

DEDICATION, PROTECTIVE RESTRICTIONS, COVENENTS,
LIMITATIONS, EASEMENTS AND APPROVALS APPENDED AS PART OF THE PLAT OF
WHEATRIDGE, SECTION 1,
AND ADDITION TO THE CITY OF FORT WAYNE,
ALLEN COUNTY, INDIANA

Wheatridge Investors, Inc., hereby declares it is the owner 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 the plat, being the certified plat attached hereto and incorporated herein. The subdivision shall be known as Wheatridge, Section 1, an Addition to the City of Fort Wayne, Allen County, Indiana

The lots are numbered from 1 to 122, inclusive, and Block A. All dimensions are shown in feet and decimals of feet. All streets and easements specifically shown or described are hereby expressly dedicated to the public use for their usual and intended purpose.

1. **Definitions:** The terms hereinafter set forth shall have the following meanings:

- a. "Developer" shall mean Wheatridge Investors, Inc., its successor or successor in interest in any person, firm or corporation designated by it or its said successor or successors.
- b. "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 dwelling or other structure may be erected in accordance with the restrictions hereinafter set forth.
- c. "Living Unit" shall mean any portion of a building designated and intended for use and occupancy as a residence by a single family.
- d. "Owner" shall mean and refer to the holder, whether one or more persons or entities, of the fee simple title to any lot to living unit situated in the Addition.
- e. "Lessee" shall mean and refer to a person leasing from and Owner, whether one or more persons or entities, of any "Living Unit" situated in the addition.
- f. "Association" shall mean and refer to the Wheatridge Community Association.
- g. "Member" shall mean any person who may be entitled and obligated to hold one or more memberships in the Wheatridge Community Association.
- h. "Membership" shall mean any membership in the Wheatridge Community Association entitled to one vote and one assessment as hereinafter set forth. A member may hold one or more membership.
- i. "Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat and intended to be devoted to the common use and enjoyment of the Owners and Lessees in the Addition.
- j. "Pedestrian Right of Way" shall mean any area which is shown on the recorded plat of said Addition for the purpose of a pedestrian traffic system and intended to be

devoted to the common use and enjoyment of the Owners and Lessees in the Addition.

- k. "Street" shall mean any street, avenue, roadway, cul de sac or boulevard of whatever name which is shown on the recorded plat of said Addition, and which has been heretofore and is hereby, dedicated to the public for the purpose of a public street or boulevard purposes.
 - l. "Architectural Control Committee" shall mean the body designed herein to review plans and to grant or withhold certain other approvals in connection with improvements and developments.
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- 2. **Use.** No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain, on any lot other than one detached dwelling for the use by a single family. Each dwelling shall include not less than a two-car garage, which shall be constructed as a part of said structure and attached thereto.
 - 3. **Driveways.** All driveways from the street to the garage shall be concrete and not less than sixteen (16') feet in width. No lot shall have driveway access to either Wallen Road or Cook Road.
 - 4. **Minimum Area.** No dwelling shall be erected or permitted on any lot having a ground floor area upon the foundation, exclusive of open porches, breezeways or garage, of less than one thousand five hundred (1,500) square feet in the case of a one-story dwelling, or less than nine hundred fifty (950) square feet for a dwelling of more than one story.
 - 5. **Building Lines.** No dwelling or structure (including fence or wall) shall be erected, placed or located on any lot nearer to the front lot line (or nearer to the side lot line on corner lots) than the minimum building setback line as shown on the attached plat. No dwelling or structure shall be located nearer than seven (7) feet to any side lot line. No dwelling or structure shall be located on any interior lot nearer than twenty-five (25) feet to the rear lot line. On a corner lot, no building or structure shall be located nearer than seven (7) feet to the interior lot line. No tree shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections.
 - 6. **Minimum Lot Area.** No dwelling or structure shall be erected or permitted on any lot, having a width of less than sixty feet (60') at the minimum building setback line, nor an area of less than eight thousand two hundred (8,200) square feet. Developer, its successors and assigns, may alter the size or shape of said lots as platted, provided that no dwelling or other structure shall be erected, place or maintained upon any lot which does not conform to the restrictions herein set forth, without express approval of the Allen County Plan Commission.

