

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS,  
LIMITATIONS, EASEMENTS AND APPROVALS APPENDED TO  
AND MADE A PART OF THE DEDICATION AND PLAT OF  
ASPEN VILLAGE, SECTION I,  
A SUBDIVISION IN ABOITE TOWNSHIP, ALLEN COUNTY, INDIANA

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H. G. Kleeman Enterprises, Inc., an Indiana corporation, by Harold G. Kleeman, its president, hereby declares that it is the Owner, Plator and Developer of the real estate shown and described in this plat and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on said plat, being the certified plat appended hereto and incorporated herein. The Subdivision shall be known and designated as ASPEN VILLAGE, SECTION I, a Subdivision in Aboite Township, Allen County, Indiana.

The lots are numbered from 1 thru 54 inclusive, all dimensions are shown in feet and decimals of a foot on the plat. All street rights-of-way and walkway easements specifically shown or described are hereby expressly dedicated to public use for the usual and intended purposes. Utility easements are likewise reserved for their usual and intended purposes.

PART I - ASPEN VILLAGE COMMUNITY CORPORATION

PREFACE

In consideration of the necessity of providing for the efficient supervision of maintenance, activities, and use of the Parks and Storm Water Detention Area, the plator shall prior to the closing of any sale of lots in Aspen Village cause to be incorporated a Not-for-Profit Corporation entitled "Aspen Village Community Corporation", and herewith extends to each lot owner a non-compulsory-optional membership in such corporation, exercisable by such owner at any time.

The plator herewith covenants and agrees to organize and fund such corporation by the deposit of \$100.00 for each lot sold in Aspen Village at the time of closing of such sale and to remain as a full member for so long as the plator may own any unsold lots, with full voting rights but the payment of one hundred dollars as aforesaid shall constitute the full dues and assessments due from the plator to the corporation.

It is plator's intent that all of the By-Laws with respect to the use and maintenance of the various park and storm water detention areas be designated to accommodate the desires of the corporation members, to preserve property values, and to be flexible enough to meet specific needs, including the need to raise funds. Accordingly, this Preface and its statements shall be deemed a covenant of equal force and effect as all others herein set forth.

DEFINITIONS

Section 1. "Association" shall mean and refer to Aspen Village Community Corporation, its successors and assigns.

Section 2. "Member" shall mean the owner (or joint owners) of any lot or lots in said Subdivision who is a paid up dues member.



Section 3. "Parks and Storm Water Detention Area" shall be those areas as designed on the final plats as finally approved by the Allen County Plan Commission as Aspen Village.

Section 4. "Lot" shall mean either any of said lots as platted or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of "LOT" unless said tract of land has a frontage of 70 feet in width at the established building line as shown on this plat.

Section 5. "By-Laws" shall mean the By-Laws initially adopted by ASPEN VILLAGE COMMUNITY CORPORATION and all amendments and additions thereto.

#### SPECIFIC PROVISIONS

Section 1. Every owner shall have a right of membership in the Corporation, subject to the following provisions.

- (a) the right of the Corporation to charge reasonable admission and other fees for the use of any recreational facility owned by the Corporation;
- (b) the right of the Corporation to suspend the voting rights and right to use of the recreational facilities by a member owner for any period during which any membership dues remain unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Corporation;
- (c) the right of the corporation to dedicate or transfer all or any part of the Parks and Storm Water Detention 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 the members agreeing to such dedication or transfer has been recorded.

Section 2. Family Use. Any member owner may delegate, in accordance with the By-Laws, all right of enjoyment to the recreation areas and facilities, to the members of his family, his tenants, his guests or invitees or contract purchasers who reside on the property.

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall have the privilege to be a member of the Corporation. But membership shall not be a condition of ownership, and is severable from title ownership.

Section 2. The Corporation shall have one class of voting membership.

