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**AMENDED AND RESTATED DEDICATION AND DECLARATION  
OF PROTECTIVE RESTRICTIONS,  
COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED  
TO AS PART OF THE DEDICATION AND PLAT OF  
BECKETT'S RUN, SECTION III,  
A SUBDIVISION OF WASHINGTON TOWNSHIP, CITY OF FORT WAYNE,  
ALLEN COUNTY, INDIANA**

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THIS AMENDED AND RESTATED Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III, amends, restates, and supersedes all prior recorded covenants and restrictions impressed upon said Section III, including, but not limited to, the following: (i) the Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III set forth in Plat Cabinet F, page 173 in the Office of the Recorder of Allen County, Indiana and recorded in the Office of the Recorder of Allen County, Indiana on the 8th day of August, 2007 as Document Number 2007044829, (ii) the Amended Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III dated December 7, 2009 and recorded in the Office of the Recorder of Allen County, Indiana on the 11th day of December, 2009 as Document Number 2009063017, and (iii) ) the Second Amendment to the Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III dated October 9, 2012 and recorded in the Office of the Recorder of Allen County, Indiana on the 12th day of December, 2012 as Document Number 2012058701.

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 Beckett's Run, Section III, 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 61 to 109, 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.

**ARTICLE I**  
**Definitions**

The terms hereinafter set forth shall have the following meanings:

Section 1. "Association" shall mean and refer to Beckett's Run Community Association, Inc., its successors and assigns.

Section 2. "Beckett's Run" shall mean and refer collectively to each section of the Beckett's Run development, as it may be changed from time to time.

Section 3. "By-Laws" shall mean the By-Laws initially adopted by Beckett's Run Community Association, Inc., and all amendments and additions thereto.

Section 4. "Committee" shall mean the Architectural Control Committee specifically established for Beckett's Run, composed of members of the board of directors of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners in the Subdivision, as shown on the respective plat of said Subdivision, and as may be added in accordance with Article II, Section 3, of these Restrictions.

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 Beckett's Run, Section III, 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 fifty (50), feet width at the established building line as shown on the plat.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, 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 these Amended and Restated Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to as part of the Dedication and Plat of Beckett's Run, Section III.

Section 10. "Subdivision" shall mean Beckett's Run, Section III, a Subdivision located in Washington Township, Allen County, Indiana.

## **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, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against said Owner's Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction by said Owner, or the Owner's family, tenants, contract purchasers or invitees of its published rules and regulations after hearing by the board of directors of the Association;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members of the Association agreeing to such dedication or transfer has been recorded.



(d) No Owner may utilize water from a pond, detention basin, or retention basin located within any Common Area for purposes of irrigation of any lawn or landscaping located on any Lot. Notwithstanding the foregoing, the Owner of Lot #85 may utilize water from the pond located in the adjacent Common Area for purposes of irrigating the lawn and /or landscaping located on Lot #85.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, said Owner's right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### **ARTICLE III**

#### **Association Membership and Voting Rights**

Section 1. Organization. There has been organized in connection with the development of Beckett's Run, and its various sections, an incorporated not-for-profit association known as Beckett's Run Community Association, Inc. (the "Association").

Section 2. Membership and Voting Rights. Every Owner of a Lot shall be a member of the Association, together with all other Owners in the Subdivision. 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. There shall be only one (1) class of membership. Each Lot shall entitle an Owner or joint or common Owners of a Lot one (1) vote per Lot. .

Section 4. Membership Transfer. Membership in the Association will transfer to a successor in interest to an Owner upon delivery of a deed to the Owner's Lot.

Section 5. Continuing Memberships. The Owner of any Lot shall continue to be a member of the 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. Transfer of Membership Rights and Privileges in the Association. Each Owner, and in lieu thereof, (and with the written consent of such Owner to the Association) each lessee of a Lot shall be a member of the Association and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee, will pass with the lease, except if the Owner withdraws his/her consent in writing to the Association. The Owner may withdraw his membership assignment to any lessee in his discretion by issuing a sixty (60) day notice in writing to the Association. No assignment of membership shall relieve an Owner of the Lot from the obligation to pay any assessment authorized by these Restrictions.

