

Porter Cove Covenants and Restrictions

The undersigned, First National Bank of Valparaiso, an Indiana corporation, as Trustee of Trust Number 13-2608, and owner of the real estate described as Porter Cove Unit Number (1-4), noted as Exhibit A attached to and made a part hereof (hereinafter referred to as "real estate") does hereby certify that it has laid out, platted, and subdivided said real estate in accordance with the plat of the Porter Cove Unit Number (1-4), as found in Plat File 21-B-____. The street and sidewalk easements shown thereon as public right-of-way are hereby dedicated to the public. There has been caused to be incorporated as part of the subdivision the following protective covenants which shall be binding upon all present and future owners of the platted lots in Porter Cove Unit Number (1-4), and the same shall operate perpetually and run with the land and title to all of said lots of said subdivision and are as follows, to-wit:

The following restrictive covenants shall be binding on all of the parties and all persons claiming under them until such time as they may be terminated as provided herein:

1. No lot shall be used except for single family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height and an attached private garage for not less than two vehicles and not more than three vehicles.
2. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No building material, refuse or fill dirt may be placed within such easements in such manner that the drainage of said lot or other lots in the subdivision is prevented. An easement is hereby granted to the Town of Porter, General Telephone Company of Indiana, Inc., Lake Shore Cablevision, Inc., and Northern Indiana Public Service Company, severally and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace and maintain sewers, water mains, gas mains, conduits, cables and wires either overhead or underground with all necessary appurtenances upon, along and over the strip or strips referred to as easements, for the purpose of serving the public in general with sewer, water, gas, electric, cable television and telephone service, including the right to use the streets where necessary, together with the right to enter upon said easements for public utilities at all times for any and all purposes aforesaid and to trim and keep trimmed any trees, shrubs, or saplings that interfere with any such utility equipment. No permanent building shall be placed on said easements, but same may be used for gardens, shrubs, landscaping and other purposes that do not interfere with the use of said easement for drainage or other public purposes.
3. No dwelling shall be erected having less than the minimum floor area as follows: Twelve hundred square feet in a one story dwelling; one thousand square feet ground floor area in one and a one-half story dwelling; and nine hundred square feet ground floor area with a total of sixteen hundred square feet on a first and second story in a two story dwelling; and eleven hundred square feet on the upper level on either a bi-level or tri-level dwelling; all dwelling calculations exclude garage and one story open porches. No floor more than four feet below grade shall be included for purposes of computation of floor area.
4. No building shall be located on any lot nearer to the front lines than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than thirty feet to the front lot line. For purposes of this covenant, eaves or steps shall not be considered as part of the building provided; however, this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.
5. No lot or lots shall be re-subdivided in such a manner that there shall be more than one residential building per lot.
6. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

7. No structure of a temporary character- trailer, basement, tent, shack, garage, barn or other outbuildings- shall be used on any lot at any time as a residence either temporarily or permanently.
8. The following restrictions shall be strictly observed:
 - a. No fence line or wall shall be built to a greater height than six feet from the grade adjacent to the wall or fence at all points, nor shall any wall greater than two feet in height be built between the front building line and the front lot line.
 - b. No garbage, ashes, or refuse receptacle shall be placed, left or kept on any lot so as to be exposed to view, creating an unsanitary condition or constituting a nuisance.
 - c. No animals, fowls or pets which prove themselves to be a nuisance or detriment to the neighborhood shall be kept or maintained on any said lots.
 - d. Fuel of any kind giving off black smoke or strong or obnoxious odor shall be used.
 - e. No tanks for the storage of fuel oil not enclosed within the dwelling shall be maintained above the surface of the ground.
 - f. Six foot side utility and drainage easement shall be reserved on all lot lines.
 - g. Each lot shall have dusk to dawn lights installed when houses are built. Each lot owner shall maintain the dusk to dawn yard light installed by the builder. Maintenance shall include, but not be limited to, replacement of bulbs, replacement of globes as required and maintaining the electrical current to said light necessary for its continued operation. Should said light need to be replaced, the lot owner shall replace it with a unit of similar design and on the location of the original light.
 - h. No sump pump, footing drain, or gutter shall be drained or be allowed to drain into the municipal sanitary sewer system.
 - i. Each dwelling shall have a minimum front exterior of at least thirty percent stone or brick masonry with no artificial materials being permitted. This requirement may be waived by the architectural review committee where appropriate.
 - j. All tops of foundations for each and every dwelling shall be between twenty-six inches and thirty-six inches above the height of the curb as placed in this development. This requirement may be changed by the architectural review committee where appropriate.
 - k. That all driveways shall be constructed using concrete. In the event that a homeowner desires to use material other than concrete, he must submit the request to the architectural review committee for their sole determination.
9. The developers of this subdivision shall also be considered the architectural review committee. Said committee shall initially consist of William Davies, James Zimmer, and Donald Coker or their successors, which may be appointed by the remainder of said committee in the event of death or resignation. The majority of the committee votes are needed for approval. No building, wall, or other accessory building shall be erected or placed on any lot in this subdivision without the written approval of the majority of the architectural review committee. The homeowner or builder shall submit two complete sets of plans and specifications and plot plans showing the location of the proposed home; the submission shall be made to the offices of William Davies at 1587 S. Calumet, Chesterton, IN 46304. The purpose of the committee as they have a substantial interest in said development is to insure that any building meets the requirements of these covenants, the aesthetic expectations of the developers, and is in harmony with the quality of construction existing in the subdivision or that is expected in the future. The committee shall take thirty days upon receipt to identify any concerns or violations of the covenants and communicate them to the person submitting the application at the address supplied on the application. Failure of the committee to communicate its concerns and/or violations within said thirty day period, shall have said submission deemed to have been denied. The committee and the owner will use their best efforts to resolve any differences within thirty days after receipt of all approved or requested additional documents. Failure to resolve the same, will allow the owner or builder to initiate a

