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JOSEPH P. O'CONNOR
MARION COUNTY ASSESSOR

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JULIE L. VOORHIES
MARION COUNTY IN RECORDER
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By: GW

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DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

DEPT. OF METROPOLITAN DEVELOPMENT
DATE 4-16-14
PER
ADMINISTRATOR

Cross References: 1987-0120928; 1987-0120929; 1988-0078883

FIRST AMENDMENT TO THE SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS OF FOUNTAIN VILLAGE

This First Amendment to the Supplemental Declaration of Covenants and Restrictions of Fountain Village was made as of the date set forth below.

WITNESSETH:

WHEREAS, Declarant, SCM Real Estate Development Corp., an Indiana corporation, established the Fountain Village subdivision located in Marion County, Indiana and executed a certain "Declaration of Covenants and Restrictions of Fountain Village, Section I," which was recorded on October 20, 1987 as Instrument No. 1987-0120928 in the Office of the Recorder of Marion County, Indiana (hereafter "Declaration"); and

WHEREAS, the Declarant also executed a certain "Supplemental Declaration of Covenants and Restrictions of Fountain Village," which was recorded on October 20, 1987 as Instrument No. 1987-120929 in the Office of the Recorder of Marion County, Indiana (hereafter "Supplemental Declaration"); and

WHEREAS, the Declarant established Section II of Fountain Village and subjected it to the Declaration and Supplemental Declaration by the recording of a certain "Final Plat for Fountain Village Section II," which was recorded on August 5, 1988 as Instrument No. 1988-0078883 in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, the Owners desire to add restrictions on the leasing of homes within Fountain Village to the Supplemental Declaration; and

WHEREAS, Section 9 of the Supplemental Declaration provides that the Supplemental Declaration may be amended at any time, and from time to time, upon the recommendation of an amendment by the Association's Board of Directors and the subsequent approval of such amendment by the Owners of at least seventy-five percent (75%) of the Lots; and

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WHEREAS, on December 4, 2013 an annual meeting of the Fountain Village Homeowners Association, Inc. was held, in pertinent part, for the purpose of amending the Supplemental Declaration; and

WHEREAS, at said meeting, at least seventy-five percent (75%) of Owners, in person or by proxy, voted to approve this First Amendment to the Supplemental Declaration of Covenants and Restrictions of Fountain Village.

NOW, THEREFORE, the Supplemental Declaration of Covenants and Restrictions of Fountain Village is hereby amended as follows:

1. There shall be a new Section 12 added to read as follows:

12. LEASING

A. General Purposes of Leasing Restrictions. The Association's members recognize that an owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus owner-occupants maintain their property better than renters generally. The Association's members wish to insure that the residents within Fountain Village share the same proprietary interest in and respect of the Lots and the Common Areas. They also want to encourage residents to not only maintain property values but also to improve them and recognize that owner occupants have more incentive to do so compared to non-owner occupants. Thus, the provisions of this Section 12 shall be applicable. Except as allowed by this Section 12, residents of a Lot can only consist of the Owner(s) thereof and members of their immediate family. Pursuant to Section 2(A) of the Declaration, each Lot shall be used exclusively for single family residential purposes.

B. Limits on the Number of Leased Lots ("Rental Cap"). No more than ten percent (10%) of the Lots may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Section 12. The Lots described in Section 12(C) below shall count towards the ten percent (10%) Lot "rental cap". If at any time such number of Lots are leased or rented, an Owner who wants to rent or lease his or her Lot which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Lot shall immediately notify the Board of Directors or Managing Agent of such fact and that Lot cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Lots. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Lot. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if the Lot may be leased or whether the maximum number of Lots within Delaware is currently being leased. If the maximum number of Lots is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

C. Effective Date of "Rental Cap" on Existing Rentals. Within fifteen (15) days after the date on which this Amendment is recorded in the Office of the Recorder of Marion County (the "Recording Date"), the Board of Directors or Managing Agent shall provide written notice to all Owners setting forth the Recording Date and the then current address of the Managing Agent.

The provisions of Section 12(B) (the "Rental Cap") shall not apply to the Owner of any Lot in Fountain Village which, as of the Recording Date, is rented or leased by its Owner to a non-owner occupant, so long as the Owner-landlord mails or otherwise delivers to the Managing Agent of the Association (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Lot (or Lots) which is in effect as of the Recording Date. Such lease copies may have the rental amount deleted. The Owners of such pre-Recording Date rented Lots shall not be subject to the provisions of Section 12(B), but shall be subject to the remaining provisions of this Section 12. However, when the legal owners of record of any of the pre-Recording Date rented Lots sell, transfer or convey such Lot(s) to another Owner after the date of recording of this Amendment, such Lot(s) shall immediately become subject to Section 12(B). The failure of any such Owner-landlord of a leased or rented Lot to deliver a copy of such pre-Recording Date lease within said sixty day period to the Managing Agent shall result in said Owner-landlord's Lot being subject to the Rental Cap (from and after the date of expiration of such pre-Recording Date lease). However, in no event shall the Rental Cap apply to any lease executed prior to the Recording Date or to any renewals thereof provided for in any such leases, so long as the Lot continues to be occupied by one or more of the non-owner occupants in possession of the Lot as of the Recording Date. Any Lot that falls under the exception of this Section 12(C) shall, nevertheless, be counted as one of the ten percent (10%) of Lots that may be rented at any given time even though such maximum does not apply to restrict the Owner of such pre-Recording Date leased Lot.

D. Hardship Exceptions and Waiver. Notwithstanding Section 12(B) above, if an Owner wishes to rent or lease his or her Lot, but the maximum number of Lots is currently being leased, the Owner may request the Board of Directors to waive the "rental cap" and approve a proposed lease if the Owner establishes to the Board's satisfaction that the "rental cap" will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Lot, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of this Section 12. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

(a) death, dissolution or liquidation of an Owner;

(b) divorce or marriage of an Owner;

(c) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Fountain Village due to a change of employment or retirement of at least one (1) of such Owners;

(d) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;

(e) difficult local real estate market conditions; and

(f) other similar circumstances.

E. General Lease Conditions.

(a) All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors.

(b) A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors or the Managing Agent by the Owner within thirty (30) days after execution.

(c) No portion of any Lot other than the entire Lot shall be leased for any period.

(d) No subleasing shall be permitted. If a Lot is leased, it shall be occupied by a single family or no more than two (2) unrelated individuals.

(e) All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association.

(f) All leases shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.

(g) The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease.

(h) The Owner cannot be delinquent in the payment of any assessments or other charges to the Association. If at any time an Owner becomes delinquent, the Board shall have the right to revoke said Owner's right to lease the Owner's Lot, even if during the term of a lease.

(i) The Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.

(j) All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

F. One Year Waiting Period. In addition to all other provisions of this Section 12, for a period of at least one (1) year after an Owner's acquisition of a Lot, said Owner cannot lease such Lot. After such time, said Lot will be eligible to be leased if all other conditions of this Section 12 are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Association. Notwithstanding this Section 12(F), if an Owner wishes to lease a Lot prior to the end of the one year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner

establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 12(D) above.

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

H. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Section 12 shall be voidable at the election of the Association's Board of Directors or any other Owner, except that neither party to such lease may assert this provision of this Section 12 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Owner, shall have the right to exercise any and all available remedies at law or equity.

I. Institutional Mortgagees. The provisions of this Section 12 shall not apply to any institutional mortgagee of any Lot which comes into possession of the Lot by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a Lot is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Section 12.

J. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased and subject to the provisions of this Section 12 and the Owners shall have the burden of proving to the satisfaction of the Board of Directors that the occupancy is not in violation of the terms of this Section 12, including but not limited to the delivery to the Board of Directors of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this Section 12 and this Section 12(J), any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease, rental or other similar arrangement, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot.

