

RECORDED  
07/09/2001 15:42:01  
RECORDER  
PATRICIA J CRICK  
ALLEN COUNTY, IN .

Doc. No. 201047071  
Receipt No. 19649

DCFD 3.00  
MISL 36.00  
MISL 1.00  
MISL 2.00  
Total 42.00

*Plat Cab D Pg. 111*

**DEDICATION AND DECLARATION OF PROTECTIVE RESTRICTIONS,  
COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED  
TO AS PART OF THE DEDICATION AND PLAT OF  
MALLARD'S LAKE,  
A SUBDIVISION OF CEDAR CREEK TOWNSHIP, ALLEN COUNTY, INDIANA  
(Villaminium Section)**

Millennium Development, Inc. An Indiana Corporation, by Eleftherios Maggos, its President, hereby declares that it is the Owner and Developer of the real estate described in Exhibit A which is attached hereto, and shown and described in this plat which includes Mallard's Lake Villaminium Section, which consists of Lots 17 to 32 inclusive (hereinafter "Mallard's Lake Villaminium Section") and does hereby layoff, plat and subdivide said real estate in accordance with the information shown on the final plat, being the certified plat appended hereto and incorporated herein. A part of the Subdivision shall be known and designated as Mallard's Lake Villaminium Section, a Subdivision in Cedar Creek Township, Allen County, Indiana. The plat is a subdivision in Cedar Creek Township, Allen County, Indiana known as Mallard's Lake, which includes Lots numbered 17 to 32, inclusive (the "Mallard's Lake Villaminium Section") and a separate section which includes the Lots numbered 1 to 16 and 33 to 132, inclusive (the "Remainder of the Subdivision"). The Remainder of the Subdivision shall be subject to a separate Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals, except as specifically set forth herein. A separate association shall be formed for the Remainder of the Subdivision and the owners of Lots in the Remainder of the Subdivision shall not be required to be members of the Villaminium Association, as hereinafter defined.

The Lots shall be subject to and impressed with the covenants, agreements, restrictions, easements and limitations hereinafter set forth, and they shall be considered a part of every conveyance of land in Mallard's Lake Villaminium Section, 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 land in the Subdivision, and they shall run with and bind the land and shall inure to the benefit of and be enforceable by the owners of land included therein, their respective legal representatives, successors, grantees and assigns.

The Lots are numbered from 17 to 32, inclusive; and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

**PREFACE**

Mallard's Lake Villaminium Section is a portion of a tract of real estate which has been subdivided into sixteen (16) residential Lots, all to be included in and known as Mallard's Lake Villaminium Section,

AUDITOR'S OFFICE  
Duly entered for taxation. Subject  
to final acceptance for transfer.

JUL 6 - 2001

*[Signature]*  
AUDITOR OF ALLEN COUNTY

01 6342  
AUDITORS NUMBER



separately designated by sequentially numbered sections and/or Villa sections. After the recordation of the plat of Mallard's Lake Villaminium Section, there will be filed Articles of Incorporation of Mallard's Lake Villaminium Association, Inc., it being the platter's intention that each owner of a Lot in Mallard's Lake Villaminium Section, shall become a member of said Villaminium Association, and shall be bound by the Articles of Incorporation and By-Laws of that corporation.

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

## ARTICLE I

### Definitions

The terms hereinafter set forth shall have the following meanings:

Section 1. "Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain approvals in connection with improvements and developments. The Committee shall be composed of three (3) members initially appointed by the Developer. Any vacancies from time to time shall be filled pursuant to the terms of these Restrictions or the By-Laws of the Villaminium Association.

Section 2. "Villaminium Association" shall mean and refer to Mallard's Lake Villaminium Association, Inc., its successors and assigns.

Section 3. "By-Laws" shall mean the By-Laws initially adopted by Mallard's Lake Villaminium Association, Inc., and all amendments and additions thereto.

Section 4. "Common Area" shall mean all real property owned by the Villaminium Association and the Mallard's Lake Community Association, Inc. for the common use and enjoyment of the Owners, including, but not limited to, those areas designated on the plat as detention lakes or ponds, wetlands, park areas, entrances or other designated common areas, including Blocks A, B, C, D and E, and as may be added in accordance with Article II, Section 2 of these Restrictions.

