

Cross-Reference: 84-27546

**AMENDMENTS TO THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS AND BYLAWS
OF SANDY POINT**

These are amendments to the Declaration of Covenants, Conditions and Restrictions and Bylaws applicable to Sandy Point in Indianapolis, Marion County, Indiana.

WITNESSETH:

WHEREAS, the Sandy Point residential community located in Marion County was established by a certain "Declaration of Covenants, Conditions and Restrictions and Bylaws which was recorded on April 16, 1984, as Instrument No. 84-27546 in the Office of the Recorder of Marion County, Indiana (ADeclaration@); and

WHEREAS, the Sandy Point residential community was further established upon the filing of certain Plats with the Office of the Recorder of Marion County, Indiana; and

WHEREAS, defined terms used herein, and not otherwise defined, shall have the meanings ascribed to them in the Declaration; and

WHEREAS, Article VII, Section 4 of the Declaration states that the Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, with such instrument being recorded; and

WHEREAS, the Board of Directors of Sandy Point, Inc. (the Association; as defined and described in the Declaration) recommended that the Lot Owners approve the following amendments to the Declaration; and

WHEREAS, after notice was duly given, the Annual Meeting of the Association and the Sandy Point Owners was held on October 24, 2002, at which the following was presented to and discussed by the membership; and

WHEREAS, the undersigned Owners, constituting at least seventy-five percent (75%) of the total number of Lots in Sandy Point, desire to amend the Declaration pursuant to the terms and conditions set forth below.

NOW, THEREFORE, the undersigned Owners hereby amend the Declaration for all Lots within Sandy Point. The restrictions contained herein shall run with the land and shall be binding upon the present and future Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Sandy Point Properties.

There shall be a new Article X added to the Declaration as follows:

Article X
Leasing of Dwellings and Maximum Number of Dwellings Owned

Section 10.1. Limits on the Number of Leased Dwellings (Arental Cap@). In order to insure that the residents within Sandy Point share the same proprietary interest in and respect of the Dwellings and the Common Areas, no more than five percent (5%) of the Dwellings (which is equal to seven (7) Dwellings) may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Article X. If at any time such percentage of Dwellings are leased or rented, an Owner who wants to rent or lease his or her Dwelling which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Dwelling shall immediately notify the Board of Directors or Managing Agent of such fact and that Dwelling cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Dwellings. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Dwelling. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Dwellings may be leased or whether the maximum number of Dwellings within Sandy Point is currently being leased. If the maximum number of Dwellings is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

Notwithstanding the foregoing, the Arental cap@ described above shall not apply to any Dwelling of an Owner in Sandy Point who, as of November 1, 2002, is renting or leasing said Dwelling and provides written proof thereof to the Association's Managing Agent by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented Dwellings shall not be subject to the provisions of this Section 10.1, but shall be subject to the remaining provisions of this Article X. However, when the legal owners of record of any of the above-described Dwellings sell, transfer or convey such Dwelling(s) to another Owner after November 1, 2002, such Dwelling(s) shall immediately become subject to this Section 10.1.

Section 10.2. Hardship Exceptions and Waiver. Notwithstanding Section 10.1 above, if an Owner wishes to rent or lease his or her Dwelling, but the maximum number of Dwellings is currently being leased, the Owner may request the Board of Directors to waive the Arental cap@ and approve a proposed lease if the Owner establishes to the Board=s satisfaction that the Arental cap@ will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Dwelling, but only if the Owner satisfies all

other requirements of this Article X. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (1) death, dissolution or liquidation of an Owner;
- (2) divorce or marriage of an Owner;
- (3) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Sandy Point due to a change of employment or retirement of at least one (1) of such Owners;
- (4) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- (5) other similar circumstances.

Section 10.3. General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Dwelling other than the entire Dwelling shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Dwelling. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

Section 10.4. One Year Waiting Period. In addition to all other provisions of this Article X, for a period of at least one (1) year after an Owner's acquisition of a Dwelling, said Owner cannot lease such Dwelling. After such time, said Dwelling will be eligible to be leased if all other conditions of this Article X are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Association. Notwithstanding this Section 10.4, if an Owner wishes to lease a Dwelling prior to the end of the one year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 10.2 above.

Section 10.5. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 10.6. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Managing Agent by the Owner within thirty (30) days after execution.

Section 10.7. Violations. Any lease or attempted lease of a Dwelling in violation of the provisions of this Article X shall be voidable at the election of the Association's Board of Directors or any other Sandy Point Owner, except that neither party to such lease may assert this provision of this Article X to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Sandy Point Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 10.8. Maximum Number of Dwellings Owned by a Single Owner. In order to encourage Sandy Point being and remaining a community where the Owners reside on the property:

(a) No Owner may own more than two (2) Dwellings within Sandy Point at any time. This restriction shall not apply to any Owner who owns more than two (2) Dwellings which were purchased or with respect to which there was a binding purchase agreement prior to the recording of this restriction.

(b) If any Owner is the Owner of more than one (1) Dwelling, such Owner or the majority of the principals of such Owner shall and must reside in Sandy Point in at least one (1) of such Dwellings, unless otherwise approved in writing by the Board of Directors upon a showing by such Owner, satisfactory to the Board of Directors, of an undue hardship as defined in Section 10.2 above.

As defined in Article I, Section 3 of this Declaration, "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of Sandy Point. As used in this Section 10.8 above, "Owner" also means those persons or entities who comprise less than all persons or entities who own in any form or manner the fee simple title or any part thereof to any Dwelling and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Dwelling. As an example, if any person or entity owns or has any interest in the ownership of two (2) Dwellings, whether in his, her or its name only, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot own a third Dwelling, whether in his, her or its name only, as

joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

Any purchase agreement, conveyance or lease or rental agreement executed subsequent to the recording of this restriction which violates any provision of this Section 10.8 shall be voidable at the election of the Association's Board of Directors or any Sandy Point Owner, except that neither party to such agreement, conveyance or lease may assert this provision of this Article X to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Sandy Point Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 10.9. First Mortgagees. The provisions set forth in this Article X shall not apply to any first mortgagee of any Dwelling which comes into possession of the Dwelling by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

All other provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Owners of Lots within Sandy Point execute these Amendments to the Declaration of Covenants, Conditions and Restrictions and Bylaws of Sandy Point as of the date of the last signature below.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.