

LAKE CLEARWATER

Section 1

LAKE CLEARWATER DEVELOPMENT CONTROL COMMITTEE

GUIDELINES FOR ARCHITECTURAL CONTROL

INTRODUCTION

Pursuant to the Declaration of Restrictions of Lake Clearwater, the Lake Clearwater development Control Committee ("Committee") is charged with the responsibility of preserving and enhancing the integrity of the development within the legal limits set out in these Restrictions. The Restrictions generally, provide that the Committee has the right to promulgate and enforce reasonable rules to regulate the external design, appearance, use, location and maintenance of the lots and improvements subject to the Restrictions in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures. In order to satisfy this responsibility, the Committee shall:

- a. Approve or disapprove plans and specifications for all new construction.
- b. Approve or disapprove plans and specifications for all exterior improvements on the subject lots. This includes but is not limited to fences, outbuildings, additions, and swimming pools.

PLANS AND SPECIFICATIONS TO BE SUBMITTED

In order to properly review proposed improvements, the Committee has established the following to be the minimum materials to be submitted in triplicate:

- a. All Plans, drawings, or blueprints will be of professional quality and drawn to scale. Plans must include all exterior elevations, floor plans and foundation plan.
- b. Plans for any improvement must include information noting major building materials, i.e. brick, stone, siding, and proposed colors.
- c. A plot plan which identifies the following: location of house and driveway, finish floor elevation, location of any easements, location of proposed improvement, and location of any barriers (existing or proposed). Plot plans shall include the distance of all improvements from property lines.

ARCHITECTURAL GUIDELINES

As noted previously, any new building or improvement or any addition to an existing building must have prior written approval of the Committee before any work is undertaken. The Committee has established the following guidelines for specific types of construction and improvements on lots in Lake Clearwater. Any addition, exterior alteration or change to an existing building shall be compatible with the design and character of the original structures.

FENCES

Fences will be approved in back yards only. Backyard is described as not forward of the rear foundation line of the home. An exception to this is if the fence is to serve a service door into the house or garage and specifically if that fence is of an open material (wrought iron).

Forty-eight inches is the maximum height for property fencing. Fencing the entire backyard is discouraged to preserve a more spacious feeling. Consequently, fences of an open nature will be more readily approved, such as wrought iron with a landscape plan.

Five foot privacy/screening fences will be considered for small patio areas only.

In the case of swimming pools, if a privacy type of fence is to be used, it cannot be a perimeter fence. It may only enclose the area around the pool, concrete deck and a landscape or activity area.

In order to approve plans for fences, the Committee needs a brief description of height, materials, etc. and a site plan of your lot with the location of the fence noted.

LANDSCAPING AND PLANTINGS

Landscaping work and plantings in general do not require the approval of the Committee. However, trees, hedges and shrubs which restrict sight lines for vehicular traffic shall be cut back or removed. Special landscaping beyond that normally associated with a single family residence must be approved. All retaining and landscape walls must be approved. All front yards must be sodded unless an in-ground sprinkler system is installed. If you are uncertain about these requirements, please contact the Committee.

EXTERIOR ANTENNAS

Television, radio antennas, and satellite dishes may not be erected on the exterior of any home in the Development except for the small diameter, 2 feet or less, roof-mounted satellite dishes and devices.

SWIMMING POOLS

Permanent in-ground pools must have the approval of the Committee before any work is undertaken. Above-ground pools will not be approved by the Committee. Temporary pools having a depth of two feet or less require no approval.

An application for the construction of a swimming pool will not be considered unless the application is accompanied by an acceptable fence design or evidence that the agency issuing the building permit will accept an automatic cover and that the subject pool plans include an automatic cover. The design shall conform to the county or municipal regulations as well as the guideline for fences contained in this document. Minimum side yard and rear yard requirements will be the same as those required for the home. Use of plantings in the vicinity of the pool is recommended to soften the effect of noise and activity on adjacent properties.

PLAY EQUIPMENT

Children's play equipment such as sandboxes, temporary pools having a depth of two feet or less, swing and slide sets, playhouses and tents shall not require approval provided such equipment is not more than six feet high, in good repair (including painting) and every reasonable effort has been made to screen or shield such equipment from view. Equipment higher than six feet requires the approval of the Committee with regard to design, location, color, material and use.

MISCELLANEOUS

Exterior lighting shall not be directed in such a manner as to create annoyance to adjacent properties.

Trash and garbage containers shall not be permitted to remain conspicuous except on days of trash collection.

Homeowners shall make a reasonable effort to keep garage doors closed except during times of actual use of the garage facility.

Permanent clothes lines are prohibited.

All houses are to have, as a minimum, the front and two sides brick or masonry material at least the first floor.

RULES CONCERNING STUCTURES AND OTHER ACTIVITIES
AT LAKE CLEARWATER AND LAKE KILLBUCK


To protect Lake Clearwater and Lake Killbuck from erosion, contamination, pollution, diminution of the water supply and interference with their proper use and function, Marina I L.P. adopts the following rules governing use of the lakes.

