

DECLARATION OF CONDITIONS, RESERVATIONS, RESTRICTIONS
AND PROTECTIVE COVENANTS
AFFECTING LOTS IN QUAIL CROSSING GOLF COMMUNITY

Quail Crossing Community, L.L.C., a Michigan Limited Liability Company, authorized to do business in the State of Indiana, hereinafter called Developer, is the owner and subdivider of real estate located in Boon Township, Warrick County, Indiana. A portion of that real estate has now been platted as *Quail Crossing Golf Community Phase I*, and *Quail Crossing Golf Community Phase IA*, the plats of which are recorded in the Office of the Recorder of Warrick County, Indiana, as Documents #1996R-009986, and #1996R-009988, respectively. Said platted real estate together with other real estate which Developer presently owns or has the legal right to acquire is being developed into a master subdivision known as Quail Crossing Golf Community, and additional land shall be subdivided and platted in additional Phases of Quail Crossing Golf Community and shall be phased in as various sections are developed.

WHEREAS, the Developer, desiring to provide for the preservation and enhancement of the property values, amenities, and opportunities in said community contribution to the general health, safety, and welfare of the residents and for the maintenance of the land and improvements thereof, does hereby adopt, make and establish the following covenants, conditions and restrictions, easements, charges and liens (hereinafter called Covenants) which shall run with the title to the real estate and shall be binding upon all lot owners within the boundaries of *Quail Crossing Golf Community Phase I*, and *Quail Crossing Golf Community Phase IA*. It is recognized, however, that identical covenants shall not necessarily apply to the additional areas of Quail Crossing Golf Community as such are developed and platted in additional phases.

1. Definitions.

- 1.1. "Architectural Review Committee" shall mean a committee consisting of three (3) members appointed from time to time by Developer and shall hereinafter be referred to as "Committee". Initially, the Committee shall consist of

Craig A. Kilmer, Bruce Kilmer and Craig Wood. The appointed Committee shall remain in existence until such time as its responsibilities are assumed by the Association under the terms of the Association's By-Laws.

- 1.2. "Association" shall mean Quail Crossing Community Association, Inc., its successors or assigns.
- 1.3. "Common Areas" shall mean and include the median, boulevards, lakes, out lots and the recreational facilities owned by or leased to the Association and used for the common use, benefit and enjoyment of the Lot Owners and members of the association.
- 1.4. "Developer" shall mean Quail Crossing Community, L.L.C., a Michigan Limited Liability Company, authorized to do business in the State of Indiana.
- 1.5. " Dwelling " shall mean a house designed for occupancy and use by a single family.
- 1.6. " Lot " shall mean and include a platted lot within the above described Phase I and Phase IA.
- 1.7. " Subdivision " shall mean Quail Crossing Golf Community Phase I and Quail Crossing Golf Community Phase IA, the recording of which is set forth above.
- 1.9 " Structure " shall mean and include and all improvements of every kind and nature.

2. Residential Use. Except for such lots and areas as may be designated as Common Areas for recreational purposes or other purposes, all lots shall be known as, described as and shall be used only for residential purposes and shall not be used for any business, commercial or industrial purposes. In particular, no church or school shall be permitted on any lot.

3. Single Family Usage. Lots shall be improved solely for single-family residential use.

3.1. *Single-Story Residences.* A single-story residence shall have a minimum gross first floor square footage of one thousand eight hundred (1,800) square feet of living area exclusive of garages, decks and open porches, breezeways, patios, and court yards. No part of a residence more than two-thirds (2/3) below grade level shall be included in computing the living area.

3.2. *Two-Story Residences.* A two-story residence shall have a minimum of two thousand three hundred (2,300) gross square feet of living area as defined in Paragraph 3.1.

above with a minimum of 55% of the total square feet on the first level. Two-story residences include structures commonly known as bi-levels, tri-levels, quad-levels, Cape Cods, and one and one-half (1 1/2) story homes and any other multi-level structure.

4. Division of Parcels. Individual Lots may not be further subdivided and no Lot shall be reduced in area.

5. Building Sites. No more than one (1) dwelling shall be permitted on any one (1) Lot.

6. Land Use and Building Types. No building or structure shall be erected, altered, placed, or permitted to remain upon any Lot other than (a) one detached one-family dwelling not to exceed two stories in height, and (b) one private attached garage for not more than four (4) cars.

