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RECORDER
PATRICIA J CRICK
ALLEN COUNTY, IN

Doc. No. 203129374
Receipt No. 47278

DCFD 3.00
MISL 1.00
PLAT 30.00
PLAT 2.00
Total 43.00

PLAT CASE # 191

PROTECTIVE COVENANTS, RESTRICTIONS, LIMITATIONS,
AND EASEMENTS FOR AMBER HIGHLANDS, SECTION III

Lots Numbered 72-122, inclusive, in the plat of Amber Highlands shall be subject to and impressed with the easement and protective covenants, restrictions, and limitations hereinafter set forth, which shall be considered a part of every conveyance of any lot or portion thereof in the Subdivision without being written therein.

The provisions herein contained are for the mutual benefit and protection of the owners (present and future) of any and all lots in the Subdivision; and they shall run with and bind the land and shall inure to the benefit of, and be enforceable by the owner or owners of any lot or lots in the Subdivision and their respective legal representatives, heirs, successors, grantees, and assigns.

The owner or owners (present and future) of any lot or lots in the Subdivision shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof and damages for any injury resulting from any violation thereof; but there shall be no right of reversion, re-entry, or forfeiture of title resulting from any violation.

The covenants are enforceable by the owners and Amber Highlands Community Association, Inc.

1. Definitions

The following words and phrases shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

- a. "Articles". The articles of incorporation adopted by the Association and approved by the Indiana Secretary of State, and amendments to those articles.
- b. "Association". Amber Highlands Community Association, Inc., an Indiana not-for-profit corporation, and its successors and assigns.
- c. "Board of Directors". The duly elected board of directors of the Association.
- d. "Bylaws". The bylaws adopted by the Association and all amendments to those bylaws.
- e. "Committee". The Architectural Control Committee established under Article 6 of the Covenants.
- f. "Common Area". All real property owned by the Association for the common use and enjoyment of Owners. Common Area is designed as Block "E", and "F" in the plat of Amber Highlands, Section III and on the face of the various plats.
- g. "Covenants". This document and the restrictions, limitations and covenants imposed under it.
- h. "Developer". Amber Highlands Development Corp., an Indiana corporation, and its successors in interest in the Real Estate.
- i. "Lot", and in plural form, "Lots". Any of the platted lots in the Plat, or any tract(s) of Real Estate which may consist of one or more Lots or part(s) of them upon which a residence is erected in accordance with the Covenants, or such further restrictions as may be imposed by any applicable zoning ordinance; provided, however, that no tract of land consisting of part of Lot, or parts of more

Not for tax purposes
to final acceptance for use

DEC 30 2003

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03-21922

ALLEN COUNTY AUDITOR'S NUMBER

42x1 del



than one Lot, shall be considered a "Lot" under these Covenants unless the tract has a frontage of at least 55 feet in width at the established front building line as shown on the Plat.

j. "Owner", and in the plural form, "Owners". The record Owner(s) (whether one or more persons or entities) of fee simple title to the Lots, including contract sellers, but excluding those having an interest in a Lot merely as security for the performance of an obligation.

k. "Plan Commission". The Allen County, Indiana Plan Commission, or its successor agency.

l. "Plat". The recorded secondary plat of Amber Highlands and its various sections.

m. "Subdivision". The platted Subdivision of Amber Highlands and its various sections.

2. Use

All Lots in the Subdivision shall be used only for single-family residential purposes, but domestic servants employed by a resident may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a Building Site. No fence or wall shall be erected or placed on any Building Site without the prior written approval of the Architectural Control Committee. No outside pet houses, pens, or fences for pets are allowed.

3. Dwelling Size

Each dwelling constructed, placed, or permitted to remain on a Building Site shall have a minimum ground floor area, exclusive of open porches, breezeway, and garage, of not less than 1100 square feet for a one-story home or 900 square feet for a one-and-one-half-story home or 650 square feet for a two-story home. The total square footage on any multi-level home shall not be less than 1300 square feet. Any dwelling of a type other than those specified above shall have a minimum ground floor area approved by the Developer hereinafter provided for.