### **ARTICLE IV**

#### **Covenant for Maintenance Assessments**

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, 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 Association: (1) annual assessments or charges; (2) special assessments or charges; and (3) Lot maintenance assessments or charges. Such assessments and charges shall be established and collected as hereinafter provided. The annual, special, and Lot maintenance assessments and charges, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, 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 Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments or Charges. The annual assessments or charges levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners in all sections of Beckett's Run, including, but not limited to, the improvement and maintenance of the Common Area, the maintenance of any Lot prior to the commencement of construction of a Dwelling Unit thereon, maintenance of street lighting, maintenance of the sprinkling system situated on the Common Area, storm water detention basins, outlet pipes and water level control structures, removal of snow from the streets, maintenance and improvement of the lake(s), payment of insurance and taxes, and all other things necessary or desirable in the opinion of the board of directors of the Association in connection therewith.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Two Hundred and Fifty and 00/100 Dollars (\$250.00) 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 be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above fifteen percent (15%) by the affirmative vote or written assent of fifty-one percent (51%).

(c) The board of directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments or Charges. In addition to the annual assessments or charges authorized above, the Association may levy, in any assessment year, a special assessment or charges applicable to that year only for the purpose of defraying, in whole or in part, (1) the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; (2) any budget shortfall; or (3) emergency need of the Association, provided that any such assessment shall have the vote or written assent of fifty-one percent (51%) of each class of members of the Association.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Any action authorized under Sections 3 and 4 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 meeting, but such vote is less than the requisite fifty-one percent (51%) of each class of members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments and charges must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or yearly basis as the board of directors may determine from time to time.

Section 7. Date of Commencement of Annual Assessments; Due Date. The annual assessments provided for herein shall commence as to all Lots on the date of the close of escrow on the sale of the Lot after the original recording of these Restrictions with the Recorder of Allen County. The first annual assessment shall be adjusted according to the number of days remaining in the calendar year. The board of directors of the 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 date shall be



established by the board of directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments or Charges: Remedies of the Association. Any assessment or charge not paid within thirty (30) days after the due date shall bear interest from the due date at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. In any successful action, the Association shall be entitled to recover all of its costs and expenses, including 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 9. Subordination of the Lien to Mortgages. The lien of the assessments or charges shall be subordinate to the lien of any first mortgage. 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 for such assessments as to payments which became 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.

## **ARTICLE V**

### **Architectural Control**

No building, fence, wall, deck swimming pool or spa, improvement, construction, excavation, 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 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 Committee from time to time. All approvals shall be requested by submission to the 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 and the type of exterior materials;
- (c) Plans for all floors and elevations, including projections and wing walls;
- (d) Exterior lighting plans, including type and location;
- (e) Walls, fencing, and screening;
- (f) Patios, decks, pools, porches, swing sets and play equipment.

Neither the Committee, the 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 Committee agrees, by

submission of such plans, that he or it will not bring any action or suit against the Committee or the Association to recover any damages or to require the Committee 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 Committee for review, 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 Committee shall retain exclusive control with respect to the review and approval or disapproval of all initial building plans and drawings, which may include all floors and elevations, exterior materials, and all other aspects of the original construction of Dwelling Units, access drives, and the locations thereof on the Lot. Responsibility for architectural approval of the above-referenced items shall remain with the Committee.

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 Committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed satisfied.

In the event the Committee shall prevail in any litigation respecting its decision or brought for the purpose of enforcing compliance with this Article, it shall be entitled to recover from the Owner of the Lot in issue reasonable attorney fees incurred.

## **ARTICLE VI**

### **General Provisions**

Section 1. Residential Purposes. No Lot shall be used except for residential purposes. No Dwelling Unit shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height. Each dwelling shall include, not less than, an attached two-car garage. Basements may be constructed as a part of the Dwelling Unit.

Section 2. Home Occupations. No Lot shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that indicates from the exterior that the Dwelling Unit is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such home occupation other than a member of the immediate family residing in the Dwelling Unit; and (d) no mechanical or electrical equipment is used; provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, fortune-telling parlor, licensed child care center or other licensed or regulated babysitting service, animal hospital, or any form of animal care or treatment such as dog trimming be construed as a home occupation.

