

DECLARATION OF COVENANTS, CONDITIONS, COMMITMENTS, RESTRICTIONS,
EASEMENTS AND ASSESSMENTS (“RESTRICTIVE COVENANTS”) OF
BUTLER MEADOWS
LAFAYETTE, INDIANA

THIS DECLARATION of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments, hereinafter referred to as the “Declaration” of the “Covenants”, is made this ____ day of _____, 2004 by Butler Farms Development, LLC, an Indiana limited liability company, hereinafter referred to as “Declarant” or “Developer”,

WITNESSETH:

WHEREAS, Declarant is the owner of a certain _____ acre parcel of real property, hereinafter referred to as the “Real Estate/Development”, as described in Exhibit “A” attached hereto and by reference is made a part hereof;

WHEREAS, Declarant hereby subdivides a portion of said Real Estate into single-family lots known and designates said subdivision as BUTLER MEADOWS, hereinafter referred to as the “Subdivision”, as per plat thereof recorded on the ____ day of _____, _____, under Instrument No. _____, Plat Cabinet ____, Slide _____, in the records of the Office of the Recorder of Tippecanoe County, Indiana, and by reference made a part hereof; and

WHEREAS, Declarant establishes a system of assessments and charges, hereinafter referred to as the “Assessments”, to be borne by Lot Owners (hereinafter referred to as “Owners”) of the Development, to provide for maintenance of the Common Property in the Development, for insurance coverage, and for mutual enforcement of the Covenants; and

NOW, THEREFORE, Declarant hereby affirms that the Real Estate described in Exhibit “A” attached hereto and by reference made a part hereof shall be held, subdivided, sold and conveyed subject to the following Covenants which purport to protect the value and desirability of the Development, and which shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

- A. The following are the definitions of terms used in this Declaration:
1. “Assessment” shall mean that share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of Article XVIII herein.
 2. “Association” shall mean Butler Meadows Homeowners’ Association, Inc. or an organization of similar name, its successors and assigns, and shall be created as an Indiana not-for-profit corporation. Its membership shall consist of Owners who pay mandatory assessments for liability insurance, project sign maintenance,

storm water detention area maintenance, maintenance of landscaped areas in landscape easements, management fees and other expenses as determined by the Association.

3. "Builder" shall mean the contractor(s) constructing the first residence on each Lot, which may be the Developer for one or more Lots.
4. "Committee" shall mean Butler Meadows Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause as long as Developer owns at least one (1) lot. Developer by appointment shall fill vacancies, which may occur from time to time on the Committee until such time as the Subdivision is completely developed, at which time the Association shall appoint the Committee from its membership.
5. "Common Expenses" shall mean the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of the Common Property as hereinafter defined and including, but not limited to, the maintenance of the storm water detention areas, and any other costs or expenses incurred by the Association for the benefit of the Common Property, including the cost of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation and completion of streets, utility lines and mains, the drainage system, or other public improvements constructed by Developer.
6. "Common Property/Common Area" shall mean all real and personal property, which is in the nature of common or public improvements.

It is anticipated all future sections may have certain additional amenities.

All landscape, utility, storm water, and sign easements, as well as any medians within the public rights-of-way shall be Common Area and shall be maintained by the Association as such.

7. "Dwelling Unit" shall mean a single-family residence, including attached garage, situated upon a Lot in the Development.
8. "Lot" shall mean any residential parcel of Real Estate identified by number and as shown on the Plat of Development, which is recorded in the Office of the Recorder of Tippecanoe County, Indiana. No Lot may be subsequently subdivided for development purposes, except to adjust for minor side yard infractions, which may occur.
9. "Owner" shall mean a person who acquires any right, title or interest, legal or equitable, in and to a Lot, but shall exclude those persons having such interest merely as security for the performance of an obligation.

10. "Plat" shall mean the subdivision plat of the Development identified as the Final Plat of Butler Meadows, recorded on the ____ day of _____, _____ under Instrument No. _____ in the Office of the Recorder of Tippecanoe County, Indiana, and any Plats of subsequent Phases recorded thereafter.

ARTICLE II
CHARACTER OF THE DEVELOPMENT

- A. In General: Each Lot in the Development shall be a residential lot and shall be used exclusively for single-family residential purposes. No structure shall be erected, placed or permitted to remain upon any Lot except a Dwelling Unit.

No business buildings may be erected on any Lots thereof. No business may be conducted on any Lots thereof, other than those occupations permitted in the Unified Zoning Ordinance of Tippecanoe County, Indiana.

Outlot A is a non-residential Lot; the purpose of Outlot A is for drainage and utilities. Ownership is to be deeded to the Homeowners' Association.

- B. Other Restrictions: All Lots in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

ARTICLE III
RESTRICTIONS CONCERNING SIZE, PLACEMENT, AND MAINTENANCE OF
DWELLING UNITS AND OTHER STRUCTURES

- A. Type, Size, and Nature of Construction Permitted and Approvals Required: No Dwelling Unit, greenhouse, porch, garage, swimming pool, exterior structure, fences, basketball court, tennis court or other recreational facility may be erected, placed or altered on any Lot without the prior written approval of the Committee. Such approval shall be obtained prior to the commencement of construction and shall take into account restrictions as to the type of materials, exterior façade, design, layout, location, landscaping and finished grade elevations. Builders may submit sets of Master Plans of typical homes to the Committee. When approved by the Committee, these Master Plans shall not require subsequent approval unless there are changes thereto.