4. Garages and Driveways

Each dwelling shall have a garage sufficient in a size to accommodate at least two cars, and it shall be attached to the dwelling either directly or by a breezeway or porch. Each driveway from the street to the garage shall be paved with concrete and must be a minimum of 16 feet wide. No unattached structures of any kind are allowed.

5. Building Lines

There is hereby created and established a building line for each lot as shown on the plat. No building shall at any time be erected, placed, or maintained upon the space between said Building Line and the street adjacent thereto; nor shall any projection of said building, other than the steps, be permitted to extend into or encroach upon said space. No building shall be located nearer than a distance of 7 feet to an interior line. No building shall be erected nearer to the rear lot line than 25 percent of the lot length or 25 feet, whichever is less.

6. Architectural Review

a. No building shall be erected, placed, or altered on any Building Site until the construction plans and specifications therefor and a plot plan showing the location thereof have been approved by the Architectural Review Committee as to minimum ground floor area, quality or materials, harmony of external design with existing structures, and location with respect to topography and the finished grade elevations. All exterior finish is to be reviewed by the Architectural Review Committee.



b. The Architectural Review Committee shall approve or disapprove construction plans and specifications and locations of structures. The Architectural Review Committee's approval or disapproval shall be in writing and based upon reasonable grounds consistent with protecting the proper growth and development of the Subdivision. In the event the Architectural Review Committee fail to approve or disapprove, as required by these provisions, within 35 days after the construction plans, specifications, and plot plan have been submitted to them, the owner may proceed with construction in accordance with the plans, specifications, and plot plan submitted.

c. Exterior additions, changes, or alterations of dwellings, and construction of other yard structures, including playground or recreational structures or equipment, are subject to Architectural Review.

Plans and specifications showing the nature, kind, size, shape, height, materials, and location of the proposed addition or change are to be submitted in writing to the Architectural Review Committee, which shall either approve or disapprove of the proposal, after considering its harmony of design and location in relation to surrounding structures and topography. Upon written approval from the Committee, construction or placement may begin. A proposal that has been rejected by the Architectural Review Committee may be submitted by petition to the lot owners. Signatures of 75 percent of the lot owners are required for approval.

d. No swimming pool, hot tub, or fixture containing more than 150 gallons of water shall be permitted above ground level on any Lot without the prior written approval of the Architectural Review Committee. Any swimming pool, hot tub, or fixture containing water, whether above or below ground level, must be completely enclosed by a "privacy fence" that is not less than six (6) feet in height.

e. No radio or television antenna with more than thirty (30) square feet of grid area or which attains a height in excess of six (6) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antennae shall be permitted upon any lot.

f. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot. 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.

g. Until such time as homes have been constructed on all Lots in the Subdivision, the Developer shall appoint the Architectural Review Representative or Committee, none of which must be an Owner of a Lot in the Subdivision. Thereafter, Developer shall assign its rights under this Article to the Association, and the Board of Directors of the Association shall have full authority to designate an Architectural Review Committee, each member of which must be an Owner of a Lot in the Subdivision. The Board of Directors shall also have full authority to remove any member from the Committee by means of a majority vote of the Board and to appoint a successor.

7. Landscaping

Within 60 days after the completion of the construction of a dwelling, or as soon thereafter as weather conditions permit, the owner shall have planted at least six shrubs and one 1-1/4' caliper tree; and the owner shall have graded and seeded or sodded the entire lot on the Building Site, except that part covered by buildings or concrete.

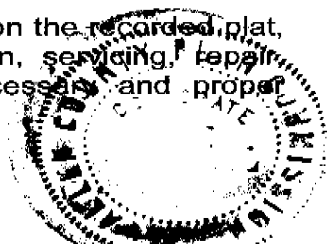
If landscaping with a natural look is desired, plans for such landscaping must first be submitted to and approved by the Architectural Review Committee before any such work may be started upon the site.

8. Fuel Storage Tanks

All fuel storage tanks shall either be placed underground or concealed within the house or garage.

