

**FOUNTAIN MANOR  
ASSOCIATION, INC.**

**PHASE II**

**Amended and  
Restated Declaration  
of Condominium and  
Exhibits**

# *Fountain Manor Association, Inc.*

Dear Fountain Manor Owner:

Attached, as of March 1, 1994, are the Governing Documents for Phase II of Fountain Manor Association, Inc.

They are as follows:

Amended and restated Declaration of Condominium Establishing Fountain Manor Condominium, Phase II

Exhibit "A" - Legal Description of Phase II

Exhibit "B" - Legal Description of Fountain Manor Condominium

Exhibit "C" - Plans and Plats of Subdivision for Phase II

Exhibit "D" - Phase II Percentage of Undivided Interest in Common Areas and Facilities

Exhibit "H" - Restated Articles of Incorporation of Fountain Manor Association, Inc.

Exhibit "G" - Restated By-Laws of Fountain Manor Association, Inc.

Each of the four phases of Fountain Manor Association, Inc. have separate Declaration of Condominium. However, they all are substantially the same in so far as their content and their effect on all members of Fountain Manor Association, Inc. Exhibits "A" (Legal Description), "C" (Plans of Condominium) and "D" (Percentage of Undivided Interests) are different for each phase. Exhibits "B" (Legal Description), "G" (Articles of Incorporation) and "H" (By-Laws) are identical for each phase.

The following address units which are sixty (60) in number compose Fountain Manor Association, Inc. Phase II:

## **Fountain Manor Drive**

5 - A, B, C, D  
7 - A, B, C, D  
9 - A, B, C, D, E, F  
10 - A, B, C, D, E, F  
11 - A, B, C, D, E, F  
12 - A, B, C, D, E, F, G, H  
15 - A, B, C, D, E, F  
17 - A, B, C, D  
19 - A, B, C, D, E  
21 - A, B, C, D, E, F  
23 - A, B, C, D, E

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The attached AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR FOUNTAIN MANOR CONDOMINIUM, PHASE II, is a compilation of the original Declaration recorded May 2, 1975, in Book 2757, Page 679, Guilford County Registry, and the various amendments thereto that have been recorded from time to time as follows:

1. Amendment recorded December 23, 1975, in Book 2798, Page 158;
2. Amendment recorded November 7, 1980, in Book 3119, Page 54;
3. Amendment recorded June 24, 1986, in Book 3511, Page 1224;
4. Amendment recorded October 30, 1992, in Book 4013, Page 1844; and
5. Amendment recorded December 15, 1993, in Book 4152, Page 710

This Restated Declaration has been prepared in order to compile in one document a complete and up-to-date version of the Declaration of Condominium to assist Unit Owners and Fountain Manor Association in the management and operation of the Condominium.



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AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

Establishing

FOUNTAIN MANOR CONDOMINIUM, PHASE II

\* \* \* \* \*

Watergate Park Corporation, a North Carolina corporation, hereinafter referred to as "Developer," having its principal place of business in Guilford County, North Carolina, does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of Fountain Manor Condominium, Phase II, being the property and improvements hereinafter described.

I.

ESTABLISHMENT OF CONDOMINIUM

Developer is the owner of the fee simple title to that certain real property situate in Gilmer Township, Guilford County, State of North Carolina, which property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference and on which property there has been or will be constructed eleven (11) detached two-story buildings containing a total of sixty (60) condominium living units and their supporting facilities, areas reserved for at least one hundred forty (140) parking spaces and other appurtenant improvements. The buildings are of wood frame and brick veneer construction with decorative wood siding. Ground floors and patios are poured concrete; asphalt roofing shingles are used on the roof. There are no basements. Developer hereby submits the above-described property and improvements to condominium ownership under the provisions of Chapter 47A of the General Statutes of North Carolina (Unit Ownership Act), and hereby declares the same to be a condominium to be known and identified as "Fountain Manor Condominium, Phase II." Hereinafter in this Declaration of Condominium, Fountain Manor Condominium, Phase II, is also referred to as "Condominium."