1. Minimum Areas: The following restrictions shall apply: Any Dwelling Unit erected, placed, or altered shall have the following minimum areas, exclusive of garages and open porches:

- a. 1,500 square feet of main floor area for a one-story dwelling unit; or

- b. 1,000 square feet of main floor area if higher than one-story; any dwelling unit higher than one story having a minimum of 1,800 square feet of finished living space.
2. Foundations: All foundations shall either be basement, concrete slab, or crawl space design. All drainage from sump pumps must be discharged to a drainage swale or underground storm drain and shall not drain to the street. Under no circumstances shall downspouts, sump pumps, or any storm water facility be connected to any sanitary sewer service facility.
3. Masonry Requirement: The front elevation of all homes shall be a minimum of fifty percent (50%) masonry of the first floor exterior wall area, exclusive of doors, windows, gables and garage doors.

Side elevations of all homes on corner lots shall have a minimum masonry requirement on the side facing the street of three feet (3') side masonry.

A waiver of this requirement may be allowed by the Butler Meadows Development Committee on any two-story dwelling.

4. Attached Garages: Each Dwelling Unit shall have a minimum of a two-car attached garage.
5. Driveways and Off-Street Parking Spaces: There shall be a minimum of two (2) off street parking spaces in each driveway. All driveways shall be constructed of concrete or asphalt material. No modification of the curbs is permitted.

A driveway shall not exceed in width the side boundaries of the garage it serves.

A driveway must be a minimum width of no less than the interior width of the garage door or doors it serves.

Side entry garages are permitted, provided that the entry side of the garage meets the width requirements immediately preceding.

Any other driveway design requires the approval of both Committee and governmental authorities and must be submitted with site plan.

No additional parking shall be permitted on a Lot other than in the existing driveway.

Builders shall install driveways during original construction of the Dwelling Units.

No inoperative or unlicensed vehicles shall be stored or repaired on the outside on any Lot or on the driveway thereof. No camper, trailer, motor home, mobile

home, boat, truck, school bus or other vehicle of like kind may be parked within the subdivision unless such vehicle is kept in the garage, except for personal automobiles, vans and pick-up trucks. Also, refer to Article V, D.

6. Prohibition of Relocated or Moveable Structures: No Dwelling Unit, garage, or other structure of any kind may be moved onto any Lot. No trailer, mobile home, tent, basement, shack, garage, motor home, barn or other structure may be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose, except as reasonably required in connection with the construction of a Dwelling Unit on a Lot.
7. Time Limits on Construction: The exterior of every Dwelling Unit, garage, or other structure permitted to be constructed or to remain on any Lot shall be completed within six (6) months from the start of construction, including the application of at least one (1) coat of paint, stain or varnish on any exterior wood surfaces.

All structures must be One Hundred Percent (100%) complete, and the site graded, sodded, or seeded and reasonably landscaped within one (1) year from the date of commencement of construction thereof.

8. Maintenance of Lots During Construction: All Lots shall be kept and maintained in a sightly and orderly manner during the period of construction of any structures on said Lots. No trash or rubbish of any kind shall be permitted to accumulate on any Lot or adjacent Lots. Construction debris shall be placed in dumpsters or wire/plastic trash enclosures, which shall be placed on the Lots and not on the streets. The streets shall be kept clear of mud and dirt from water run off and excavation.
9. Basketball Goals and Similar Structures: To preserve the natural quality and aesthetic appearance of the Development, basketball goals or similar structures shall be approved by the Committee for size, location, height, composition, and color prior to installation.

- a. No goal or structure may be installed or maintained such that playing basketball occurs in the street.

No portable goals shall be approved.

Backboards of all basketball goals shall be translucent fiberglass with a black pole (or approved equal). The Committee reserves the right to approve or disapprove the location of all basketball goals.

- b. Play equipment. Children's play equipment such as sandboxes, temporary swimming pools having a depth less than twenty-four (24) inches, swing and slide etc., playhouses and tents shall not require approval by the

Committee provided such equipment is not more than six (6) feet high, maintained by the Lot owner in good repair (including painting) and every reasonable effort has been made by the Lot owner to screen or shield such equipment from view of adjacent Lot owners and the equipment shall be located in the rear of the Lot. Equipment higher than six (6) feet shall require approval of design, location, color, material and use by the Committee.

10. Fences: All fences and masonry landscape walls except those built by the Developer, shall meet the following standards, must be approved by the Committee prior to installation, and shall comply with the standards of the Unified Zoning Ordinance of Tippecanoe County, Indiana:

- a. Pool fences, where required, shall be a decorative type with some screen landscaping of the sides exposed to the streets. All pool fences must meet requirements of the Tippecanoe County codes and regulations, including, but not limited to, the requirement that all pool fences must be six (6) feet in height.
- b. No solid fence construction shall be permitted without the approval of the Committee.
- c. Fences shall be shadow box, split rail, or black ornamental wrought iron style, unless otherwise approved by the Committee.
- d. The Committee shall require fences to be painted or stained to blend with the color of the respective houses.
- e. For non-corner lots, no fence may be installed between the street and the side and rear face of a house.

For corner lots, no fence may be installed between the street and the side and the rear corner of the house facing the two respective streets.

Landscaping shall be required along corner lot side-yard fences exposed to the street yard and must be approved by the Committee.

- f. All corner lot fences shall meet the requirements of Article III, Section B of these covenants.
- g. The height of shadow box fences or pool fences may not exceed six (6) feet. The height of any other type of fence may not exceed six (6) feet. All owners shall maintain their respective fences in good condition including repainting and/or restaining wood fences, removing rust and repainting metal fences, and repairing any structural defects or signs of deterioration.

- h. Any deviation from the above requirements shall require approval from the Committee.
 - i. The Committee shall have the discretion to allow other fence types, based on the plans submitted under Article III, Section A. and Article VI, Section A.
- 11. Landscaping: Initial landscaping of each lot will be required by Declarant to include specific numbers of each of the following: deciduous shade (overstory) trees, deciduous ornamental (understory) trees, and shrubs for foundation. Each Lot shall have a sod requirement, as specified by Declarant. Builder is to install required planting material as part of the initial construction of the Dwelling Unit on each Lot.