9. Platted Utility Easements

All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used for the installation, construction, maintenance, operation, servicing, repair, removal, and replacement of (a) poles, wires, and conduits and the necessary and proper



attachments in power, telephone and other purposes; (b) surface and storm water sewers and drains; (c) sanitary sewers; (d) pipelines, their pumps and appurtenances for supplying gas, water, and heat; and (e) for any municipal, public, or quasi-public utility.

10. The Developer, the Association, and any municipal, public, or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, improvements, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use easements as provided herein.

11. All utility easements, as dedicated on the face of the plat, shall be kept free of all permanent structures; and the removal of any obstructions by a utility company shall in no way obligate the utility company in damages or to restore the obstruction to its original form.

12. Streets

Utility easements are reserved in all platted streets for use by municipal, public, and quasi-public utilities and by the Developer for the installation, construction, maintenance, operation, servicing, repair, removal, and replacement of utility facilities, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs facilities in any street to repair and return the pavement of such street to at least as good a condition as existed prior to such installation.

No vehicle equipped with metal lugs in its wheels or tires or not equipped with pneumatic tires shall be permitted on the paved portions of the streets in the Subdivision, or any portion thereof, after the finish coat has been placed on such portions.

13. Utility Service Entrances

All utility service entrances running from any utility facilities within a platted easement or a street to any structure on a Building Site shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing, and maintenance of such utility service entrance. Such housings, pedestals, and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practical.

Each owner shall, at the time of the installation of any such service entrance, furnish to the utility for its records a drawing or other description accurately showing the location underground of the service entrance from the easement or street to the owner's structure or structures. Each utility having facilities in any easement or street shall have control over the installation of all connections to its facilities for service entrances serving Building Sites. Each such installation shall be left open for inspection and approval by the utility.

14. Sewer and Water Systems

No individual sanitary sewage disposal system shall be constructed, used, or maintained on any lot. All rain and storm water runoff, other surface water, and water accumulated shall be discharged only into the storm water sewer system or discharged into the creek and shall not at any time be discharged or permitted to flow into the sanitary sewer system. Only rain surface water and geothermal well non-contact cooling and heating waters shall be permitted to flow into the creek.

Every building located within the Subdivision shall be connected to the sanitary sewer system, water system and the storm water sewer system provided for the Subdivision; and all sanitary sewage shall be discharged only into that sanitary sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water system or into the creek.

15. Temporary Structures and Storage of Vehicles and Boats

No structure of a temporary character, trailer, bus, truck (i.e. semi-trucks, cement mixers, dump trucks, tow trucks, etc.) recreational vehicle, camper or camping trailer, shack, unattached garage, barn, storage shed, or other outbuilding shall be either located on any lot at any time or used as a residence either temporarily or permanently. No vehicle, trailer, or boat, except automobiles



may be parked longer than 4 days in driveways. Vehicles, including automobiles, trailers, or boats may not be parked or stored in yards.

It shall also be a requirement that before any house can be occupied, all approved site improvements must be installed to serve such structure.

16. Animals

No animals of any kind shall be raised, bred, or kept on any lot. Dogs, cats, or other household pets may be kept, provided they are not kept, bred, or maintained for commercial purposes.

a. Dogs, cats, or other household pets may not be left outside in the owner's absence. Pets shall not be tied outside for prolonged periods.

b. Dogs, cats, or other household pets must be restrained from running on other's property, including common areas.

c. Dog owners must control dog barking, howling, and yelping.

d. Owners are responsible for clean-up of pet excreta in common areas as well as in owner's and neighbors' yards.

e. Doghouses, kennels, dog runs, or other animal enclosures are prohibited.

f. No animal whose behavior could be considered threatening shall be permitted outside except under the direct physical control of the owner, such as by means of a reasonable leash.

This restriction shall be enforced by the Association, however, a property owner may enforce this restriction and the Association shall be obligated to pay said owner any reasonable expenses of such enforcement, including attorney's fees. The reasonable expenses of such enforcement by an owner or the Association, including attorney's fees, shall be a charge against the property owned by the owner of the offending animal or owner who permitted the offending animal, and may be collected such as any assessment by the Association.