* * * * * * * * * * * * * * * * * * * *

Full Force and Effect. All other provisions of the Supplemental Declaration of Covenants and Restrictions for Fountain Village shall remain in full force and effect.

Certification. The undersigned persons hereby represent and certify that all requirements for and conditions precedent to this First Amendment to the Supplemental Declaration of Covenants and Restrictions for Fountain Village have been fulfilled and satisfied.

IN WITNESS WHEREOF, we, the undersigned, do hereby execute this First Amendment to the Supplemental Declaration of Covenants and Restrictions for Fountain Village and certify that Owners of at least seventy-five percent (75%) of the total number of Owners voted to approve this First Amendment to the Supplemental Declaration of Covenants and Restrictions for Fountain Village, and certify the truth of the facts herein stated this 18th day of March, 2014.

FOUNTAIN VILLAGE HOMEOWNERS ASSOCIATION, INC.

Mike Schuster, President

REVIEWED AND APPROVED
MARION COUNTY ASSESSOR
APR 16 2014
MAP DEPARTMENT REVIEWER

Attest:

Tim Counghlin, Secretary

STATE OF INDIANA)
)
COUNTY OF Marion)

Before me a Notary Public in and for said County and State, personally appeared Mike Schuster and Tim Counghlin, the President and Secretary, respectively, of Fountain Village Homeowners Association, Inc. who acknowledged execution of the foregoing First Amendment to the Supplemental Declaration of Covenants and Restrictions for Fountain Village and on behalf of said corporation and the Owners, and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 18TH day of March, 2014.

Notary Public

Jeffrey L. Price
Signature

My Commission Expires:
9/30/16

Residence County:
Marion

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law."
Courtney S. Figg, Esq.

This instrument prepared by, and should be returned to, Courtney S. Figg, EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th St., Suite B, Indianapolis, IN 46216.

REVIEWED AND APPROVED
MARION COUNTY ASSESSOR
APR 16 2014
MAP DEPARTMENT REVIEWER

CODE OF BY-LAWS OF

FOUNTAIN VILLAGE HOMEOWNERS ASSOCIATION, INC.

A NOT-FOR-PROFIT INDIANA CORPORATION

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted to govern the Fountain Village Homeowners Association, Inc. (the "Association") in the conduct of its activities and duties pursuant to the Articles of Incorporation of the Association ("Articles") and the Declaration and Supplemental Declaration of Covenants and Restrictions for Fountain Village and the various sections of Fountain Village Subdivision, as the same are recorded in the Office of the Marion County Recorder from time to time (herein collectively called the "Declaration"). The Declaration is incorporated herein by reference and all of the covenants, conditions rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meanings in these By-Laws, and reference is hereby made to the definitions of the Declaration for such purpose. The provisions of these By-Laws shall apply to the Common Property and to the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Property shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration and these By-Laws as the same may be amended from time to time.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary or appropriate, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Articles.

Section 2.02. Annual Meetings. The first annual meeting shall not be held until the time of turnover of control of Fountain Village Subdivision by Developer or at such earlier time or times as may be determined by the Developer. All subsequent annual meetings shall be held on any date selected by the Board of Directors which is within five (5) days of the anniversary of the first annual meeting. At each annual meeting, the Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the Lots. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at such location within the State of Indiana as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Owner and, if applicable, to any Mortgagee not less than fourteen (14) days prior to the date of such meeting. If at any meeting an amendment to the Declaration or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U. S. Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association, and by U.S. Certified Mail, Return Receipt Requested to the Mortgagees at their respective addresses as they shall appear on the records of the Association, by such means as provided in these By-Laws. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Lots then in Fountain Village Subdivision, as the same shall have been finally platted from time to time, to determine the respective proportions of Owners supporting or opposing such matter, or by the number of Lots the Owners of which are present or represented at such meeting, to determine the respective proportions of Owners present or represented at such meeting supporting or opposing such matter. In voting for directors, each Owner (or his representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his votes.

(b) Multiple Owners. When the Owner of a Lot constitutes more than one person or entity, or is a partnership, there shall be only one voting representative entitled to cast the vote allocable to that Lot. At the time of acquisition of title to a Lot by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representatives for such Lot, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies, or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of his right to act as voting representative for the Lot at such meeting or meetings.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to an officer of the Association prior to the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles, the presence of Owners or their duly authorized representatives owning in excess of fifty percent (50%) of the total Lots shall constitute a quorum at all meetings. The term "majority of Owners", as used in these By-Laws, shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Owners as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.

(3) Budget. The proposed budget for the current calendar year shall be presented to the Owners for approval or amendment.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. Voting for Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming year.

Section 2.06. Control During Development. Notwithstanding any other provision of the Declaration, the Articles, or these By-Laws, from and after the date of the Declaration until the date when Developer turns over control of the Association to the Owners, as determined by Developer within the limitations set forth in the Declaration, the Articles shall be governed by the initial Board of Directors appointed by Developer. Said initial Board of Directors shall exclusively hold all rights and powers which a Board of Directors or the Association would have under the Declaration, the Articles, or these By-Laws, except as specifically limited in this Section 2.06. Said initial Board of Directors may appoint from time to time from among the Owners committees to advise and assist it in the performance of its functions. The rights and powers of said initial Board of Directors shall be limited as follows:

(a) The power of assessment shall be limited in that the total monthly assessments in any month against any Lot during the first year after the date of the Declaration shall not exceed _____, and said amount shall not be increased in any subsequent year prior to turnover by more than _____ percent (_____%) over the assessment in the preceding year.

(b) Said initial Board of Directors shall have no power to reallocate the voting power among the Owners in any manner contrary to the Declaration.

(c) Said initial Board of Directors shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Developer shall have the right to waive, on behalf of the Association, the annual meetings and annual accountings provided for in the Declaration, so long as Developer retains control of the Association. At the time of turnover of control by Developer, the first annual meeting of the Association will be called, at which time the rights and powers of the initial Board of Directors shall terminate and the Association shall thereafter be governed in accordance with the provisions of the Declaration, the Articles, and these By-Laws other than this Section 2.06.

ARTICLE III

Board of Directors

Section 3.01. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called

"Directors"). The initial Board of Directors shall be composed of three (3) persons appointed by Developer. After the expiration of the term of the initial Board of Directors as provided in Section 2.06 hereinabove, the constituency of such Board may be increased to, but shall not exceed, nine (9). The number of Directors shall be increased in accordance with this Section 3.01 only if the increase is properly brought before the Association at an annual meeting or special meeting called for such purpose and approved by a majority of the vote. No person shall be eligible to serve as a Director unless he is an Owner or is an attorney, agent, or employee of Developer.

Section 3.02. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then the person entitled to cast the vote on behalf of such multiple Owner shall be eligible to serve on the Board of Directors.

Section 3.03. Term of Office and Vacancy. The Board of Directors shall be elected at each annual meeting of the Association subject to the limitations set forth in Section 2.06 above. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.04 of this Article III.

Section 3.04. Removal of Directors. After the tenure of the initial Board of Directors has expired, a Director or Directors may be removed with or without cause by a majority of the vote at a special meeting of the Owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director selected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 3.05. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

(a) Repair and replacement of the Common Property;

(b) Procuring of utilities, removal of garbage and waste, and snow removal from the Common Areas:

(c) Landscaping, painting, decorating, and furnishing of the Common Property, the exteriors of the buildings, garages and walls located on any Lot;

(d) Surfacing, paving, and maintaining streets, parking areas, garages, and sidewalks, and the regulation of the use thereof;

(e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses.

(f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;

(h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours.

(i) Procuring and maintaining in force all insurance coverage required by the Declaration to be maintained for Fountain Village Subdivision as specified by Declaration.