7. **Further Subdivision.** No lot shall be further subdivided without prior approval of the Allen County Plan Commission.
8. **Yard Light.** Each Dwelling will cause an automatically controlled yard light or other illuminating device to be installed in the front yard fifteen (15') feet (plus or minus one foot) from the street curb. Such yard light or illuminating device will be of such design and construction as shall be approved by the Architectural Control Committee; said Committee shall also have the authority to approve a change in the location of said yard light or illuminating device.
9. **Signs.** No signs shall be erected or permitted, except one professional sign of not more than one foot square, or one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.
10. **Fences.** No wire, metal or chain link fences will be permitted on any lot. Chain link back stops for play areas owned and maintained by the Wheatridge Community Association will be permitted.
11. **Nuisances.** No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution or which constitutes a nuisance or which is hazardous by reason of fire, explosion or in violation of the laws of the State of Indiana or any subdivision thereof. No lot shall be used for the purpose of raising, breeding or keeping animals, livestock or poultry except as household pets, providing the same are not kept, bred or maintained for any commercial purpose. All fuel or oil storage tanks shall be installed underground or located within the main structure of the dwelling, its basement or attached garage.
12. **No Temporary Dwelling.** No structure of a temporary character, trailer, boat, boat trailer, camper, or camping trailer, mobile home, travel trailer, motor home, basement, tent, garage, barn, tool shed, or other outbuilding shall be either used or located on any lot or used as a residence either temporarily or permanently. One accessory building may be approved for each lot, the type and location to be approved by the Architectural Control Committee.
13. **Common Areas.** Certain playgrounds flood control areas, greenways and pedestrian right-of-ways designated on the plats shall be installed for the benefit of all the Owners and Lessees in Wheatridge. The same will be deeded or transferred to the Wheatridge Community Association and each Owner and Lessee shall have a right and easement of

enjoyment in and to said Common Areas. The Developer may retain legal title to the common areas until such time as it has completed improvements thereon, after which time it shall convey the same to the Association and the Association shall accept said conveyance and thereafter be responsible for the maintenance thereof. The rights and easements of enjoyment in the Common Areas shall be subject to the following:

- a. The right of the Developer to borrow money and to mortgage any part or parts of Wheatridge in connection therewith.
- b. The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment of any Member for any period during which any assessment remains unpaid.
- 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 Board of Directors of the Association, subject to the acceptance of such assignee.

14. **Approval of Improvements by Architectural Control Committee.** In order to maintain harmonious structural design and lot grades, no dwelling building or improvement shall be erected, permitted or altered on any lot (and construction shall not be commenced) until the construction plans and specifications, and a site plan showing the location of the structure on said lot and grade elevations, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be comprised of three (3) members to be designated by the developer initially. The Developer shall have the right, at such time as it may elect, to relinquish its right to designate the members of the Architectural Control Committee to the Association. Two sets of plans of each improvement, with detailed front, side and rear elevations and floor plans showing square footage and grade elevations, shall be submitted to the Architectural Control Committee at the Developer's office or such other place as may be designated. The committee's approval or disapproval of said plans shall be in writing; in the event Committee, or its designated representative, shall fail to approve or disapprove said plan within thirty (30) days after all necessary instruments, documents and other information have been submitted, then approval to the request as submitted shall be deemed to have been given. The improvement as shown upon said plans shall be substantially completed before said building shall be used or occupied as a dwelling. All improvements shall be constructed in accordance with the plans and specifications as approved by the Architectural Control Committee and any improvements not so constructed shall be subject to immediate removal at Owner's expense. The provisions hereinbefore provided for violation or attempted violation of any of these covenants and restrictions shall be applicable hereto. In addition, before any lot or tract within the addition may be used or occupied, said user or occupier shall first obtain the Improvement Location Permit and Certificate of Occupancy required by the Allen County Zoning Ordinance. Further, before any living unit within the Addition shall be used and occupied, the Developer shall have installed all improvements serving the lot

whereon said living unit is situated, as set forth in Developer's plans filed with the Allen County Plan Commission.

15. **Easements.** Easements are hereby expresses reserved and dedicated with dimensions, boundaries and locations as designated on the attached plat for the installation and maintenance of public utilities (including but not limited to, water, gas, telephone, electricity and any other utilities of a public or quasi-public Nature) and sewer and drainage facilities.