17. Refuse Disposal

No lot or common area shall be used or maintained as a dumping ground for rubbish, trash, garbage, grass clippings, compost, or other refuse or debris; and the same shall not be kept except in sanitary containers. All containers for storage of such material shall be located within the dwelling, garage, or underground.

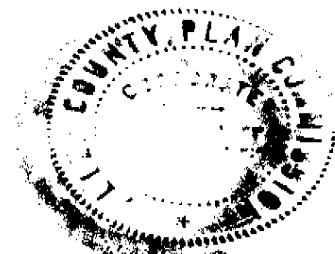
Outside trash burners or incinerators are prohibited. Burning of trash or leaves is prohibited. Compost storage is subject to review by the Architectural Review Committee after consultation with owners of adjacent lots.

18. Signs

No sign of any kind shall be displayed to the public view on a Lot except one professional sign of not more than one square foot, or one sign of not more than five square feet advertising a lot during the construction and sales periods. The Developer will construct a sign naming the Subdivision for the Subdivision entrance. Builder's signs and flags over the above named size shall be permitted until such time as all lots have been sold by the Builder.

19. Nuisances

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.



20. Prehabitation

Before any building on any lot in the Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent developing owner of such lot shall install all improvements serving such lot, as provided in the plans and specifications for such improvement filed with the Board of County Commissioners, Allen County, Indiana, together with any amendments or additions thereto which said Board may authorize or require. This covenant shall run with the land and be enforceable by the Allen County Plan Commission, as well as any aggrieved lot owner in the Subdivision.

21. Improvement Location Permit

Before any lot within the Subdivision may be used or occupied, the user or occupier shall first obtain from the Zoning Administrator of Allen County, Indiana, or the Administrator of the zoning authority then having jurisdiction over the Subdivision, the improvement location permit and certification of compliance required by the Allen County, Indiana, Zoning Ordinance or the ordinance of the governing body then having zoning jurisdiction over the Subdivision. This covenant shall run with the land and be enforceable by the Zoning Administrator of Allen County, Indiana, as well as any aggrieved lot owner in the Subdivision.

22. Amber Highlands Community Association, Inc.

a. The owners of the lots in the Subdivision constitute the association "Amber Highlands Community Association, Inc." (hereinafter called the "Association"). The owner or owners of each lot in the Subdivision and all other sections of Amber Highlands shall automatically become and remain during the period of such ownership members of the Association and be entitled to one joint vote for each lot owned by them.

The Association shall have the following two classes of voting memberships:

1. Class A : Class A membership consists of all Owners, except Developer. Class A members shall be entitled to one vote for each lot owned. When more than one person holds an interest in a lot, all such persons shall be members. The vote for such lot shall be exercised as its Owners among themselves determine; but in no event shall more than one vote be cast with respect to a lot.

2. Class B: Class B membership consists of Developer, or Developer's designee that may purchase all of the lots in the subdivision. The Class B member shall be entitled to three (3) votes for each lot owned. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:

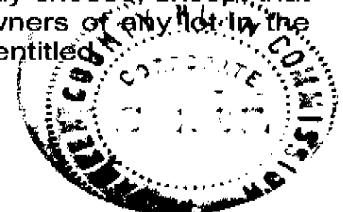
(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on December 31, 2008.

The Association is incorporated as an Indiana Non-Profit Corporation. All power, authority, liability, and responsibility hereby vested in the Association shall be vested in said corporation, as well as all other rights, powers, and duties vested in it by law. Additional members shall be added to the membership of the Association upon recommendation of the Developer if it develops additional adjacent property.

b. The Association shall conduct an annual meeting on the last Sunday of April commencing in 2004. At its annual meeting, it shall organize itself by electing its Board of Directors, review the Association's financial results for the past 12 months and, in general, address all matters and issues pertinent to the administration and maintenance of the Association.

The Association may adopt by-laws to govern its organization, meetings, members, elections, and tenure of office of its officers and directors, and such other matters as it may choose, except that no provision shall be effective which shall attempt to deprive the owner or owners of any lot in the Subdivision of the one vote for each such lot owned by them to which they are entitled.