Fountain Manor Condominium, Phase II, is the second condominium of a series of four condominiums which the Developer has created, each of which is located within the real property lying and being in Gilmer Township, Guilford County, North Carolina, and as more fully described in Exhibit "B" attached hereto and incorporated herein by reference. These condominiums have been developed under a Common Plan, the features of which include common swimming and recreation facilities and the providing of maintenance and other services through a common administration. Each parcel or tract of land, with the improvements thereon, which has been submitted to the condominium

form of ownership pursuant to this Common Plan constitutes a separate condominium and has been designated consecutively as "Fountain Manor Condominium, Phase I," "Fountain Manor Condominium, Phase II," "Fountain Manor Condominium, Phase III," and "Fountain Manor Condominium, Phase IV." In order to facilitate the operation and administration of all phases of the condominium under the Common Plan, there has been incorporated under the laws of the State of North Carolina a non-profit corporation known as Fountain Manor Association, Inc. The general authority and responsibility for the operation and administration of the condominium shall be vested in Fountain Manor Association, Inc. The authority and responsibility of Fountain Manor Association, Inc. shall be as described in this Declaration and in the Articles of Incorporation and Bylaws of Fountain Manor Association, Inc.

## II.

### SURVEY AND DESCRIPTION OF IMPROVEMENTS

Annexed hereto and expressly made a part hereof as Exhibit "C," consisting of five (5) pages, is a survey of the land and graphic description and plot plans of the improvements constituting the Condominium, identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Condominium Unit is identified by specific numerical designation on said Exhibit "C," and no Condominium Unit bears the same designation as any other Condominium Unit.

## III.

### DEFINITIONS

The Condominium consists of Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined.

Condominium Units, as the term is used herein, shall mean and comprise the sixty (60) separately identified Dwelling Units which are designated in Exhibit "C" to this Declaration of Condominium, excluding, however, all spaces and improvements lying:

A. Beneath the interior surfacing material (sheet rock) of all perimeter walls, interior bearing walls and/or bearing partitions;

B. Above the interior surfacing material (firerock) of the ceilings;



C. Beneath the subflooring material of all floors (for ground floors, poured concrete shall be considered to be subflooring material);

and further excluding all pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to Condominium Units and Common Areas and Facilities up to and including the point of entry of such pipes, ducts, wires and conduits through the interior surfacing material for walls and ceilings and the subflooring surfacing material for floors. All pipes, ducts, wires, conduits and other such facilities shall become a part of the respective Condominium Units at such point of entry. All exterior doors, window frames, panes and screens shall be part of the respective Condominium Units; provided, however, that the exterior decoration and painting of the exterior surface of such doors and window frames shall be the responsibility of Fountain Manor Association, Inc., as hereinafter defined.

All portions of the property not encompassed and included within the various Condominium Units are part of the Common Areas and Facilities.

Certain portions of the Common Areas and Facilities are reserved for the use of particular Condominium Unit or Units to the exclusion of other Units and are designated as "Limited Common Areas and Facilities." The Limited Common Areas and Facilities and the Condominium Unit or Units to which they are reserved are as follows:

1. The patios, porches and decks which are adjacent to respective Condominium Units and interior access to which can be had only through a Unit are Limited Common Areas and Facilities, and use of such areas shall be limited to the Unit Owner or occupant whose Unit affords interior access to such patio, porch or balcony. These patios, porches and balconies bear the same designation on Exhibit "C" as the Unit to which they are attached.

2. The steps and stoops which are a part of each building and the central hallways and interior stairways in Buildings 13, 15 and 19 are Limited Common Areas and Facilities and are reserved for the use of the Owners of Units in these respective buildings, their families, guests, invitees and lessees.

3. There are storage closets, or compartments, in the central hallways on both the first and second floors of Buildings 13, 15 and 19. There are also storage closets or compartments located to the rear of Units 57, 65, 70, 71, 76, 91, 92, 93, 94, 95, 96, 111, 112, 113, 114, 115 and 116. These closets, or compartments, are Limited Common Areas and Facilities and their use is limited to the respective Owner or Owners of the Condominium Unit with which each closet or compartment is

associated. Each closet, or compartment, bears the same designation on Exhibit "C" as the Unit with which it is associated.

4. There are yards located adjacent to the patios associated with Units 57, 65, 70, 71, 76, 91 and 97. The dimensions of each yard are shown on Exhibit "C" attached hereto and each such yard bears the same designation on Exhibit "C" as the Unit with which it is associated. The use of each yard is limited to the respective Unit Owner or occupant of the Condominium Unit with which the yard is associated, and, subject to the provisions of Article X hereof, each such Owner or occupant shall have the right to determine what shall be planted and grown within such yard.

The terms "Building," "Common Areas and Facilities" (sometimes herein referred to as "Common Property"), "Common Expenses," "Common Profit," "Condominium," "Declaration," "Majority" or "Majority of Unit Owners," "Person," "Property," "Recordation," "Unit" or "Condominium Unit," "Unit Designation," and "Unit Owner," unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in Section 3 of Chapter 47A of the General Statutes of North Carolina known as the Unit Ownership Act.

