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PROTECTIVE RESTRICTIONS, COVENANTS
LIMITATIONS AND EASEMENTS
FOR
HAINES' LEXINGTON LANDING
An Addition to the City of Elkhart

ELKHART COUNTY RECORDER
PEGGY A. MILLER
FILED FOR RECORD

IN
ELKHART COUNTY, INDIANA

As more particularly described in the Deed of Dedication and Plat of Haines' Lexington Landing recorded in Plat Book 16, page 57, records of Elkhart County, on the 2nd day of April, 1986, and which is incorporated herein by reference.

All the lots in said addition shall be subject to and impressed with the covenants, agreements, easements, restrictions, limitations and charges hereinafter set forth; and they shall be considered a part of the conveyance of any lot in said addition without being written therein. The provisions herein contained are for the mutual benefit and protection of the Developer and owners, present or future, of any and all lots in said addition; and they shall run with the land and inure to the benefit of and be enforceable by the Developer and owner or owners, of any land or lots included in said addition, their respective legal representatives, heirs, successors, grantees and assigns. The Developer and owner or owners, present or future, of any land or lot included in said addition shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof and also damages for any injuries resulting from any violation hereof; but there shall be no right of reversion or forfeiture of title resulting from such violation. H & S Industries, Inc. is hereinafter referred to as the "Developer". The Protective Restrictions, Covenants, Limitations and Easements imposed upon said addition are as follows:

1. ARCHITECTURAL CONTROL COMMITTEE. In order to maintain harmonious structural design, no building for the principal use of residential dwelling may be erected on any lot, except lots 1 and 2, unless and until the plans and specifications therefor have been approved in writing by the Haines' Lexington Landing Architectural Control Committee. There is hereby created the Haines' Lexington Landing Architectural Control Committee (sometimes referred to herein as "Architectural Control Committee" or "Committee") which shall consist of three (3) persons appointed by the Developer, or its successors and assigns who shall serve until they are removed by the Developer or have resigned. This Committee may designate any one of its members to act on

its behalf. In the event of any vacancy on the Committee, the Developer shall appoint a replacement. The Committee shall have the authority to approve all plans and specifications for all structures to be erected in the subdivision. No construction of any structure shall be commenced until the Committee shall have issued its written approval. The decision of the Committee shall be entirely within its' discretion. The authority of the Committee shall expire twenty (20) years after the date of recording of the Plat of Haines' Lexington Landing.

2. A. LAND AND USE AND BUILDING TYPE. Except for lots 1 and 2 no dwelling shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed Two and One-half stories in height and a private garage not exhibiting more than three single garage doors or one double and one single garage door; exceptions may be made to this section only if they are unanimously approved in writing by the Architectural Control Committee.

B. HOME OCCUPATIONS. No lot or lots other than lot 1, lot 2, and the designated park areas of lots 74, 75, and 76, shall be used for any purpose other than as a single family residence; and except for lots 1 and 2, no commercial enterprise except model homes or homes used as temporary subdivision sales offices shall be maintained upon said real estate.

C. SALES AND PROMOTION. Developer, or its assignee, may make use of One (1) lot which may have improvements thereon for realty sales and promotion purposes, notwithstanding anything which may appear to the contrary herein.

3. ARCHITECTURAL CONTROL. No building or other structure shall be erected, constructed, placed, maintained or altered on any lot, nor shall the natural topography or drainage of any lot be altered, until the construction plans for the structure and for the topographical alterations have been approved by the Architectural Control Committee. The plans must show floor plan, quality of construction, materials, outside colors to be used, harmony of external design with existing structures and location with respect of lot lines, topography, finish grade elevations, and provisions for suitable drainage, including drainage for any basement. Two (2) sets of complete plans must be submitted. One (1) will be retained in the Developer's office and One (1) will be returned to the owner. The Committee's approval or disapproval as required in these covenants shall be in writing. No structure of any kind which does not comply fully with such approved plans shall be erected, constructed, placed or maintained upon any lot, and no changes or

deviations in or from such plans as approved shall be made without the Committee's prior written consent. Neither the Developer, the Haines' Lexington Landing Architectural Control Committee, nor any member 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 Architectural Control Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee or the Developer to recover any damages or to require the Committee or the Developer to take, or refrain from taking, any action. Neither the submission of any complete sets of plans to the Developer's office for review by the Architectural Control Committee, 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.