Section 3.06. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the buildings and improvements on the Lots and the Common Property to the full insurable value thereof, to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners, the Association, and the Mortgagees;

(d) To employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;

(e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(f) To open and maintain a bank account or accounts in the name of the Association; and

(g) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property; provided that the Board shall give written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 3.08. Limitations on Board Action. After the tenure of the initial Board of Directors, the authority of the Board of Directors to enter into contract shall be limited

to contracts involving a total expenditure of less than Five Thousand Dollars ($5,000.00), unless the prior approval of a majority of Owners is obtained, except in the following cases: $5,0 LIM

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting.

The said $5,000.00 maximum shall automatically be adjusted every five (5) years from the date of this Declaration to reflect changes in the purchasing power of the dollars, as determined by the most recently published annual GNP Implicit Price Deflator or any comparable, successor index.

Section 3.08. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners.

Section 3.09. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. At any time after the tenure of the initial Board of Directors has expired, a special meeting of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice.

Section 3.10. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each election thereof. Upon recommendation of a majority of all members of the Board and upon an affirmative vote of a majority of all Owners, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. After the tenure of the initial Board of Directors, he shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. He shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association.

Section 4.07. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V

Additional Rights and Duties of Board

Section 5.01. Right of Entry. An Owner or occupant of a Lot shall be deemed to have granted the right of entry to his Dwelling Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Lot, the building located thereon, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Lot for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 5.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation of the Property as the Board may deem desirable, including but not limited to the use of the Common Property. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

ARTICLE VI

Reserves and Funds

Section 6.01. Obligations of Owners. Each of the Owners within Fountain Village shall automatically and mandatorily be members in the Association and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective to deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the Articles of Incorporation and regulations of the Association and of the provisions hereof.

Section 6.02. Annual Accounting. Annually, after the close of each calendar year and prior to the date for notice of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement, which statement shall show all receipts and expenses received, incurred, and paid during the preceding calendar year. At such time the Association has _____ (_____) or more members, the Board of Directors shall cause an audit of the annual financial statement to be performed by a Certified Public Accountant licensed to practice in the State of Indiana.

Section 6.03. Proposed Annual Budget. Annually, on or before the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such of said proposed budget to each Owner prior to the annual meeting. The proposed annual budget shall be submitted to the Owners at the meeting of the Association for adoption, and if sop adopted, shall be the basis for the annual assessments for the ensuing calendar year.

At the annual meeting of the Owners, the proposed annual budget may be approved in whole or in part, or may be amended in whole or in part by a majority of the votes; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved at such meeting.

Section 6.04. Annual Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed assessment against each Lot based on the percentage interest of each Lot as provided herein.

Section 6.05. Reserve and Working Capital Funds. The Association shall be obligated to establish a reserve fund for the repair and replacement of those Common Areas that must be replaced periodically, based upon good faith estimates of the useful lives and replacement costs of such Common Areas made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Common Expenses and not by an extraordinary or special assessment. Extraordinary expenditures not originally included in the annual estimate that become necessary during the year shall be charged first against the reserve fund so established before any special Assessment is made or levied therefor. In addition to the reserve fund, a working capital fund shall be established and maintained by the Association. At the closing of the initial sale of each Lot to an Owner, the purchaser of such Lot shall deposit with the Association an amount equal to two months' installments of the Regular Assessment for Common Expenses for such Lot, which amount shall be retained by the Association as working capital. Thereafter, each Owner shall continue to maintain on deposit with the Association an amount at least equal to one-sixth (1/6) of the Regular Assessment for Common Expenses for his Lot for the current calendar year. Amounts paid or deposited into the working capital fund shall not relieve an Owner from this responsibility for the Regular Assessments due in accordance with this Article VI. All amounts held by the Association pursuant to this Section 6.05 shall be maintained in a federally-insured, interest-bearing account in a bank or savings and loan association doing business in Marion County, Indiana, and all interest thereon shall be added to and deemed a part of such fund. Notwithstanding anything contained herein to the contrary, the Developer shall not be required to maintain on deposit with the Association the contribution to the working capital fund described in this Section 6.05; provided, however, that the Developer shall be obligated to immediately make up any deficiency resulting from the excess of the Developer's proportionate share of actual Common Expenses over the Developer's Regular Assessments.

Section 6.06. Status of Funds Collected by Association. All funds collected pursuant to this Article VI shall be held and expended by the Association solely for the purposes designated herein and in the Declaration, and, except for any special Assessments that may be levied against less than all of the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the use, benefit, and account of all of the Owners for the payment of Common Expenses.

ARTICLE VII

Amendment to By-Laws

These By-Laws may be amended by Developer in the same manner and to the same extent as the Declaration; in addition, these By-Laws may be amended by a majority of the Owners in a duly constituted meeting called for such purpose, except that the right of amendment is exclusively reserved to the initial Board of Directors during the period set out in Section 2.06 above, and except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

ARTICLE VIII

Notices and Mortgagees

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Lot or the Mortgagee thereof may notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Assessments. Upon ten (10) days written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Dwelling Unit, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith.

Section 8.03. Financial Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 5.02 of these By-Laws.

Section 8.04. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.01 of these By-Laws of any of the following:

(a) Any condemnation or casualty loss that affects a material portion of the Common Property or the building(s) or improvements on any Lot securing its mortgage;

(b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Lot on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and,

(d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

Section 8.05. Availability of Information. The Association shall keep and shall make available to prospective purchasers of Lots, upon request at reasonable business hours, copies of the Declaration, By-Laws, current rules and regulations, if any, and the most recent financial statement of the Association.

CERTIFICATION

The undersigned, being first duly Sworn, hereby certifies that the within and foregoing Code of By-Laws of Fountain Village Homeowners Association, Inc. are true and correct.

_____
Sol C. Miller

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Subscribed and sworn to before me, a Notary Public, in and for said County and State this _____ day of _____, 1988.

Signature: _____

Printed: _____
NOTARY PUBLIC

My Commission Expires:

_____

Resident of _____ County

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DECLARATION OF COVENANTS AND RESTRICTIONS
OF
FOUNTAIN VILLAGE, SECTION I

THIS DECLARATION made this 11th day of SEPT, 1987, by SCM REAL ESTATE DEVELOPMENT CORP., an Indiana corporation (hereinafter referred to as "Developer"),

WITNESSETH:

WHEREAS, Developer is the owner or contract purchaser of all of the lands contained in the area described in Exhibit A, attached hereto and made a part hereof, which lands will be subdivided and known as "Fountain Village" (together with any additions thereto as herein provided, hereinafter referred to as the "Real Estate" or the "Development"), and will be more particularly described on the plats of the various sections thereof recorded and to be recorded in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and future home owners thereof.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part of parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as described in Exhibit A, to exclude any real estate as shown from the Development, or to include additional real estate.

1. DEFINITIONS.

A. The following are the definitions of the terms as they are used in this Declaration.

(i) "Association" shall mean "Fountain Village Homeowners Association, Inc.", its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for security control, snow removal, liability insurance, landscape easement maintenance, fertilizing and weed control and Common Area facilities' operation and maintenance.

(ii) "Committee" shall mean the Fountain Village Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filed by appointment of Developer until such time as the subdivision is completely developed, at which time the Fountain Village Homeowners Association, Inc. shall appoint from its membership this Committee.

(iii) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the plat.

(iv) "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, and which is located in, upon, or under the Common Areas, easements, or streets within Fountain Village. Without limiting the generality thereof, Common Property

MARION COUNTY AUDITOR
OCT 20 1987
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OCT 21 1987
LAWRENCE TOWNSHIP
ASSESSOR

shall include, to the extent not publicly dedicated, all streets, curbs, water mains, fire hydrants, the drainage system, the sewage system, street lights and street signs, public sidewalks, lakes, retention ponds, parks, and open spaces.

(v) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Marion County, Indiana.