1. Structures. No structure shall be permitted within the 20 feet setback other than boathouses, docks, patios, landings and walkways (with handrails) located at ground level, which must be approved by the Development Control Committee.
 - a. Boathouses. There shall be permitted one (1) boathouse per lot, the outside dimensions of which shall not exceed the lesser of 30 feet in width or 50% of the shoreline footage of the lot in width. Such boathouse shall not extend into the lake beyond the legal shoreline. Nor shall any room or similar facility be built on top of any boathouse. Only flat roofs are allowed.
 - b. Docks. All docks shall be floating and extend into the water no more than 35 feet from the property line. Boat dock plans shall be submitted to the Development Control Committee for approval. In areas where there is a narrow channel, boat docks are limited to docks that run parallel to the shore.
 - c. Shore Protection. All shore protection; riprap, retaining walls and sea walls to be installed within the 20-foot easement require approval.
 - d. Retaining Walls. Retaining walls shall not exceed 5 feet in height. All retaining walls shall be constructed either (1) to hold an existing bank at its natural grade, or (2) to permit the owner to construct terraces on the lot, which may be necessitated, by the steep grade or topography of the lot in relation to the water.
2. Animals. No animals shall be kept or maintained on any lot abutting the lakes except domesticated pets.
3. Wells and Septic Tanks. No septic tanks shall be installed on any lot abutting the lakes.

The foregoing rules are supplemental to all existing covenants and restrictions with respect to property abutting Lake Clearwater and Lake Killbuck.

In the event that property abutting the lakes is not subject to regulation by the Lake Clearwater/Lake Killbuck Development Control Committee, then all approvals with respect to such property required to be obtained pursuant to these rules from the Development Control Committee shall instead be obtained from Marina I L.P.

Marina Limited Partnership
General Partner of The Marina I L.P.



Signed **Allen E. Rosenberg, President**
of The Marina II Corporation

Title **General Partner of The Marina Ltd. Partnership**
General Partner of The Marina I L.P.

Printed
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Date

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The Lakes at Killbuck Property Owners' Association, Inc. Rules and Regulations Concerning Lake Killbuck Madison County, Indiana

*Entered Into and Approved by Directors of
Lake Clearwater Property Owners' Association, Inc. and
The Lakes at Killbuck Property Owners' Association, Inc.*

Section I

Authority for these Rules and Regulations

These rules and regulations have been adopted by a majority vote of the Directors of the Lake Clearwater Property Owners' Association, Inc. and the Directors of the Lakes at Killbuck Property Owners' Association, Inc. a/k/a The Lakes at Killbuck Homeowners' Association, Inc. pursuant to contractual agreement dated February 24, 2004.

In consideration of the covenants contained herein and in accordance with the above-referenced agreement and the Declaration of Restrictions of the two homeowners associations, which own the real estate as tenants in common, they both hereby grant to their respective lot owners entitled to use Lake Killbuck, their successors and assigns, certain license rights upon the following terms and conditions. The license rights relate to the recreational use of the water in Lake Killbuck as it exists on the date of this agreement. The grant of the license is subject to the following rules and regulations. Violations of the rules and regulations can result in the licensees' rights to use the waters in Lake Killbuck to be terminated.

Section II

Objectives

1. The two homeowners associations, Lake Clearwater Property Owners' Association, Inc. and The Lakes at Killbuck Property Owners' Association, Inc. a/k/a The Lakes at Killbuck Homeowners' Association, Inc., are to adopt reasonable rules and regulations concerning the use and operation of watercraft on the waters of Lake Killbuck watercourse hereinafter referred to as "Lake Killbuck".

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Section III

Registration of Boats and Watercraft

That pursuant to the above-described contractual agreement there exists two (2) nonprofit homeowners associations, Lake Clearwater Property Owners' Association, Inc. and The Lakes at Killbuck Property Owners' Association, Inc. a/k/a The Lakes at Killbuck Homeowners' Association, Inc., which equally own the land under the Lake Killbuck watercourse as tenants in common and, as such, they are responsible for the registration of all boats and watercraft to be operated, placed or used on Lake Killbuck.

In furtherance, the two property owners associations shall adopt reasonable rules and regulations with respect to boat registration and requirement of liability insurance with respect to watercraft. The associations shall be responsible for issuing decals for placement on such boat or watercraft and shall be displayed on the starboard and port sides of the boats.

That pursuant to this obligation, the two property owners associations shall exchange on June 1st of each year a list of individuals who are registered and entitled to operate motorboats on the Lake Killbuck watercourse. That individuals who become authorized to use Lake Killbuck after the date of June 1st the names shall be provided by facsimile or email to the respective property owners association.

There shall be an absolute restriction that no individual lot, which is entitled to operate a motorboat on Lake Killbuck, shall have more than four (4) motorized watercraft at any one time registered to operate on Lake Killbuck.

Boats shall not be authorized to use Lake Killbuck unless the boat is owned and registered to a lot owner in the The Lakes at Killbuck and who is entitled to use Lake Killbuck pursuant to the agreement between Lake Clearwater Property Owners' Association, Inc. and The Lakes at Killbuck Property Owners' Association, Inc. a/k/a The Lakes at Killbuck Homeowners' Association, Inc.