- a. Any Utility company and the Developer, their successors and assigns, will have the right to enter upon said easement for any lawful purpose. All easements shall be kept free at all times of permanent structures except improvements installed by authorized utility and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form. The utility will restore any improvement installed by an authorized utility.
- b. No building or structures located in the Addition shall be connected with distribution facilities provided by electrical, television or telephone services, except by means of wires, cables or conduit situated beneath the surface of the ground (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Addition, and except for such housing, pedestals or facilities as may be appropriate for connection of utility services for individual lot owners.) Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables.
- c. The utility operating the sewer lines and sewage disposal plant for said subdivision shall have jurisdiction over the installation of all sewer connections and the same shall be installed to the property lines of each lot by the developers. No individual water supply systems, or individual sewage disposal system, shall be installed, maintained or used in the addition. No rain or storm water runoff from roofs, street pavements or otherwise, or any other surface water, shall at any time be discharged into, or permitted to flow into, the sanitary sewer system, which shall be a separate sewer system from the storm water and surface water run-off system. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water and surface water run-off sewer system.
- d. Easements for surface water run-off shall be maintained in a manner conducive to the purposes of such easement and shall be maintained by the Association or any proper public authority to whom this duty is delegated. No obstruction shall be place in any surface drainage easements.

16. **Wheatridge Community Association.** There will be organized by the Developer forthwith an incorporated not-for-profit association, only one such association to be

recognized and approved by the Developer, with the same to be known as the Wheatridge Community Association.

- a. Membership. One membership shall be created for each lot or living unit planned in Wheatridge.
 - b. Membership Transfer. Memberships will transfer from the developer to his grantee upon delivery of the deed. In the case of the conveyance of land to be used for multi-family construction, said memberships will not transfer to the grantee until Architectural Control Committee has approved the grantee's plans and then one membership for each living unit to be constructed on the land conveyed will be transferred from the Developer to the Grantee.
 - c. Continuing Membership. The purchaser of any lot or living unit in Wheatridge shall be a member of said Association and shall continue to be a member of said Association so long as he continues to be the owner of a lot or living unit in Wheatridge for the purposes herein mentioned. Membership shall pass with the ownership of the land or living unit.
 - d. Transfer of Membership Rights and Privileges to Lessee. Each owner, or in lieu thereof each Lessee of a living unit (with the written consent of such owner to the Association), 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 may withdraw his membership assignment to the Lessee at his discretion by a sixty (60) day notice in writing to the association.
17. Assessments. Developer, for each lot and/or living unit owned by it within the Addition, hereby covenants, and each owner of any lot or living unit, by acceptance of deed therefor, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Wheatridge Community Association the Maintenance Fund assessments and charges, as hereinafter provided.
- a. Maintenance Fund. The "Maintenance Fund" assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Addition and in particular, for the improvement and maintenance of the greenways, sidewalks, playgrounds and all other Common Areas, including but not limited to repair, maintenance, the cost of labor, equipment and materials, supervision, security, lighting, lawn care, snow removal, insurance, taxes and all other things necessary or desirable in the opinion of the Members of the Association in connection therewith.

The maintenance Fund Assessment as herein provided shall commence to accrue and become a lien upon any said lots or living units as soon as title thereto has been divested from Developer, or when a dwelling or living unit shall be erected thereon, whichever shall first occur, and shall be payable on the first day of January of each year thereafter. All assessment shall be determined by and paid

to the Association, and the Association shall be responsible for carrying out the purposes of such assessments.

The amount of said Maintenance Fund assessment is established as follows:

- (i) The annual assessment for the calendar year starting January 1, 1979, shall be Twenty-five dollars (\$25.00) per assessable membership. (Note – annual assessment changed to \$50.00 per assessable membership in 1984.)
- (ii) For each year thereafter, commencing with the year beginning January, 1980, the Board of Directors of the Association shall establish a budget for the calendar year and shall determine the annual membership assessment required to meet the said budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall then mail to all association members a copy of said budget and notice of the ensuing year's assessment not later than November 15th of the year prior to the year to which the assessment is applicable.
- (iii) The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for that purpose as here-in after provided. The President or Secretary of the Association shall call a meeting of the membership of the Association, to be held prior to December 31st of the year prior to the year to which the assessment is applicable, upon receipt, prior to November 30th, of a written petition for assessment review bearing the signatures or at least twenty (20%) percent of the memberships of the Association. The President or Secretary of the Association shall give at least fifteen (15) days written notice of such meeting to all members.
- (iv) Any changes so adopted in the amount of the assessment set by the Board of Directors must have the assent of two-thirds (2/3) of the membership of the Association who are voting in person or by proxy at a meeting duly called for such purpose. At any meeting, a quorum of not less than fifty percent (50%) of all memberships shall be required.