Section 5. "Developer" shall mean Millennium Development, Inc., an Indiana Corporation, its assigns, successors or successors in interest, and any person, firm or corporation designated by it or its said successor or successor in interest.

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

Section 7. "Lot" shall mean any of said Lots in Mallard's Lake Villaminium Section, as platted or any tract of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots, upon which a dwelling may be erected in accordance with the restrictions hereinafter set forth. PROVIDED, HOWEVER, no tract of land consisting of part of any one Lot or parts of more than one Lot shall be considered a "Lot" unless said tract of land has a minimum of seventy (70) feet width at the established building line as shown on the plat.

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

Section 9. "Restrictions" shall mean and refer to the Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to as part of the Dedication and Plat of Mallard's Lake Villaminium Section.

Section 10. "Subdivision" shall mean Mallard's Lake Villaminium Section, a Subdivision located in Cedar Creek Township, Allen County, Indiana.

Section 11. "Mallard's Lake" shall mean and refer to Mallard's Lake Villaminium Section, as it may be changed from time to time.

ARTICLE II

Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Additions to Common Area. The Developer reserves the right so long as Class B members of the Villaminium Association exist, to convey and transfer to the Villaminium Association such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the Villaminium Association shall accept such transfer and shall hold such property as a part of the Common Area of the Subdivision.

ARTICLE III

Architectural Control

No building, improvement, construction, excavation, fence, wall, swimming pool or spa, exterior lighting, swing set, play equipment, statues, lawn ornaments or other non-living landscaping ornamentation device, or other structure shall be commenced, erected, altered or maintained upon any Lot, nor shall any exterior addition to or change or alteration of any Dwelling Unit be made until two (2) sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to (1) harmony of external design and location in relation to surrounding structures and topography, and (2) the standards and guidelines established by the Architectural Control Committee from time to time. All approvals shall be requested by submission to the Architectural Control Committee of plans and specifications in duplicate, showing the following:

- (a) The Dwelling Unit, and other improvements, access drives, and other improved areas, and the locations thereof on the site;
- (b) All mail boxes and exterior ornamentation;
- (c) Plans for all floors and elevations, including projections and wing walls;



- (d) Exterior lighting plans;
- (e) Walls, fencing, and screening;
- (f) Patios, decks, pools, and porches.

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

The original Architectural Control Committee shall consist of three (3) members: Eleftherios Maggos, Gregory L. Roberts, and Daniel P. Lee. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. In the event the Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed satisfied.

#### ARTICLE IV

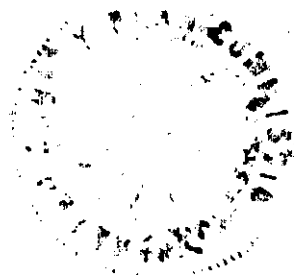
##### The Mallard's Lake Villaminium Association. Inc.

Section 1. Organization. There will be organized in connection with the development of Mallard's Lake Villaminium Section, an incorporated not-for-profit association known as The Mallard's Lake Villaminium Association, Inc., (the "Villaminium Association").

Section 2. Membership and Voting Rights. Every owner of a lot in Mallard's Lake Villaminium Section, shall be a member of the Villaminium Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

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



Class B. The Class B member(s) shall be the Developer and shall be entitled to five (5) votes for each Lot owned in the Subdivision. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when title to all lots in the Subdivision have been conveyed; or
- (b) on December 31, 2009.

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

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

Section 6. In no event shall the Developer be obligated to pay any dues or assessments for any Lot that the Developer owns.

Section 7. Assessments Payable to The Mallard's Lake Villaminium Association, Inc.. Each Owner of any Lot, excepting the Developer, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed is deemed to covenant and agree to pay to the Villaminium Association:

- (a) annual maintenance assessment; and
- (b) special assessment.

The annual maintenance and special assessments for the Villaminium Association, together with interest, costs, and reasonable attorney's fees shall be a charge upon and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owners successors in title unless expressly assumed by them.

Section 8. Purpose of Annual Maintenance Assessment. The annual maintenance assessment shall be used exclusively to fund the Villaminium Association's obligations set forth herein.

Section 9. Initial Annual Maintenance Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to the Owner, the initial annual maintenance assessment shall be One Thousand Three Hundred and no/100 dollars (\$1,300.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than eight percent (8%) above the maximum annual assessment for the prior year, without the vote or written assent of fifty-one percent (51%) of each class of members of the Villaminium Association.