Section IV

Restrictions Relating to the Use of the Lake

1. Use of the Lake Killbuck watercourse shall be restricted to the lot owners defined in the contractual agreement entitled to operate on Lake Killbuck. The two homeowners associations acknowledge that during certain high water or flood conditions they shall restrict operation of motorboats to no wake or idle speed only to prevent damage to boat docks and shoreline.
2. That no person shall use the lakes if such person is under the influence of alcoholic beverages or any other controlled substance contrary to Indiana statutes.

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3. That no person using the lakes shall participate in loud, rude, illegal activity, or engage in any public nuisance.

Section V

Rules for Use of the Lake

The two property owners associations, Lake Clearwater Property Owners' Association, Inc. and The Lakes at Killbuck Property Owners' Association, Inc. a/k/a The Lakes at Killbuck Homeowners' Association, Inc., adopt and incorporate the Indiana rules that regulate water recreation in the State of Indiana (Indiana Code 14-15-1-1 et seq.). The two associations recognize that these rules regulate the use of watercraft on public bodies of water however, the associations incorporate those rules as if written in verbatim and made a part hereof and marked as Exhibit A.

The associations, however, do not by any action of incorporating the rules that regulate public waters hereby make Lake Killbuck public. That all right, title and interest of Lake Killbuck is owned by the two associations and the use of the water in Lake Killbuck remains private. The following rules shall be supplemental and in addition to the regulation of water recreation rules and regulations adopted by the Indiana State Legislature and apply due to the unique characteristics of Lake Killbuck.

1. All persons who use the lake must exercise courtesy and consideration to other lake users and must conform to these boating rules, unless to do so would create a hazardous or unsafe situation.
2. That attached hereto is a map of Lakes Killbuck (Exhibit B) designating certain idle speed restriction areas within Lake Killbuck.
3. All boats must carry a United States Coast Guard (USCG) approved lifesaving device for each occupant of the boat.
4. No person under the age of sixteen (16) years shall operate a boat having a motor exceeding ten (10) horsepower, except under one of the following conditions:
 - a. Accompanied by a person over the age of eighteen (18) years of age.
 - b. Accompanied by a person over the age of sixteen (16) years who has been issued a certificate of completion of a USCG approved basic boating course.
5. The overall length of boats that operate on the lake shall not exceed 22 feet for all power boats, 24 feet for pontoon boats and 19 feet for sailboats. There shall be an exception however for individuals who own boats in excess of that and shall have a period of time from June 1, 2007 through June 1, 2010 to operate those boats. That after June 1, 2010 all boats using Lake Killbuck shall comply with the above-described length regulations.
6. Modified boat motors will not be allowed and must perform per manufacturer's specifications.
7. The use of "bladdered" or further use of wake-enhancing devices shall be banned from the use on Lake Killbuck as of July 1, 2007. There shall be an exception for

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individuals who own boats with wake-enhancing devices shall have a period of time from July 1, 2007 through July 1, 2010 to operate those boats. That after July 1, 2010, all boats using Lake Killbuck shall comply with no further use of wake-enhancing devices.

8. **Boat Dock Approval.** Each property owners association, Lake Clearwater Property Owners' Association, Inc. and The Lakes at Killbuck Property Owners' Association, Inc. a/k/a The Lakes at Killbuck Homeowners' Association, Inc., shall adopt reasonable rules and regulations with respect to boat docks. However, both associations agree that the boat docks may not extend more than thirty-five (35) feet from the shoreline. It shall be the responsibility of each lot owner to obtain approval of its respective homeowners association prior to installing boat docks on Lake Killbuck.

Section VI

Boat Operation

That due to the unique character of Lake Killbuck, the following regulations will be in place supplemental to Indiana state boating law and regulate the operation of watercraft.

1. When there are 3 or more power boats in the boating traffic, all power boats shall be driven in a counter-clockwise direction as viewed from above the lake.
2. All power boats shall be operated farther than 100 feet from any shoreline, unless driven at idle speed and slow enough to prevent wake or wash. However, skiers from a lot may be towed into or out of such lot, but the boat and the skier must not cross any area within 100 feet in front of any other lot.
3. All power boats, including jet skis, following or overtaking another boat shall stay clear of any boat ahead by at least 100 feet and shall overtake or pass to the left no closer than 50 feet from the other boat. If either or both boats are pulling skiers, tubers, or persons, the 100 foot minimum clearance includes the skiers, tubers, or persons, and equipment. No boat shall be operated so as to directly follow the path of a skier, tuber or person at any distance less than 300 feet.
4. All skiers, tubers, and persons being towed by any watercraft must wear a USCG approved flotation device.
5. Boats towing a skier, tuber or other person must return at once to a fallen or dropped skier, tuber or person, but must keep clear of boats when turning or traveling to the skier, tuber or person. No boat shall go any closer than 100 feet of any fallen skier, tuber or person.
6. On weekends and holidays, a boat may tow no more than two (2) of the following: skiers, tubers or persons at any one time from 12:00 p.m. to one hour before sunset. A tow rope shall not be longer than 75 feet (100 feet barefoot) and must not be allowed to trail behind a boat when the boat is not pulling a skier, tuber, or person.
7. A ski shall not be "dropped" or be left in the lake in areas of boat traffic, and "dropped" skis must be picked up immediately.