- b. Collection. Such Maintenance Fund Assessments, together with interest thereon and costs of collection as hereafter provided shall be a lien upon the property against which each assessment is made. Each such assessment, together with the interest thereon and costs of collection, shall also be the personal obligation of the person or persons who was the owner of such property at the time when the assessment fell due. The obligation of the

assessment is upon the owner of the property or the living unit and is not transferred, even though the owner may have transferred the membership and voting rights in Wheatridge Community Association, as hereinbefore provided. If the assessments are not paid on the due date, then such assessments shall be a continuing lien on the property which shall bind such property in the hands of the owner, his heirs, devisees, personal representatives and assigns. However, the personal obligation of the then owner to pay such assessment shall remain a personal obligation and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within sixty (60) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action against the owner personally obligated to pay the same, or foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing such action. The lien of the assessments as provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the property, taxes and assessments for public improvements.

18. Duration and Alteration. These protective covenants, restrictions and limitations shall be construed as, and shall be covenants running with the land and shall be binding upon all Owners and Lessees of land in said addition and all persons claiming under them. They shall continue in existence for a period of fifty (50) years from the date of the recording hereof and thereafter shall be automatically extended for successive periods of ten (10), years each. The protective covenants, restrictions and limitations (but not the easements) may be changed, abolished or altered in part by written instrument signed by the owners of not less than seventy-five (75%) percent of the memberships of the Wheatridge Community Association: and may be changed, altered or amended by the Developer within two (2) years from and after the date of recording hereof: All said amendments, changes or alterations, however, shall have the prior approval of the Allen County Plan Commission or its successors.
19. Waiver. The failure of either the Developer or an Owner to enforce any covenant contained herein or right arising from any covenant contained herein shall in no case be deemed a waiver of that right or covenant.
20. The lots listed below shall have a minimum slab elevation of not less than the number of feet indicated above Mean Sea Level.

<u>Mean Sea Level Elevation</u>	<u>Lot Number(s)</u>
807.5	6 & 7
805.0	48, 49 & 50
804.5	44
804.0	43
803.5	42
803.0	41
802.5	39, 40 & 61

802.3	19 & 38
802.0	20, 37 & 62
801.7	21 & 36
801.5	22, 35 & 36
801.3	23 & 34
801.0	24, 32, 33, 77 & 110
800.5	30, 31, 98, 107, 108 & 109
800.0	29 & 99

21. Severability. Invalidation of any one of these provisions shall in no way affect any of the other provisions which shall remain in full force and affect.

WHEATRIDGE COMMUNITY ASSOCIATION

BY LAWS

ARTICLE I GENERAL

SECTION A – Name

The name of this not-for-profit organization shall be the WHEATRIDGE COMMUNITY ASSOCIATION, INCORPORATED (herein referred to as WCA).

SECTION B – Fiscal Year

The WCA shall use the calendar year January 1st through December 31st as its fiscal year.

SECTION C- Boundaries

The WCA shall include lots numbered 1 through 128 in Wheatridge Section I (herein referred to as Wheatridge) as recorded in the office of the Allen County Recorder's Office. Future sections of Wheatridge may join the Association upon approval of the majority of current members. Such action will require these By Laws to be amended accordingly.

ARTICLE II – PURPOSE

The purpose of this not-for-profit organization shall be to provide direction and services to the neighborhood through individual and cooperative activities to the end that the neighborhood served, and as far as possible, the larger community may meet the human needs and aspirations of men, women and children and that all may practice better ways of living and working together.

ARTICLE III – MEMBERSHIP

SECTION A – Membership

1. One membership shall be created for each lot or living unit planned in Wheatridge (per Dedications, Restrictions, and Covenants of WHEATRIDGE – SECTION I – paragraph 16).
2. The owner of any lot or living unit in Wheatridge shall be a member of WCA and shall continue to be a member so long as he/she continues to be the owner of a lot or living unit in Wheatridge.

3. Transfer of membership rights and privileges to a lessee will be permitted with written consent of the owner. Membership, where assigned to a lessee, will pass with the lease except if the owner wishes to withdraw his membership assignment to the lessee at owner's discretion.

SECTION B – Meetings

1. The bi-annual meeting of the Association shall be held in May and November of each year. 15% of the voting members shall constitute a quorum.
2. Special meetings of the Association may be called by the Board of Directors or called by the President.
3. The regular meetings of the Board shall be held once each month. Special meetings may be held at the call of the President or on notice signed by three members of the Board. A simple majority shall constitute a quorum.
4. Robert's Rules of Order shall be the parliamentary guide and govern the proceedings of the Board and Association when not in conflict with the specific provisions of these by-laws.