Section 3. 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 of said Lots as a site for a single Dwelling Unit, said Owner shall apply in writing to the Committee or board of directors of the 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 4. Subdivision of Lots. No Lot or combination of Lots may be further subdivided unless seventy-five percent (75%) of the Owners have approved by signing an instrument of approval and until said approval has been obtained from the Fort Wayne City Plan Commission.

Section 5. Improvements. Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the 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 Association, or by any aggrieved Lot Owner in this Subdivision.

Section 6. 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 Fort Wayne City Plan Commission or its successor agency, an improvement location permit and a certificate of occupancy as required the appropriate governmental subdivision or agency.

Section 7. 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 been partially or totally 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 8. Building Sizes. For Lots numbered 61 through 109, inclusive, no Dwelling Unit shall be built having a ground floor area upon the foundation, exclusive of one-story open porches, breezeways or garages, of less than 1,600 square feet for a one-story Dwelling Unit, nor less than 1,100 square feet for a Dwelling Unit of more than one-story, so long as the combined total living area square footage for the first and second story is greater than 2,000 square feet. The same dwelling square footage requirements will apply for replacement construction in the event of a disaster.

Section 9. Garages. All Dwelling Units must have at least a two-car attached garage.

Section 10. 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 or any improvements or structures 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 if there is no rear setback line shown on the recorded plat.

Section 11. Minimum Lot Size. No Dwelling Unit shall be erected or placed on any Lot having a width of less than fifty (50) 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 7,000 square feet.

Section 12. 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 13. Exterior Building Surfaces and Colors. All exterior building surfaces, materials and colors shall be harmonious and compatible with colors of the natural surrounding and other Dwelling Units. The Committee shall have the right to approve or disapprove materials and colors so controlled.

Section 14. Yard Lights. It shall be the responsibility of the builder or Lot Owner to install a post type yard light in front of the Dwelling Unit. The light shall be hard wired to the Dwelling Unit panel and shall operate on a photo cell and be illuminated during all non-daylight hours. To promote continuity and harmonic appearance, the yard light shall be located no further than ten (10) feet from the front door side of the driveway edge, and no closer than twelve (12) feet nor further than seventeen (17) feet from the front property line.

Section 15. Driveways. All driveways from the street to the garage shall be poured concrete or masonry and not less than sixteen (16) feet in width.

Section 16. Sidewalks. Plans and specifications for this Subdivision on file with the Fort Wayne City Plan Commission require the installation of five (5) foot wide concrete sidewalks, within the street rights-of-way in front of all Lots and Common Areas in this Section III. Installation of said sidewalks shall be the obligation of the Owner of any such Lot, 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 Fort Wayne City Plan Commission or its successor agency. In the event a sidewalk is required to be installed on the Common Areas running along Auburn Road, the installation of said sidewalk shall be the obligation of the Community Association.

Section 17. Fencing. For Lots 61-74 and 91 – 109, all proposed fencing shall be approved by the Committee in writing. A cut sheet showing type, size (not to exceed 48" in height) and extent shall be submitted to and approved by the Committee prior to construction of any fence in accordance with Article V herein. Notwithstanding any other provisions to the contrary in this Section 17, the Committee may not approve construction or modification of any fence on Lots 75 through 90 which, in the Committee's sole discretion, would create a sight obstruction of the pond in the Subdivision. Approved fencing materials for Lots 75-90 would include black picket style fence, constructed with steel / iron/ aluminum no higher than 48 inches.

Section 18. Pools and Hot Tubs. No above ground pool, regardless of size, shall be placed or maintained on any Lot. No in ground swimming pool or hot tub or spa may be placed or maintained on any Lot without the prior written approval of the Committee in accordance with Article V herein and such proposed in ground pool or hot tub must be in compliance with all City of Fort Wayne Zoning and Land Use Management Ordinances.

Section 19. Mailboxes. The type, location, and installation of mailboxes will be approved by the Committee. Standard mailbox is black in color, 8" wide x 10" high x 21" deep, with address numbers on the door, to keep visual harmony within Section III.

Section 20. 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 that exceeds two (2) feet in diameter shall be permitted on any Lot or on any Dwelling Unit. No solar panels attached or detached shall be permitted.