#### IV.

##### OWNERSHIP OF CONDOMINIUM UNIT AND APPURTENANT INTEREST IN COMMON PROPERTY

Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each said Condominium Unit shall own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Areas and Facilities. The undivided interest appurtenant to each Condominium Unit is as set forth in Column 2 of Exhibit "D" attached hereto and made a part hereof. The percentage or proportional interest of the respective Units in the Common Area and Facilities has been determined by a ratio formulated upon the approximate relation that the fair market value of the Unit at the date of the Declaration bears to the then aggregate fair market value of all of the Units having an interest in said Common Areas and Facilities. The approximate fair market value of each Unit and the aggregate fair market value of all of the Units have been determined by the Developer for purposes of this Declaration, and this determination shall be binding upon all Unit Owners, their heirs, successors and assigns. The percentage of undivided interest in the Common Property assigned to each Condominium Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Condominium Units and with the consent

of at least seventy-five percent (75%) of the Institutional Lenders (as hereinafter defined) holding first mortgages or deeds of trust on the Condominium Units, based upon one vote for each mortgage owned.

V.

RESTRICTION AGAINST FURTHER SUBDIVIDING OF  
CONDOMINIUM UNITS; SEPARATE CONVEYANCE  
OF APPURTENANT COMMON PROPERTY PROHIBITED

No Condominium Unit may be divided or subdivided into a smaller Dwelling Unit or Units than as shown on Exhibit "C" hereto, nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. The undivided interest in the Common Property declared to be an appurtenance to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage, devise or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Condominium Unit and its appurtenant undivided interest in Common Property, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Condominium Unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any Condominium Unit, which describes said Condominium Unit by the Condominium Unit numerical designation assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire Condominium Unit and its appurtenant undivided interest in Common Property. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Property by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

VI.

THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Condominium Units, Common Property and Limited Common Areas shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein, governing the use of said Condominium Units, Common Property and Limited Common Areas and setting forth the obligations and responsibilities incident to



ownership of each Condominium Unit and its appurtenant undivided interest in the Common Property, and said Condominium Units, Common Property and Limited Common Areas are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium.

VII.

PERPETUAL NON-EXCLUSIVE EASEMENT IN  
COMMON AREAS AND FACILITIES

The Common Area and Facilities shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Owners of Condominium Units in all phases of Fountain Manor Condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, for ingress, egress and regress and for the furnishing of services and facilities for which the same are reasonably intended, and for the enjoyment of said Owners of Condominium Units. Notwithstanding anything provided in this Article, Fountain Manor Association, Inc., hereinafter identified, shall have the right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit may be entitled to use the Common Areas and Facilities, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof.

VIII.

EASEMENT FOR UNINTENTIONAL AND NON-  
NEGLIGENT ENCROACHMENTS

In the event that any Condominium Unit shall encroach upon any Common Property, or upon any other Condominium Unit or Units, for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owner, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Condominium Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Property upon any Condominium Unit for so long as such encroachment shall naturally exist. If any Condominium Unit or Common Property shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Property in accordance with Article XXII hereof, there exist encroachments of portions of the Common Property upon any Condominium Unit, or of any Condominium Unit upon any other Condominium Unit or upon any portion of the Common

Property, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

IX.

RESTRAINT UPON SEPARATION AND PARTITION  
OF COMMON PROPERTY

Recognizing that the proper use of a Condominium Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Property in common with the Owners of all other Condominium Units, and that it is in the interest of all Owners that the ownership of the Common Property be retained in common by the Owners, it is hereby declared that the percentage of the undivided interest in the Common Property appurtenant to each Condominium Unit shall remain undivided and no Owner of any Condominium Unit shall bring or have any right to bring any action for partition or division.

X.

ADMINISTRATION OF THE CONDOMINIUM  
BY FOUNTAIN MANOR ASSOCIATION, INC.

To efficiently and effectively provide for the administration of the Condominium by the Owners of Condominium Units, a non-profit North Carolina corporation known as Fountain Manor Association, Inc. has been organized. Said corporation shall administer the operation and management of the Condominium, and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and Bylaws. True copies of said Articles of Incorporation and Bylaws are annexed hereto and expressly made a part hereof as Exhibits "G" and "H" respectively.