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8. During heavy traffic periods, which can include but not limited to Saturday, Sunday and holidays from 9:00 a.m. to one hour before sunset, all skiers, tubers and persons who are being towed by watercraft must have an observer on the towing watercraft in addition to the driver. At other times the driver must have a suitable rear view mirror or an additional observer.
9. In order to prevent congestion on the lake during heavy traffic times, as defined in Paragraph 8 above, no more than one (1) power boat registered to a lot shall use the lake for towing any skier, tuber, or person.
10. All power boats must stay clear of skiers, tubers, or persons being towed by a watercraft, and swimmers. A fallen skier should hold his/her ski up (other fallen persons should hold their hand and arm up) above the surface of the water in order to increase his/her visibility to other boats.
11. Occupants of a boat with a motor running are to be situated within the boat so that, regardless of the speed of the boat, a loss of balance or unexpected maneuver will not expel them from the boat.
12. The maximum speed allowed on the lake is 35 miles per hour between sunrise and sun set; however, a boat towing a barefoot skier may be operated at no more than 40 miles per hour at such time. All power boats shall be operated at idle speed with no wake on the lake between sunset and sunrise.
13. The Board of Directors has the right to designate idle zones and homeowners, families and their guests will be expected to honor these idle zones. No boat shall be operated within such designated areas above idle speed with a wake.
14. Boats crossing the entrance to an inlet do not have the right of way and must yield the right of way to boats entering or leaving the inlet.
15. Boats shall be operated in such a manner as to comply with the following rules unless it shall not be safe maneuver:
 - a. If two (2) power boats are approaching each other bow to bow, each boat must yield to the right to stay clear of the other boat.
 - b. If two (2) power boats are approaching obliquely or from the side, the boat on the right has the right of way.
16. All boats must not create excessive noise (exhaust must be muffled), and no hydroplanes primarily designed for racing purposes, no airboats (propelled by air thrust), no submarine or any boat or watercraft designed to operate below the surface of the water and no houseboats may use the lake. No airplane, helicopter, or other craft that is designed to fly or hover above the ground or water may use the lake.
17. As per USCG regulations, no person shall operate any boat that is loaded with passengers and/or cargo beyond its safe carrying capacity as recommended by the manufacturer's disclosure placed on the boat.
18. All motorized boats operating between sunset and sunrise shall exhibit the following:
 - a. A bright white light aft, higher than the bow light, visible 360 degrees around the boat.
 - b. A separate or combined light in the forepart (bow) of the watercraft showing green to starboard and red to port.

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- c. Carry, ready at hand, a lantern or flashlight which shall be exhibited showing a bright white light in sufficient time to indicate its presence in order to avoid collision.
19. Any person who is operating any watercraft on Lake Killbuck shall stop the operation of the watercraft at the request of or after being hailed or signaled to stop by a member of the Board of Directors or the Board of Directors approved written designee, for such a period of time as necessary to communicate with any such persons. Such operator shall accurately give his/her name, his/her age, and any other reasonable information as requested by the association's Board of Directors.

Section VII

Other Use of Lake and Boat Landing Area

1. No person shall use the boat launching area except individuals authorized to use the lake by the respective property owners associations pursuant to the contractual agreement entered into dated February 24, 2004.
2. Individuals shall not leave boat trailers in the launching ramp area in excess of three (3) days.

Fishing Regulations

The rules and regulations of the State of Indiana which are in existence on the date of this agreement which regulate fishing as they exist and as they are amended shall apply to all users of Lake Killbuck, said rules and regulations incorporated herein and marked as Exhibit B.

Section VIII

Enforcement of these Rules and Regulations

The Board of Directors of each association, pursuant to their contractual agreement, grant a license to each lot owner entitled to operate watercraft on Lake Killbuck. The license may be revoked by repeated violation of the rules and regulations in existence or as amended.

1. The Board of Directors may, for repeated violations of these rules and regulations, suspend an individual from operating watercraft on Lake Killbuck. Secondly, the Board of Directors may assess, pursuant to a written agreement entered into between the two amending these rules and regulations, a schedule of fines for violations of these rules and regulations. The fine shall be paid within a ten (10) day time period and if not paid may be collected in the same manner delinquent homeowners association liens can be on lots.
2. That interpretations of these rules will be left to the joint Board of Directors of the association. These rules may be amended from time to time. If the Board of


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Directors of the associations agree to seek legal action to enforce these rules and regulations against individuals who violate these rules, it may, if it prevails, in addition to enforcement, recover reasonable attorneys' fees and other costs of litigation.

- References: 1. Grandview Lake Rules and Regulations
2. Lutheran Resort Association

Lake Clearwater Property Owners' Association, Inc.