Tippecanoe County regulations prohibit trees from being planted in the right-of-way (i.e., specifically, between the curb and sidewalk) of any of the streets in the subdivision.
- 12. Mailboxes: Builders shall install matching Committee-approved and Post Office-approved curbside rural mailboxes during original construction of the Dwelling Units. Each owner shall maintain and replace his or her mailbox with the same type, unless a change in design and color is approved by the Committee.

Tippecanoe County prohibits permanent structures (example: brick mailboxes) to be constructed in the right-of-way of the streets in the subdivision (i.e., specifically, between the sidewalk and the curb).
- 13. Storage Tanks and Storage Areas: Gasoline or other fuel storage tanks will not be permitted in the Development. Garbage and refuse shall be placed in containers, which shall be concealed and contained within the dwelling unit. Firewood must be placed adjacent to the Dwelling Unit behind a visual barrier screening this area so that it is not visible from neighboring streets.
- 14. Fire: No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted to burn upon any street, roadway, or Lot. No outside incinerators shall be kept or allowed on any Lot.
- 15. Gutters and Downspouts: All gutters and downspouts shall be painted, except if copper gutters are installed.
- 16. Awnings and Patio Covers: Awnings and patio covers made of metal, fiberglass or similar type materials will not be permitted in the Development.
- 17. Above Ground Swimming Pools: Above ground swimming pools will not be permitted in the Development.

18. In Ground Swimming Pools: In ground swimming pools, spas, and hot tubs shall be permitted in the Development with the approval of the Committee.
19. Storage Sheds: All accessory buildings shall be placed on a permanent foundation, shall be constructed of new materials, shall be architecturally compatible with the dwelling unit, shall be constructed with the same or equivalent materials as the dwelling unit and shall be subject to the approval of the Committee. Accessory buildings shall not exceed ten (10) feet in height and ten (10) feet in length. Only one accessory building shall be permitted per lot.
20. Satellite Dish Antennas: Satellite dish antennas exceeding 29 inches in diameter will not be allowed. Satellite dishes 29 inches in diameter or less shall not be visible from the public street; similarly, the satellite dishes shall not be visible from the first floor level of adjoining homes.

All antennas shall be approved by the Committee and shall be screened from view, as required by the Committee. The color of the dish shall blend with the color of the background in such a way that the dish shall become essentially invisible.

Any television or communication antenna shall not exceed more than five (5) feet above the highest point of the dwelling unit, shall be new or in like-new condition, and shall be maintained in good condition.

21. No dog kennels or dog runs: No dog kennels or dog runs will be allowed in the development.
22. Drilling, Refining, Quarrying and Mining Operations: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot unless approved by sixty-six percent (66%) of the Owners, no derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.
23. Clothes lines: No clothes lines fixtures of any type shall be permitted.
24. Solar Heat Panels: Solar heat panels will not be permitted.
25. Utility Lines: All utility lines in the Development shall be placed underground. Utility lines shall be installed under completed streets by jacking or boring methods. Street cuts will not be permitted.
26. Utility Meters and HVAC Units: Wherever possible, all utility meters and HVAC units in the Development shall be located in places not seen from the street or shall be screened, if located in the fronts of the Dwellings.

27. Notice: The Developer shall include a copy of the recorded Plat and a copy of the recorded Declaration with all Builders' Agreements or forward same to Builder as soon as these documents are recorded. The aforesaid Plat and Declaration shall be presented to and reviewed with the Home Buyer by the Builder during the selection of the Lot by the Buyer (prior to the Closing of the Lot).
 28. Sidewalks: Plans and specifications for this subdivision on file with the Tippecanoe County Area Plan Commission requires the installation of four (4) foot wide concrete sidewalks, within the street right-of-ways in front of Lots specified by final Plat. Installation of said sidewalks shall be the obligation of the Owner of any such Lot, exclusive of the Developer, shall be completed in accordance with said plans and specifications and prior to the issuance of a Certificate of Occupancy for any such Lot and the cost of said installation shall be a lien against any such Lot enforceable by the Tippecanoe County Area Plan Commission or its successor agency. To whom Certificates of Occupancy are issued, said individual or Corporation shall be considered an Owner for the purposes of the enforcement of this restriction.
 29. Street Lights: Developer shall enter into a lease agreement for the installation of uniform streetlights as a part of the development improvements; the Association shall pay the lease payments and maintain streetlights, according to the lease with the supplier.
- B. Sight Distance at Intersections: No fence, wall, hedge, shrub or landscaping planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height sufficient to prevent obstruction of such sight lines.
 - C. Building Setback Lines: Front building setback lines are established as shown on the Plat. Between said lines and the right-of-way lines of the streets no structures may be erected or maintained. Additionally, no structures may be erected or maintained between the side and rear lot lines and the right-of-way lines of the street.
 - D. Damaged Structures: No dwelling unit which has been partially or totally destroyed by fire or other catastrophic event shall be allowed to remain in such state for more than thirty (30) days from the date of such occurrence.
 - E. Maintenance of Lots and Improvements: The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements thereon in such a manner to prevent the Lot and its improvements from becoming unsightly. Specifically, the Owner shall:

1. Establish and mow the grass with reasonable frequency to prevent its growth from exceeding four (4) inches in height. This mowing requirement shall not apply to Lots owned by the Declarant.
2. Keep Lot free of debris and rubbish;
3. Prevent conditions of any kind from evolving which in the Committee's opinion may detract from or diminish in any way the aesthetic value of the Development;
4. Remove dead trees and replace with like species; and,
5. Maintain the exterior of all improvements in a state of good repair.
6. Requirement to Mow Grass in Public Rights-of-Way: All Owners shall be required to mow the grass in public rights-of-way including the areas between the sidewalk and the curb for their respective Lots.