(b) The Board of Directors of the Villaminium Association may fix the annual assessment at an amount not in excess of the maximum without the vote or written assent of fifty-one (51%) of each class of members of the Villaminium Association.

Section 10. Calculation of Annual Maintenance Assessment. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the amount of the annual maintenance assessments shall be determined as follows:

(a) The Board of Directors of the Villaminium Association shall establish a budget for each calendar year and shall determine the annual maintenance assessment and method of payment required to meet such budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors of the Villaminium Association. The Board of Directors shall mail to all Villaminium Association members a copy of said budget and notice of the ensuing years assessment.

(b) The amount of the annual maintenance assessment set forth by the Board of Directors of the Villaminium Association for any such calendar year may be changed pursuant to the By-Laws of the "Villaminium Association".

Section 11. Special Assessment for Capital Improvements and Extraordinary Items. In addition to the annual maintenance assessment authorized above, the Board of Directors of the Villaminium 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 necessary maintenance of an extraordinary nature, or the cost of new construction or replacement of items of a capital nature, or to cover a budget shortage provided that any such assessment shall have the vote or written assent of sixty-seven percent (67%) of both classes of members. Any action authorized by this Article IV, Section 11, shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. if the proposed action is favored by a majority of the votes cast at such a meeting, but such vote is less than the prerequisite sixty-seven percent (67%) of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Villaminium Association not later than thirty (30) days from the date of such meeting.

Section 12. Uniform Rate of Assessment. Both annual maintenance assessments and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis as the Board of Directors may determine from time to time.

Section 13. Date of Commencement of Annual Maintenance Assessment: Due Dates. The annual maintenance assessments provided for herein shall commence as to each Lot on the first of the following dates:

(a) The date of issuance of a certificate of occupancy for a completed dwelling on said Lot; or

(b) The date of payment of the final construction draw with respect to a dwelling constructed on said Lot, disregarding any monies retained in escrow from such final draw.

The first annual maintenance assessment shall be adjusted according to the number of days remaining in the year. The Board of Directors of the Villaminium Association shall fix the amount of the annual assessment against each Lot for each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates of the annual maintenance assessment shall be established by the Board of Directors of the Villaminium Association. The Villaminium Association shall,

upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Villaminium Association setting forth whether the assessments on a specified Lot have been paid as of a particular date.

Section 14. Effect of Nonpayment of Assessments: Remedies of the Corporation. Any annual maintenance assessment or special assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Villaminium Association may bring an action at law against the Owner previously obligated to pay the same, or foreclose the lien against the Lot. In any successful action, the Villaminium Association shall be entitled to recover all of its costs and expenses, including reasonable attorney's fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of the Owner's Lot.

Section 15. Subordination of the Lien to Mortgages. The lien of the annual maintenance assessment or special assessment provided for herein shall be subordinate to the lien of any first mortgages. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 16. Payment of Share of Common Area Maintenance. The Villaminium Association shall pay on a quarterly basis to the Mallard's Lake Community Association, Inc. within 30 days of invoicing, 12% of the maintenance costs for the Common Area.

## ARTICLE V

### Maintenance of Building Exteriors

Section 1. Building Exteriors, Landscaping and General Maintenance. The Villaminium Association will maintain the roof and exterior portion of each Dwelling Unit in good condition and repair, including painting, removal of snow from driveways and sidewalks, and maintain the lawn and landscaping on each Lot. The Villaminium Association will maintain the lawn sprinkling system situated on the Lots. The frequency and manner of performance of such maintenance shall be determined solely by the Board of Directors of the Villaminium Association. The Villaminium Association shall not be responsible for the repair or maintenance of decks and screened-in porches, any concrete on a Lot, or yard lights and other exterior lights, including replacement of bulbs, nor for window washing and glass replacement. The Board of Directors of the Villaminium Association may, at its option by appropriate resolution, transfer to each Lot Owner the maintenance responsibility for that portion of the lawn and/or landscaping on each Lot which was not initially installed or planted by the Developer. Each Lot Owner shall be permitted to perform or cause to be performed at the Owner's sole expense, maintenance or repairs on the exterior of any dwelling on his Lot which would otherwise fall within the maintenance responsibility of the Villaminium Association hereunder, subject to prior written approval from the Architectural Control Committee.