Section 21. Maintenance of Lots and Dwelling Units. No Lot and no Dwelling Unit shall be permitted to become overgrown, unsightly or to fall into disrepair. A minimum amount of landscaping should be present including one (1) tree and four (4) bushes and / or shrubs must be placed in the front yard of all Lots. At each Owner's cost, 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 Committee. The Owners of Lots numbered 61 through 109, inclusive, for himself/herself and his/her successors and assigns, hereby grants to the Association, jointly and severally, the right to make any necessary alterations, repairs or maintenance approved by the Committee to carry out the intent of this provision and they further agree to reimburse the Association for any expenses actually incurred in carrying out the foregoing. The 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 Association in Article IV. Upon commencement of construction of a Dwelling Unit on a



Lot and at all times thereafter, all Owners shall maintain their respective Lots in a clean and slightly manner, including but not limited to, regular mowing and weed removal and removal of trash and debris. Should any Owner fail to do so then the Association (or its agents or contractors) may undertake to do the same and the Owner shall immediately reimburse the Association for the cost and expense of the same.

Section 22. Duty to Repair and Rebuild. Each Lot Owner shall, at his sole cost and expense, repair his Dwelling Unit, keeping the same in a condition comparable to the condition of such Dwelling Unit at the time its initial construction was completed, excepting only usual wear and tear. If all or any portion of a Dwelling Unit is destroyed by fire or other casualty, then the Owner shall, with all due diligence, promptly rebuild, repair, or reconstruct such Dwelling Unit in a manner which will substantially restore it to its condition and square footage as existed immediately prior to the casualty. No improvement upon a Lot which has been partially or totally destroyed by fire or other casualty shall remain in such condition for more than three (3) months from the time such destruction or damage occurred.

Section 23. 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 or 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 Dwelling Unit 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 24. 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 during and after construction 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 25. 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 Association and any public or quasi-public utility company engaged in supplying one or more of the utility services contemplated in Sections 22 and 23 or this Section 24 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 storm) 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 26. Flood Protection Grade. The minimum flood protection grades referenced below shall establish the minimum sill or window opening to the structure. 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>
61	785.9
62	785.4
63	785.0
64	784.5
65	784.1
66	783.6
67	783.2
68	782.7
75-90	798.5
100	790.5
101	790.1
102	789.7
103	789.4
104	789.2
105	789.1
106	789.0
107	788.4
108	787.4
109	786.8

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 basement floor, if applicable, as shown on the recorded plat of this Subdivision. All Dwelling Units shall be constructed in accordance with the current FEMA regulations.

Section 27. 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 28. Sanitary Sewer Restrictions. No rain and storm water runoff or such things as sump pump water discharge, 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 29. Use of Other Structures and Vehicles. 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, detached basement, tent, shack, shed, detached garage, dog house, 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 any time, or used as a residence either temporarily or permanently. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street in the Subdivision. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in the Subdivision for a period in excess of twenty-four (24) hours in any one calendar year.

Section 30. 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. City animal and leash laws apply. All dogs and cats must be under the physical control of the Owner or attendant by leash when off the Owner's Lot. Their excrement must be removed immediately when on public lands or another Owner's Lot. When restraining an animal on an Owner's Lot, it is unlawful to use a rope, chain, choker chain, or cord fastened directly to the animal's neck. Animals that must be tied must have a collar or harness made of nylon or leather. The tying device shall be at least six (6) feet in length and attached to the collar or harness with a swivel device on the anchor and collar end to prevent tangling. The animal must not be able to leave the Owner's property while restrained.



Section 31. 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 32. 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. This restriction shall not prohibit placement of occupant name signs and Lot numbers as allowed by applicable zoning regulations.

Section 33. Nuisances, Trash and Garbage, and Fires. 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. No Lot shall be used or maintained as a dumping ground for rubbish. Garbage and refuse shall be placed in containers, which shall be concealed and contained within the Dwelling Unit. No outside incinerators shall be kept or allowed on any Lot. 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, other than that as related to the construction of a Dwelling Unit. All applicable city codes and regulations will be enforced by the proper governing agency where deemed applicable.

Section 34. Swing Sets and Play Equipment. No swing sets or play equipment will be permitted on any Lot without prior written approval from the Committee in accordance with Article V herein.