On Outlot A and Lots 1, 10, 11, 12, 25, 26 and 72, the grass in the landscape easement and the right-of-way for County Roads shall be maintained by the Association.

ARTICLE IV EASEMENTS

- A. Owner's Easements of Enjoyment of Common Area: Every Owner shall have a non-exclusive right and easement for enjoyment, in common with all Owners, in and any Common Area, which non-exclusive right and easement or enjoyment shall be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:
1. The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area owned by the Association including, without limitation, parking, swimming, boating, fishing, (including the denial thereof of any such rights) and upon improvements, additions or alterations to the Lots and the Common Area owned by the Association;
 2. The rights of Declarant as provided in this Declaration, as the same may be amended from time to time;
 3. The right of the Association to mortgage any or all of the Common Area owned by the Association, upon the approval of two-thirds (2/3) of the membership of each class of members of the Association;
 4. The easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Common Area owned by the Association for the benefit of its members;

5. The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members or otherwise allowed pursuant to this Declaration, as amended. No such dedication or transfer, except as allowed pursuant to this Declaration, shall be effective unless there is recorded an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the membership of each class of members of the Association; and
6. All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

B. Defined Drainage and Utility Easements: The strips of ground shown on the recorded plat of the Development, which are marked as Drainage and Utility Easements are reserved for the use of public utility companies, including cable television companies and municipal agencies, but not including transportation companies, for the purpose of installing and maintaining drainage swales, duets, poles, lines, wires, sewers, drains and appurtenances thereto. Said easements shall be perpetual from the date of this Instrument as subscribed to by the Developer, its successors and assigns. No permanent or other structures may be erected or maintained in said easements except for temporary structures, fences, driveways and walkways. The Owners of Lots in the Development shall take title to said Lots subject to the rights of said companies and agencies and the other owners of said Lots in the Development for purposes of ingress and egress and maintenance and repair in, along and through said easements so reserved.

C. Undefined Drainage, Utility, Sewer and Other Development Easement: The following rights reserved in this Section shall not be exercised, after the conveyance of any Lot, in a manner that (i) unreasonably and adversely affects any Dwelling Unit or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property.

1. Declarant hereby reserves unto itself during the Development Period, and thereafter unto any public or private utility, an undefined easement for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennae and other equipment and facilities) to serve any Dwelling Unit constructed in the Development. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the

Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

2. Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the right and an undefined sign and facilities easement (“Sign and Facilities Easement”) to install, erect, construct and maintain an entryway sign or signs, directional signs, lighting, walkways, pathways, fences, walls and other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.
3. Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:
 - a. Relocate, alter or otherwise change the location of any easement or any facility at any time located therein or thereon;
 - b. Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Development, for the benefit of the Development or any portion thereof; and
 - c. Describe more specifically or to change the description of any easement, license or right-of-way now or hereafter existing in the Development by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Tippecanoe County, Indiana.

The title of the Association (as to the Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

- D. Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area and any portion of any Lot.
- E. Defined Mounding, Landscaping, and Screening and Sign Easements. The areas shown on the Plat for (i) mounding easements, (ii) landscape or landscape maintenance easements, and/or (iii) sign easements are reserved for such (i) mounding easements, (ii) landscape or landscape maintenance easements, and/or (iii) sign easements. Declarant

hereby reserves unto itself during the development period, and, thereafter, unto the Association, any such easements for the purposes of (i) providing signs which either advertise the property and the availability of Lots or identify the Property or, (ii) installing landscaping, mounding, and screening. Declarant reserves unto itself during the development period and thereafter unto the Association, the exclusive and sole right to erect signs and install landscaping, mounding, and screening within these strips of ground shown on the Plat as landscaping, mounding, and sign easements. No planting shall be done, and no hedges, walls, or other improvements shall be erected or maintained in the area of such easements except by the Declarant during the development period and, thereafter, by the Association. No fences shall be erected or maintained in the area of such easements. Furthermore, notwithstanding anything in this Declaration to the contrary, at any time during the development period no planting shall be done, and no hedges, walls, fences, structures, or other improvements shall be erected between (i) any landscape easement or landscape maintenance easement, and (ii) any perimeter roadway, public highway or right-of-way along the perimeter or boundary of the property, except by the Declarant.

ARTICLE V MISCELLANEOUS PROVISIONS AND PROHIBITIONS

- A. Nuisances: No noxious or offensive activities shall be conducted on any Lot in the Development, nor shall anything be done on any Lot, which shall be or shall become an unreasonable annoyance or nuisance to the Owners of other Lots in the Development. Without limiting any of the foregoing, no exterior lights, the principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, or which otherwise causes unreasonable interference with the use and enjoyment of a Lot by the occupants thereof are permitted. No speakers, horns, whistles, bells, or other sound devices shall be located, used or placed on a Lot which are audible, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof. Neither Developer nor any officer, agent, employee or contractor thereof, the Association, or any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.
- B. Signs: No signs or advertisements shall be displayed or placed on any Lot or structure in the Development without the prior written approval of the Committee, except for the sale of a Lot or residence with one sign of not more than five (5) square feet. However, Developer and designated Builders may use for sale and advertising signs during the sale of lots and the construction of houses in the development. All signage is to be neat, clean, and posted in an appropriate manner.
- C. Animals: No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they
1. shall not be kept, bred or maintained for any commercial purpose;
 2. shall not become a nuisance to other Owners; and

3. shall be leashed upon leaving Owner's property.