SECTION C – Voting

1. The owners of lots in Wheatridge Section I who have paid the annual dues shall be entitled to one vote for each lot owned at the bi-annual or special meetings of the WCA.
2. All issues shall be decided by majority of those voting. In case of a tie, the President shall cast the deciding vote.
3. Absentee votes shall be allowed. The vote must be submitted to Secretary prior to the meeting in a signed, sealed envelope, which will be opened by the Secretary at time of voting. Absentee voters must be voting members of WCA.

ARTICLE IV – OFFICERS AND THEIR ELECTION

SECTION A – Officers of the WCA

1. The officers shall be a President, a Vice-President, a Secretary and a Treasurer – each of whom shall be a voting member of WCA.
2. The officers shall be elected for terms of two years. President and Secretary elected on even numbered years. Vice President and Treasurer elected on odd numbered years.

3. Officers will be elected at the annual meeting in May and will assume their duties immediately upon their election.
4. The Board of Directors shall fill vacancies arising in the Board. Directors so selected shall serve during the remaining part of the term of the person replaced.
5. An officer missing more than 3 consecutive association meetings without valid cause, shall be asked to resign.
6. Any officer who does not perform the duties normally associated with their office shall be subject to recall by the membership and a successor shall be elected by procedure under Article IV, Section A, Number 4.

SECTION B – Duties of the Officers

1. President:

- a. Shall preside over all meetings of the WCA and shall be the Chairman of the Board of Directors.
- b. Shall have the power of appointment of ad hoc committees (except Architectural Committee).
- c. Shall sign with the Secretary all instruments, documents, and the like.
- d. Shall Execute motions passed by the body and shall see to it that the by-laws are followed.

2. Vice-President:

- a. Shall assume all the duties and responsibilities and have the power of the President in the President's absence, and be subject to all the restrictions upon the President and shall be a member of the Board of Directors.
- b. Shall carry-out all specific requests assigned by the President.
- c. Shall be the chairperson of the Architectural Committee.

3. Secretary:

- a. Shall keep all minutes of the meetings of the WCA and be a member of the Board of Directors.
- b. Shall be responsible for all official correspondence of the WCA.

- c. Shall be custodian of the official records and documents of the WCA.
- d. Shall in the absence of the President and Vice-President assume the duties of the President.

4. Treasurer:

- a. Shall keep the accounts of the WCA and be a member of the Board of Directors.
- b. Shall receive funds, deposit funds, pay all encumbrances when properly approved by the Board of Directors.
- c. Shall preserve bills and vouchers covering expenditures.
- d. Shall make available accounts and financial records of the WCA to the membership at all times.
- e. Shall make financial reports at monthly WCA meetings, and shall make an account of the year's financial conditions at the May annual meeting.
- f. Shall be bonded. Cost of said bond shall be paid for by WCA. The Board of Directors shall set the amount of bond each year.
- g. Shall assume the office of President in the absence of the President, Vice-President and Secretary.

ARTICLE V – BOARD OF DIRECTORS

SECTION A – Structure of the board

- 1. There shall be seven members of the Board, which shall include the four officers of the WCA plus at-large members to be elected by the WCA membership at the annual May Meeting and will assume their duties immediately upon their election.

SECTION B – Duties of the Board of Directors

The Board of Directors is the administrative arm of the WCA.

- 1. Shall direct and oversee the ongoing affairs of the WCA.
- 2. Shall set and review with WCA annual goals.

3. Shall assess such dues as they deem necessary with WCA membership approval.
4. Shall prepare the agenda for the next WCA meeting.
5. Shall maintain an accurate file of WCA voting membership.
6. Board approval is required for non budgetary items in excess of \$250.00.