Section 2. Other Maintenance. Except to the extent of the Villaminium Association's responsibility for maintenance and repair as above provided, each Owner shall at his sole cost and expense maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair, including those items specifically excluded from the Villaminium Association's responsibilities and any other maintenance and repair responsibilities not expressly included among such responsibilities, as set forth above. In the event any Owner shall fail to maintain and repair his Lot and the improvements thereon as required hereunder, the Villaminium Association, in addition to all other remedies available to it hereunder or by law and without waiving any of said alternative remedies, shall have the right, through its agents and

employees to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the dwelling units and any other improvements erected thereon; and each Owner (by acceptance of a Deed for his Lot) hereby covenants and agrees to repay to the Villaminium Association the cost thereof immediately upon demand. Such costs incurred and demanded by the Villaminium Association, together with interest, costs and reasonable attorney's fees, shall have the same status as both a continuing lien on the Lot and improvements and the personal obligation of the Owner as an assessment and the Association shall have the same remedies as made under Article IV, Section 14 hereof, and the failure of any such Owner to pay the same shall carry with it the same consequences as a failure to pay such an assessment when due.

Section 3. Maintenance Easements. The Villaminium Association and the Owner of any Lot whose dwelling is constructed up to or within nine (9) feet of an interior Lot line shall have an access easement over a portion of the adjacent Lot which shall be five (5) feet in width measured from said Lot line, for the entire length of said Lot line separating the two Lots, for purposes of maintaining, replacing, and repairing the exterior of the dwellings so located. This access easement shall extend to the agents, employees, and independent contractors of either the Villaminium Association, the Owner, or both. Any damage to an adjacent Lot or landscaping on an adjacent Lot shall be repaired at the expense of the Villaminium Association, the Owner, or their respective agents, employees or independent contractors utilizing this easement.

Each Owner shall also have a permanent easement permitting roof structure which overhang and encroach upon the adjoining servient Lot, provided that construction of such roof structure is permitted and approved as elsewhere herein provided.

Section 4. Utility Easements. Easements are hereby expressly reserved and dedicated with dimension, boundaries, and locations as designated on the plat for the installation and maintenance of public utilities (including, but not limited to water, gas, telephone, electricity, sanitary sewer, cable television storm drainage facilities, and any other utilities of a public or quasi-public nature).

Any utility company and Developer, their successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of permanent structure except improvements installed by Developer, or an authorized utility and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form. The utility will restore any improvement installed by the utility.

The utility operating the sewer lines and sewage disposal facilities of said section shall have jurisdiction over the installation of all sewer connections and the same shall be installed to property lines of each Lot by the Developer or its successor in interest.

## ARTICLE VI

### General Provisions

Section 1. Residential Purposes. Each Lot shall be used exclusively for residential purposes only. No dwelling shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling not to exceed one and one-half (1 ½) stories in height. Each dwelling shall include an attached not less than two-car garage and basements may be constructed as a part of the dwelling. No Dwelling Unit, building, structure or other improvement located on any Lot shall be rented or leased. All dwellings erected or placed on any Lot must be selected from and constructed in accordance with plans provided by the Developer.



Section 2. Owners of Lots in the Subdivision and their successors in title are on notice and understand that the Subdivision is in a predominantly agricultural area and that farming operations, which may include livestock operations, may be practiced in the area of the Subdivision. With this understanding, all Owners of Lots in the Subdivision, therefore, shall forego their right to bring a claim against any farmer or agricultural producer in the area who is practicing normal, reasonable, and necessary farming and livestock operations whether such operations now exist or may hereafter exist.

Section 3. Building Sizes. No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, breezeways or garages of less than 1,700 square feet for a one-story dwelling, nor less than 1,500 square feet on the first floor for a dwelling of one and one-half (1 ½) story.

Section 4. Garages. All Dwelling Units must have an attached garage with a ground floor area of not less than 550 square feet.

Section 5. Building Setback. No Dwelling Unit or any improvements or structures shall be located on any Lot nearer to the front Lot line or nearer to the side street line or the rear property line than the minimum building setback lines shown on the recorded plat. In any event, no Dwelling Unit shall be located nearer than a distance of seven (7) feet to a side Lot line, and no nearer than a distance of twenty-five (25) feet to a rear property line.

