision and all general planning of roadway areas and common community areas of every kind and nature required or desired within the Subdivision for the general use and benefit of all lot owners, each and every lot owner, by accepting a deed or contract for the acquisition of any lot in the Subdivision, agrees to join and shall (i) become a member of the Association, and (ii) be subject to the duly enacted By-Laws of the Association.

35. Each and every Subdivision lot's owner (meaning in the indenture, either single or joint ownership of a given Subdivision lot) may be assessed annually by the Association or its respective successor(s) and/or assign(s), for certain services provided to the Subdivision, including, but not necessarily limited to:

- (A) Maintenance of the Subdivision streets before their acceptance into the City of Terre Haute Highway System;
- (B) Maintenance of the Subdivision's drainage system;
- (C) Maintenance of the Subdivision's Erosion Control Measures
- (D) Maintenance of swales located on property owned and/or maintained by the Association otherwise not currently located on individually owned lots;
- (E) Mosquito control and/or snow removal;
- (F) Common areas and landscaping; and
- (G) Entrance and other Subdivision signs maintenance.

The cost thereof or charges therefore shall be divided equally among the number of the lots in the Subdivision. However, for assessment purposes, one or more Subdivision Lots used for one residence shall be considered by the Committee as one Subdivision Lot.

Assessments or charges set forth above, together with any and all other assessments authorized by the Association--including a reasonable charge for membership, postage and supplies--shall be made on the first of January of each calendar year and payment in full shall be made to the Association on or before the first of February of the same calendar year. In the event payment is not made, the Association may file an affidavit entitled "Notice of Lien" with the Recorder of Vigo County setting forth the name and address of the owner, the legal description of the owner's real estate within the Subdivision, a description of the charges assessed and the amount of said charges, which lien shall run in the favor of the Association. In the event suit is required to obtain or enforce a lien under this indenture, then the Association shall be entitled to recover reasonable interest as then permitted by applicable statute (at the time of the filing of the lien) from and after January 1st of the year of said assessment, and reasonable attorney fees and legal costs associated therewith.

Any of the aforesaid charges and assessments, whether annual or special, shall run with the land and shall become liens on the lot or lots of the owner(s) at the time of attachment.

36. Prior to the application for improvement/building permits for the construction/alteration of a residential dwelling in the Subdivision, building plans, specifications, and name of builder, plot plan shall be submitted to the Committee for prior written approval. Such approval shall, during the development period as signified by the Developer, include building design, color and location, as well as plans for private drives, tree preservation methods and proposed landscaping. (Conformity and harmony of external design with existing structures in the Subdivision with respect to the topography and finished ground elevations, the destruction/preservation of trees and vegetation and any other matter as may affect the

environment and ecology of the Subdivision, as well as the preservation of streets and the surface and subterranean draining systems within the Subdivision, shall all be proper areas of concern for the Committee.) All residences built in the Subdivision shall be built by custom builders (upon approval of the Committee), who have experience in custom construction in Vigo County, Indiana of housing comparable to the standards contemplated by these Covenants.

37. Developer reserves the right to subject other phases of development in Blumberg Estates Subdivision to said Declaration of Covenants and/or for said homeowners in other phases of Blumberg Estates Subdivision to be members of the Association.

38. But for any exception hereafter made as hereinbefore provided, all of the foregoing covenants, conditions, reservations and restrictions shall continue and remain in full force and effect at all times as against the owner of any lot(s) in the Subdivision, regardless of how that owner/person acquired title until January 1, 2010, on which date these covenants, conditions, reservations and restrictions shall terminate and end, and thereafter be of no further legal or equitable effect on any property in the Subdivision or any owner thereof provided, however, these covenants, conditions, reservations and restrictions shall be automatically extended for a period of five (5) years and, thereafter, in successive five-year periods, unless on or before the 31st of December or the end of one of such extension periods, as the case may be the owners of a majority of the lots then platted in the Subdivision (through action by the Association, if then formed) shall by written instrument, duly recorded, declare a modification or termination of same. Although these covenants, conditions, reservations and restrictions may expire as herein provided, any and all then in-place remedies for breach of these covenants, conditions, reservations or restrictions committed or suffered prior to such expiration shall be absolute. Any lien(s) coming into existence before termination of the aforesaid covenants, conditions, reservations and restrictions shall survive such termination until released by the Association.

39. A breach by the owner of any Subdivision lot(s) of any of the covenants, conditions, reservations or restrictions established hereunder may be enjoined by appropriate proceedings by the Developer, the Association or by the owner(s) of another lot or other lots in the Subdivision, as the case may be, but not by any other person or entity.

In the event that the Committee or the owner(s) of another lot or lots, as the case may be, is/are required to employ legal counsel to successfully enforce (via voluntary or involuntary (e.g. court-ordered) compliance) any of the foregoing covenants, conditions, reservations or restrictions, all costs incurred in such enforcement, including reasonable attorney fees and expenses, shall be paid by the owner(s) of the lot or lots violating said covenants, conditions, reservations or restrictions, together with court costs. The party so employing counsel to successfully enforce any of said covenants, conditions, reservations or restrictions shall have a lien upon any such Subdivision lot or lots subject to said proceedings in order to secure the payment of all such sums.

No delay or omission on the part of the Association or the owner(s) of one or more lots in the Subdivision to exercise any of the rights, powers or remedies provided for herein shall be construed as a waiver thereof or acquiescence to any particular breach. Except for certain statutory rights which may exist in favor of the Vigo County Area Plan Commission, no right of action shall accrue nor shall any actions be brought or maintained by anyone whatsoever against the Developer, the Committee, and/or the Association for or on account of its failure(s) to bring any action(s) for a breach of these covenants, conditions, reservations or restrictions or for imposing restrictions herein which may be unenforced by the Developer, the Committee and/or the Association.

40. In the event that any one or more of the foregoing covenants, conditions, reservations or restrictions (including any provision, word, sentence, paragraph or section) shall be declared, for any reason, null and void by a court of competent jurisdiction, such final judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the other covenants, conditions, reservations and restrictions (including provisions, words, sentences, paragraphs and sections within the same section or covenant) unless the meaning of same is/are substantially changed by the voidance. All remaining covenants, conditions, reservations and restrictions (and provisions thereof) not so expressly held to be void shall continue unimpaired and in full force and effect. In the event any of the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then and in that event, such term(s) shall be reduced to a period of time which shall not violate the reason, rule or law supporting such declaration.