The Owner or Owners of each Condominium Unit in Phase II shall automatically become members of Fountain Manor Association, Inc. (hereinafter called FM Association) upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property, and the membership of such Owners or Owner shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation, or to any of the rights or privileges of such membership. In the administration, operation and management of the entire Fountain Manor Condominium, FM Association shall have, and is hereby granted, the authority to enforce the

provisions of this Declaration of Condominium, to levy and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units, Common Property and Recreation Facilities as the Board of Directors of said FM Association may deem to be in the best interest of the corporation.

The Owner or Owners of each Condominium Unit in Phase II shall also automatically become non-voting members of Fountain Manor Association, Inc. (hereinafter called FM Association) upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property, and the membership of such Owners or Owner shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation, or to any of the rights or privileges of such membership. In the administration, operation and management of the entire Fountain Manor Condominium, FM Association shall have, and is hereby granted, the authority to enforce the provisions of this Declaration of Condominium, to levy and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units, Common Property and Recreation Facilities as the Board of Directors of said FM Association may deem to be in the best interest of the corporation.

## XI.

### RESIDENTIAL USE RESTRICTIONS APPLICABLE TO CONDOMINIUM UNITS

Each Condominium Unit is hereby restricted to residential use. No Owner of any Condominium Unit shall permit the use of the same for transient hotel or commercial purposes. No Owner of any Condominium Unit shall permit the use of the same for any type hotel use whatsoever.

No Condominium Unit shall be used except for single-family residential purposes, and such use shall be limited to the following persons:

(a) The Owner, if the Condominium Unit is owned by an individual or by the entirety. If the Owner is a corporation, trust, estate or an entity other than an individual or tenancy by the entirety, use of the Condominium Unit shall be limited to the persons described in subparagraphs (c) and (d).



(b) Members of the Owner's immediate family or members of the immediate family of the Owner's spouse. For purposes of this Declaration, "immediate family" shall mean lineal ancestors or descendants (including adopted children) or brothers or sisters.

(c) An individual tenant of an Owner and such tenant's immediate family and such tenant's spouse's immediate family. Subject to the following subparagraph, no tenant or tenancy shall be permitted unless the leasehold estate is one (1) year or longer, under a written lease agreement, which lease agreement shall have the prior written approval of the Board of Directors of Fountain Manor Association, Inc., obtained pursuant to procedures established by the Board of Directors regarding submission of proposed leases and information related thereto, before the tenant takes possession. In no event shall there be more than two such leases for the same Condominium Unit in the same calendar year. Proposed leases shall contain provisions requiring the tenant to comply with the terms of the Condominium Declaration, Bylaws, Articles of Incorporation and Rules and Regulations and an acknowledgment by the tenant that he has read each and agrees to comply with each, and provisions prohibiting subleasing or assignment of the lease.

(d) Such other occupancies as may be approved from time to time by the Board of Directors of Fountain Manor Association, Inc., upon prior written application therefor by the Owner. Such application shall set forth the type, nature and duration of the proposed occupancy arrangement, the name and relationship of the proposed occupant and such other pertinent information as the Board by rule or regulation may require.

## XII.

### USE OF COMMON PROPERTY SUBJECT TO RULES OF FM ASSOCIATION

The use of Common Property by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by FM Association.

## XIII.

### THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES; RESTRICTION AGAINST NUISANCES

No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Property, nor any part thereof, and all laws, zoning ordinances and regulations of all

governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit or on the Common Property which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any such Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Property.

XIV.

RIGHT OF ENTRY INTO CONDOMINIUM UNITS IN EMERGENCIES

In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of FM Association, or any other person authorized by it, or the Managing Agent, shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the Owner of each Condominium Unit, if required by FM Association, shall deposit under the control of the Association a key to such Condominium Unit.

XV.

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY

Whenever it is necessary to enter any Condominium Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Property, the Owner of each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized Agent of the FM Association, to enter such Condominium Unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

XVI.

LIMITATION UPON RIGHT OF OWNERS TO  
ALTER AND MODIFY CONDOMINIUM UNITS

No Owner of a Condominium Unit shall permit there to be made any structural modification or alteration in such Condominium Unit without first obtaining the written consent of FM Association, which consent may be withheld in the event that a majority of the Board of Directors of said Association shall determine, in their sole discretion, that such structural

modifications or alterations would adversely affect or, in any way, endanger the Condominium in part or in its entirety. No Owner shall cause any improvements or changes to be made on the exterior of the Condominium, including painting or other decoration, or the installation of electrical wiring, television or radio antennae, machines or air-conditioning units, which may protrude through the walls or roof of the Condominium, or in any manner change the appearance of any portion of the building not within the walls of such Condominium Unit, without the written consent of the FM Association being first had and obtained.