Section 6. Minimum Lot Size. No Dwelling Unit shall be erected or placed on any Lot having a width of less than 70 feet at the minimum building setback line, nor shall any Dwelling Unit be erected or placed on any Lot having an area of less than 9,100 square feet.

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

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

Section 9. Maintenance of Lots and Dwelling Units. No Lot and no Dwelling Unit shall be permitted to become overgrown, unsightly or to fall into disrepair. All Dwelling Units shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the Architectural Control Committee. Each Owner, for himself and his successors and assigns, hereby grants to the Villaminium Association, jointly and severally, the right to make any necessary alterations, repairs or maintenance approved by the Architectural Control Committee to carry out the intent of this provision and they further agree to reimburse the Villaminium Association for any expenses actually incurred in carrying out the foregoing. The Villaminium Association may assess and collect such reimbursement in the same manner as it assesses and collects yearly assessments pursuant to Article IV, above, and such amounts shall become a lien upon the Lot and be subject to the same collection rights and remedies granted to the Villaminium Association in Article IV.

Section 10. Landscaping. All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. Landscaping shall be installed no later than one hundred eighty (180) days following occupancy of or completion of the Dwelling Unit, whichever occurs first. A minimum of ten (10) shrubs shall be planted and located by each Lot Owner on each Lot, and a minimum of one (1) at least ten (10) foot tall hardwood deciduous tree shall be located in front of the dwelling between the sidewalk and the street on each Lot.

Section 11. Nuisances. No noxious or offensive activity may be carried upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting any of the foregoing, no exterior lights, the principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of a Lot by the occupants thereof, and no speakers, horns, whistles, bells or other sound devices, shall be located, used or placed on a Lot which are audible, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

Section 12. Temporary Structures and Storage. No structure of a temporary character, trailer, boat trailer, truck, commercial vehicle, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camping trailer, tent, shack, detached garage, barn or other outbuilding shall be either used or located on any Lot, or adjacent to any Lot, public street or right-of-way with the Subdivision at anytime, or used as a residence either temporarily or permanently.

Section 13. Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet, advertising such Lot for sale, or signs used by a builder to advertise such Lot during the construction and sales period.

Section 14. Radio and Television Antennas. No radio or television antenna shall be attached to any Dwelling Unit. No free standing radio or television antenna shall be permitted on any Lot. No television receiving disk or dish shall be permitted on any Lot or on any Dwelling Unit; however, a satellite disk or dish may be installed inside a house or garage, so long as the same is not clearly visible from outside the improvement. No solar panels attached or detached shall be permitted.

Section 15. Drilling, Refining, Quarrying and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 16. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

Section 17. Building Materials. All Dwelling Units and other permitted structures shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any Dwelling Unit or other permitted structure on any Lots of said Subdivision and no roll roofing of any description or character shall be used on the roof of any Dwelling Unit or other permitted structure on any of said Lots.

Section 18. Driveways. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width.

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

Section 20. Use of Public Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to the Developer, the Villaminium Association and any public or quasi-public utility company engaged in supplying one or more of the utility services contemplated in Sections 7 and 8 of Article VI, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or stone) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets.

Section 21. Sanitary Sewer Restrictions. No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Runoff Sewer System.

Section 22. Improvements. Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent Owner of such Lot shall install improvements serving such Lot as provided in the plans and specifications for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities may authorize or require. This covenant shall run with the land and be enforceable by any governmental authority having jurisdiction over the Subdivision, by the Villaminium Association, or by any aggrieved Lot Owner in this Subdivision.

Section 23. Permits and Certificates. Before any Dwelling Unit located on any Lot may be used or occupied, such user or occupier shall first obtain from the Allen County Zoning Administrator an Improvement Location Permit and a Certificate of Occupancy as required by the Allen County Zoning Ordinance.

Section 24. Pools and Hot Tubs. No above ground or in ground swimming or wading pools of more than six feet in diameter and 18 inches deep shall be placed or maintained on any lot. Hot tubs and Jacuzzi may be permitted only with prior written consent of the Architectural Control Committee in accordance with Article III. All pools must be in compliance with the Allen County Zoning Ordinance.