7. Water and Drainage. The water from downspouts or other surface water drainage shall be directed to controlled drainage facilities and shall not be drained into or guided into the sanitary sewer system. The natural and manmade drainage facilities of the Subdivision shall not be obstructed, altered, damaged or otherwise changed by the owner of any lot and it shall be the obligation of the owner of each lot to keep and maintain the drainage facility located thereon clean, open, unobstructed and mowed. If drainage pipes are located on a lot, the owner of said lot shall be responsible to keep such unclogged and free-flowing.

8. Erosion Control. The owner's builder must sign an agreement to abide by the erosion control rules as set for by the Indiana Department of Environmental Management. In particular, the rules require that erosion control practices be used during development and construction that will minimize soil erosion and sediment laden water from flowing from the building site and the rules require the streets be kept free of transported soil from the building site.

As required, an erosion control plan for the Subdivision has been submitted to the Warrick County Soil and Water Conservation District. One (1) part of the plan pertaining to individual lots required that prior to the start of construction a rock driveway must be installed and entrance to the building site for all deliveries and workers should be over the driveway. To minimize sediment laden water from being discharged into the streets and drainage ways, sand bags, straw bales and silt fences shall be used on all individual building sites.

No owner nor builder shall be permitted to disturb the vegetation on any adjoining building site for any reason, and shall be held responsible for any loss or damage resulting therefrom.

In connection with the foregoing, the owner shall enter into a written agreement recognizing that the Developer has no responsibility for erosion control and indemnifying Developer from any loss or damage that the Developer may suffer by reason of the breach by the owner or owner's builder or agents of erosion control responsibilities as herein set forth and under applicable law. Developer is not responsible for any erosion into any of the lakes of the Subdivision.

9. Property Maintenance. Each lot owner shall at all times maintain the owner's lot and any structures thereon in such a manner as to prevent the Lot or Structures from becoming unsightly. In particular, each owner shall:

- 9.1. Mow such portion of the lot upon which grass has been planted at such times as may be responsibly required. Maximum height of grass and weed growth on occupied Lots shall not exceed four and one half (4 1/2") inches. Maximum height of grass and weed growth on unoccupied Lots shall not exceed eight (8") inches. All equipment, vehicles, and materials will be sheltered in garages.
- 9.2. Remove all debris and rubbish within five (5) days.
- 9.3. Prevent the existence of any other condition that reasonable tends to detract from or diminish the aesthetic appearance of the Subdivision.
- 9.4. Keep the exterior of all improvements in such a state of repair and maintenance to avoid such becoming unsightly.

If an owner fails to comply with the foregoing, then either the Committee or the Association shall take such steps in order to comply with the foregoing and the cost of such compliance shall be assessed to the owner and secured by a lien on the Lot, which lien shall be subject to any prior mortgages and shall be enforceable to the same extent that the liens are enforceable by the Association for unpaid common maintenance charges as set for in the By-Laws of the Association.

10. Utility Tap-in Fees. All utility tap-in and installation fees whether for water, sewage, telephone, electric, gas, cable television or any other shall be the responsibility of and shall be paid by the individual lot owners. *All home heating units shall be of a type which use natural gas.* Installation of other types of units must be approved by the Committee or the Association. All electrical power, cable television, telephone service and other utilities shall be carried underground from the public utility easement located on the Lot to the Dwelling. No overhead utility service, visible antennas, wire to poles, or poles to Dwellings will be permitted.

11. Height. No buildings or structure shall exceed thirty-five (35) feet in height from ground level, measured from the lowest ground level adjacent to the Home to the peak of the roof.

12. Type of Construction. All first floor exterior walls on all Homes shall be stone or brick, or a combination of both. Roof shingles shall be a minimum of two hundred forty (240) pounds per one hundred (100) square feet. Second-story exterior walls or buildings or structures shall be construction of: brick, natural stone, white pine, fir, cypress, or stucco siding when used in combination with brick or stone, cedar shakes or shingles, or vertical tongue and groove siding. No asbestos or asphalt siding or shingles, logs, exposed concrete blocks, sand lime bricks, plywood siding, aluminum siding shall be permitted. Aluminum or vinyl soffits, gutters and downspouts will be permitted if the color of the material matches the color of the structure and is approved by the Architectural Review Committee. The exterior walls of all dwellings must represent at least eighty per cent (80%) brick.