4. DWELLING SIZE.

A. GENERAL RECOMMENDATIONS. No dwelling shall be permitted on any lot (except lots 1 and 2) with a living floor area of the main structure exclusive of one-story open porches and garages of less than the following number of square feet for the following types of dwelling. In specific given areas, minimum square footage will be the following:

Lots 3-9

Type of Home	Minimum Square Footage
Ranch Style	1,700 square feet
2 Story	1,900 square feet

Lots 44-73

The minimum square footage shall be as follows:

Type of Home	Minimum Square Footage
Ranch Style	1,900 square feet
2 Story	2,100 square feet

Lots 10-43

The minimum square footage shall be as follows:

Type of Home	Minimum Square Footage
Ranch Style	2,200 square feet
2 Story	2,400 square feet
1 1/2 Story (without basement)	2,200 square feet (permitted only on lots 35-43)

B. GARAGES. All dwellings must have a full-size attached garage which is capable of storing at least Two (2) automobiles but not exhibiting more than three single exterior, or one double and one single garage doors, except as otherwise provided herein.

C. BASEMENT ELEVATION. The 100 year flood level is 721 feet. Consequently, any basement in a river lot shall have an elevation of at least 721 feet.

5. BUILDING LOCATION. No building shall be located on any lot nearer to the right-of-way line than Thirty-five (35) feet and which is the front building setback line. Each building shall be located no nearer than Ten (10) feet from any side lot line. Except for boat houses on the river, no building shall be located closer than Forty (40) feet to any rear lot line. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of the buildings; provided, however, that this shall not be construed so as to permit any portion of a building on a lot to be located nearer than Ten (10) feet from any other lot. On lots adjoining the river, no building (except for boat houses) shall be located nearer than Fifty (50) feet from the river's edge on that lot.

6. EASEMENTS. There are strips of ground variable in width, as shown on this Plat, and marked "easement", reserved for the installation of water and sewer mains, ducts, lines and wires, and to the easement herein reserved. No permanent structures shall be erected or maintained upon said strips of land except the same may be used for gardens, shrubs, landscaping purposes that do not interfere with the use of said easements for such public utility purposes. Easements are hereby granted to the City of Elkhart, all public utility companies including General Telephone Company, Northern Indiana Public Service Company, and Indiana & Michigan Electric Company, severally, and private utility companies where they have a certificate of Territorial Authority to render service, and their respective successors and assigns, to install, place and maintain sewers, water mains, gas mains, conduits, cables, all of which shall be underground,

and other appliances in, under and upon the strips of land designated on the plat and marked "easement", for the purpose of serving the public in general with sewer, water, gas, electric and telephone service, including the right to use the streets, where necessary, together with the right to enter upon the said easements for public utilities at all times for any and all purposes aforesaid and to trim and keep trimmed or remove any trees, shrubs, or saplings that interfere with any such utility equipment.

7. PROTECTIVE SCREENING. No screen planting over Seventy-two (72) inches high shall be permitted between the front building setback line and front lot line on all lots, nor within Thirty (30) feet of the rear lot line on lots abutting the river.

8. PERIMETER FENCING. The only fencing enclosures permitted shall be a split rail Three (3) rails high, not to exceed Four (4) feet high, except lots 1 through 9 where special consideration will be given rear fencing by the Architectural Control Committee. Perimeter fencing may be lined with suitable wire fencing for pet control. All fencing must be approved by the Architectural Control Committee in writing, unless a variance from this fence requirement shall have been approved in writing by the Architectural Control Committee or unless approved under paragraph 11 hereof.

9. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood.

10. TEMPORARY STRUCTURES. No structure of a temporary nature, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

11. POOLS AND TENNIS COURTS. No above ground pools shall be permitted. In ground pools and tennis courts may not be erected, built or installed on any lot unless and until the plans and specifications therefor have been approved in writing by the Haines' Lexington Landing Architectural Control Committee as provided in paragraph 1 above.

12. DETACHED BUILDINGS. No detached building other than to house swimming pool apparatus or boats in the case of river lots will be allowed. These buildings must be of a quality construction and must be maintained in attractive and neat appearance and blend with the established home and be submitted to the Architectural Control Committee for approval before beginning construction. The Architectural Control Committee shall have the authority to require protective

screening around these structures. Approval for the construction and placement of the structure must be obtained from the Architectural Control Committee as provided for in paragraph 1 thereof, and in no event shall any such structure be permitted on any lot abutting the river within Fifty (50) feet of the rear line of such lot (except for a boat house). Approval for the construction and placement of a boat house must be obtained from the Architectural Control Committee in writing.