President

The Lakes at Killbuck Property Owners' Association, Inc.
a/k/a The Lakes at Killbuck Homeowners' Association, Inc.



Troy Abbott, President
APPROVED AT ANNUAL MEETING HELD NOVEMBER 1, 2007

PLAT RESTRICTIONS

This subdivision shall be known and designated as Lake Clearwater Section One, an addition to the city of Anderson, Indiana.

All streets and alleys shown and not heretofore dedicated, are hereby dedicated, to the public.

1. Front yard building setback lines are hereby established as shown on this plat, between which lines and property line of the street, there shall be erected or maintained no building or structure.
2. Side yard setbacks: no side yard shall be less than nine (9) feet from the side line of the lot.
3. Rear yard setbacks: rear yard setback lines shall be at least twenty (20) feet from the rear lot line.
4. Dwelling square footage requirements and use: All lots in this subdivision shall be known and designated as residential lots. No business shall be erected on said lots and no business may be conducted on any part thereof, other than the home occupations permitted in the zoning ordinance of the city of Anderson. No structure shall be erected, altered, placed or permitted to remain on any residential lot herein, other than one detached single-family dwelling not to exceed two and one-half stories in height and residential accessory buildings. Any garage, or accessory building erected shall be of permanent type construction and shall conform to the general architecture and appearance of such residence. The minimum square footage of finished living space of dwellings constructed on all residential lots shall be 1800 square feet for a single floor residence and 2400 square feet for a two-story or multi-story residence with the ground floor having a minimum of 1800 square feet exclusive of porches, terraces, garages, carports, accessory buildings and basements.
5. There are strips of ground fifteen (15) feet in width or otherwise indicated as shown on this plat and marked "Drainage and Utility Easement (D & U E)", reserved for the use of public utilities of the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures or trees are to be erected, placed or maintained upon said strip of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities.
6. No fence, wall, hedge, shrub planting or trees which obstructs sight lines at elevations between three (3) and twelve (12) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement.
7. In the event of storm water drainage from any lot or street right-of-way flows across another lot, provisions shall be made or maintained on said lot by the developer or lot owner to permit such drainage to continue, without restriction, obstruction or reduction, across the downstream lot and into the natural drainage swale, channel or course, even though no specific drainage easement for such flow of water is provided for on said lot.
8. Controlling documentation: The restrictions contained in the plat are an implementation of the declaration of restrictions of Lake Clearwater, recorded in instrument number 200413167, in the office of the Recorder of Madison County, Indiana and any amendments thereto. In the event of a discrepancy between these plat restrictions and the declaration, then the declaration shall control.
9. The foregoing covenant (or restrictions), are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2028, at which time said covenants (or restrictions), shall be automatically extended for successive periods of ten (10) years unless changed by a vote of a majority of the then owners of the building sites covered by these covenants or restrictions, in whole or in part. Invalidity of any one of the other covenants or restrictions, which shall remain in full force or effect.
10. "The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structures or part thereof erected or maintained in violation hereof, is hereby dedicated to the public, and reserved to the two lots in this subdivision and to their heirs and assigns."

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MADISON COUNTY, IN
Kris Lutz
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DECLARATION OF RESTRICTIONS
OF
LAKE CLEARWATER

THIS DECLARATION made this 30th day of April, 2004 by The Marina I L.P.,
an Indiana limited partnership (hereinafter referred to as the "Developer"),

WITNESSETH:

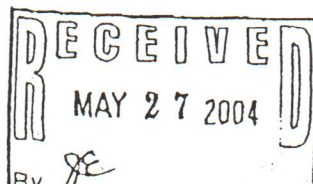
WHEREAS, the Developer is the owner of the lands contained in the area described in Exhibit "A", Section I and has a contract option to acquire the land described in Exhibit "B", attached hereto and made a part hereof, which lands will be subdivided (hereinafter referred to as the "Development"); and

WHEREAS, the Developer is about to sell and convey the residential lots situated within the platted area of the Development and before doing so desires to subject and impose upon the real estate within the platted area of the Development mutual and beneficial restrictions, covenants, conditions, and charges (hereinafter referred to as the "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and the future owners thereof.

NOW, THEREFORE, The Developer hereby declares that all of the platted lots and lands located within the Development as they become plated are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title of interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the Developer's successors in title to any real estate in the Development. The Developer specifically reserves unto itself the right and privilege to include additional real estate to the above-described Development.

The additional real estate, which may be added to, Exhibit "A" is contiguous, adjacent to or in close proximity to the development and lies within the real estate described in Exhibit "B" attached hereto and made a part hereof and incorporated herein. The real estate reflected on Exhibit "B" and consists of approximately ± 234 acres.

The decision to add or subtract the real estate described in Exhibit "B" remains the sole discretion of the Developer. All parties who acquire through deed or transfer any right, title, or interest, legal or equitable in the real property commonly known as Lake



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Clearwater subdivision consent to and acknowledge the rights of the Developer to add or subtract the above described real estate reflected in Exhibit "B".