Section 25. Dog Houses. No outside dog houses shall be constructed, erected, or located on any Lot.

Section 26. Fencing. No fences of any kind shall be constructed, erected, or located on any Lot.

Section 27. Storage Areas. Garbage and refuse shall be placed in containers, which shall be concealed and contained within the Dwelling Unit. The visual barrier screening and the area to be used must be approved by the Architectural Control Committee.

Section 28. Mailboxes. The type, location, and installation of mailboxes will be approved by the Developer.

Section 29. Time for Building Completion and Restoration. Every Dwelling Unit on any Lot shall be completed within twelve (12) months after the beginning of such construction. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

Section 30. Single Owner Contiguous Lots. Whenever two (2) or more contiguous Lots shall be owned by the same person, and such Owner shall desire to use two (2) or more Lots as a site for a single Dwelling Unit, said Owner shall apply in writing to the Architectural Control Committee or Board of Directors of the Villaminium Association for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single Dwelling Unit. Notwithstanding the foregoing, each of the Lots constituting the site for such single Dwelling Unit shall remain as individual Lots for purposes of all assessments permitted by the terms of these Restrictions. As such, the Owner will be assessed for each Lot used as a site for a single Dwelling Unit.

Section 31. Enforceability. The Villaminium Association, any Owner and Developer shall each have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Villaminium Association or the Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and shall not operate to deprive an Owner from enforcing said covenant or restriction.

Section 32. Right of Entry. The Developer, the Architectural Committee and the Villaminium Association, acting through their respective representatives, shall have the right, during reasonable hours, to enter upon and inspect the Lot and Dwelling Unit, whether prior to, during, or after the completion of, any construction, for purpose of determining whether or not the provisions of these restrictions are being complied with and exercising all rights and powers conferred upon the Developer, the Architectural Control Committee and the Villaminium Association with respect to the enforcement or correction or remedy of any failure of the Owner to observe these restrictions, and the Developer, the Architectural Control Committee and the Villaminium Association and such representatives shall not be deemed to have committed a trespass as a result thereof. Notwithstanding the foregoing, an occupied Dwelling Unit may not be entered hereunder unless written notice of such proposed entry shall have been given to the Owner at least five (5) days prior to such entry.

Section 33. Partial Invalidation. Invalidation of any one of these Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.



**Section 34. Covenants, Restrictions and Extensions.** The covenants and restrictions herein contained shall run with the land, and be effective for a term of twenty (20) years from the date these Restrictions are recorded, after which time they shall automatically be extended for successive periods of ten (10) years; provided these Restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners of Lots 1 to 132, inclusive, and provided further, the Developer, its successors or assigns shall, with the approval of the Allen County Plan Commission, have the exclusive right for a period of two (2) years from the date of recording of these Restrictions to amend any of the Covenants and Restrictions, but without the need for consent of any of the Lot owners.

**Section 35. Subdivision of Lots.** No Lot or combination of Lots may be further subdivided until approval therefor has been obtained from the Allen County Plan Commission.

**Section 36. Exterior Building Surfaces.** All exterior building surfaces, materials and colors shall be harmonious and compatible with colors of the natural surrounding and other Dwelling Units. The Architectural Control Committee shall have the right to approve or disapprove materials and colors so controlled.

**Section 37. Dwelling Unit Exterior.** All windows, porches, balconies and exteriors of all Dwelling Units shall at all times be maintained in a neat and orderly manner. No clotheslines or other outside drying or airing facilities shall be permitted.

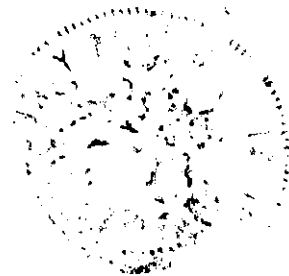
**Section 38. Fires.** No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted to burn upon any street roadway or Lot in this Subdivision. No outside incinerators shall be kept or allowed on any Lot.

**Section 39. Cost and Attorney's Fees.** In the event Developer, or the Villaminium Association is successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, assessment or charge now or subsequently imposed by the provisions of these Covenants, they shall be entitled to recover from the party against whom the proceeding was brought, the attorney fees and related costs and expenses incurred in such proceeding.