Not more than three (3) pets of 20 pounds or less, not more than two (2) pets of 21 to 75 pounds and not more than 1 pet 76 to 150 pounds shall be permitted to be domiciled in a Dwelling Unit or on a Lot. Pets which exceed 150 pounds shall be approved by the Committee.

D. Vehicle Parking:

No Street Parking; No Semi Tractor-Trailers. No motor vehicle shall be continuously or habitually parked on any street or public right-of-way in the Development. This being the intent of Declarant and this Declaration that vehicles be kept in driveways and garages. No semi tractor-trailers, other large trucks, vans or other vehicles, as determined by Declarant in its sole discretion, shall be permitted within the Development, except for limited periods as determined by Declarant in its sole discretion for moving cans being utilized by residents for moving in or out of a residence, except for such construction, delivery or other vehicles as Declarant may permit from time-to-time in its sole discretion.

Any motor vehicle, which is inoperative and not being used for normal transportation will not be permitted to remain on any street or lot except within a closed garage. Motor vehicles may not be parked upon grassy or landscaped areas.

Unless otherwise provided by the rules and regulations of the Committee, motor homes, mobile homes, boats, campers, trailer, commercial trucks and similar vehicles may not be parked or stored upon a Lot unless within a closed garage.

All passenger vehicles shall be parked in garages or in driveways. Guest vehicles may be parked on the public streets for a period not to exceed twenty-four (24) hours. Guest vehicle does not include any vehicle, which is parked frequently on public streets (i.e., if a vehicle is parked on the street for more than 24 hours per month it does NOT qualify as a guest vehicle.) basis. Vehicles may not be placed on blocks or jacks for purposes of repair, except for repairs made in garages.

The above restriction does not prohibit the temporary parking of such vehicles for loading and unloading purposes either on the street or in the driveway, as long as, it is removed from the Subdivision within twenty-four (24) hours of its being parked in the Subdivision.

E. Ditches and Swales: All Owners shall keep unobstructed and in good repair, all open storm water drainage ditches and swales located on their respective Lots. Owners of all Lots in the Development shall comply at all times with the provisions of the Development and Grading Plans as approved by the Tippecanoe County Drainage Board and with the requirements of all drainage permits issued for any Lot within the Development. Any field tile or underground drain encountered during the construction of

any improvements within the Development shall comply with the Indiana Drainage Code of 1965, and all amendments thereto. No culverts shall be installed by any Lot Owner without the written consent of the Tippecanoe County Drainage Board.

No sanitary waste or other wastes shall be permitted to enter the storm drainage system. Discharge from any floor drain shall be permitted to discharge into the sanitary sewer system. Footing drains and downspouts shall not discharge into the sanitary sewer system. Downspouts shall discharge onto the surface at the ground. Footing drains shall be connected to yard subdrains or storm drains. With the purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance, which may be abated by Developer, the Association or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees shall become a lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt.

- F. Annexation to the City of Lafayette: In consideration of the City of Lafayette, Indiana, for permitting the Developer to connect, at its request, to the City sewer system and for other goods and valuable consideration, the Developer, being the fee simple owner of all the real estate to be serviced, for itself and its successors-in-interest, hereby waives all rights to participate in any attempt for dis-annexation of the subdivision from the City of Lafayette.
- G. No Vehicular Access: No vehicular access is permitted to or from County Road 500 South from Lots 1, 10, 11, 12, 25, 26, 72 and Outlot A.

This no vehicular access requirement shall be irrevocable by the Association and/or Lot Owners, and is enforceable by the Tippecanoe County Area Plan Commission.
- H. Garbage, Trash and Other Refuse: No owner of a Lot in the Development shall burn or bury out-of-doors, any garbage or refuse. Nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his or her Lot.
- I. Outside toilets: No outside toilets shall be permitted on any Lot in the Development (except during the period of construction and then only with the consent of Committee).

ARTICLE VI
SUBMITTAL AND APPROVAL OF PLANS

- A. Submittal of Plans: No building, wall or other structure, except original construction of buildings by or on behalf of Declarant or an original Builder, may be commenced, erected or maintained in the Development, nor may any exterior additions, changes or alterations therein or thereto be made until the plans and specifications for said additions, changes or alterations are submitted to and approved in writing by the Committee for harmony of external design and location in relation to surrounding structures and topography.

- B. Approval of Plans: Approvals, determinations, permissions or consents of and for plans required herein shall be deemed granted if given in writing and signed with respect to Developer by an authorized Officer or agent thereof, or with respect to the Committee by two of its authorized designee(s).
- C. Development Control Committee: Upon transfer of control of the Association to the Board of Directors and/or Officer of the Association, Developer will retain the approval of the first Dwelling constructed upon any Lot. All other approvals of plans will be transferred to the Development Control Committee.

1. Power of Committee:

- a. In General: No building structure, or improvement of any kind shall be constructed or placed on any Lot in the Development without prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee.

Such written application shall be in the manner and form prescribed from time-to-time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plat plans showing all existing conditions upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each property and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used in any proposed landscaping, together with any material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one quarter (1/4) inch equals one foot (1'), or to such other scales as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by a registered land surveyor, engineer, or architect. Plat plans submitted for Building Permits shall bear the stamp or signature of the Committee acknowledging the approval thereof.

- b. Power of Disapproval: The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when;
1. The plans, specifications, drawings, or other material submitted are inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

2. The design or color scheme of a proposed improvement is not in harmony of the general surroundings of the Lot or with adjacent buildings or structures;
 3. The proposed improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare, or rights of all or any part of the other Owners.
- c. Developer Improvements: The Committee shall have no power with respect to any improvements or structures erected or constructed by the Developer (or any Builder, if Developer has approved the plans therefore).
- d. Duties of Committee: The Committee shall approve or disapprove the proposed improvements within thirty (30) days after all required information is received by it. One (1) copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval. In the event that a written approval is not received from the Committee within thirty (30) days from the date of receipt of the information required to be submitted by these Subdivision Restrictions, the failure to issue such written approval shall be construed as the disapproval of any such plans submitted.