XVII.

RIGHT OF FM ASSOCIATION TO ALTER AND  
IMPROVE PROPERTY AND ASSESSMENT THEREFOR

FM Association shall have the right to make or cause to be made such alterations or improvements to the Common Property which do not prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, provided the making of such alterations and improvements are approved by the Board of Directors of said FM Association, and the cost of such alterations or improvements shall be assessed as Common Expense to be assessed and collected from all of the Owners of Condominium Units. However, where any alterations and improvements are exclusively or substantially for the benefit of the Owner or Owners of a Condominium Unit or Condominium Units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Condominium Unit or Condominium Units exclusively or substantially benefitted, the assessment to be levied in such proportion as may be determined by the Board of Directors of FM Association.

XVIII.

MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS

Every Owner must perform promptly all maintenance and repair work within his Condominium Unit which, if omitted, would affect the Condominium either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air-conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for maintenance, repair and replacement of any and all wall, ceiling and floor exterior surfaces, painting,



decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit. Whenever the maintenance, repair and replacement of any items for which the Owner of a Condominium Unit is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by FM Association, the proceeds of the insurance received by such Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner of such Condominium Unit shall be, in this instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

All window frames, panes and screens are a part of the respective Condominium Units and shall be maintained by the respective Unit Owners.

The Owner of a Condominium Unit who has exclusive use of a porch, patio, balcony, yard, storage closet or compartment constituting Limited Common Area shall maintain such porch, patio, balcony, yard, storage closet or compartment at his own expense. The Limited Common Areas composed of steps, stoops and central hallways shall be maintained as part of the Common Expense, as hereinafter defined.

#### XIX.

##### MAINTENANCE AND REPAIR OF COMMON PROPERTY BY FM ASSOCIATION

FM Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Property, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Property for the furnishing of utility and other services to the Condominium Units and said Common Property, and should any incidental damage be caused to any Condominium Unit by virtue of any work which may be done or caused to be done by FM Association in the maintenance, repair or replacement of any Common Property, the said Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which FM Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Condominium Unit Owner, his immediate family, guests, or invitees, and such loss or damage may be covered by any insurance maintained in force by FM Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Unit Owner who is responsible for the act causing the

damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provisions of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

XX.

AUTHORITY TO PURCHASE INSURANCE

Insurance policies upon the property (except title insurance and as hereinafter allowed) shall be purchased by FM Association in the name of the Managing Agent or the Board of Directors of FM Association, as Trustee for the Condominium Unit Owners, for the benefit of the Condominium Unit Owners and their respective mortgagees, as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Condominium Units, or any of them, and if insurance companies will agree, shall provide that the insurer waives its rights of subrogation as to any claims against Condominium Unit Owners and FM Association and its servants, agents and guests. Each Condominium Unit Owner may obtain insurance, at his own expense, affording coverage upon his Condominium Unit, his personal property and for his personal liability as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

XXI.

INSURANCE COVERAGE TO BE MAINTAINED: USE  
AND DISTRIBUTION OF INSURANCE PROCEEDS

A. The following insurance coverage shall be maintained in full force and effect by FM Association covering the operation and management of the Condominium, meaning the Condominium Units and Common Property, to wit:

(1) Casualty insurance covering the buildings and all improvements upon the land and all personal property included within the property described in Exhibit "A" hereto, except such personal property as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavation and foundations, streets and parking facilities) as determined annually; provided that such policies may be written on a co-insurance basis of not less than ninety percent (90%). By way of illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions comprising a part of the building within each individual Condominium Unit (as that term is defined in Article III hereof) initially installed

by Declarant [Developer], or equal replacements thereof, in accordance with the original condominium plans and specifications. In determining the amount of coverage for such fixtures, installations or additions, the Board of Directors of FM Association shall annually set the standard allowance for such items as carpeting, bathroom and kitchen cabinets, wall covering, vinyl floor covering, ceramic tile, kitchen appliances, wet bars, bookshelves, etc., which were included in the original condominium plans and specifications. By way of illustration and not of limitation, such casualty insurance shall not cover furniture, furnishings or other household or personal property owned by, used by or in the care, custody or control of a Condominium Unit Owner (whether located within or without the Unit), or fixtures, installations or additions that are placed in an individual condominium unit by the owner thereof at his expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the building, including, but not limited to, vandalism and malicious mischief.