The secretary of the Association shall give each member thereof not less than 30 days written notice in advance of the date, time, and place of the annual meeting of the Association. Special meetings of the Association may be called by the president or secretary thereof at any time by giving not less than 5 days written advance notice of the time, date, and place of such meeting to all members of the Association. The secretary shall call a special meeting of the Association and give notice thereof as herein required upon receipt of a written request to do so signed by the owners of not less than 10 percent of the lots in the Subdivision.

The Notice of any required or authorized meeting shall hereby be given in writing and addressed to each member of the Association at his or her last known address as shown on the records of the Association, but any such notice may be waived by any member of the Association by written waiver of notice.

c. Subject to applicable laws and regulations of administrative agencies having jurisdiction there over, and the obligations of utility companies and governmental bodies, the Association shall have the authority and responsibility to make such arrangements and perform such acts as may be necessary or desirable from time to time to maintain the streets, common areas, culverts, pond, and creek in the Subdivision; any lots, areas, and blocks in the Subdivision owned by the Association or subject to its control and all structures and improvements thereon; and those facilities which affect the common good of the residents of the Subdivision including sewer, water, gas, electric, street lighting, and telephone systems serving the Subdivision in good repair and condition and to make improvements thereon, including authority to contract for the cutting of grass, cleaning, beautifying, landscaping, and removal of trees, weeds, snow, ice, and debris from the streets and the areas, block, and lots of the Subdivision owned or under the jurisdiction of the Association and the maintenance, insurance, and repair of any structure or improvements located thereon, and make rules and regulations concerning the use or non-use of the Common Areas.

The Association shall pay all real estate and personal property taxes payable on real estate and personal property owned by it and may make contracts in its name for the accomplishment of any of the purposes for which it is created. Nothing herein contained, however, shall relieve the Developer from installing at its expense the improvements and facilities reflected in the plans and specifications filed by Developer with the Board of County Commissioners, Allen County, Indiana.

23. Association Areas

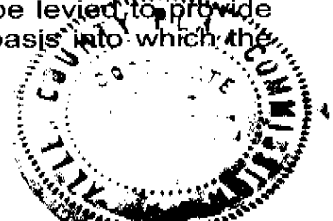
The areas marked Block "A", Block "B", Block "C" and Block "D" in the plat of Amber Highlands, Section I and the areas marked "Block "E" and Block "F" in the plat of Amber Highlands, Section III are Common Areas for the sole and exclusive enjoyment of all the owners of the lots in Amber Highlands, subject to rules and regulations adopted by the Association.

The Developer will convey title to the said Blocks shown on the plat to the Association, for the purposes and subject to the terms and conditions herein.

24. Maintenance Liens

a. Creation of the Lien and Personal Obligation of Assessments. Each Owner, except Developer, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, and (2) special assessments for capital improvements. Such assessments to be established and collected as provided in these Covenants and the Bylaws. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

b. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Subdivision, and for the improvement of facilities in the Subdivision. In addition, assessments shall be levied to provide for the proportionate burden of the maintenance of the common impoundment basis into which the Subdivision's surface waters drain.



c. **Maximum Annual Assessments.** Until January 1 of the year immediately following the first conveyance by Developer of a Lot, the maximum annual assessment shall be Fifty Dollars (\$50.00) per Lot. Subsequent assessments may be made as follows:

1. From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased each year by the Board of Directors, by a percentage not more than 9% above the annual assessment for the previous year, without a vote of the membership.

2. From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased by a percentage in excess of 8%, only by the vote or written assent of a majority of each class of members of the Association.

d. **Special Assessments for Capital Improvements.** In addition to the annual assessments authorized in Article 22, Section c, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying in whole or in part, the cost of any new construction, or repair or replacement of an existing capital improvement, in the Common Area, including fixtures and related personal property; provided that any such assessment require the vote or written assent of 75% of each class of members of the Association; and provided, further, that no such special assessment for any such purpose shall be made if the assessment in any way jeopardized or affects the Association's ability to improve and maintain its Common Area.

e. **Notice and Quorum for Any Action Authorized Under Article 22, Sections c and d.** Any action authorized under Sections c and d shall be taken at a meeting of the Association called for that purpose, written notice of which shall be sent to all members not less than 30 days, nor more than 60 days, in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing, provided that same is obtained; by an officer of the Association within 30 days of the date of such meeting.

f. **Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis.