The submitting party can resubmit and if no written approval or denial is received, after the next thirty (30) days, then no action shall be construed as approval. However, in such an event, any building, structure, or improvement of any kind shall conform without exception to all conditions and criteria established in these Restrictions.

- e. In General: Any party to whose benefit these restrictions inure including Developer, Association and any Owner in the Development, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce, or carry out any of these restrictions.
- f. Liability of Committee: Neither the Committee nor any agency thereof, nor the Developer, shall be responsible in any way for any defects in any plans, specifications, or other materials submitted to it, nor for any defects in any work done according thereto.
- g. Inspections: The Committee may inspect work being performed to insure compliance with these Restrictions and applicable regulations. The Committee shall have the right, during reasonable hours, to enter upon and inspect the Lot and Dwelling Unit, whether prior to, during, or after completion of any construction, for the purpose of determining whether or

not the provisions of these restrictions are being complied with and exercising all rights and powers conferred upon the Committee. Upon issuance of a final certificate of occupancy by the Tippecanoe County Building Commissioner, the right to enter the Dwelling Unit shall cease, but the right to enter the Lot shall continue.

- h. Non-waiver: The failure of the Committee to act in any particular situation with any particular party shall in no way be a waiver of any right of action or enforcement in the future.

ARTICLE VII EROSION CONTROL PLAN

The Declarant has established and implemented an erosion control plan pursuant to the requirements and conditions of Rule 5 of 327 IAC 15 Storm Water Run-Off Associated with construction Activity, a copy of which is on file with the Declarant. The Owner agrees to take all erosion control measures contained therein as the plan applies to “land disturbing activity” undertaken by Owner or Owner’s subcontractors, and agrees to comply with the terms of the Declarant’s general permit under Rule 5, as well as all other applicable state, county or local erosion control authorities. All erosion control measures shall be performed by personnel trained in erosion control practices and shall meet the design criteria, standards, and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the Division of Soil Conservation, Indiana Department of Natural Resources, as amended from time to time.

It shall be the responsibility of each Owner of each Lot to comply with all regulations regarding land disturbing activities and soil erosion control during the construction of the residence upon the Lot. The Owner shall further be responsible for controlling the activities of his contractors by requiring such items as silt fence, temporary gravel construction entrance, temporary seeding, inlet protection and other erosion control measures as may be necessary.

By assuming ownership of the Lot, the Owner thereby releases the Declarant and Committee from all responsibility for land disturbing activities upon the Lot. The Owner shall indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or are claimed to arise out of or connected with, any work done by the Owner, Owner’s employees, agents, contractors or subcontractors.

ARTICLE VIII RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER

Wherever two or more contiguous Lots in the Development are owned by the same Owner, and said Owner proposes to use two or more of said Lots as a site for one (1) Dwelling Unit, said

Owner shall apply in writing to the Committee for permission to use said Lots for this purpose. If permission is granted, Owner must comply with all requirements of the Tippecanoe County Unified Subdivision Ordinance. The Lots constituting the site for said Dwelling Unit shall be treated as a single Lot for the purpose of applying these restrictions while the Lots remain improved with one (1) Dwelling Unit. No two-family dwellings shall be permitted in the Development.

ARTICLE IX REMEDIES

- A. Available Remedies: In the event of a violation, or threatened violation, of any of the Covenants herein recited, Declarant, the Owners and all other parties claiming under them (“Interested Parties”), individually or through the Association, shall have the right to enforce the Covenants contained herein, and may pursue any and all remedies, at law or in equity, available under applicable Indiana Law, with or without proving any actual damages, and including the right to secure injunctive relief or to secure removal by due process of any structure not in compliance with the Covenants contained herein, and shall be entitled to recover reasonable attorneys’ fees and the costs and expense incurred as a result thereof.

- B. Government Enforcement: The Tippecanoe County Area Plan Commission, its successors and assigns, shall have no right, power or authority to enforce any Covenants contained in this Declaration other than those Covenants which expressly run in favor of the Tippecanoe County Area Plan Commission; provided further, that nothing herein shall be construed to prevent the Tippecanoe Area Plan Commission from enforcing any provisions of the Unified Subdivision Ordinance, as amended, or any conditions attached to approval of the plat of the Butler Meadows, Phase I, by the Plat Committee, and any subsequent sections approved thereafter.

- C. Delay or Failure to Enforce: No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Covenants shall be held to be a waiver by that party (or any estoppels of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Covenants.

ARTICLE X EFFECT OF BECOMING AN OWNER

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through, or under them, shall be subject to and shall comply with the provisions of this Declaration and the Articles, the By-Laws, and the rules and regulations adopted by the Board of Directors of the Association as each may be amended or supplemented from time to time. The acceptance of a deed conveyance of the act of occupancy of any Lot or Dwelling Units shall constitute an agreement that the provisions of this Declaration and the Articles, the By-Laws and the rules and regulations of the Association as owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any

Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration and the Articles, the By-Laws, and the rules and regulations of the Association applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XI TITLES

The underlined titles of the various Articles and Sections of these Covenants are for the convenience of reference only. None of them shall be used as an aid to the construction of any provisions of the Covenants. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