(vi) "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(vii) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

B. Approvals, Etc. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing signed, with respect to Developer by an authorized officer or agent thereof, and with respect to the Committee by two members thereof.

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. All tracts of land located within the Development which have not been designated by numbering as residential building lots in the recorded plats shall be Common Area and shall be used in a manner consistent with the zoning and use designated in a master plan by Developer, including recreational facilities.

B. Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots.

C. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Lot Size and Living Space Areas. The minimum lot size shall be five thousand (5,000) square feet except for all Lots abutting the Hunter's Glen Subdivision to the East of the Development which shall have at least ten thousand (10,000) square feet. All dwellings will have two (2), three (3) or four (4) bedrooms, a two-car garage and a minimum of one thousand two hundred (1,200) square feet of living area and at least six hundred sixty (660) square feet of minimum main floor area in two-story dwellings.

B. Residential Setback Requirements.

(i) In General. Unless otherwise provided in these restrictions or on the recorded plat, no dwelling or above-grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.

(ii) Definitions. "Side line" means a lot boundary line that extends from the road on which a Lot abuts to the rear line of said Lot. "Rear line" means the Lot boundary line that is farthest from, and substantially parallel

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to, the road on which the Lot abuts, except that on corner Lots, it may be determined from either abutting road.

(iii) Front yards. The front building setback lines shall be all as set forth upon the plats of the Development, but the minimum building setback distance from all right-of-way lines will be twenty (20) feet to all garages and fifteen (15) feet to any portion of the living space of any unit.

(iv) Cul-de-sacs. If the particular Lot abuts a cul-de-sac, the front building setback line shall be as shown on the plat of that Lot.

(v) Side Yards. The side yard setback lines shall maintain a minimum distance between buildings of not less than ten (10) feet. Where a minimum distance of ten (10) feet between buildings is required, the following design considerations in dealing with the space between and around the buildings will be followed;

(a) The architectural design shall accommodate the outdoor living site of the building to provide maximum open space between buildings. The design of the street view of the buildings will be taken into account for the close proximity of the buildings.

(b) The placement of the buildings on the lots will be such that where possible, the front setbacks will be varied and the angle between units will be maximized to minimize the row house concept.

(c) Treatments of areas between buildings will be provided to ensure an aesthetic, pleasing streetscape.

(d) Where existing vegetation exists upon the lots, every effort will be made in building placement and site construction to preserve the vegetation to assist in providing a pleasing streetscape of the buildings.

(vi) Rear Yards. The rear setback line shall be as set forth on the plats of the Development, and if not designated on the plat, the rear yard setback lines shall be twenty (20) feet, unless Common Area in excess of forty (40) feet exists between abutting rear yards.

(vii) Boulevard. The minimum setback from any boulevard right-of-way adjacent to the Development shall be thirty (30) feet.

(viii) Site Plans. The site plans or plot plans submitted for an Improvement Location Permit on each Lot shall show the building line of any improvements, existing or authorized by a prior Improvement Location Permit, on adjacent lots.

C. Fences, Light Fixtures, Etc., Mailboxes, Lawns and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence, light fixture, basketball goal or similar structure must be approved by the Committee as to size, location, height and composition before it may be installed. All metal fencing in the Development will have a factory finish of either brown or black vinyl; no fence will be higher than six (6) feet; no fencing will extend forward of the furthest back corner of the home. Fencing style and color will be consistent with the Development. A standard mailbox and post will be adopted for the Development and installed by the Developer. The Developer is to provide two (2) two-inch calipers at base diameter deciduous shade trees per Lot and shall finish grade and seed or sod the Lot. Each Lot shall have at least one hundred twenty-five (125) square feet of planting bed area.

D. Exterior Construction. All utility facilities in the Development will be underground, except where required to be placed above-ground by the individual utility supplier. Each driveway in the Development will be of concrete or asphalt material and will not exceed in width the side boundaries of the garage associated therewith. No additional parking will be permitted on a Lot other than in the existing driveway. Each dwelling will have a continuous concrete sidewalk from the driveway to the front porch. All garage doors in the Development will be of a Masonite or wood material. All utility meters and HVAC units in the Development will be located in places unseen or screened from the fronts of the dwellings. No

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outside fuel storage tanks will be permitted above ground and no gasoline storage will be permitted above or below ground in the Development. All metal windows in the Development will be factory painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break. All gutters and downspouts in the Development will be painted or of a colored material other than gray galvanized. All roofing in the Development will be of a shingle-type material with weight no less than two hundred twenty (220) pounds and rating of Class A. All roof pitches will be four to twelve (4:12) or greater. Plumbing vent stacks shall be placed in inconspicuous locations. No two dwellings with the same facade will be placed side by side. No metal, fiberglass or similar type material awnings or patio covers will be permitted in the Development. No above-ground swimming pools will be permitted on any Lot in the Development. Modular-type construction is not permitted in the Development.

E. Heating Plants. Every dwelling in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the dwelling. Heating plants shall have ductwork capable of handling central air conditioning.

F. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

G. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any numbered Lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

H. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly; and, specifically, such Owner shall:

(i) Mow the Lot at such times as may reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds;

(ii) remove all debris or rubbish;

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development;

(iv) Cut down and remove dead trees; and

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

I. Lot Access. All Lots shall be accessed from the interior streets of this subdivision. No direct access to Lots shall be permitted on any boulevard.

J. Sight Obstructions. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the adjoining street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street Lot lines and a line connecting points twenty-five (25) feet from the intersection of said street Lot lines (or in the case of a rounded property corner, from the intersection of the street Lot lines extended to form a corner). The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street Lot line with the edge of a driveway pavement or alley line. As to any trees located within said sight line areas, the Owner thereof shall maintain the foliage line of such trees at a sufficient height to prevent obstruction of such sight lines.

K. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth in Paragraphs 2, 3 or 5, and in the further event that such failure is not cured within thirty (30) days after written notice of the same is given by the Association, the Association and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure

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causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Association shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs incurred by the Association in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure shall be payable by the defaulting Owner upon demand by the Association, and shall immediately become a lien against his Lot, subject to payment and collection in the manner provided for collection of assessments by the Association. The rights in the Owners and the Association under this paragraph shall be in addition to all other enforcement rights hereunder at law or in equity.

4. PROPERTY RIGHTS.

A. Rights to Common Property. Title to all Common Property shall be held in the Association, and each Owner shall have, as non-exclusive, reciprocal easements appurtenant to his Lot, a right of access to his Lot over all streets, the right to the use of all Common Areas for their intended purposes; provided, however, that no Owner's use of any Common Property shall materially interfere with any other Owner's use thereof. The Association may own recreational facilities including a club house and swimming pool in common with other homeowners associations with the use thereof to be shared by all members of the owning association.

B. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees, and to establish reasonable rules and regulations for the use of any recreational facility situated upon the Common Areas;

(ii) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(iii) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument agreement to such dedication or transfer signed by a majority of each class of members has been recorded.

C. Delegation of Use. Any Owner may delegate, in accordance with the By-laws of the Association, his right of enjoyment to the Common Areas and facilities of the Association to the members of his family, his tenants, or contract purchasers who reside on the property.

D. Umbrella and Joint Associations. Ownership, control and maintenance of certain portions of the Common Property, including, but not limited to landscaping and easements for the boulevard, surface drainage system, lakes and retention ponds, and recreation facilities may be placed under the control of or may be jointly controlled with a separate association comprised of associations and/or members of associations in residential developments located in surrounding areas.

E. Utility Easements. There is hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the property, to be perpetual hereof, from the date of this instrument by the Developer, its successors and assigns, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), and such other further public service facilities as Developer may deem necessary. Provided, however, Developer shall restore the disturbed area as nearly as is possible to the condition in which it was found. No permanent structures shall be constructed within an easement area.