The real estate depicted on Exhibit "B" shall be added or subtracted and when added as additional real estate by the Developer's option, it will become part of the original development, for all purposes hereunder, when Developer places of record in Madison County, Indiana, an instrument entitled "Designation of Additional Real Estate," which would recite therein the real estate described.

Upon the recording of such instrument or instruments, the real estate would be described therein shall for all purposes be deemed additional real estate and the owners of any lots within such additional real estate shall be deemed for all other purposes to have all rights, duties, privileges and obligations of owners of lots within the original real estate Declaration, as herein provided, without regard to whether the common properties have been conveyed by the Developer to the corporation or property owners' association, as hereinafter defined in accordance with the terms of the Declaration and without regard to the record ownership of the common properties. For purposes of this paragraph a plat depicting a portion of the development area shall be deemed Designation of Additional Real Estate Declaration.

1. DEFINITIONS. The following are the definitions of the terms as they are used in this Declaration:

A. "Applicable Date". "Applicable Date" means the earlier of the dates when all the lots in the Development have been improved by the construction thereof of residences or December 31, 2020.

B. "Committee" shall mean Lake Clearwater Development Control Committee composed of three members appointed by the Developer who shall be subject to removal by the Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of the Developer. The Developer may, at its sole option at any time hereafter relinquish to the Association the power to appoint and remove one or more members of the Committee.

C. "Association" shall mean Lake Clearwater, a not-for-profit corporation, the membership and powers of which are more fully described in Paragraph 12 of this Declaration.

D. "Lot" shall mean any parcel of real estate excluding "Blocks", whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Madison County, Indiana.

E. Approvals, determinations, permissions, or consents required herein shall be deemed given if they are given in writing, signed with respect to the Developer or the Association, by the President or a Vice President thereof, and with respect to the Committee, by one member thereof.

F. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a lot, but excluding those persons having such interest merely as security for the performance of any obligation.

G. Lake Killbuck. Lake Killbuck is a term used in this Declaration and it is defined as a watercourse and a private lake formed by Little Killbuck Creek with additional watercourses flowing into it including, but not limited to Nelson's Branch and Crystal Lake.

H. Lake Clearwater. Lake Clearwater is a freestanding lake which has no watercourses entering or leaving it. Subdivided lots which abut Lake Clearwater will have access to Lake Clearwater only and the lot owners which abut Lake Clearwater will not have rights to access nor use Lake Killbuck unless they avail themselves of the rental pontoon boats described below.

I. Waterfront Lot. A subdivided lot located in Lake Clearwater subdivision which abuts (touches) Lake Killbuck and other land surrounding Lake Killbuck which has not been formally subdivided. These lot owners which abut the Lake Killbuck watercourse as defined in this declaration will have rights to use and access Lake Killbuck subject to written rules and regulations. The lot owners in Lake Clearwater subdivision which abut Lake Clearwater shall have rights to use and access Lake Clearwater subject to its reasonable rules and regulations.

J. Non-Waterfront Lot. An off-water subdivided lot which does not abut (touch) Lake Killbuck or Lake Clearwater.

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every lot in the Development, unless it is otherwise designated by the Developer, is a residential lot and shall be used exclusively for single-family residential purposes. No structures shall be erected, placed or permitted to remain upon any of said residential lots except a single-family dwelling house.

Prior to issuance of an Improvement Location Permit, a delineation of the lot shall be submitted for approval to the Development Control Committee. Said delineation shall indicate all trees which have a diameter of more than six (6) inch caliper at a point five feet above the tree's natural base and which are located outside the building, driving, and parking areas. These shall be designated by type and size and shall not be removed unless approved by the Development Control Committee upon proof of unusual hardship in the practical utilization of the lot and such removal shall not cause a materially adverse effect upon the aesthetic values of adjoining lands and rights-of-way.

Removal or destruction of such trees by a lot owner or his successors in title, other than by acts of God or circumstances beyond the lot owner's control, within ninety (90) days notice in writing, shall be replaced by a tree of a type and size established by the Development Control Committee, and upon failure to do so, the Development Control Committee shall cause such tree to be replaced and the cost of such replacement shall be

a lien upon the property collectable in any court of law or equity together with reasonable attorney's fees for the enforcement of such lien. For the purposes of executing this covenant, an easement for ingress and egress shall be reserved on each lot for the performance thereof.

Also, adequate physical barriers, such as straw bales or snow fence, shall be provided by the builder to protect trees to be preserved from damage by construction equipment or otherwise in the erection of building improvements. Pruning of trees outside the building line shall be permitted subject to the review and approval of the Development Control Committee and shall be undertaken only by qualified persons having adequate equipment to properly protect and preserve such trees.

In addition to individual site plan restrictions and tree preservation requirements administered by the Development Control Committee, platted building lines, minimum distances between buildings and minimum front and rear building lines shall be established on each plat.

B. Residential Use of Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots. In no event shall any such accessory outbuilding, which may be constructed upon a residential lot under these Restrictions ever, be used as a residence or dwelling house or place for human occupancy or habitation.

C. Occupancy or Residential Use of Partially Completed Dwelling House Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the house shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties. The foregoing is subject to the rules, regulations and ordinances of the City of Anderson and of its building commissioners or directors of planning or other appropriate administrative agency with the jurisdiction.