13. Driveways. Driveways shall be paved from the street right-of-way to the garage with exposed aggregate concrete. Upgrades will be approved on a lot-by-lot basis if approved by the Architectural review Committee or by the Association.

14. Lighting. No lighting shall be so situated nor of such intensity as to create a nuisance to neighboring property.

15. Landscaping. The construction of any Dwelling together with landscaping shall be completed within one (1) year from the date of commencement of such construction of said Dwelling, provided that the Committee or Association may extend the time from completion of construction due to causes beyond the reasonable control of the building contractor or supplier. Within a reasonable time after the completion of construction the Lot shall be graded, seeded or sodded, mulched and a good turf (fescue only) shall be established and thereafter maintained.

No trees, shrubs or planting of any kind shall be permitted in the easement area without prior approval from the Committee or the Association.

16. Garages. All homes shall have not less than a two-car attached garage. Interiors of garages shall be completely drywalled.

17. Garage Door Openings. Except for corner Lots and except for Lots with less than one hundred (100) feet of street frontage, no garage door openings shall face the street.

18. Temporary Storage Buildings. No old or used structure with the exception of pet houses approved by the Architectural Review

Committee, shall be placed upon any lot. All storage sheds must be attached to the house or garage and shall be constructed to match the materials and color of the parent structure. No temporary structure of any character, such as a tent, trailer, shack, barn, garage, or other outbuilding shall be erected or placed upon any parcel prior to construction of the main residence. This shall not prevent use of a temporary building incidental to the construction of the main residential structure during the period of construction.

19. Setback Lines. No structure shall extend beyond the building setback lines as shown on the recorded plat of the Subdivision. In addition, setback lines along the sides of the Lot are hereby established which shall total in width not less than twenty-five (25) per cent of the Lot's width measured at that point which is the front line of the Dwelling with not less than a minimum of ten (10) per cent of such Lot width being applicable to one (1) of the two (2) side Lot lines. No structure shall extend beyond the setback lines, except fences may violate such under the terms hereinafter set forth.

20. Fences. No fences are allowed, except (a) around a dog run not to exceed 60 lineal feet, or (b) around a swimming pool or tennis court. No fence shall be located within any setback. No fence shall run along the edge of the golf course. No fence shall be erected, altered, placed or permitted to remain on a lot unless approved by the Architectural Review Committee or by the Association as to location and physical characteristics such as type, material, design and height prior to construction or planting.

21. Sight Distance of Intersection. No planting or other installation more than two (2) feet above the level of the roadway shall be placed or permitted to remain on any curb lines and the line connecting them at points twenty (20) feet from the intersection of the street curb lines.

22. Grade Changes. There shall be no grade changes on any Lot which affect the direction or volume of surface water flow to adjacent parcels.

23. Construction Time. The construction time for any Dwelling shall not exceed one (1) year, unless approved by the Architectural Review Committee. Alterations and repairs of any structure in the Subdivision, once commenced, shall be completed as soon as reasonably possible. In the event construction progress ceases for a period of more than one hundred eighty (180) days, except due to strikes, acts of God, or other conditions beyond the control of the builder or owner, the uncompleted structure shall be deemed to be a nuisance and may be removed by Court order, with the cost of removal and the legal proceedings to be a lien against the subject Lot. All unused building materials shall be removed from the Lot

within thirty (30) days after completion of construction. Ground surface areas which have been disturbed shall be regraded and seeded or covered with other plant materials as soon as construction or weather permits.

24. Trash and Litter Control. Each Lot owner shall be responsible for preventing the escape of trash or litter from his or her lot both during and after construction.

25. Swimming Pools. One entirely below ground swimming pool shall be permitted on each Lot. The location of any pool shall be subject to the setback and easement provisions of these restrictions.

26. Mailboxes. Only mailboxes authorized by the Architectural Review Committee shall be permitted at DEVELOPER'S determined locations in accordance with Post Office regulations.