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F. Limited Common Area. There is hereby reserved by the Developer for the benefit of the owner of any Lot, a limited common area for the purpose of entering and encroaching upon an adjoining Lot as designated on the plat hereof. Said limited common area is reserved for the limited purpose of performing maintenance and repair work on the dwelling benefited by such easement, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the adjacent dwelling. The owner of any house built within three (3) feet of a side-yard property line, shall have an express right of access and use for the limited purposes described above, in the limited common area as measured from the side-yard property line. Said easement area shall be five (5) feet in width as measured from said side-yard property line and as designated on the plat hereof. Any persons entering upon a Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of the area.

5. Miscellaneous Provisions and Prohibitions.

A. Mortgagees' Rights. The Mortgagees, individually and collectively, have the right, but not the obligation, to pay any taxes or other charges or assessments which are or may become a lien against the Common Area, in the event the same are not paid by the Association when due. The Mortgagees also have the right, but not the obligation, to pay any overdue premiums on hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefor to the Association.

B. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, Association, or any homeowner in Fountain Village in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development.

Neither Developer, any officer, agent, employee or contractor thereof, Association, or any homeowner shall be liable for any damage which may result from enforcement of this paragraph.

C. Construction of Sewage Lines. All sanitary sewage lines on the residential building Lots shall be designed and constructed in accordance with the provisions and requirements of the Metropolitan Department of Public Works. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining from said Committee of a permit to build.

D. Signs. No signs or advertisements shall be displayed or placed on any Lot or structures in the Development without the prior written approval of the Committee.

E. Animals. No animals shall be kept or maintained on any Lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably contained so as not to become a nuisance.

F. Vehicle Parking. No campers, trailers, recreational vehicles, boats or similar vehicles shall be parked on any street or Lot in the Development, unless the same shall be parked in such a manner that it is not visible to the occupants of other Lots in the Development or the uses of any street in the Development.

G. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation

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out-of-doors of such refuse on his Lot except as may be permitted in subparagraph H below. All dwellings built in the Development shall be equipped with a garbage disposal unit.

H. Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made.

I. Model Homes. No Owner of any Lot in the Development other than Developer shall build, or permit the building upon said Lot of, any dwelling that is to be used as a model home or exhibit house.

J. Temporary Structure. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot.

K. Ditches and Swales. It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Committee.

L. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by Developer. All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

M. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the Committee. No septic tanks shall be installed on any of the Lots.

N. Antennas. Exposed antennas shall require approval by the Association. The maximum height of such antennae shall not exceed five (5) feet above the roof peak.

O. Solar Heat Panels. No solar heat panels shall be allowed on roofs. All such panels must be enclosed within a fenced area within the specific Lot boundary and located to the rear of the dwelling.

6. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(i) In General. No dwelling, building structure or improvement of any type or kind shall be repainted, constructed or placed on any Lot in the Development, and no existing trees shall be removed, without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one inch (1") equals ten feet (10'), or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

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(ii) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

(b) the design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or

(c) the proposed improvement, or any part thereof, or proposed tree removal, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notifications is one of disapproval, it shall specify the reason or reasons for such disapproval.

C. Liability of Committee. Neither the Committee nor any agent thereof, nor Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER. Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the Development.

8. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any homeowner within Fountain Village, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Metropolitan Development Commission of Marion County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance 58-AO-3, as amended, or any conditions attached to approval of the plat of Section I of Fountain Village by the Plat Committee.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

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9. EFFECT OF BECOMING AN OWNER. The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of the such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

10. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

11. DURATION AND AMENDMENT. HOW CAN HOMEOWNERS AMEND ???

A. This Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Developer hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring these Restrictions or Fountain Village into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within Fountain Village; provided that Developer shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner.

12. RIGHTS OF MORTGAGEES. Except to the extent otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to these Restrictions which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

13. SEVERABILITY. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

14. HOMEOWNERS ASSOCIATION. The Association will be created as a not-for-profit corporation under the laws of the State of Indiana. The Declaration of Covenants, Conditions and Restrictions of the Association will be recorded in the office of the Recorder of Marion County, Indiana, and shall be binding with respect to all land contained within this plat. The Association will be responsible for controlling all maintenance and other activities for all areas denoted as common areas (lakes, parks, landscape easements, recreational facilities, etc.) as denoted on the plat.

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15. DEDICATED STREETS. The streets as denoted on the plat are hereby dedicated to the public.

IN TESTIMONY WHEREOF, witness the signature of Developer this 11th day of Sept, 1987.

SCM REAL ESTATE DEVELOPMENT CORP.

By: _____
Sol C. Miller, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Sol C. Miller, the President of SCM REAL ESTATE DEVELOPMENT CORP., who acknowledged execution of the foregoing Declaration of Covenants, Conditions and Restrictions for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 11th day of Sept, 1987.

Debra Howard
(signature)

DEBRA HOWARD
(printed name) NOTARY PUBLIC

My Commission Expires:
10-29-88

My County of Residence:
HAMILTON

This instrument was prepared by Timothy W. Sullivan, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

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(51) 032100

Curtis L. Conrad

MARION COUNTY AUDITOR

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS OF FOUNTAIN VILLAGE

THIS SUPPLEMENTAL DECLARATION (herein called "this Supplemental Declaration") made this 14th day of Sept, 1987, by SCM REAL ESTATE DEVELOPMENT CORP., an Indiana corporation (hereinafter referred to as "Developer"),

WITNESSETH:

WHEREAS, Developer and/or those persons executing the consents attached hereto and recorded herewith or subsequently recorded is/are the sole owner(s) in fee simple of all of the lands contained in the area described in Exhibit A, attached hereto and made a part hereof, (the "Real Estate"); and

WHEREAS, Developer is developing the Real Estate and certain surrounding lands within the tract described in the attached Exhibit B, upon which Developer or its assigns may, but is not obligated to, construct residential facilities, which shall be known as ("Fountain Village Subdivision") ("Fountain Village" or the "Development") and which shall be platted by Developer in sections from time to time; and

WHEREAS, the Real Estate has been platted by Developer as Section I of Fountain Village, recorded as Instrument No. 87-120927 in the Office of the Recorder of Marion County, Indiana along with the Declaration of Covenants and Restrictions which run with the Real Estate which was recorded as Instrument No. 87-120928 in the Office of the Recorder of Marion County, Indiana (together with similar Declarations to be recorded with additional Sections in Fountain Village, the "Plat Declarations"); and

WHEREAS, Developer desires to subject the Development (including the Real Estate) to certain covenants and restrictions in addition to those set forth in the Plat Declarations (the "Restrictions") in order to further insure that the development and use of the various lots in the Development are harmonious and do not adversely affect the value of surrounding Lots on the Development; and

WHEREAS, Developer desires to provide for maintenance of the Common Areas and improvements located or to be located in Fountain Village, which are of common benefit to the Owners of the various Lots within said subdivision, and to that end desires to establish certain obligations on said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of Fountain Village.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted from time to time are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part of parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title in the Development, or any part thereof. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as described in Exhibit B, to exclude any real estate as shown from the Development, or to include additional real estate.

1. DEFINITIONS.

The following are the definitions of the terms as they are used in this Declaration.

(i) "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of paragraph 7 herein.

(ii) "Association" shall mean "Fountain Village Homeowners Association, Inc.", its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for liability insurance, fertilizing and weed

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control, snow removal and trash removal (as provided for herein when applicable) and Common Area facilities' operation and maintenance and such other services as may be desired for the common benefit of all Owners.

(iii) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the plat.

(iv) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, snow removal and trash removal (to the extent, if any, provided by the Association) real estate taxes or personal property taxes assessed against any Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property, and shall also include the costs of insurance, as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, street lights, or other improvements constructed by Developer.