13. DRIVEWAYS. Except for lots 1 and 2, no stone or cinder driveways shall be permitted. All driveways are to be a minimum of Twelve (12) feet wide and must be constructed of concrete or brick. The depth of the concrete shall be at least Four (4) inches thick. Circular drives in front of homes (if any) must be a minimum of Eight (8) feet wide.

14. SIGNS. Except for lots 1 and 2, no signs of any kind shall be displayed to the public view on any lot except One (1) sign of not more than Five (5) square feet advertising the property for sale or rent, or a sign of any dimension used by a builder to advertise the property during the construction and sales period. There is reserved to the Developer, its successors and assigns, the right to construct signs as they desire in order to foster promotion and effect sales of lots or structures in said development.

15. LIVESTOCK AND POULTRY. 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 they are not kept, bred or maintained for any commercial purposes and are not permitted to become a neighborhood nuisance or hazard in any manner. The practice of allowing pets to leave premises unleashed is strictly forbidden. Personal pets will be permitted only when confined to owner's premises or when walking off the premises on a leash.

16. TRASH, GARBAGE AND OTHER WASTE. Trash, garbage and other waste shall be kept only in sanitary containers, and shall not be kept outside except in sanitary containers on the day of city trash pickups. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. The term waste shall include but not be limited to all discarded household furniture, appliances, building materials, tools, toys, automotive and other mechanical parts, and other household fixtures and equipment or parts thereof which are not in use within the subject's premises. Exterior storage of such items is specifically forbidden. Further, no burning outdoors of household trash or garbage shall be permitted.

17. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall,

hedge or shrub planting which obstructs sight lines at elevations between Two (2) and Six (6) 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 Twenty-five (25) 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. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

18. COMPLETION DATE. Any structure begun must be completed within a period of One (1) year from the date of beginning, or thereafter completely removed (unless delayed by strikes or acts of nature beyond builders control). The completion date may be extended by the Architectural Control Committee for good cause satisfactory in the Committee's discretion. The side, front and rear yards of each lot shall be planted with grass seed, sod or ground cover, unless otherwise approved by the Architectural Control Committee, within One Hundred Twenty (120) days after the structure is completed, or the structure is occupied as a residence, whichever is earlier.

19. DEVELOPER'S OPTION TO REPURCHASE. In the event that a residential dwelling meeting the requirements of these restrictions is not completed on any lot within a period of Two (2) years from the date on which such lot is conveyed by the Developer to the purchaser thereof, unless such Two (2) year period is extended by a written instrument duly executed by the Developer, the Developer shall thereupon have the right during the ensuing Twelve (12) month period commencing on the second anniversary date of such conveyance to repurchase such lot from the current owner of such lot, free and clear of all liens and encumbrances except current property taxes which shall be prorated to the date of closing, at the same price at which the Developer sold such lot to the original purchaser thereof, without payment of interest or any other charges, upon the Developer serving written notice upon the current owner of such lot of the Developer's intention to exercise its option and effect such repurchase, notwithstanding whether the current owner of such lot was also the original purchaser thereof. The closing of such repurchase shall take place at the Developer's office not later than Thirty (30) days from the date of giving of such written notice to the current owner of such lot, who shall take such actions and shall execute such documents, including a warranty deed to such lot, as the attorneys for the Developer shall deem reasonably necessary to convey good

title to such lot to the Developer, free and clear of all liens and encumbrances as aforesaid.

20. FUEL STORAGE TANKS. All oil or fuel storage tanks must be installed underground.

21. LOT DIVISION. Except for lots 1 and 2, there shall be no subdivision or sale of any lot by a lot owner for the purpose of building an additional dwelling.

22. LIGHTING. A dusk to dawn light (or gas light) of the type approved by the Architectural Control Committee shall be installed by the Builder or lot owner (other than Developer) on each lot in front of the front building setback line defined in paragraph 5. If electric, post lights shall be equipped with automatic operators (electric eye) to provide light from sundown to dawn.

23. RECREATION AND COMMERCIAL VEHICLES. No recreational or commercial vehicles (campers, trailers, trucks, boats or snowmobiles) may be kept in open areas in this subdivision, whether such open areas are on or off the lot of any lot owner, except for visitors up to Three (3) nights and for loading and unloading purposes.

24. SIDEWALKS Upon completion of home construction, the lot owner must construct sidewalks conforming to City specifications, at least 4" thick and 48" wide across the front of the lot, and 4 feet 6 inches from the back of the curb, parallel to the curb. (except around cul-de-sacs, where sidewalks are to be adjacent to the curb.)