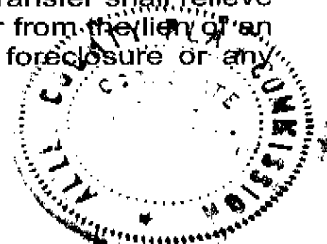
g. **Date of Commencement of Annual Assessment/Due Dates.** The annual assessments allowed under Article 22, Section c shall commence as to all Lots then subject to an assessment, on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be pro-rated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of the date the annual assessment is due. Written notice of the annual assessment shall be given to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

h. **Effect of Nonpayment of Assessments/Remedies of the Association.**

1. Any assessment not paid with 30 days after its due date shall bear interest from the due date at the rate of 12% per annum or the legal rate of interest in Indiana, whichever is higher.

2. The Association may bring an action at law against each Owner personally obligated to pay the same, and foreclose the lien of an assessment against a Lot. No Owner may waive or otherwise escape liability for the assessments made under the Covenants by non-use of the Common Area or abandonment of a Lot. The lien for delinquent assessments may be foreclosed in Indiana. The Association shall also be entitled to recover the attorney fees, costs and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section.

i. **Subordination of Assessment Lien to First Mortgages Liens.** The lien of the assessments made under the Covenants shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien against it. No sale or transfer shall relieve an Owner or Lot from liability for any assessment subsequently becoming due, or from the lien of an assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any



proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer.

25. Term

These covenants and restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of 20 years from the date that these covenants are recorded unless sooner altered or amended in whole or in part in the manner provided for in Paragraph 27 hereof. After the said initial 20-year term, these covenants and restrictions shall be automatically extended for successive periods of 10 years each, unless an instrument signed and acknowledged by the then owners of not less than 66 percent of the lots in the Subdivision has been recorded, agreeing to change said covenants in whole or in part and specifying in what respect they shall be changed. Amendments must be approved by the Allen County Plan Commission or its successor agency.

26. Amendment

These restrictions may be amended from time to time by an instrument signed and acknowledged by the then owners of not less than 66 percent of the lots in the Subdivision setting out the amendments and recording the same in the Office of the Recorder of Allen County, Indiana. However, the Developer shall have the right for three (3) years from the date of recording of the plat to amend these Covenants, Restrictions and Limitations. Amendments must be approved by the Allen County Plan Commission or its successor agency.

27. Enforcement

Enforcement shall be by proceedings at law or in equity against any person violating or attempting to violate any covenant either to restrain violations or to recover damages, but in no event shall there be a right of reversion. The Association, Developer, or the Owner of any land within the Subdivision shall have the right to enforce, by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these covenants and restrictions. Failure by the Association, Developer, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

28. Severability

Invalidation of any one of these provisions by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

29. Subdivision of Lots

No lot or combination of lots may be further subdivided or a portion or portions be sold off, unless each resulting lot or tract upon which a house may be built has a total area of not less than 6,250 square feet and a width, measured at the front building line, of at least 55 feet. Any such further subdivision must be reviewed and approved by the Allen County Plan Commission.

30. Formation of Association

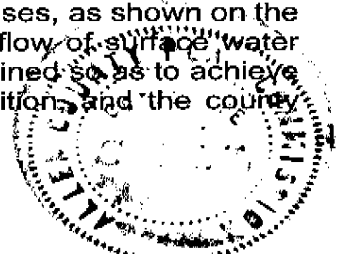
The Association for Amber Highlands has been incorporated as an Indiana Non-Profit Corporation using the name: Amber Highlands Community Association, Inc.

31. Blocks and Common Areas

Blocks and Common Areas are defined as: "All that portion of the Plat, excluding lots and dedicated street right-of-way."