Section 3. The platlor-developer of this subdivision, H. G. Kleeman Enterprises, Inc., as the owner of unsold platted lots shall be a member of this Community Corporation from its inception until January 1, 1986, or until such time as said platlor-developer has divested itself of the record ownership of 130 lots in said subdivision, whichever event occurs first. Said platlor-developer shall have voting rights based upon lot ownership of one vote per lot owned in the subdivision as shown on the Preliminary Plat as approved by the Allen County Plan Commission, and the consideration for this platlor-developer membership with voting rights shall be the promise to pay (and the act of payment) into a special bank account the sum of one hundred dollars as provided for herein, as well as the deeding over to said Community Corporation the full right, title and interest in and to the Park Areas and Water Detention Area as they are shown on the Final Recorded Plats.

## COVENANT FOR MAINTENANCE

Section 1. Creation of Maintenance Fund. The platlor-developer will fund the corporation by the payment of \$100.00 per lot sold (as stated hereinbefore in the Preface to this document) for maintenance purposes. Such payment shall be deposited to an account in the name of the Aspen Village Community Corporation at a bank or savings and loan association paying the maximum interest available; the interest earnings from such principal shall be used to pay costs of maintenance of the Corporation property. Additional costs for maintenance or capital improvements not otherwise provided for, shall pursuant to a majority vote of the Corporate members, be paid for from membership dues or special assessments as more particularly set out hereafter. Such dues or assessments shall be the personal obligation of the owners, shall not pass to his successors in title unless expressly assumed by them, and shall at no time be a charge on the land of the owner.

Section 2. Purpose of Maintenance Fund. The dues and assessments levied by the Corporation shall be used exclusively to promote the recreation, health, and welfare of the resident members in Aspen Village and for the improvement and maintenance of the recreation areas and of the facilities situated thereon. In addition, assessments may be levied to provide for maintenance of the Parks and Storm Water Detention Areas.

Section 3. Annual Dues. Annual assessments may be in any amount as may from time to time be determined by the members to accomplish the purpose for which this Corporation is formed.

Section 4. Special Assessments For Capital Improvements. In addition to the annual dues authorized above, the Corporation may levy, in any corporate year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any new construction or repair or replacement thereof of a capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of 75% of the members.

Section 5. Notice and Quorum For Any Action Authorized Under Sections 3 and 4. Any action authorized under Section 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 10 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 51% of the members, members who were present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Corporation not later than 30 days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual dues and special assessments must be fixed at a uniform rate for all members (except H. G. Kleeman Enterprises, Inc.), and may be collected on a monthly or yearly basis, as the member shall elect.

Section 7. Effective Date of Annual Dues. The Board of Directors shall fix the amount of the annual dues against each lot or lots of each member at least thirty (30) days in advance of each annual meeting of the Corporation. Written notice of the annual dues shall be mailed to every corporate member. The due dates shall be established by the Board of Directors. The Corporation shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Corporation setting forth whether the dues on a specified lot have been paid.

Section 8. Effect of Non-Payment of Dues or Assessments, Remedies of the Corporation. Any assessment or dues not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 8% per annum. The Corporation may bring an action at law against the Owner personally obligated to pay the same and such owners membership shall be forfeited together with all rights and privileges therein.

Section 9. Rights and Privileges of Membership. The members of the Corporation shall have full and exclusive recreational use and enjoyment of the recreation area.

Section 10. Termination of Corporation. The life time of the Corporation is to be perpetual, and may be dissolved only upon a two-thirds (2/3) vote of the membership, the transfer of title and responsibility to a successor and approval by the Zoning Authority then having jurisdiction. Upon such termination, the Corporation shall cease to exist and all funds remaining in the Maintenance Fund shall be transferred to the said successor.

Section 11. Management of the Corporation. The business of the Corporation shall be run by not less than three (3) (or less than three (3) if there shall not be three (3) members) or more than nine (9) Directors who must be members of the Corporation. They shall serve one year terms, upon election by a majority vote of the Corporation members. The Board of Directors shall have all powers herein or hereafter conferred by Laws in the operation of Not-for-Profit Corporation, except that it may not without the special majority votes above-said for special assessments or termination.