(v) "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, and which is located in, upon, or under the Common Areas, easements, or streets within Fountain Village. Without limiting the generality thereof, Common Property shall include, to the extent not publicly dedicated, all streets, curbs, water mains, fire hydrants, the drainage system, the sewage system, street lights and street signs, public sidewalks, lakes, retention ponds, parks, and open spaces.

(vi) "Declarations" means this Supplemental Declaration and the Plat Declarations, collectively.

(vii) "Developer" or "Declarant" means SCM Real Estate Development Corp., an Indiana corporation or any other person, firm, corporation or partnership which succeeds to the interest of SCM Real Estate Development Corp. as developer of Fountain Village.

(viii) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Marion County, Indiana.

(ix) "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(x) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation; provided, however, that the Declarant shall be deemed for all purposes hereof to be the Owner of Lots during the period of initial construction of a residence thereon and the period prior to the initial sale thereof during which the residence is not being used for residential purposes.

2. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, may be members in any one or more umbrella and/or joint homeowner's associations, if any, composed of associations and/or members from surrounding areas.

B. Classes of Membership. The Association shall have one class of voting membership which shall be comprised of all Owners who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no such event shall more than one vote be cast with respect to any Lot.

C. Board of Directors. The Members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

D. Professional Management. No contract or agreement for professional management of the Association nor any other contract with Developer shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

E. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Common Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or for any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable. In the event the Association enters into contracts for snow removal while Declarant controls the Association, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

F. Transfer of Control of Association. Developer must transfer control of the Association to the Owners no later than the earlier of (a) four (4) months after three-fourths (3/4) of the Lots in Fountain Village have been conveyed to Owners or (b) five (5) years after the first Lot is conveyed to an Owner, other than Developer, in Fountain Village.

G. Mortgagees' Rights. The Mortgagees, individually and collectively, have the right, but not the obligation, to pay any taxes or other charges or assessments which are or may become a lien against the Common Area, in the event the same are not paid by the Association when due. The Mortgagees also have the right, but not the obligation, to pay any overdue premiums on hazard insurance policies required to be maintained by the Association, or to secure new hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefor to the Association.

H. Umbrella and Joint Associations. The Developer contemplates that declarations of covenants, conditions and restrictions will be imposed upon the real estate in the Development in conjunction with:

(i) the formation of The Villages Umbrella Homeowners Association, Inc. (or under a similar name), formed, or to be formed as an Indiana not-for-profit corporation with its membership to consist of the Owners of Lots in the Development as well as similarly situated owners of lots on land adjacent to or near the Development, the purpose of which is to provide for the maintenance and control of landscaping and drainage systems common to, integrated with and benefiting the Development and developments located on such land adjacent to or near the Development; and

(ii) the formation of a joint association, formed, or to be formed, as an Indiana not-for-profit corporation, with its membership to consist of the Owners of Lots in the Development and the owners of lots in subdivision(s) located, or to be located in the general vicinity of the Development, the

purpose of which is to provide for the common ownership, maintenance, control and use of recreational facilities, if any, for use by the members of such association.

The covenants, conditions and restrictions and the covenant for and lien of assessments associated with such associations are and shall be in addition to the Restrictions and covenant for and lien of assessments set forth herein. The Association may enter into such agreements concerning the centralized collection of assessments by the Association or such other associations as the Board of Directors may deem advisable to avoid duplicity in costs, expense and effort in such collections.

I. Snow Removal. The cost of snow removal in excess of amounts budgeted therefor shall be paid by the Owners on a pro-rata share basis by a Special Assessment. In the event the Association enters into contracts for snow removal while Declarant controls the Association, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

J. Trash Removal. In order to preserve the value of Lots in the Development and to promote the health and safety of the Owners, the Association shall designate a trash collection day and/or designate a trash collection service to be used by the owners. Cost of such trash collection service shall be borne by the individual Owners in the Development, but after Declarant turns over control of the Association the Owners may agree to a master contract for such service by the Association with the cost thereof to be paid for through regular assessments.

3. INSURANCE.

A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with any and all of the Common Property, in an amount not less than Three Million Dollars ($3,000,000.00) per occurrence for personal injury and One Million Dollars ($1,000,000.00) per occurrence for property damage.

B. The Association shall also maintain in force adequate fire and extended coverage insurance for all Common Property for the benefit of all Owners and Mortgagees in Fountain Village, insuring against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full insurable value of such Common Property, and shall contain the following endorsements, if and to the extent obtainable at a reasonable cost in the State of Indiana: (i) replacement cost; (ii) inflation guard; (iii) demolition cost, contingent liability, and increased construction cost in connection with building code requirements; and (iv) steam boiler coverage (if applicable). The insurer's minimum liability per accident under boiler and machinery coverage must equal the insurable value of the building housing such boiler or machinery or Two Million Dollars ($2,000,000.00), whichever is less. In the event that all or any part of the Common Property is determined to be in a flood hazard area, the Association shall also obtain a master policy of flood insurance on all structures and improvements on any Lot and all Common Property within such flood hazard zone, in an amount at least equal to the lesser of one hundred percent (100%) of the current replacement cost of all insurable property within the flood hazard area, or the maximum coverage available for such property under the National Flood Insurance Program. The amounts of coverages under the foregoing master policies shall be increased from time to time to cover all additions to Fountain Village. Deductibles may not exceed the lower of Ten Thousand Dollars ($10,000.00) or one percent (1%) of the applicable amount of coverage. Funds for such deductibles must be included in the Association's reserves and be so designated.

C. The Association also shall obtain comprehensive public liability insurance together with Workmen's Compensation Insurance, employers liability insurance, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate. All such policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover

claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name FHLMC and all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

D. The Association shall obtain a fidelity bond indemnifying the Association, the Board of Directors, and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee or officer of the Association or of any other person handling the funds of the Association or the Owners. The coverage must equal the maximum amount of funds in the Association's custody at any one time but must be no less than the sum of three (3) months of assessments on the entire project plus reserves.

E. All policies of insurance maintained by the Association pursuant to this section shall provide such coverages and be in such amounts as may be required from time to time by FNMA, FHLMC, FHA or VA. All policies shall contain a clause whereby the insurer agrees to provide written notice to the Association, to FHLMC, and to any other lending institution or agency requesting or requiring the same, prior to any cancellation or material modification thereof. The Association shall notify all Mortgagees of which it has notice of any lapse, cancellation, or material modification of any insurance policy.

F. The Association shall also carry any additional coverage commonly required by private mortgage investors for developments similar in construction, location, and use, including the following where applicable and available:

(i) contingent liability from operation of building laws;

(ii) comprehensive automobile liability;

(iii) bailee's liability;

(iv) elevator collision liability;

(v) garage keeper's liability;

(vi) host liquor liability;

(vii) workers' compensation and employer's liability; and

(viii) contractual liability.

G. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

H. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

I. Insurance policies required to be carried by the Association by this paragraph shall be subject to the following additional requirements:

(i) (a) the insurer has a current Best's Insurance Reports rating of A/V or better; (b) the insurer must be reinsured by a company rated B/VI or better by Best's Insurance Reports. In this case, both the insurer and reinsurer must execute an Assumption of Liability Agreement or a similar endorsement providing for one hundred percent (100%) reinsurance of the issuer's policy and requiring the reinsurer to give the borrower, mortgagees, and the insurer at

least ninety (90) days' written notice before canceling or otherwise terminating the reinsurance (this agreement must be attached to the insurance policy); or (c) coverage must be underwritten by Lloyd's of London or by a Fair Access to Insurance Requirements (FAIR) or beach and windstorm plan.

(ii) Each insurer and any reinsurer shall be specifically licensed or authorized by law to transact business within the State of Indiana.

(iii) Policy contracts shall provide that no assessments may be made against the Federal Home Loan Mortgage Association (or its designee) and that any other assessments may not become a lien on the Development superior to the first mortgage.