32. Surface Drainage Easements and Common Area Drainage

Surface drainage easements and common areas used for drainage purposes, as shown on the Plat, are intended for either periodic or occasional use as conductors for the flow of surface water run-off to a suitable outlet; and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition, and the county



surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

33. Flood Protection Grades

In order to minimize potential damages from surface water, flood protection grades are established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of a first floor or the minimum sill elevation of any opening below the first floor.

<u>Lot Numbers:</u>	<u>Minimum Flood Grade Protection Elevation:</u>
72	787.7
81-88	802.0
98-107	787.7

34. Maintenance of Storm Water Drainage System

The Association of Owners shall be obligated to maintain, repair, and/or replace, if necessary, the storm water drainage system consisting of the storm water detention basin together with its outlet and water level control structures.

The storm water drainage system has been granted for the use and benefit of all sections of Amber Highlands, although not included in this section, the cost of which shall be borne by all the owners and subsequent owners of lots in any and all sections of Amber Highlands.

The owner of any lot in this section or any other section of Amber Highlands and/or the Allen County Drainage Board shall have the right to order the Association of Owners to carry out its obligation to maintain, repair, and/or replace the storm water drainage system and storm water detention system improvements, as above provided, and to assess the owners of all lots in this section and future sections of Amber Highlands with the cost thereof.

35. Contractor Damage to Common Areas

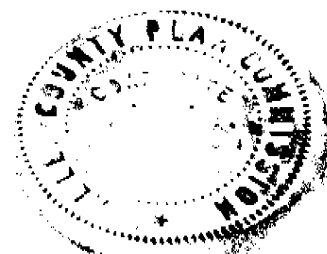
Should contractors, subcontractors, material men, suppliers, or any other third parties employed or retained by a lot owner cause damage to any of the common areas, streets or roadways of the Association, said lot owner is responsible for causing the damage to be repaired to the satisfaction of the Architectural Review Committee and said lot owner agrees to indemnify and hold harmless the Association from any such damage.

36. Attorney Fees and Related Expenses

In the event the Association, Developer, an Owner, or the Plan Commission is successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, conditions, reservation, lien, or charge now or subsequently imposed by the provisions of these covenants, the successful party shall be entitled to recover from the party against whom the proceeding was brought, the attorney fees and related costs and expenses incurred in such proceeding.

37. Development of Adjacent Areas

The Developer reserves the right to develop adjacent areas and include such areas in Amber Highlands, including the extension of streets into such areas. Any such areas will be subject to restrictions similar to those herein and Developer, at its option, may add the owners of Lots in such areas to the Amber Highlands Community Association, Inc., subject to the same rights and obligations as set out herein.



38. Sidewalks

Plans and specifications for this Subdivision on file with the Plan Commission require the installation of 4-foot wide concrete sidewalks within the street rights-of-way on the North side of Braveheart Drive in front of, or along Lots 107-110; on the East side of Shetland Drive in front of, or along Lots 110-115; on the South side of Loch Dhu Lane in front of, or along Lots 115-117; on the West side of Tayside Trail in front of, or along Lots 117-122 and Lot 108; on the North and West side of Clydesdale Court in front of, or along Lots 80-84, as indicated on the Plans. Installation of said sidewalks shall be the obligation of the Owners of 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 Plan Commission. Should such certificate of occupancy be issued to the Developer, said corporation shall be considered an Owner for purposes of the enforcement of this covenant.

CONSENT

Amber Highlands Development Corp., the Developer named in the foregoing Protective Restrictions, Covenants, Limitations and Easements for Amber Highlands, Section III, hereby agrees to perform all of the functions to be performed by Developer as set forth above and agrees to be bound thereby.

Dated this 5th day of December, 2003.

AMBER HIGHLANDS DEVELOPMENT CORP.

By [Signature]

Joseph L. Sullivan, President

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 5th day of December, 2003.

AMBER HIGHLANDS DEVELOPMENT CORP.

By [Signature]

Joseph L. Sullivan, President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this 5th day of December, 2003, personally appeared Joseph L. Sullivan, the President of Amber Highlands Development Corp., known to me to be such officer of said corporation, and acknowledged the execution of the foregoing instrument for and on behalf of said corporation. Witness my hand and notarial seal.