D. Other Restrictions. All tracts of land in the Development shall be subject to the easements, restrictions and limitations of record appearing on the recorded plat of the subdivision, on recorded easements, rights-of-ways, and also to all governmental zoning authority and regulation affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Living Space Areas. The minimum square footage of living space of dwellings constructed on various residential lots in the Development, exclusive of porches, terraces, garages, carports, or accessory buildings shall be as specified in the recorded plats of the various sections of the Development. Basements shall not be included in the computation of the minimum living area except for that portion of a

walkout basement which is to be finished as a living area and approved by the Development Control Committee.

B. Residential Set-Back Requirements.

(i) In General. Unless otherwise provided in these Restrictions or on the record plat, no dwelling house or above-grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.

(ii) Definitions. "Side line" means a lot boundary line that extends from the road on which a lot abuts to the rear line of said lot. "Rear line" means the lot boundary line that is farthest from, and substantially parallel to, the road on which the lot abuts, except that on corner lots, it may be determined from either abutting road.

(iii) Front Yards. The front building setback lines shall be the designated number of feet from the right-of-way of the road upon which the lot abuts as set forth upon the plats of the Development.

(iv) Side Yards. The side yard setback lines shall not be less than nine (9) feet from either sideline of the lot.

(v) Rear Yards. Lots which the rear yard abuts Lake Killbuck shall be subject to deed restrictions created by Irving Materials, Inc. and also the lots shall be subject to reasonable rules and regulations to be determined by the Directors of the Lake Clearwater Property Owners' Association, Inc. and the Directors of The Lakes at Killbuck Homeowner's Association, Inc.

C. Fences and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, fences will not be allowed and trees are required. Variances may be granted for small enclosures, but no perimeter fencing will be allowed in the Development. A lot must have at least two (2) shade trees growing upon it in the front yard by the time the house is completed.

D. Mailboxes. Owners of a lot in the Development shall install or cause to have installed a mailbox, which shall be in accordance with the design, type and location of a mailbox approved by the Committee. The Committee may require, for the purpose of uniformity and appearance that the mailbox be purchased from the Developer or its designee.

E. Exterior Construction. The finished exterior of every building constructed or placed on any lot in the Development shall be of material acceptable to and approved by the Development Control Committee. All driveways must be paved with asphalt or concrete from their point of connection with the abutting street or road.

F. Heating Plants and Garages. Every house in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the house. Every house in the Development must have at least a two-car garage, attached or detached of the same architectural design and material as that of the house constructed on the lot.

G. Diligence in Construction. Every building whose construction or placement on any residential lot in the Development is begun shall be completed within twelve (12) months after the beginning of such construction or placement. 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.

H. Prohibition of Used Structures. All structures constructed or placed on any numbered lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such lot.

I. Maintenance of Lots and Improvements. The owner of any lot in the Development shall at all times maintain the lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly; and, specifically, such owner shall:

(i) Mow the lot at such times as may be reasonably required in order to prevent unsightly growth of vegetation and noxious weeds.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(iv) Cut down and remove dead trees.

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

(vi) Within sixty (60) days following completion of a house on a lot, the owner shall landscape the lot, weather permitting in accordance with landscaping standards of the Lake Clearwater Developmental Control Committee.

J. Association's Right to Perform Certain Maintenance. In the event that the owner of any lot in the Development shall fail to maintain his lot and any improvements situated thereon in accordance with the provisions of these Restrictions, the Association shall have the right, but not the obligation, by and through its agents or employees or contractors, to enter upon said lot and repair, mow, clean or perform such other acts as

may be reasonably necessary to make such lot and improvements situated thereon, if any, conform to the requirements of these Restrictions. The cost therefore to the Association shall be added to and become a part of the annual charge to which said lot is subject and may be collected in any manner in which such annual charge may be collected. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage, which may result from any maintenance work performed hereunder.

4. PROVISIONS RESPECTING DISPOSAL OR SANITARY WASTE.

A. Nuisance. No outside toilets shall be permitted on any lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter any storm drain or Lake Clearwater or Lake Killbuck. By purchase of a lot, each owner agrees that any violation of this paragraph constitutes a nuisance, which may be abated by the Developer, the Developer, or the Association in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorney's fees, shall become a charge or lien upon the lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt.

Neither the Developer, nor the Association, nor the Developer, nor any officer, agent, employee nor contractor thereof, shall be liable for any damage, which may result from enforcement of this paragraph.

B. Construction of Sewage Lines. All sanitary sewage lines on the residential building lots shall be designed and constructed in accordance with the provisions and requirements of the City of Anderson.

5. GENERAL PROHIBITIONS AND REQUIREMENTS.

A. In General. No noxious or offensive activities shall be carried on any lot in the Development, nor shall anything be done on any of said lots that shall become or be an unreasonable annoyance or nuisance to any owner of another lot in the Development.

B. Signs. No signs or advertisements shall be displayed or placed on any lot or structures in the Development without the prior written approval of the Committee except for real estate sales signs.