**Section 40. Annexation.** Additional properties may be annexed by Developer and made subject to this Declaration. Said additional properties may be developed for condominiums, villas and single family residences. Said annexation may be perfected without the consent of the Owners.

**Section 41. Flood Protection Grade.** In order to minimize potential damages from surface water, flood protection grades (FPG) are established as set forth on the attached plat as follows:

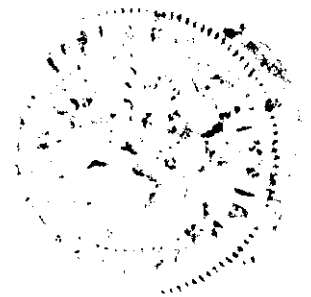
<u>Lot #</u>	<u>MINIMUM FLOOD PROTECTION GRADES</u>
17	804.7 feet
18	804.7 feet
20	804.7 feet
21	804.7 feet
22	796.7 feet
23	796.7 feet
24	805.0 feet
25	805.5 feet
26	806.0 feet



27	806.5 feet
28	807.4 feet
29	807.4 feet
30	807.4 feet
31	807.4 feet
32	811.0 feet

All Dwelling Units to be constructed on the Lots designated herein 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 as shown on the recorded plat of this Subdivision.

Section 42. Sidewalks. Plans and specifications for this subdivision on file with the Allen County Plan Commission, require the installation of concrete sidewalks, within the street rights-of-way in front of all Lots on both sides of all streets in the Subdivision. 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 specification 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 Allen County Plan Commission, or its successor agency. Should such Certificates of Occupancy be issued to the Developer, said individual or corporation shall be considered an Owner for the purposes of the enforcement of this covenant.





## LEGAL DESCRIPTION ~ MALLARD'S LAKE

Part of the East half of the Southeast Quarter of Section 30, Township 32 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at a Harrison Marker at the Southeast corner of the Southeast Quarter of Section 30, Township 32 North, Range 13 East, Allen County, Indiana; thence South 89 degrees 31 minutes 26 seconds West (assumed bearing and the basis for the bearings in this description) along the South line of the SE.1/4 of Sec. 30-21-13, a distance of 893.45 feet to a Mag nail set at the intersection of said South line with the centerline of State Road #1 and the true point of beginning; thence North 52 degrees 32 minutes 40 seconds West, a distance of 100.00 feet to a point of curvature; thence Westerly along a curve to the left having a radius of 150.00 feet, a distance of 172.07 feet, subtended by a chord bearing North 85 degrees 24 minutes 24 seconds West, a distance of 162.79 feet to a point of tangency; thence South 61 degrees 43 minutes 52 seconds West, a distance of 113.20 feet to a point of curvature; thence Southwesterly along a curve to the right having a radius of 200.00 feet, a distance of 97.02 feet, subtended by a chord bearing South 25 degrees 37 minutes 39 seconds West, a distance of 96.07 feet to the Southwest corner of the E.1/2 of the SE.1/4 of Sec. 30-32-13; thence North 00 degrees 09 minutes 45 seconds West along the West line of the E.1/2 of the SE.1/4 of Sec. 30-32-13, a distance of 2656.30 feet to a railroad spike set at the Northwest corner of said E.1/2, SE.1/4; thence North 89 degrees 31 minutes 42 seconds East along the North line of the SE.1/4 of Sec. 30-32-13, a distance of 1330.00 feet to a 5/8-inch iron pin set at the Northeast corner of the SE.1/4 of Sec. 30-32-13; thence South 00 degrees 07 minutes 00 seconds East along the East line of the SE.1/4 of Sec. 30-32-13, a distance of 1926.45 feet to a Mag nail set at the intersection of said East line with the centerline of State Road #1; thence South 71 degrees 49 minutes 20 seconds West along said centerline, a distance of 282.70 feet to a Mag nail set at a point of curvature; thence Southwesterly along a curve to the left having a radius of 573.69 feet along said centerline, a distance of 344.10 feet, subtended by a chord bearing South 54 degrees 38 minutes 20 seconds West, a distance of 338.97 feet to a Mag nail set at a point of tangency; thence South 37 degrees 27 minutes 20 seconds West along said centerline, a distance of 570.43 feet to the point of beginning, containing 70.891 acres, subject to road rights of way and easements.

EXHIBIT "A"