27. Firearms. There shall be no discharge of any firearms and there shall be no hunting with firearms nor bow and arrows upon or within the Subdivision.

28. Fertilizers and Chemicals for Golf Course. Fertilizers and lawn chemicals shall not be used within twenty-five (25) feet of any wetlands, flood plain or water course. When chemicals and fertilizers are used for golf course care, they shall be used in such a manner and quantity as not to endanger surface or ground water quality.

29. Residential Application of Fertilizers and Chemicals. Owners are encouraged to consider environmental impacts in the application of lawn care products, herbicides and pesticides. Owners shall manage their Lots in a manner which shall not endanger surface and ground water quality. Owners abutting surface waters or wetlands shall maintain a chemical free buffer zone.

30. Tree Preservation. Existing mature trees having a trunk in excess of six (6) inches in diameter at a point of three (3) feet from undisturbed ground shall be preserved to the extent that removal thereof is not mandatory in connection with the construction of an approved Dwelling unless the removal thereof is otherwise specifically approved by the Committee or the Association or if such tree is decayed, dead or dangerous.

31. Sidewalks. Within one (1) year after the acquisition of a Lot from DEVELOPER, the owner shall construct a sidewalk and pursuant to such construction standards as are imposed by the appropriate governmental authority and Developer. The owner of the Lot over which the sidewalk is located shall be fully responsible for the maintenance, care and snow removal for said sidewalk. If said Lot owner fails to install a sidewalk as herein required, then Developer at Developer's discretion may install the sidewalk and

the cost of such shall be imposed upon the Lot owner and shall be a lien against said Lot enforceable by Developer by foreclosure as mechanic's liens are foreclosed.

32. Signs. No signs shall be permitted in the Subdivision except for the following:

- 32.1. Signs by Developer to advertise the development of the Subdivision.
- 32.2. Signs identifying the Subdivision located on the entranceway.
- 32.3. One (1) sign of not more than five (5) square feet advertising the sale of a Dwelling or Lot.
- 32.4. One (1) sign on any one (1) Lot which may include all or part of the following:
 - a. Designation of the Lot number
 - b. Address of the Lot
 - c. Name of the owner or purchaser or occupant of the Lot, which sign shall not exceed five (5) square feet.

33. Antennae. No radio or television antennae or aerial shall be permitted other than the type commonly used for domestic residential use. Such radio or television antennae shall be installed only on a Dwelling and not on a separate pole and shall not extend more than fifteen (15) feet in height above the roof. Radio and/or television dish antennae shall be less than 20" in diameter. Location of the dish or antenna is subject to the approval of the Committee or the Association.

34. Garbage and Refuse Disposal. No refuse shall be dumped or left on any Lot. Every Owner shall provide an approved type of garbage container unit. No exterior incinerator or other equipment shall be maintained on the premises for disposal of rubbish or garbage. No rubbish or garbage containers may be left outdoors, except for twelve hours prior to curb pick-up. The Association and/or Committee shall procure the services of a fully licensed and permitted solid waste collection contractor to act as the exclusive solid waste contractor for the Subdivision. In entering such contract, the Association and/or Committee will solicit competitive bids but shall not necessarily be required to select the lowest bid. No contract shall be entered into for a period in excess of one (1) year. No individual resident may procure the services of any other contractor. Residents shall pay an equal share of the expenses for the service. No toxic materials shall be stored outdoors on any Lot, nor allowed to seep into the soil. No trash, leaves or other materials shall be burned upon any Lot or common areas and facilities.

35. Lake Usage and Maintenance.

- 35.1. QUAIL CROSSING GOLF COMMUNITY and THE GOLF CLUB have five (5) lakes or ponds located within its boundaries. Tomino pond located within Lots 127 and 128 is private and shall not to be used by the other residents of QUAIL CROSSING. In addition, the irrigation pond located by hole number one and nine is for golf course use only. The pond by hole number seventeen and Tipper Court and the pit lakes on the south end of the property are available for the use by the residents of the subdivisions of QUAIL CROSSING and their guests (guests must be accompanied by a resident).
- 35.2. Maintenance of all lakes and ponds on the site will be the responsibility of the golf course maintenance department with the costs allocated to the Association.
- 35.3. In the development of the Subdivision (including the construction of structures), if silt, debris or dirt flows into any lake caused by the owner of a Lot or by the owner's agent, such owner shall be responsible for the damage caused thereby.