C. Animals. No animals shall be kept or maintained on any lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance.

D. Vehicle Parking. No trucks (one ton or larger), campers, trailers, commercial vehicles, boats, or similar vehicles shall be parked over night on any street or lot in the Development.

E. Garbage and Other Refuse. No owner of a lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such owner accumulate or permit the accumulation out of doors of such refuse on his lot except as may be permitted in Subparagraph F below. All houses built in the Development shall be equipped with a garbage disposal unit.

F. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground. Any receptacle for trash, rubbish or garbage shall be so placed and kept as not to be visible from any street or lot within the Development at any time, except at the times when refuse collections are being made.

G. Model Homes. No owner of any lot in the Development shall build or permit the building upon said lot of any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Developer. An exception permitted is a temporary mobile sales office for use by the Developer.

H. Temporary Structures. No temporary structure of any kind, such as a house, trailer, tent, storage building, garage or other outbuilding shall be placed or erected on any lot nor shall any overnight camping be permitted on any lot.

I. Ditches and Swales. It shall be the duty of the owner on every lot in the Development on which any part of any open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon the lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said lot as may be reasonably necessary to accomplish the purposes of this subsection. All owners, if necessary, shall install dry culverts between the road rights-of-way and their lots in conformity with the recommendations of the appropriate governmental zoning entity.

J. Docks and Piers. All docks and piers constructed adjacent to any lot in the Development shall be for the personal use of the lot owner. No pier, dock or other structure may be constructed in such a manner that any portion thereof extends beyond a reasonable distance from the shore into Lake Clearwater or Lake Killbuck. When the Developer or the Development Control Committee shall allow the placing of a structure within the lake block, the permit shall constitute a license.

The Developer will also impose certain boat dock restrictions on the lots abutting Lake Killbuck where there is a narrow channel in order to allow maximum benefit for other recreational users of Lake Killbuck and so as to not be a danger to navigation. The lot owners which abut this channel will be required to obtain approval in writing from the Development Control Committee prior to the placement of the boat docks on lots abutting the channel.

In no event shall any pier, dock or other structure be erected that does not conform to the specifications established by the Committee, which are as follows:

- (i) All docks must be floating and secured to avoid release by flood waters.

(ii) There shall be no covered boat docks without the specific written approval of the Development Control Committee.

(iii) All docks shall be white, gray or natural in color.

(iv) Anchoring devices must be hidden.

(v) Plans for the placement of all boat docks must be submitted to the Development Control Committee for approval before installation is commenced.

(vi) There shall be no individual launch sites or ramps constructed on any residential lot.

(vii) Any boathouse constructed upon a lot may not protrude into Lake Clearwater or Lake Killbuck, but must be constructed and excavated back into the lot. In addition to approval by the Development Control Committee such construction may require approval by the U.S. Army Corps of Engineers or other governmental body or the Developer or the Developer's designee.

(viii) In all instances of the above recited installations such construction shall conform to the requirements of such governmental bodies as may be applicable.

K. Beaches. No beach may be constructed on Lake Clearwater or Lake Killbuck unless the plans and specifications for the beach are submitted to and approved by the Committee and the Developer if required. Beaches shall be constructed of sand only. No spoil materials shall be placed or allowed to collect in Lake Clearwater or Lake Killbuck, which result from beach construction. Placement of materials to construct a beach may require a federal permit. If such a permit is required, it is the purchaser's responsibility to obtain such permit.

L. Seawalls and Shoreline Protection. It shall be the responsibility of Purchasers of waterfront lots in the Development who desire to construct seawalls or other types of shoreline protection on their lots to obtain any and all permits, consents, licenses, and approvals which may be required by any federal and/or state governmental agency, department, commission, or body.

M. Utility Services. Utility services shall be installed underground in or adjacent to public rights-of-way to minimize removal of trees. No utility services shall be installed, constructed, repaired, replaced and/or removed under finished streets except by jacking, drilling or boring and shall require the approval of the appropriate governmental body where the streets are public and by the property owners where there are private drives, if any.

N. Septic Tanks. No septic tanks shall be installed on any of the lots.

O. Prohibition of Antennas. No exposed radio, cable or television antennas and/or large satellite dishes shall be permitted within the Development. However, small diameter (2 feet and less diameter) roof-mounted satellite dishes and devices shall be allowed after they are approved by the Developmental Control Committee.

P. Pumping. The pumping of water from Lake Clearwater and Lake Killbuck is prohibited.

6. LAKE CLEARWATER DEVELOPMENT CONTROL COMMITTEE.

A. Statement of Purposes and Powers. The Committee shall regulate the external design, appearance, use, location and maintenance of lands subject to these Restrictions and improvements thereon, in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography and adopt rules and regulations concerning the use and operation of all watercraft on Lake Clearwater and Lake Killbuck.

(i) Generally. No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any lot in the Development without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the owner of the lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by three (3) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other materials or information which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of $1/4" = 1'$ and all plot plans shall be drawn to a scale of $1" = 30'$, or to such other scale as the Committee shall require.

(ii) Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(a) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;