hearing with an arbitrator under the rules of American Arbitration Association. Plans that have been approved, shall be built within two years of date of approval, or owner will have to resubmit and shall have to go through the approval process with the committee again. The committee may abandon the approval process by written notification to all owners of land in said subdivision through the use of certified mail. Thereafter, the approval process will no longer be necessary. The architectural review committee, First National Bank, Trustee under Trust No. 13-2608, or its successor in interest, shall not be liable for any damage, loss, or prejudice suffered or claimed by any owner or builder who submits plans to the architectural review committee. Further, they shall not be liable for damage of any kind to any person failing to abide by, enforce, or carry out any of the restrictions and/or plans as outlined herein.

10. That at an appropriate time, the developer, acting on behalf of the owners and future owners of the lots in this subdivision, shall create the Porter Cove Homeowners Association, hereinafter referred to as "Association", which shall be a not-for-profit organization acting under the following purposes, to-wit:

- a. The purpose of the Association is to manage and support financially all of the common areas located in said subdivision, including the operation and maintenance of the detention pond from time to time and for the other purposes as designated by the membership. Each owner of a lot in Porter Cove Subdivision Unit Number (1-4) shall be a member of the Association and shall be entitled to cast one vote for each lot that is owned at any and all meetings. Further, said Association shall take in all the other lots which shall subsequently be platted in all the other units in Porter Cove Subdivision, and all owners will have the same rights and remedies. After its creation by the developer, the Association shall conduct a meeting at least once a year to organize itself and elect its officers. The Association shall adopt by-laws for its government and levy and collect dues. The Association shall impose and collect annual assessments for the maintenance and improvement of any and all common areas provided that the total assessments shall not exceed the sum of twenty five dollars per lot per year. The foregoing notwithstanding, the Association Directors may automatically increase the maximum assessment in direct proportion to the increase in the United States Government's consumer price index, urban households. Such assessment shall not accrue until the year 1994. The base year for the index shall be 1993. Those assessments shall be levied equally on each lot in all phases to the recorded Plat of Porter Cove subdivision. Failure to pay said assessments or annual dues shall be a violation of these covenants and restrictions. Any such assessments or annual dues shall be billed by the Association to the owner of each lot during the year on February 1st, and shall be due and payable within thirty days. All lots shall, from and after the recording of these restrictions, be subject to said annual dues and assessments. Paid dues and assessments shall be a lien in favor of the Association upon the lot against which such dues and assessments are charged until paid, which lien shall be enforced in the same manner as is provided in the mechanic's lien statutes of the State of Indiana. Provided further, that any person purchasing or dealing with said lot may rely upon a certificate signed by the President or Secretary of the Association showing the amount of said dues and assessments which are due and unpaid as of the date of such certificate, and the Association shall not be entitled to enforce any lien for such charge accruing prior to the date shown in said certificate. The within above described lien is subordinate to any first mortgage lien. Any past due annual dues, assessments or other charges assessable hereunder shall bear interest at the rate of twelve percent per annum commencing thirty days after the same become due and with attorneys' fees, and shall be due and payable without relief from valuation and appraisal laws.
- b. The Association may be formed for, and engage in, such other activities as may be beneficial to the lot owners, to the public at large, or which may qualify the

Association as a "not-for-profit corporation or association", as defined in the Internal Revenue Code.