36. Parking on Streets in the SUBDIVISION. No vehicles shall be parked and left overnight on a street in the Subdivision without the permission of the Association or Committee.

37. Offstreet Parking. No van, camper, boat, motor home, recreational vehicle, truck, motorcycle, trailer, two (2) or four (4) wheeled vehicles or other similar vehicles, except for automobiles, shall be parked or located on any lot unless parked or located within an enclosed garage; provided however, service and delivery vehicles may be parked on any Lot while they are being used in conjunction with service or deliveries to the Lot upon which they are parked.

The maintenance and repair of the foregoing, including automobiles must be conducted within a garage and all equipment and supplies necessary for any such maintenance and repair must be at all time kept in a garage.

38. Barbecues, Grilles, Gardens, Wood Piles. No barbecues, grills, gardens or wood piles shall be placed in the front yard or side yard setbacks. No garden which produces food shall have an area more than four hundred (400) square feet. No wood pile shall exceed the size of two 4' X 6' X 8' cords.

39. Nuisances. No owner shall cause or permit any nuisance to be maintained on any lot. No activity which violates any applicable

statute, ordinance, regulation or law shall be conducted on any Lot. No noxious fumes or odors shall be permitted to emanate from any Lot. No noxious or offensive activity shall be carried out on any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Barking dogs will be considered a nuisance should they disturb the quiet enjoyment of the neighboring residents.

40. Pets and Animals. Dogs, cats and other household pets are permitted to be kept but shall not be bred or raised for commercial purposes and shall not exceed an aggregate total of four (4) in number. No other animals, livestock, fowl or poultry of any kind shall be permitted on any lot. The owners of the permitted pets shall confine such permitted pets to their respective lots so that they will not be a nuisance; provided, however, that an owner may walk said owner's pets from said owner's lot with a leash. No dogs, however, shall be permitted to run loose except within the owner's lot. Any lot owner who fails to confine the permitted pets to their respective lots as herein required may be required by the Association to have installed around the owner's lot an approved fence or an invisible fence for dogs, all at the owner's expense. The transmitter must be attached to the dog at all times that the dog is outside the residence.

41. Sales Agency. Developer, or any residential building contractors to which it assigns its interest in Lots, may use a model home, or trailer as an office or sales agency, together with appropriate signs on Lots of their choosing in this Subdivision until such time as all of the lots in the Subdivision have been improved with residential Dwellings. This section shall not be changed or amended while QUAIL CROSSING COMMUNITY, L.L.C., or its assigns or its "multiple Lot purchasers" (defined as six or more lots) retains ownership to any Lots within the Subdivision.

42. Rules and Regulations. The Board of Directors of the Association may, from time-to-time, adopt additional rules and regulations governing the use of the Common Areas and the conduct of all Owners, residents and guests on the Property. No action will be taken by the Association or its Board of Directors which in any manner will discriminate against any owner or owners in favor of other owners.

43. Easements. There is hereby created a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, and electricity, and a master or cable television antenna system. By virtue of this easement, it shall be expressly permissible for the company providing electrical, water, sewer, gas, master or cable television antenna and/or telephone service to install, erect, and maintain all necessary pipes and conduit underground and other necessary equipment at or below grade on said Property and to affix

and maintain electrical, cable television and/or telephone wires, circuits and conduits on, above, across and under Lots. An easement is further granted to all police, fire protection, ambulance and to all similar persons or agencies performing emergency service to enter upon the Lots and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and Lots during reasonable hours and upon request, when occupied, except in an emergency, to inspect and perform the duties of maintenance and repair of the Common Area as provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property, except as initially approved by the declarant and Warrick County and thereafter, approved by the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement be a separate recordable document, Developer shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for under this paragraph shall in no way affect any other recorded easement on the Property.