ARTICLE XII DURATION AND AMENDMENT

- A. Duration of Declaration: This Declaration shall be effective for an initial term of twenty (20) years from the date of its recordation by the Recorder of Tippecanoe County, Indiana, and shall automatically renew for an additional term of ten (10) years each, in perpetuity, unless at the end of any term the Owners' vote pursuant to Article XVIII, Section K to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.
- B. Amendment of Declaration: As long as Developer is a Class B member as defined in Article XV, Section B.2., Developer hereby reserves the right to make such amendments to this Declaration as Developer may deem necessary or appropriate without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or any agency guaranteeing, insuring, or approving mortgages, or to change or modify the Covenants for amendments to the Plat or Article III Restrictions which would apply to future construction, provided that Developer shall not be entitled to make any amendment which will have a materially adverse effect on the rights of any Mortgagee, nor which will substantially impair the benefits of the Covenants to any Owner or substantially increase the obligations imposed by the Covenants on any Owner without the written approval of said Owners as provided for under Article XVIII, Section K. Upon conversions of Class B membership to Class A membership as provided in Article XV, Section B.2., the Covenants may be amended as provided for under Article XVIII, Section K.

Amendments to this Declaration shall require HUD/VA prior approval as long as there is a Class B membership, except for Amendments due to typographical and clerical errors.

ARTICLE XIII
SEVERABILITY

The within Covenants shall run with the land and shall be binding on all parties claiming under them. Invalidation or unenforceability or any of the Covenants by Judgment or Court Order shall in no way affect the validity or enforceability of any of the other provisions, which shall remain in full force and effect.

ARTICLE XIV
DEDICATION OF STREET RIGHTS-OF-WAY

All street rights-of-way shown on the plat and not heretofore dedicated to the public are hereby dedicated to the public.

ARTICLE XV
HOMEOWNERS' ASSOCIATION

The Association shall be an Indiana non-for-profit corporation and shall operate in accordance with Articles XVI through XIX of this Declaration.

ARTICLE XVI
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

- A. Membership: Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot. In addition, the Association, and/or its members therein, may be members in any one or more umbrella or joint homeowners' associations, if any, composed of associations and/or members from surrounding areas or, if organized by the Builders or Lot Owners of a community.
- B. Classes of Membership: The Association shall have two (2) classes of voting members:
1. Class A: Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.
 2. Class B: The Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned, and the members of the first Board of Directors during their respective terms, who shall have no voting rights. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events in Butler Meadows, Phase I and subsequent phases thereto, whichever occurs earlier:
 - a. When 75% of the Lots are deeded to homeowners; or

b. On _____ day of _____ 20__.

- C. Board of Directors: The members shall elect a Board of Directors of the Association as prescribed by the Association By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.
- D. Responsibilities of the Association: The Association is hereby authorized to act and shall act on behalf of, and in the name, place and stead of, the individual Owners in all matters pertaining to the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declaration for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners seeking enforcement of the Covenants contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declaration or for any failure to take any action called for by the Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent or reckless misconduct. The Association shall procure and maintain casualty insurance, liability insurance and such other insurance as it deems necessary or advisable.
- E. Professional Management: The Association, by its Board of Directors, may contract for management services and such other services as the Association deems necessary or advisable. No contract or agreement for professional management of the Association, nor any other contract between Developer and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.
- F. Transfer of Control of Association: Developer shall transfer control of the Association to the Owners no later than the earlier of:
1. four (4) months after three-fourths (3/4) of the Lots in the Development have been conveyed to Owners; or
 2. on the _____ day of _____ 20__.

ARTICLE XVII INSURANCE

- A. Public Liability Insurance for Common Property: The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in conjunction with any and all of the Common Property, if any, as the Board of Directors shall deem appropriate.

- B. Comprehensive Public Liability Insurance: The Association also shall maintain in force comprehensive public liability insurance and such other liability insurance, with such coverages and limits, as the Board of Directors shall deem appropriate. All such policies of insurance shall contain an endorsement of clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies provide that the coverage thereunder is primary even if any Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each standard mortgage clause and shall name Mortgagees as Mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least thirty (30) days prior written notice to the Association and the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.
- C. Professional Management Firm Insurance: A professional management firm shall provide insurance coverage to the same extent as the Association would be required to provide if it were managing its own operation and shall submit evidence of such coverage to the Association.
- D. Owner's Responsibility for Loss: Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

ARTICLE XVIII
COVENANT FOR ASSESSMENTS

- A. Purpose of Assessments: The Assessments levied by the Association shall be used exclusively for the purpose of improving, repairing, replacing and maintaining project sign structures; maintaining the landscaping for said project signs and landscaping in the landscaping easements, including utilities and maintenance for a sprinkler system and entrance street lights; maintaining storm water retention areas; providing insurance coverage therefore; professional management fees; and paying for any other expenses related to the Association, including lease payments and maintenance fees for street lights for the subdivision.
1. Each Owner covenants and agrees to pay the Association:
 - a. A Pro Rata Share (as hereinafter defined) of the annual Assessments established and determined from time to time as hereinafter provided.

- b. A Pro Rata Share (as hereinafter defined) of any special Assessments established and determined from time to time as hereinafter provided.

Until the Board of Commissioners of Tippecanoe County and/or the Tippecanoe County Drainage Board accepts the storm water drainage and storm water detention systems of Butler Meadows Subdivision, such will be maintained by the Association.