My Commission Expires:
1/30/2008

[Signature]

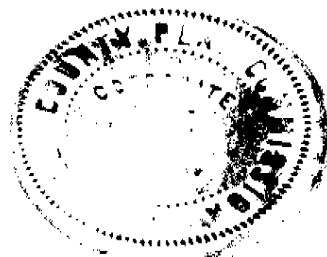
Notary Public

Printed: Charles D. Bash

County of Residence: Allen

This instrument prepared by William D. Swift, Attorney, Suite 590, Lincoln Tower, 116 E. Berry Street, Fort Wayne, Indiana 46802.

W:\Sullivan, Joseph\Restrictive Covenants\Amber Highlands - Section III Restrictions.doc



DESCRIPTION

Part of the Southeast Quarter of Section 29, Township 30 North, Range 11 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said Section 29; thence South 89 degrees 58 minutes 27 seconds West (bearings in this description are based on the plat bearings for Amber Highlands, Section I, the plat of which is recorded in Plat Cabinet "D", page 118 in the Office of the Recorder of Allen County, Indiana), on and along the South line of said Section 29, a distance of 73.06 feet to an INDOT right-of-way marker, said right-of-way marker being a point on the boundary line of the plat of said Amber Highlands, Section I; thence South 89 degrees 58 minutes 27 seconds West, on and along the South line of said Section 29 and the South line of said Amber Highlands, Section I, a distance of 953.87 feet to the Southwest corner of said Amber Highlands, Section I, this being the **true point of beginning**; thence continuing South 89 degrees 58 minutes 27 seconds West, on and along the South line of said Section 29, a distance of 945.63 to the Southwest corner of the East Half of the West Half of the Southeast Quarter of said Section 29, this also being the Southeast corner of Timbercrest Addition, the plat of which is recorded in Plat Book 23, page 84 in the Office of the Recorder of Allen County, Indiana; thence North 00 degrees 04 minutes 43 seconds West, on and along the East line of said Timbercrest Addition, a distance of 877.80 feet; thence North 89 degrees 54 minutes 37 seconds East, a distance of 814.82 feet to the Northwest corner of said Amber Highlands, Section I; thence South 12 degrees 41 minutes 13 seconds East, on and along the West line of said Amber Highlands, Section I, a distance of 420.77 feet; thence South 89 degrees 51 minutes 47 seconds West, continuing on and along said West line, a distance of 89.31 feet; thence South 17 degrees 23 minutes 34 seconds East, leaving the West line of said Amber Highlands, Section I, a distance of 73.71 feet; thence South 04 degrees 55 minutes 56 seconds East, a distance of 59.81 feet to a point on the West line of said Amber Highlands, Section I; thence South 00 degrees 08 minutes 13 seconds East, on and along the West line of said Amber Highlands, Section I, a distance of 120.00 feet; thence North 89 degrees 51 minutes 47 seconds East, continuing on and along said West line, a distance of 106.01 feet; thence North 19 degrees 11 minutes 28 seconds East, continuing on and along said West line, a distance of 78.23 feet; thence South 00 degrees 04 minutes 35 seconds East, leaving the West line of said Amber Highlands, Section I, a distance of 191.27 to a point on the West line of said Amber Highlands, Section I; thence North 23 degrees 20 minutes 09 seconds West, on and along the West line of said Amber Highlands, Section I, a distance of 71.79 feet to a point on a non-tangent curve to the left having a radius of 275.00 feet; thence Southwesterly, leaving the West line of said Amber Highlands, Section I, on and along the arc of said curve, an arc distance of 13.75 feet, being subtended by a long chord having a length of 13.75 feet and a bearing of South 82 degrees 30 minutes 28 seconds West to the point of tangency; thence South 81 degrees 04 minutes 32 seconds West and tangent to said curve, a distance of 61.55 feet to a point on the West line of said Amber Highlands, Section I; thence South 24 degrees 57 minutes 23 seconds East, on and along the West line of said Amber Highlands, Section I, a distance of 171.45 feet to the true point of beginning, containing 17.598 acres of land, subject to all easements and rights-of-way of record.