25. SEAWALLS The owner of each lot, except for the Developer, adjacent to the water must install a seawall of steel sheeting with a 7" channel cap before any residence on the lot is occupied, and which shall be identical to the seawall on lots 10 and 11. The owner of the lot shall maintain the seawall on the owner's lot at the owner's expense.

26. HOMEOWNERS ASSOCIATION. The Haines' Lexington Landing Homeowners Association, Inc., hereinafter referred to as the "Association", which shall be an Indiana Corporation, shall be created by the Developer acting on behalf of the owners and future owners of lots in this subdivision.

Each owner of a lot in Haines' Lexington Landing shall be a member of the Association and shall be entitled to cast One (1) vote at all meetings for each lot that is owned. The purpose of the Association is to manage and to support financially all park areas and all street lighting and the provision of such security services as may be deemed advisable and practical in the sole discretion of the

Association or, until such time as the Association is created by the Developer, in the sole discretion of the Developer, and all purposes as the membership deems necessary. After its creation by the Developer, the Association shall conduct a meeting at least once each year to organize itself and to elect its officers. The Association shall adopt by-laws for its government and may levy and collect dues. The Association shall have the authority to impose and collect annual assessments for the operation and maintenance of street lighting and for the maintenance and improvement of park areas or other "common areas" and for the provision of the aforesaid security services; provided, however, that the total of such dues and assessments levied against such lot shall not exceed One Hundred Twenty-five (\$125.00) Dollars per lot per year. Those assessments shall be levied equally on each lot in all additions to and sections of the recorded Plat of Lexington Landing. Failure to pay said assessments or annual dues shall be a violation of these covenants and restrictions. Any such assessments or annual dues shall be billed by the Association to the owner of each lot during the month of January of each year and shall be due and payable within Thirty (30) days.

All lots in these additions shall, from and after the recording of these restrictions, be subject to said annual dues and assessments. Said dues and assessments shall be a lien in favor of the Association upon the lot against which such dues and assessments are charged until paid, which lien shall be enforced in the same manner as is provided in the mechanic's lien statutes of the State of Indiana. Provided further, that any person purchasing or dealing with said lot may rely upon a certificate signed by the president or secretary of the Association showing the amount of said dues and assessments which are due and unpaid as of the date of such certificate, and the Association shall not be entitled to enforce any lien for such charge accruing prior to the date of any such certificate unless the amount thereof is shown in the said certificate. The within above described lien is subordinate to any first mortgage lien. The Association may also enforce the restrictions concerning accumulations of rubbish, weeds, or trash, and may own any land for use by all or less than all of the lot owners as a "common area". Any past due annual assessments or other charges assessable hereunder shall bear interest at the rate of Ten (10%) percent per annum commencing Thirty (30) days after the same become due and with attorney's fees, and shall be due and payable without relief from valuation and appraisal laws.

The Association may be formed for, and engage in, such other activities as may be beneficial to the lot owners, to the public at large, or which may qualify the Association as a "not-for-profit corporation or association", as defined in the Internal Revenue Code. Until such time as the Association is created by the Developer, the Developer,

acting on behalf of the Association to be formed, shall be entitled to carry out the responsibilities assigned to, and enjoy and exercise the rights and powers granted to, the Association pursuant to these restrictions; provided, however, that the total of such dues and assessments levied by the Developer in such capacity against each lot shall not exceed Forty-five (\$45.00) Dollars per lot per year so long as the Association has not been created and the Developer is acting in such capacity on behalf of the Association to be formed.

Notwithstanding anything herein to the contrary, no dues or assessments shall be levied on any lot while it is owned by Developer, but dues and assessments may be levied and assessed from and after such time as Developer no longer owns such lot.

27. UTILITIES, TELEVISION ANTENNAS, AND SATELLITE DISHES. All public utility services, either in the streets or on any lots, including but not limited to electric, gas and telephone service, and cable television, shall be located underground, and shall not be visible. No outside above ground television, satellite dishes, A.M., F.M. or short wave radio antennas of any type shall be erected or maintained on any lots or structures in Lexington Landing. All street or lot lighting shall be situated on posts with no lines visible. To assure the enforcement of this restriction, the Developer, for itself, its successors and assigns, does hereby agree:

A. To prohibit the erection and use of overhead wires, poles and other facilities of any kind, including but not limited to those associated with electrical, television, cable or telephone service electrically or by telephone, from poles and overhead wires around the perimeter of the subdivision or development. Nothing herein should be construed to prohibit street lighting or ornamental yard light if serviced by underground wire or cable.