(iv) All policies of hazard insurance shall contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Development is located. The mortgagee clause must provide that the insurance carrier will notify the first mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

4. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Fountain Village, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, fencing, repairing, operating, and maintenance of the Common Area, including, but not limited to, the payment of taxes and insurance thereon, for the cost of labor, equipment, material, and management furnished with respect to the Common Area, and any and all other Common Expenses. Each Owner hereby covenants and agrees to pay to the Association:

(i) A Pro-rata Share (as hereinafter defined) of the annual Assessments fixed, established, and determined from time to time as hereinafter provided.

(ii) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

B. Pro-rata Share. The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by dividing one by the total number of Lots shown on the plat or plats of Fountain Village, as the same may be recorded from time to time.

C. Liability for Assessments. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

D. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association.

E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of two-thirds (2/3) of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

F. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in Fountain Village shall commence on the first day of the first month following the month in which Declarant first conveys ownership of any Lot in such section to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. However, the Declarant shall be liable for and shall make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association subject to its right to be reimbursed therefor as provided herein. The first annual Assessment within each section shall be made for the balance of the fiscal year of the Association in which such Assessment is made and with respect to particular Lots shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments.

G. Duties of the Association.

(I) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept in the office of the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Association shall cause audited financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(II) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(III) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this Declaration by any Owner which is not cured within sixty (60) days; (b) of any condemnation or casualty loss that affects either a material portion of Fountain Village or the Lot securing its mortgage; (c) of

any lapse, cancellation, or material modification of any insurance policy or fidelity bond required to be maintained by the Association; and (d) any proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

H. Non-payment of Assessments; Remedies of Association.

(I) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(II) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year, except that so long as the Declarant controls the Association, Declarant shall be responsible for such deficit; provided, however that Declarant shall be reimbursed by the Association for such deficits, together with interest at ___% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners. Thereafter, such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-rata share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s); provided, that Declarant shall first be reimbursed for deficits previously paid as required above before such excess shall be so credited to Owners.

Reimburse of SCM

J. Initial Assessments. During the first year following the date of recordation of the Declaration for Section One of Fountain Village, the total Assessments per Lot per year shall not exceed SEVENTY FIVE Dollars ($ 75.00). In each year thereafter, the total Assessments per Lot per year shall not be increased by more than the TWELVE percent (12 %) over the prior year, until such time as the Declarant relinquishes control of the Association. In no event shall the annual Assessments exceed One hundred twenty five Dollars ($ 125.00) per year per Lot without the approval of a majority of the Owners; provided, however, that said maximum amount may be increased by no more than five percent (5 %) per year by the Board of Directors without such consent.

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Associations shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be

held more than sixty (60) days following the preceding meeting. Nothing contained in this paragraph shall be construed to limit the ability of the Developer or the Board of Directors to increase Assessments up to the amounts permitted by paragraph 4(J) hereof.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

5. EXPANSION OF SUBDIVISION.

A. Method and Scope of Expansion. Developer, at its option, and from time to time, may expand Fountain Village to include all or any parts of the tract described in the attached Exhibit B, by the addition of further sections consisting of one (1) or more Lots and any Common Property which in the discretion of Developer is appropriate for addition with such sections. Such further sections, if added, shall be added by the recordation of a plat of such section, consistent in detail and layout with the plats of sections previously recorded, and by the recordation of a declaration imposing upon such section covenants substantially similar in form and substance to the Declarations. Developer hereby covenants that the total number of Lots in Fountain Village shall not exceed 115, and that no real estate shall be added thereto which is not within that described in Exhibit B.

B. Time for Expansion. No additional sections shall be added after the date which is seven (7) years after the date on which the plat for Fountain Village Section I was recorded.

C. Future Improvements. The streets, sewage system, drainage system, and utility lines and mains within each section shall be substantially constructed or installed prior to recordation of the plat and declaration for such section. All buildings, streets, and other improvements in all additional sections shall be consistent in quality of construction with the section(s) already in Champions Village as of the date of this Supplemental Declaration.

6. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any Owner within Fountain Village, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Metropolitan Development Commission of Marion County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance 58-AO-3, as amended, or any conditions attached to approval of the plats of Fountain Village by the Plat Committee.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

7. EFFECT OF BECOMING AN OWNER. The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of

such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of the such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

8. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

9. DURATION AND AMENDMENT. This Supplemental Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Supplemental Declaration, in which case this Supplemental Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Supplemental Declaration shall be perpetual unless otherwise expressly indicated herein.

A. The Association shall have the right to amend this Supplemental Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least seventy-five percent (75%) of the Lots and ninety percent (90%) of the Mortgagees; provided, however, that any such amendment of this Declaration shall require prior written approval of the Developer so long as Developer owns any Lots within Fountain Village. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Developer when their approval is required, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit or addendum thereto a certified copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendment shall not be effective until recorded in the office of the Recorder of Marion County.

75%, 90%

B. Developer hereby reserves the right to make such amendments to this Supplemental Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring these Restrictions or Fountain Village into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within Fountain Village; provided that Developer shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner.

C. Subject to the other requirements of this paragraph 9, unless at least two-thirds (2/3) of the Mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Developer) of the Lots have given their prior written approval, the Association shall not be entitled to:

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Property by the Association shall not be deemed a transfer within the meaning of this clause);

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(iii) by act or omission change, waiver or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the residences, the exterior maintenance of the

residences, the maintenance of the Common Property, or the upkeep of lawns and plantings in the Development;

(iv) fail to maintain fire and extended coverage on the Common Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

(v) use hazard insurance proceeds for losses to any of the Common Property other than for the repair, replacement or reconstruction of the Common Property.

10. RIGHTS OF MORTGAGEES. Except to the extent as may be otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Development; provided, however, that if all or any portion of said Development is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to the Declarations or Articles and By-Laws of the Association which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Development at the time of such amendment.

11. SEVERABILITY. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

IN TESTIMONY WHEREOF, witness the signature of Developer this 11th day of Sept, 1987.

SCM Real Estate Development Corp.

By: _____
Sol C. Miller, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Sol C. Miller, the President of SCM Real Estate Development Corp., who acknowledged execution of the foregoing Supplemental Declaration of Covenants and Restrictions for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 11th day of SEPT, 1987.

Debra Howard
(signature)

DEBRA HOWARD
(printed name) NOTARY PUBLIC

My Commission Expires:

10-29-88

My County of Residence:

HAMILTON

This instrument was prepared by Timothy W. Sullivan, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