Easements and rights-of-way are hereby expressly reserved to Developer and successors and assigns, in, on, over, and under the "easement area", as hereinafter defined, for the erection, installation, construction, maintenance of (a) wires, lines, and conduits, and the necessary or proper attachments in connection with the transmission of electricity, telephone, community antenna, television cables, and other utilities and other similar facilities; and (b) storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water, and heat and for any other public or quasi-public utility facility, service, or function, whether above ground or underground.

Developer and its respective agents, successors and assigns shall have the right to enter upon all parts of the easement area for any of the purposes for which said easements and rights of way are reserved.

The term "easement area", as used herein, shall mean and refer to (a) to those areas shown on the recorded subdivision plat relating thereto; or (b) if no easements are shown on any such plat, to a strip of land within the subdivision's boundary lines twenty (20) feet in width.

44. Covenant for Assessments and Creation of Lien and Personal Obligation. Each Owner of every Lot, by acceptance of a deed therefor whether or not it shall be so expressed in the Owner's deed of acquisition, shall be deemed to covenant and agree, to pay to the Association any and all annual general common expense assessments or special assessments levied by the association,

together with such interest or late fees thereon and cost of collection thereof, in accordance with the By-Laws. Said assessments, interest, charges and costs of collection, including reasonable attorney fees, shall be a charge and lien in favor of the Association upon each Lot to which such assessments applies and shall be the joint and several obligation of the Owners of each such Lot at the time when the assessments falls due. The personal obligation for any delinquent assessments and any charges accruing thereon shall not become a personal liability of such delinquent Lot Owners successors in title unless expressly assumed by them.

Initially, the annual assessments and charges shall be One Hundred Seventy-three Dollars (\$173.00) for each lot which shall commence on July 1, 1996. Whenever Developer sells a lot, the purchaser will make one annual payment prorating the remaining annual charges to the end of the fiscal year. Developer shall not be obligated to pay any charges or assessments for unsold lots.

The Association shall be responsible to pay for the maintenance and care of all common area. The maintenance shall include but not be limited to grass cutting, planting of flowers and furnishing of electricity for lights.

Streets shall be maintained by the Developer until such time as such are accepted for maintenance by the appropriate governmental authority.

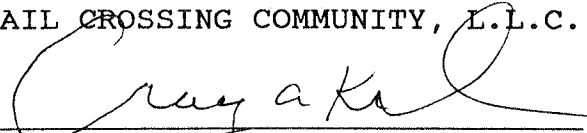
45. Enforcement of These Covenants. Each of these Covenants shall inure to the benefit of and be enforceable by any one or more of the Lot Owner in the Subdivision or the Association. Enforcement may be by induction or for damages or other appropriate remedy. The party adjudged to have violated any of the Covenants shall be liable to the aggrieved party for any reasonable attorney's fees which shall be fixed by the court hearing said matter. Those entitled to enforce these Covenants will have the right to enforce these Covenants without proof of pecuniary damages.

IN WITNESS WHEREOF, DEVELOPER has caused these Covenants to be executed in its name and on its behalf by its duly authorized member.

QUAIL CROSSING COMMUNITY, L.L.C.

Date: 10-23-96

BY:


Craig A. Kilmer, Managing Member

STATE OF INDIANA)
COUNTY OF WARRICK) SS:

Before me, a Notary Public, in and for said County and State, personally appeared *Craig A. Kilmer, managing member of Quail Crossing Community, L.L.C.*, who, having been duly sworn, acknowledged the execution of the foregoing DECLARATION OF CONDITIONS, RESERVATIONS, RESTRICTIONS AND PROTECTIVE COVENANTS AFFECTING LOTS IN QUAIL CROSSING GOLF COMMUNITY SUBDIVISION for and on behalf of said Limited Liability Company, and stated who stated the execution of this instrument is their voluntary act and deed, for and on behalf of said company.

WITNESS, my hand and Notarial Seal on 10-23, 1996.

My Commission Expires:
12-15-98

Nichole L. Teeters
Notary Public's Signature

Nichole L. Teeters
Notary's Typed or Printed Name

Residence of Notary Public: Warrick County, Indiana.

Instrument prepared by: Weyerbacher, Dewey & Weyerbacher, Attorneys for Developer
John W. Weyerbacher (Atty #1195-87)
130 S. Third St., P.O. Box 566, Boonville, IN 47601-0566