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PART II

PROTECTIVE RESTRICTIONS  
COVENANTS AND EASEMENTS  
ASPEN VILLAGE, SECTION I  
AN ADDITION TO ALLEN COUNTY, INDIANA

All the lots in said addition shall be subject to and impressed with restrictions, covenants and easements hereinafter set forth; and they shall run with the land and be considered a part of the conveyance of any lot in said addition without being written therein. The provisions herein contained shall be effective for twenty years for the mutual benefit and protection of the owners, present or future, of any and all lots in said addition; and they shall run with the land and shall inure to the benefit of and be enforceable by said owners unless amended by the owners of 51% of the land platted by action for injunctive relief against any violation or attempted violation of the provisions hereof and/or for damages for any injuries resulting from any violation thereof; but there shall be no right of reversion or forfeiture of title resulting from such violation.

1. EASEMENTS AND UTILITY SERVICES

The land platted as Aspen Village, Section I, and all lots in said Addition, shall be subject to general utility easements as indicated on the plat thereof. Said easements shall be for the following purposes and subject to the following limitations;

- a) Said easements shall be for general utility services, including storm water, sanitary sewage, water, gas, electric light, telephone, and other utility services.
- b) All utility easements, as dedicated on the face of the plat, shall be kept free of all permanent structures and the removal of any obstruction by any utility company shall in no way obligate the utility company for damages or to restore the obstruction to its original form.
- c) Any structures, shrubbery, trees, or any installations, on any utility easement for sewers, shall be subject to the paramount right of the utility or sewage treatment works, to install, repair, maintain or replace its utility and sewer installation.

d) No sanitary sewage shall, at any time, be discharged or permitted to flow into any open drain, natural water course, or storm water system. No storm water shall be discharged or permitted to flow into any sanitary sewage system.

e) All surface drainage easements, as dedicated on the face of the plat, shall be kept free of all permanent structures, shrubbery, trees, or any installations detrimental to the functioning of said easement. No grade alteration of ground located in said easement shall be permitted.

f) All Parks and Water Detention Areas shall also be Utility Easements, but any installation of utilities in said areas shall have the written consent of the Platlor/Developer or the Aspen Village Community Corporation if said area has been deeded to the same.

## 2. BUILDING LINES

a) No building shall be located in infringement on any of the building lines shown on the plat, nor shall any building be located closer than 10% of the lot width to any side lot lines. The aggregate width of both side yards shall be at least 25% of the lot width. No private driveway may access upon the Aboite Center Road.

## 3. GENERAL RESTRICTIONS

a) Each lot shall be used and occupied solely for and by a single family residence, together with necessary appurtenances, including a garden or garden house.

b) No single story residence building shall be erected on any lot in this addition having less than 1100 square feet of living area; no two story residence building shall be erected on any lot in this addition having less than 780 square feet on the first floor.

c) Any garage must be attached to the residence and must be at least two-car in size.

d) All driveways must be of concrete construction, and none shall open into the Aboite Center Road.

e) No fences shall be constructed to the rear of the building line on any lot in this addition to exceed forty-two inches in height. No fences shall be built in front of the building line on any lot.

f) No parking or other storage of trailers, boat trailers, boats, and trucks shall be permitted on any lot in this addition.

g) No temporary structure, trailer, rubbish or trash or other obnoxious materials shall ever be moved on to or permitted on any lot in this addition.

h) No lot or parts of lots shall be subdivided without the approval of the Allen County Plan Commission, or any accessor authority to Allen County Plan Commission.

i) Invalidation of any one of these covenants by judgment or Court Order shall in no wise affect any of the other provisions which shall remain in full force and effect.



4. IMPROVEMENT LOCATION PERMIT

a) Before any lot may be used, such user shall first obtain from the applicable Building Commissioner, or authority having jurisdiction, an Improvement Location Permit and before any lot may be occupied, such occupier shall first obtain an Occupancy Permit, if and as required by the applicable Zoning Ordinance or authority. This covenant shall be enforceable by the applicable authority and/or any lot owner.

b) All improvements shall be installed prior to occupancy of a residence.

H. G. KLEEMAN ENTERPRISES, INC.

By *Harold G. Kleeman*  
Harold G. Kleeman, President

Subscribed before me this date by Harold G. Kleeman, personally known to me to be the president of H. G. Kleeman Enterprises, Inc., an Indiana Corporation, who upon his oath verified his authority to execute this document in the corporate name.



*Helen Marie Fair*  
Helen Marie Fair  
Notary

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

This instrument prepared by H. Charles Winans