(2) Public liability and property damage insurance in such amounts and in such forms as shall be required by FM Association, including but not limiting the same to legal liability, hired automobile, non-owned automobile and off-premises employee coverages.

(3) All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a Condominium Unit Owner.

B. Premiums upon insurance policies purchased by FM Association shall be paid by said Association and charged as Common Expense.

C. All insurance policies purchased by FM Association shall be for the benefit of FM Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses to Common Property and Condominium Units in Phase II shall be paid to FM Association. FM Association shall hold such proceeds in trust for the benefit of FM Association, the Condominium Unit Owners in Phase II and their respective mortgagees in the following shares:

(1) Proceeds on account of damage to Common Property - that undivided share for each Condominium Unit Owner and his mortgagee, if any, which is set forth as the Condominium Unit Owner's share as shown on Exhibit D attached hereto.

(2) Proceeds on account of damage to Condominium Units shall be held in the following undivided shares:

(a) Partial destruction when the Condominium is to be restored: for the Owners of damaged Condominium Units in proportion to the costs of repairing the damage suffered by each damaged Condominium Unit.

(b) Total destruction of the Condominium or where the Condominium is not to be restored: for all Condominium Unit Owners, the share of each being that share as set forth in Exhibit D.

D. In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

E. Proceeds of insurance policies received by FM Association for damages to Units in Phase II shall be distributed to or for the benefit of the beneficial Condominium Unit Owners in the following manner:

(1) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Condominium Unit Owners, all remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of the Condominium Unit and may be enforced by him.

(2) If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Condominium Unit Owners, remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit Owner and may be enforced by him.

## XXII.

### RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE; DAMAGE TO COMMON PROPERTY; DAMAGE TO CONDOMINIUM UNITS

A. If any part of the Common Property shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:

(1) Partial destruction shall be deemed to mean destruction which renders less than two-thirds ( $2/3$ ) of all the Condominium Units in Phase II untenable and in the event of partial destruction, the Common Property shall be reconstructed or repaired unless this Declaration is terminated by the unanimous act of all of the Owners of Condominium Units in Phase II.

(2) Total destruction shall be deemed to mean destruction which renders two-thirds ( $2/3$ ) or more of all the Condominium Units in Phase II untenable and, in the event of total destruction, the Common Property shall not be reconstructed or repaired if at a meeting of Owners of Condominium Units in Phase II (which meeting shall be called by FM Association within thirty (30) days after the occurrence of the casualty or, if by such date the insurance loss has not been finally adjusted, then within thirty (30) days thereafter, the Owners of three-fourths ( $3/4$ ) or more of the Condominium Units in Phase II vote against reconstruction or repair.

(3) Any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein and on file with the City of Greensboro.

B. If the damage is only to those parts of one or more Condominium Units for which the responsibility for maintenance and repair is that of the Condominium Unit Owner, then the Condominium Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of FM Association as follows:

(1) Immediately after the casualty causing damage to property for which FM Association has the responsibility for maintenance and repair, FM Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors of FM Association desires.

(2) When the damage is to both Common Property and Condominium Units, any insurance proceeds shall be applied first to the costs of repairing the Common Property and the balance to the Condominium Units.

C. Each Condominium Unit Owner shall be deemed to have delegated to the Board of Directors of FM Association his right to adjust with insurance companies all losses under policies purchased by FM Association, except in any case where the damage is restricted to one Condominium Unit.

XXIII.

FM ASSOCIATION TO MAINTAIN REGISTER  
OF OWNERS AND MORTGAGEES

FM Association shall at all times maintain a Register setting forth the names of the Owners of all of the Condominium Units, and in the event of the sale or transfer of any Condominium Unit to a third party, the purchaser or transferee shall notify FM Association in writing of his interest in such Condominium Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Condominium Unit. Further, the Owner of each Condominium Unit shall at all times notify FM Association of the names of the parties holding any mortgage or mortgages on any Condominium Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Condominium Unit may, if they so desire, notify FM Association of the existence of any mortgage or mortgages held by such party on any Condominium Unit, and upon receipt of such notice, FM Association shall register in its records all pertinent information pertaining to the same.

XXIV.