6
285-132
10-3-86 MLB

FOUNTAIN VILLAGE SECTION I

A part of the Southeast Quarter of Section 13, Township 17 North, Range 4 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 89°23'03" East along the south line of said Southeast Quarter 621.91 feet to the southeast corner of Village Way as described in a Grant of Right-of-Way recorded as Instrument No. 86-12016 in the Office of the Recorder of Marion County, Indiana, said point being the point of beginning; thence the following ten (10) courses along the easterly right-of-way line of said Village Way: (1) North 00°36'57" West 35.00 feet; (2) South 89°23'03" West 200.00 feet to the point of curvature of a curve concave Northeasterly having a central angle of 99°19'12" and a radius of 28.00 feet; (3) thence Westerly, Northwesterly, and Northerly along said curve an arc distance of 48.54 feet (said arc being subtended by a chord having a bearing of North 40°57'21" West and a length of 42.68 feet) to the point of compound curvature of a curve concave Easterly having a central angle of 18°10'26" and a radius of 177.00 feet; (4) thence Northerly along said curve an arc distance of 56.14 feet (said arc being subtended by a chord having a bearing of North 17°47'28" East and a length of 55.91 feet) to the point of tangency of said curve; (5) North 26°52'41" East 105.24 feet to the point of curvature of a curve concave Westerly having a central angle of 45°04'07" and a radius of 223.00 feet; (6) thence Northerly along said curve an arc distance of 175.41 feet (said arc being subtended by a chord having a bearing of North 04°20'37" East and a length of 170.92 feet) to the point of tangency of said curve; (7) North 18°11'26" West 137.22 feet to the point of curvature of a curve concave Easterly having a central angle of 46°59'41" and a radius of 456.00 feet; (8) thence Northerly along said curve an arc distance of 374.02 feet (said arc being subtended by a chord having a bearing of North 05°18'25" East and a length of 363.62 feet) to the point of tangency of said curve; (9) North 28°48'15" East 219.15 feet to the point of curvature of a curve concave Northwesterly having a central angle of 10°23'43" and a radius of 344.00 feet; (10) thence Northerly along said curve an arc distance of 62.41 feet (said arc being subtended by a chord having a bearing of North 23°36'24" East and a length of 62.33 feet) to a corner on the westerly line of Village Gate Section I, the plat of which is recorded as Instrument No. 86-31873 in the Office of the Recorder of Marion County, Indiana; thence the following seven (7) courses along the westerly and southerly lines of said Village Gate Section I: (1) South 03°47'45" West 78.45 feet; (2) South 18°09'11" East 54.76 feet; (3) South 44°42'27" East 135.29 feet; (4) South 83°25'45" East 59.72 feet; (5) North 75°52'45" East 55.22 feet; (6) North 49°15'11" East 91.83 feet; (7) North 22°27'52" East 11.19 feet to the westmost corner of Lot 45 in Village Gate Section II, the plat of which is recorded as Instrument No. 86-81954 in the Office of said Recorder; thence the following three (3) courses along the southerly line of said Village Gate Section II: (1) South 28°02'55" East 101.23 feet; (2) South 54°45'48" East 97.67 feet; (3) South 85°57'39" East 68.16 feet; thence South 00°00'00" East 149.33 feet; thence South 05°43'27" West 179.10 feet; thence South 38°44'46" West 93.58 feet; thence South 05°26'55" West 220.14 feet; thence North 84°33'05" West 11.64 feet to the point of curvature of a curve concave Northerly having a central angle of 03°49'28" and a radius of 225.00 feet; thence Westerly along said curve an arc distance of 15.02 feet (said arc being subtended by a chord having a bearing of North 82°38'21" West and a length of 15.02 feet); thence South 09°16'23" West 110.75 feet; thence South 00°36'57" East 94.79 feet to the south line of said Southeast Quarter; thence South 89°23'03" West along said south line 319.11 feet to the point of beginning, containing 12.28 acres, more or less; subject to highways, rights-of-way, and easements.

EXHIBIT "A"

285-132
10/19/87 DKH
1912S

LAND DESCRIPTION

FOUNTAIN VILLAGE

A part of the Southeast Quarter of Section 13, Township 17 North, Range 4 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of said Southeast Quarter; thence North 89°23'03" East along the South line of said Southeast Quarter 621.91 feet to the Southeast corner of Village Way as described in a Grant of Right-of-Way recorded as Instrument No. 86-12016 in the Office of the Recorder of Marion County, Indiana, said point being the Point of Beginning: thence the following ten (10) courses along the Easterly right-of-way line of said Village Way: (1) North 00°36'57" West 35.00 feet; (2) South 89°23'03" West 200.00 feet to the point of curvature of a curve concave Northeasterly having a central angle of 99°19'12" and a radius of 28.00 feet; (3) thence Westerly, Northwesterly, and Northerly along said curve an arc distance of 48.54 feet (said arc being subtended by a chord having a bearing of North 40°57'21" West and a length of 42.68 feet) to the point of compound curvature of a curve concave Easterly having a central angle of 18°10'26" and a radius of 177.00 feet; (4) thence Northerly along said curve an arc distance of 56.14 feet (said arc being subtended by a chord having a bearing of North 17°47'28" East and a length of 55.91 feet) to the point of tangency of said curve; (5) North 26°52'41" East 105.24 feet to the point of curvature of a curve concave Westerly having a central angle of 45°04'07" and a radius of 223.00 feet; (6) thence Northerly along said curve an arc distance of 175.41 feet (said arc being subtended by a chord having a bearing of North 04°20'37" East and a length of 170.92 feet) to the point of tangency of said curve; (7) North 18°11'26" West 137.22 feet to the point of curvature of a curve concave Easterly having a central angle of 46°59'41" and a radius of 456.00 feet; (8) thence Northerly along said curve an arc distance of 374.02 feet (said arc being subtended by a chord having a bearing of North 05°18'25" East and a length of 363.62 feet) to the point of tangency of said curve; (9) North 28°48'15" East 219.15 feet to the point of curvature of a curve concave Northwesterly having a central angle of 10°23'43" and a radius of 344.00 feet; (10) thence Northerly along said curve an arc distance of 62.41 feet (said arc being subtended by a chord having a bearing of North 23°36'24" East and a length of 62.33 feet) to a corner on the Westerly line of Village Gate Section I, the plat of which is recorded as Instrument No. 86-31873 in the Office of the Recorder of Marion County, Indiana; thence the following seven (7) courses along the Westerly and Southerly lines of said Village Gate Section I: (1) South 03°47'45" West 78.45 feet; (2) South 18°09'11" East 54.76 feet; (3) South 44°42'27" East 135.29 feet; (4) South 83°25'45" East 59.72 feet; (5) North 75°52'45" East 55.22 feet; (6) North 49°15'11" East 91.83 feet; (7) North 22°27'52" East 11.19 feet to a corner on the Southerly line of Village Gate Section II, the plat of which is recorded as Instrument No. 86-81954 in the Office of said Recorder; thence the following ten (10) courses along the Southerly and Easterly lines of said Village Gate Section II: (1) South 28°02'55" East 101.23 feet; (2) South 54°45'48" East 97.67 feet; (3) South 85°57'39" East 68.16 feet; (4) North 71°04'51" East 69.08 feet; (5) North 50°31'08" East 54.25 feet; (6) North 27°11'55" East 45.61 feet; (7) North 06°56'09" East 82.88 feet; (8) North 00°12'51" East 68.33 feet; (9) North 06°22'56" East 71.41 feet; (10) North 05°10'20" West 19.03 feet; thence North 89°19'29" East 337.10 feet; thence South 19°23'11" East 61.36 feet; thence South 08°20'39" East 50.24 feet; thence South 04°57'28" West 50.07 feet; thence South 83°26'13" East 162.95 feet to a point on a curve concave Westerly having a central angle of 05°13'22" and a radius of 450.00 feet; thence Northerly along said curve an arc distance of 41.02 feet (said arc being subtended by a chord having a bearing of North 03°57'06" East and a length of 41.01 feet); thence North 82°30'20" East 89.56 feet; thence South 75°52'28" East 205.02 feet to the West line of Hunters Glen Third Section, the plat of which is recorded as Instrument No. 78-80695 in the Office of said Recorder; thence South 00°45'19" West along said West line 7.48 feet to the Southwest corner of said Hunters Glen Third Section which is also the Northwest corner of Hunters Glen Fourth Section, the plat of which is recorded as Instrument No. 76-53965 in the Office of said Recorder; thence the following nine (9) courses along the West line of said Hunters Glen Fourth Section: (1) South 00°36'16" West 19.93 feet; (2) South 00°19'05" West 250.00 feet; (3) South 00°49'40" East 99.96 feet; (4) South 00°15'18" East 100.07 feet; (5) South 00°19'05" West 100.00 feet; (6) South 01°27'50" West 100.02 feet; (7) South 00°01'54" West 100.00 feet; (8) South 01°23'24" West 78.96 feet; (9) South 00°19'05" West 121.06 feet to the South line of said Southeast Quarter; thence South 89°23'03" West along said South line 1411.56 feet to the Point of Beginning, containing 36.26 acres, more or less; subject to highways, rights-of-way, and easements.

EXHIBIT "B"