- B. Pro Rata Share: The pro rata share for each Owner for purposes of this paragraph shall be the percentage obtained by the fraction of one over the total number of Lots (1/Total no. of Lots) within the Plat.
- C. Liability for Assessments: The Assessment on each Lot, together with any interest thereon and any costs for collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs for collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof shall extinguish the lien of such Assessments as to payments, which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first becomes due and payable. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.
- D. Basis of Annual Assessments: The Board of Directors of the Association shall establish an annual budget at the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Property. A copy of this budget shall be delivered to each Owner of the Association.
- E. Basis of Special Assessments: Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of the Owners in attendance at the special meeting convened under Clause K of this Article XVIII, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.
- F. Fiscal Year; Date of Commencement of Assessments; Due Date: The fiscal year of the Association shall be the calendar year any may be changed from time to time by action of the Association. The annual Assessments on each Lot in the Development shall

commence no sooner than on the first day of the month following the month in which Declarant first conveys ownership of any Lot to any Owner, provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefore as provided herein.

The first annual Assessment shall be made for the balance of the fiscal year of the Association in which such Assessment is made and, with respect to particular Lots, shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable, in full, as of the above date or as of the transfer of a Lot to an Owner other than the Declarant, except that the Board of Directors may, from time to time by resolution, authorize the payment of such Assessments in monthly, quarterly or semi-annual installments. The Declarant shall not pay an assessment on Lots, which are not sold.

G. Duties of the Association:

1. Books and Records: The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be delivered to the Owners or their designated representatives. Notices of the amount of Annual Assessments and the days following the determination thereof and Notices of the amounts of special Assessments shall be sent as promptly as practical and, in any event, not less than thirty (30) days prior to the due date of such Assessment or any installation thereof. In the event such notice is delivered less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual delivery of such notice.
2. Certificate of Assessments: Upon request the Association shall promptly furnish to any Owner, prospective purchaser, title insurance company or Mortgagee, a

certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. For any person relying thereon, such certificate shall be conclusive evidence that of any Assessment therein stated has been paid.

3. Request for Notice from Mortgagee: The Association shall notify any Mortgagee from which it has received a request for notice:
 - a. Of any default in the performance of any obligation under this Declaration by any Owner which is not remedied within sixty (60) days;
 - b. Of any condemnation of casualty loss that affects either a material portion of the Development of the Lot securing its mortgage;
 - c. Of any lapse, cancellation or material modification of any insurance policy required to be maintained by the Association; and
 - d. Of any special proposed action, which requires the consent of the Mortgagee or a special percentage thereof, as set forth in the Declaration.

H. Association Remedies for Non-Payment of Assessments:

1. Lien for Non-Payment of Assessment: If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in said Lot; provided however, that the lien of the Assessment provided for herein shall be subordinate to the lien of any first mortgage.
2. Initiation of Action by Association for Non-Payment of Assessment: If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all cost of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum. The Association may bring an action against the delinquent Owner in any court having jurisdiction to enforce payment of the same and/or to foreclose the lien against Owner's Lot. There shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs and attorneys' fees.

- I. Adjustments: In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following year, except that so long as the Declarant controls the Association, Declarant may, at its sole discretion, make up such deficit; provided, however, that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 18% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to the Owners.
- J. Initial Assessments: During the first year in which the date when the Declaration is recorded, the annual Assessment per Lot shall not exceed One Hundred Fifty dollars (\$150.00) for Class A members, payable annually. This amount shall not indicate amounts of future annual Assessments. Future Assessments shall be based on an annual budget and shall be for a full year.

Regular Assessments may be increased up to 15% each year without a vote of the membership; provided that proper notice is given to the Owners not less than thirty (30) days in advance of the meeting to approve the annual budget.

The Declarant, at its sole discretion, may advance to the Association any of the first year deficit and may be reimbursed by subsequent assessments.

- K. Notice and Quorum for any Action to Increase Assessments In Excess of 15% or to Amend the Declaration: Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Association or an Amendment to the Declaration shall be sent to all Owners not less than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum.

If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum shall be those Owners who are present at this subsequent meeting. A majority of the lots represented in this Quorum must approve the assessments or amendment.

- L. Subordination of the Lien to Mortgages: The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relive such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. If and to the extent this Paragraph is inconsistent with any other paragraph in the Declaration, then this paragraph shall prevail.

ARTICLE XIX
FUTURE IMPROVEMENTS

- A. The Developer has preliminary plans to construct and develop adjacent subdivisions to Butler Meadows, which may contain certain amenities, such as swimming pool, tennis and basketball courts and walking paths. If the amenities are constructed, the Lot Owners shall be required to participate in the maintenance of those amenities through an increase in the monthly Association assessment. Such increase shall be determined at the time said amenities are constructed, but said increase shall not exceed One Hundred Fifty Dollars (\$150.00) annually in the first year when the amenities are completed. **Thereafter, the new assessment shall be determined as per Article XVIII, Paragraphs I and J. Therefore, the total assessment shall be the Class A assessment as stated in Article XVIII. J plus the assessment addition as shown in this article (initially, \$150.00 + \$150.00 = \$300.00) after the amenities are constructed.**

IN WITNESS WHEREOF, the undersigned officer of Declarant has hereunto caused his name to be subscribed this _____ day of _____, 200_____.

DECLARANT:

**BUTLER FARMS DEVELOPMENT, LLC,
an Indiana limited liability company**

By: _____
Printed: _____
Title: _____

STATE OF INDIANA)
)SS:
COUNTY OF TIPPECANOE)

Before me, a Notary Public in and for said County and State, on this _____ day of _____, 2004, personally appeared _____, the _____ of **BUTLER FARMS DEVELOPMENT, LLC, an Indiana limited liability company**, the Grantor herein, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments (“Restrictive Covenants”) of Butler Meadows, Phase I for and on behalf of said Declarant as its free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

Printed: _____
Notary Public
County of Residence: _____

This instrument was prepared by **Andrew S. Gutwein** of the firm BENNETT BOEHRING & CLARY, 415 Columbia Street, Suite 1000, P.O. Box 469, Lafayette, IN 47902-0469; Telephone: (765) 742-9066.