- c. Until such time as the Association is created by the Developer, the Developer, acting on behalf of the Association to be formed, shall be entitled to carry out the responsibilities assigned to, and enjoy and exercise the rights and powers granted to, the Association pursuant to these restrictions; provided, however, the total of such dues and assessments levied by the Developer in such capacity against each lot shall not exceed twenty five dollars per lot per year so long as the association has not been created and the Developer is acting in such capacity on behalf of the Association to be formed. The Developer shall not be responsible for such assessment on lots held as inventory prior to sale.
- d. Each owner who sells his Lot shall require that his purchaser provide to the Association a copy of the instrument of conveyance. In addition, each owner upon such sale shall endorse to his purchaser his Certificate of Membership in the Association and shall deliver to his purchase copies of all documentation received by the seller at the time of the initial purchaser. The Association shall thereafter issue a new certificate in the name of the Purchaser.
- e. The Association shall be responsible for the exclusive management and control of the "common areas" and facilities.
- f. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, will accept any real or personal property leasehold or other property interests within the Real Estate conveyed to it by the Declarant.
- g. Upon the failure or refusal by the owners of any lot to meet an obligation under this Declaration, the Association shall upon the vote of a majority of the directors present at a duly constituted meeting, make demand upon such owner by written notice to meet such obligation, and upon such owner's continued failure or refusal to meet such obligation within two days after the third written notice, the Association shall undertake to perform such obligation on behalf of such owner, and all the costs and expenses thereof, including attorneys' fees, shall be assessed to such owner as a special Assessment; a lien for which shall be perfected and enforced. Without in any manner intending to limit the generality of the foregoing, the Association shall act upon the foregoing procedure in the event of such owner's failure or refusal to perform such obligation.
- h. Within sixty days of written notification by Developer to each lot owner that Developer intends to transfer the management responsibilities of the Association to the lot owners, the lot owners shall organize themselves as set forth above and assume the management of the Association in their discretion.
- i. Detention Pond: The Homeowners Association shall be responsible for the upkeep and maintenance of the Detention Pond located in the northeast portion of the subdivision. The original purpose and operational capacities of said pond are required to be maintained at all times.
- j. Right to Amendments: The undersigned shall have and hereby reserves the right and power and without consent or approval of any of the owners of lots in the subdivision or mortgagees of said lots to amend or supplement these Restrictive Covenants at anytime and from time to time if such amendment or supplement is made (1) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi public or private entity which performs (or say in the future perform) functions similar to those currently performed by such entities; (2) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering the lots of the subdivision and the structures constructed or located thereon; (3) to bring these Restrictive Covenants into compliance with

- any law or statutory requirements; (4) to correct clerical or typographical errors in these Restrictive Covenants or any Exhibit hereto or any supplement or amendment hereto.
- k. Any other amendments or changes of these restrictions and declarations shall be made as follows:
 - i. Notice. Notice of the subject matter of the proposed amendment in reasonable detailed form shall be included in a notice of a meeting to be held and shall be given to all owners of lots within the subdivision.
 - ii. Resolution. A resolution adopting a proposed amendment following such meeting must be adopted by not less than seventy-five percent of the total number of lot owners within the subdivision. Lot owners not present at a meeting considering such amendment may vote by proxy.
 - iii. Recording. Owners may execute power of attorney designating an attorney-in-fact to execute documents indicating the adoption of amendments. Such amendments shall be reduced to writing and executed in such manner either by said attorneys-in-fact or by the respective lot owners in such form as to be recordable in the Office of the Recorder of Porter County, Indiana.
 11. The residential subdivision property contains areas which have been delineated as wetlands by the Corps of Engineers and are outlined on the plat. The road known as Essex Drive contains wetland area adjacent to Lot 262, and the construction of said road cannot be completed without certain improvements being constructed in said wetland area. The improvements would include discharge of fill material into approximately 3,900 square feet of area on Essex Drive. Further, Lots 256, 257, Lots 259 through 267, inclusive, and Lots 37, 38 and 39, will not be drained, filled or dredged, nor will there be alteration or modification of the vegetation, soils and hydrology, so as to impair its continued use as a wetland. The Department of the Army Corps of Engineers shall have the right to enforce any violations of the provisions contained in said restrictive covenants as it affects the designated wetland area.
 12. The foregoing restrictive covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of fifteen years from the date these Covenants and Restrictions shall be recorded, after which time said Covenants and Restrictions shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the owners of the lots has been recorded, agreeing to change said Covenants and Restrictions in whole or in part; excepting that those lots listed in Paragraph 8 above (Lots 256, 257, Lots 259 through 267, inclusive, and Lots 37, 38, and 39) shall have their restrictive covenants as to the wetlands run in perpetuity and not subject to change as heretofore stated, except upon receiving written permission from the Army Corps of Engineers to alter its current wetland designation.
 13. Invalidation of any one of the foregoing restrictive covenants by judgment or court order shall in no way affect any of the other restrictions, which shall remain in full force and effect. The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure of part thereof erected or maintained in violation hereof, is hereby reserved to the several owners of the several lots in this subdivision and to their heirs and assigns. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.

(Porter Cove Covenants and Restrictions ends with signatures from the First National Bank of Valparaiso Trustee of Trust Number 13-2608, as well as being notarized by a resident of Porter County. This instrument was prepared by Gregory T. Babcock, Attorney at Law, located at 111 S. Calumet Rd., Chesterton, IN 46304.)