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

FM Association is given the authority to administer the operation and management of the Condominium and the Recreation Facilities, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of Condominium Units in all phases of Fountain Manor Condominium. To properly administer the operation and management of the Condominium and the Recreation Facilities, FM Association will incur, for the mutual benefit of all of the Owners of Condominium Units, certain costs and expenses. To provide the funds necessary for such proper operation and management, FM Association has been and is hereby granted the right to make, levy and collect two types of assessments against the Owners of all Condominium Units and their Condominium Units. The first type of assessment is for the maintenance, management and operation of the Recreation Facilities and is hereinafter referred to as "Recreation Assessment." The second type of assessment is for the administration, operation and maintenance of and capital improvements to Fountain Manor Condominium, Phase II, and is hereinafter referred to as "Maintenance and Capital Improvement Assessment." In furtherance of the grant of authority to FM Association to make, levy and collect the two assessments to pay the costs and expenses for the operation and management of the Condominium and the Recreation Facilities, the following provisions shall be operative and binding upon the Owners of all Condominium Units in Phase II:

A. The Recreation Assessment levied against all Owners of Condominium Units and their Condominium Units shall be uniform and shall commence for Units 57 through 82 on the first day of the first month following the recording of this Declaration of Condominium in the Guilford County Registry. For Units 83 through 116, such assessment shall commence on the first day of the first month following the issuance of a final inspection and approval report by authorities of the City of Greensboro for any Unit numbered 83 through 116. Should FM Association be the Owner of any Condominium Unit or Units, and such Unit or Units shall not be leased or rented, the assessment which would otherwise be due and payable to FM Association by the Owner of such Condominium Unit or Units shall be apportioned and assessment therefore levied ratably among the Owners of all Phase II Condominium Units which are not owned by FM Association, based upon their proportional interest in Phase II Common Property, exclusive of the interests therein appurtenant to any Condominium Unit or Units owned by FM Association.

B. The Maintenance and Capital Improvement Assessment levied against Phase II Owners and their Condominium Units shall be uniform and, unless specifically otherwise provided for in this Declaration of Condominium, the Maintenance and Capital Improvement Assessment shall be in such proportion that the amount of Maintenance and Capital Improvement Assessment levied against each Phase II Owner and his Condominium Unit shall bear the same ratio to the total Maintenance and Capital Improvement Assessment made against all Phase II Owners and their Condominium Units as the undivided interest in Common Property appurtenant to each Condominium Unit bears to the total undivided interest in Common Property appurtenant to all Condominium Units in Phase II as shown in the appropriate column of Exhibit "D." Should FM Association be the Owner of any Condominium Unit or Units, the Maintenance and Capital Improvement Assessment which would otherwise be due and payable to FM Association by the Owner of such Condominium Unit or Units reduced by the amount of income which may be derived from leasing of such Condominium Unit or Units by FM Association shall be apportioned and assessment therefore levied ratably among the Owners of all Phase II Condominium Units which are not owned by FM Association, based upon their proportional interest in Common Property exclusive of the interest therein appurtenant to any Condominium Unit or Units owned by FM Association.

Maintenance and Capital Improvement Assessments shall be levied against each Condominium Unit Owner and his Condominium Unit, including the Units owned by Developer, and shall commence on the first day of the month following the recording of this Declaration in the Guilford County Registry.

C. Recreation Assessments and Maintenance and Capital Improvement Assessments shall be payable in annual, quarterly or



monthly installments, or in such other installments and at such times as may be determined by the Board of Directors of FM Association.

D. The Board of Directors of FM Association shall establish in advance for each fiscal year an annual budget for the entire Fountain Manor Condominium. The fiscal year shall correspond to the calendar year. Such budget shall project all expenses for the forthcoming year which shall be required for the proper operation, management and maintenance of the entire Fountain Manor Condominium, including a reasonable allowance for contingencies in reserve, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as assessments each year. In developing the Overall Budget, the Board of Directors of FM Association shall keep separate, items relating to the Maintenance and Capital Improvement Assessment from items relating to the Recreation Assessment. The Board of Directors shall also keep separate, in accordance with paragraph "E" hereof, items relating to operation and maintenance from items relating to capital improvements. The Board of Directors of FM Association shall allocate to each Phase of Fountain Manor Condominium that Phase's proportionate share of the maintenance and capital improvement costs and recreation costs based on the number of Units in each Phase. Upon the adoption of the Overall Budget by the Board of Directors and the allocation to each Phase of its respective proportionate share of the maintenance and capital improvement costs and its respective proportionate share of the recreation costs, copies of the Overall Budget and of the Budget for Phase II (the Phase II Budget) shall be delivered to each Owner of a Condominium Unit. The Maintenance and Capital Improvement Assessment and the Recreation Assessment for said year shall be established based upon such budgets, although the delivery of a copy of said budgets to each Owner shall not affect the liability of any Owner for such assessments. Should the Board of Directors of FM Association at any time determine, in its sole discretion, that either or both assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, said Board of Directors shall have the authority to levy such additional assessment or assessments as it may deem to be necessary.