ARTICLE VI – COMMITTEES

SECTION A- There shall be the following Standing Committees:

1. **Executive Committee:** The Executive Committee shall consist of the officers of this organization and the chairmen of all the committees. The Executive Committee shall have the power to act for the membership if granted by the membership, to make recommendations to the organization, and to carry out any special responsibilities assigned to it by the President. A majority of the members of the Executive Committee shall constitute a quorum.
2. **Publicity Committee:** The Publicity Committee shall have a Chairman to be appointed by the President and the Chairman shall appoint as many members to the committee as deemed necessary to fulfill the obligations of the committee. The Publicity Committee shall be responsible for all publicity pertaining to the organization.
3. **Social Concerns Committee:** The Social Concerns Committee shall have a Chairman appointed by the President and the chairman shall in turn appoint as many members as deemed necessary to fulfill the duties of the committee. This committee shall study the needs of the community within the fore mentioned boundaries and make recommendations to the Executive Committee and to the membership.
4. **Architectural Committee:** The Architectural Committee shall review plans and grant or withhold certain approvals in connection with improvements and developments on any lot, according to Dedication, Restrictions, and Covenants of Wheatridge – Section I – paragraph 14.
5. Should there arise any need for additional committees, they shall be appointed by the President.

SECTION B – Meetings of each and all committees shall be established by the chairman of each committee.

SECTION C – Minutes shall be kept of all committees by a person appointed by the

Chairman of each committee.

ARTICLE VII – ASSESSMENTS

Each owner of any lot or living unit, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay the Wheatridge Community Association the Maintenance Fund assessments and charges, as hereinafter provided.

SECTION A – Maintenance Fund

The “Maintenance Fund” assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Addition and, in particular, for improvement and maintenance of the greenways, sidewalks, playgrounds and all other Common Areas, including but not limited to repair, maintenance, the cost of labor, equipment and materials, supervision, security, lighting, lawn care, snow removal, insurance, taxes and all other things necessary or desirable in the opinion of the Members of the Association in connection therewith.

The Maintenance Fund Assessment as herein provided shall commence to accrue and become a lien upon said lots or living units as soon as title thereto has been divested from Developer, or when a dwelling or living unit shall be erected thereon, whichever shall first occur, and shall be payable on the first day of January of each year thereafter. All assessments shall be determined by and paid to the Association, and the Association shall be responsible for carrying out the purposes of such assessments.

The amount of said Maintenance Fund assessment is established as follows:

1. The annual assessment for the calendar year starting January 1, 1985 shall be twenty-five dollars (\$25.00) per assessable membership. (Note – dues increased to \$50.00 per assessable membership in 1984)
2. For each year thereafter, commencing with the year beginning January 1, 1985, the Board of Directors of the Association shall establish a budget for such calendar year and shall determine the annual membership assessment required to meet said budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall then mail to all Association members a copy of said budget and notice of the ensuing year’s assessment not later than November 15th of the year prior to the year to which the assessment is applicable.

3. The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for that purpose as hereinafter provided. The President or Secretary of the Association shall call a meeting of the membership of the Association, to be held prior to December 31st of the year prior to the year which the assessment is applicable, upon receipt, prior to November 30th, of a written petition for assessment review bearing the signatures of at least twenty percent (20%) of the memberships of the Association. The President or Secretary of the Association shall give at least fifteen (15) days written notice of such meeting to all members.
4. Any change so adopted in the amount of the assessment set by the Board of Directors must have the assent of two-thirds (2/3) of the memberships of the Association who are voting in person or by proxy at a meeting duly called for such purpose. At any meeting, a quorum of not less than fifty percent (50%) of all membership shall be required.

SECTION B – Collection

Such Maintenance Fund assessments, together with interest thereon and costs of collection as hereinafter provided shall be a lien upon the property against which each assessment is made. Each such assessment, together with interest thereon and costs of collection, shall also be the personal obligation of the person or persons who was the owner of such property at the time when the assessment fell due. The obligation of the assessment is upon the owner of the property or the living unit and is not transferred, even though the owner may have transferred the membership and voting rights in Wheatridge Community Association, as hereinbefore provided. If the assessments are not paid on the due date, then such assessments shall be a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representative and assigns. However, the personal obligations of the then owner to pay such assessment shall remain a personal obligation and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within sixty (60) days after the date of delinquency at the rate of eight percent (8%) per annum and the Association may bring action against the owner personally obligated to pay the same, or foreclose the lien against the property and there shall be added to the amount of such assessment the cost of preparing and filing such action. The lien of the assessments as provided for herein shall be subordinated to the lien of any mortgage or mortgages now or hereinafter placed upon the property, taxes and assessments for public improvements.

ARTICLE VIII – AMENDMENT PROCEDURES

These by-laws may be amended by two-thirds vote of the members of the Association present at any meeting having a quorum, provided the proposed amendments are reported

to the Executive Committee, and provided that notice thereof has been sent to all the members of the association not less than thirty (30) days before the meeting.

Approved and adopted by the WCA, this _____ day of _____, 1984.