B. To require that the owner of any building erected on the property install an electric service entrance of sufficient capacity to meet present and future requirements of the occupants in accordance with the engineering standards of the electric utility company.

C. To require owners to assume all landscaping responsibility and restoration of paved or planted areas made necessary by maintenance, replacement or expansion of the underground facilities.

D. To require accessibility to all strips in which underground service is located for operation, maintenance or replacement of facilities.

28. WAIVER OF COVENANTS The Architectural Control Committee may, in its sole discretion, waive a requirement contained herein or permit an alternate thereto, pertaining to construction, fencing, dwelling size, building location or driveway construction, where it is convinced, in its sole discretion, that a waiver or modification in connection with such matter is consistent with the purposes of these restrictive covenants and the nature of the subdivision.

29. AMENDMENT OF COVENANTS. It is expressly provided that the Developer, its successors or assigns, shall have the exclusive right for a period of Five (5) years from the date of recording of the Plat of Haines' Lexington Landing to amend any or all of the restrictions or covenants herein contained; except that the Developer, its successors or assigns, shall not, during such Five (5) year period, increase the One Hundred Twenty-five (\$125.00) Dollar limitation on the total dues and assessments which may be levied annually by the Haines' Lexington Landing Homeowners Association, Inc., against any lot. Such amendment signed and recorded in the office of the Recorder of Elkhart County shall become effective upon such recording. This shall include the right to waive any part of the restrictions or conditions as to any particular lot. After Five (5) years from the date of recording of the Plat of Haines' Lexington Landing, these Restrictions and Limitations, including that provision of paragraph 24 which places a One Hundred Twenty-five (\$125.00) Dollar maximum on the total dues and assessments which may be levied annually by the Haines' Lexington Landing Homeowners Association, Inc., against any lot, may be amended at any time by the recording of such amendment executed by the owners of the fee title of not less than Sixty-six (66%) percent of the lots in the subdivision.

30. DURATION OF COVENANTS. These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until June 1, 2001, at which time said covenants or restrictions shall be automatically extended for successive periods of Ten (10) years, unless by a vote of the then owners of the fee title of not less than Sixty-six (66%) percent of the lots covered by these covenants or restrictions, it is agreed to change such covenants or restrictions in whole or in part.

31. SEPARABILITY OF COVENANTS. Invalidation of any One (1) of the covenants or restrictions by judgment of a Court of competent jurisdiction shall in no way affect any of the other covenants or restrictions and all other provisions of these restrictions shall remain in full force and effect.

32. ENFORCEMENT OF COVENANTS. The right to enforce these provisions by injunction, together with the right to

cause the removal by due process of law of any structure, is hereby vested in each owner of a lot in Haines' Lexington Landing, and in Haines' Lexington Landing Homeowners Association, Inc., its successors and assigns. These covenants and restrictions may all be enforced by a civil action for damages and by any other appropriate remedy at law or in equity. If any person or persons shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons vested with the title to any of the lots hereinafter described, the Haines' Lexington Landing Homeowners Association, Inc., its successors and assigns or the Developer (or it's successors or assigns), to proceed either in law or in equity, against such person or persons, violating or attempting to violate any such covenants, and to enjoin them from so doing, to recover damages for such violation and to seek all other appropriate relief. In the event that the Haines' Lexington Landing Homeowners Association, Inc., or the Developer (or it's successors or assigns), should employ counsel to enforce any of the foregoing covenants and restrictions, all costs incurred in such enforcement, including reasonable attorney's fees, shall be paid by the owner of such lot or lots against whom such enforcement action is brought, and the Haines' Lexington Landing Homeowners Association, Inc., or the Developer, as the case may be, shall have a lien upon such lot or lots to secure lot owner's payment of all such costs, which lien shall be enforced in the same manner as is provided in the mechanic's lien statutes of the State of Indiana.

33. EFFECT OF NONENFORCEMENT Failure by the undersigned or any other lot owner to enforce any restriction, condition, covenants or agreement herein contained shall in no event be deemed a waiver of the right occurring prior or subsequently thereto.

34. EFFECTIVE DATE. These Protective Restrictions, Covenants, Limitations, and Easements shall be deemed to be attached to and shall be considered a part of the Plat of Haines' Lexington Landing and shall become effective upon recording in the office of the Recorder of Elkhart County, Indiana.