Section 35. Storage Areas. Garbage and refuse shall be placed in containers, which shall be concealed and contained within the Dwelling Unit. Firewood must be placed adjacent to the Dwelling Unit behind a visual barrier screening this area so that it is not visible from neighboring streets. The visual barrier screening and the area to be used must be approved by the Committee.

Section 36. Enforceability. The Association, the Fort Wayne City Plan Commission, any Owner 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 Association, the Fort Wayne City Plan Commission 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 37. 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 38. Covenants, Restrictions and Extensions. These 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 Owners.

Section 39. Right of Entry. The Committee and the 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 Committee, and the Association with respect to the enforcement or correction or remedy of any failure of the Owner to observe these Restrictions, and the Committee, the Association, and such representatives of the same 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 40. 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 41. Cost and Attorney's Fees. In the event the 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.

IN WITNESS WHEREOF, not less than seventy-five percent (75%) of the Lot Owners within to the Plat of Beckett's Run, Section III have executed this Amended and Restated Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III, a Subdivision of Washington Township, City of Fort Wayne, Allen County, Indiana.

[signature pages follow]

**Prepared by:**

**Robert C. Kruger, Attorney-at-Law**  
**Attorney I.D. No. 22738-02**  
**Burt, Blee, Dixon, Sutton & Bloom, LLP**  
**200 East Main Street, Suite 1000**  
**Fort Wayne, IN 46802 260.426.1300**

**Pursuant to IC 36-2-11-15(d):** I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

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**OWNER SIGNATURE (NATURAL PERSONS) PAGE TO THE  
AMENDED AND RESTATED DEDICATION AND DECLARATION  
OF PROTECTIVE RESTRICTIONS,  
COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED  
TO AS PART OF THE DEDICATION AND PLAT OF  
BECKETT'S RUN, SECTION III,  
A SUBDIVISION OF WASHINGTON TOWNSHIP, CITY OF FORT WAYNE,  
ALLEN COUNTY, INDIANA**

OWNER(S) OF LOT NO. \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF ALLEN )

Before me, a Notary Public in and for said County and State personally appeared \_\_\_\_\_ and \_\_\_\_\_, owner(s) of a lot within Section III of Beckett's Run, who acknowledged execution of the foregoing Amended and Restated Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III, and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
A Resident of Allen County

My Commission Expires: \_\_\_\_\_

**OWNER SIGNATURE (TRUSTS) PAGE TO THE  
AMENDED AND RESTATED DEDICATION AND DECLARATION  
OF PROTECTIVE RESTRICTIONS,  
COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED  
TO AS PART OF THE DEDICATION AND PLAT OF  
BECKETT'S RUN, SECTION III,  
A SUBDIVISION OF WASHINGTON TOWNSHIP, CITY OF FORT WAYNE,  
ALLEN COUNTY, INDIANA**

OWNER(S) OF LOT NO. \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF ALLEN )

Before me, a Notary Public in and for said County and State personally appeared \_\_\_\_\_ and \_\_\_\_\_, trustee(s) of the \_\_\_\_\_ [name of trust] dated \_\_\_\_\_ [date of trust], an owner of a lot within Section III of Beckett's Run, who acknowledged execution of the foregoing Amended and Restated Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III, and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
A Resident of Allen County

My Commission Expires: \_\_\_\_\_



**OWNER SIGNATURE (BUSINESS ENTITIES) PAGE TO THE  
AMENDED AND RESTATED DEDICATION AND DECLARATION  
OF PROTECTIVE RESTRICTIONS,  
COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED  
TO AS PART OF THE DEDICATION AND PLAT OF  
BECKETT'S RUN, SECTION III,  
A SUBDIVISION OF WASHINGTON TOWNSHIP, CITY OF FORT WAYNE,  
ALLEN COUNTY, INDIANA**

OWNER OF LOT NO. \_\_\_\_\_

Name of Business Entity: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF ALLEN )

Before me, a Notary Public in and for said County and State personally appeared \_\_\_\_\_, the \_\_\_\_\_ [title] of \_\_\_\_\_ [name of business entity] owner of a lot within Section III of Beckett's Run, who acknowledged execution of the foregoing Amended and Restated Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended to the Plat of Beckett's Run, Section III, and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
A Resident of Allen County

My Commission Expires: \_\_\_\_\_