Anything in the preceding paragraph to the contrary notwithstanding, the Board of Directors of FM Association shall have the authority to keep a separate budget for the operation of Phase II for the initial fiscal year thereof, which year shall commence on the date of the recording of this Declaration and shall terminate on December 31, 1975. During the initial fiscal year of Phase II operation, the Board of Directors shall have the authority to allocate all expenditures between Phases of Fountain

Manor Condominium based upon the period of time that Units in Phase II were actually subject to assessments as provided herein.

E. The Board of Directors of FM Association, in establishing the annual budget for operation, management and maintenance of the entire Fountain Manor Condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property, which Capital Improvement and Replacement Fund (Capital Improvement Fund) shall be for the purpose of enabling FM Association to replace structural elements and mechanical equipment constituting a part of Common Property, as well as the replacement of personal property which may constitute a portion of the Common Property held for the joint use and benefit of the Owners of Condominium Units. The amount to be allocated to such Capital Improvement Fund may be established by said Board of Directors so as to collect and maintain at all times a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by FM Association, and such monies shall be used only to make capital improvements to Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of FM Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportional interest in the Common Property as shown on Exhibit "D," and FM Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Account. However, such balance shall not be subject to withdrawal by a Unit Owner.

F. All monies collected by FM Association from owners of Units in Phase II shall be treated as the separate property of said FM Association, and, except as stated in paragraph E of this Article, such monies may be applied by FM Association to the payment of any expense of operating and managing Phase II, or to the proper undertaking of all acts and duties imposed upon FM Association by virtue of this Declaration of Condominium and the Articles of Incorporation and the Bylaws of said FM Association, and as monies for any assessment are paid unto FM Association by any Owner of a Condominium Unit in Phase II, the same may be commingled with monies paid to said Association by the other Owners of Condominium Units in Phase II and by the Owners of Condominium Units in other Phases of Fountain Manor Condominium. Although all funds and common surplus, including other assets of FM Association and any increments thereto or profits derived therefrom, or from the leasing of use of Common Property, shall be held for the benefit of the members of FM Association, no member of FM Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium

Unit. When the Owner of a Condominium Unit shall cease to be a member of FM Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, FM Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to FM Association shall be and constitute an asset to such Association which may be used in the operation and management of Fountain Manor Condominium.

G. The payment of any assessment or installment thereof due to FM Association shall be in default if such assessment, or any installment thereof, is not paid unto FM Association within fifteen (15) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to FM Association shall bear interest at the rate of 8% per annum until such delinquent assessment or installment thereof, and all interest due thereof, has been paid in full to FM Association. All monies owing to FM Association shall be due and payable at the main office of FM Association in the State of North Carolina.

H. The Owner or Owners of each Condominium Unit shall be personally liable, jointly and severally, as the case may be, to FM Association for the payment of all assessments, Maintenance and Capital Improvement or Recreation, regular or special, which may be levied by FM Association against such Condominium Unit while such party or parties are Owner or Owners of a Condominium Unit. In the event that any Owner or Owners are in default in payment of any assessment or installment thereof owed to FM Association, such Owner or Owners of any Condominium Unit shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

I. No Owner of a Condominium Unit may exempt himself from liability for any assessment levied against such Owner and his Condominium Unit by waiver of the use or enjoyment of any of the Common Property, or by abandonment of the Condominium Unit or in any other way.

J. Recognizing that the necessity for providing proper operation and management of the Condominium entails the continuing payment of costs and expenses therefor, which results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by FM Association is necessary in order to preserve and protect the investment of the Owner of each Condominium Unit, FM Association is hereby granted a lien upon such Condominium Unit and its appurtenant undivided interest

in Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each Condominium Unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to FM Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by FM Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in Common Property. The lien granted to FM Association may be foreclosed in the same manner as real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, FM Association shall be entitled to a reasonable rental from the Owner of any Condominium Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Condominium Unit. The lien granted to FM Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by FM Association in order to preserve and protect its lien, and FM Association shall further be entitled to interest at the rate of 8% per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to FM Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

K. The lien herein granted unto FM Association shall be enforceable from and after the time of recording in the Public Records of Guilford County, North Carolina, a claim of lien stating the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of FM Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien provided for herein shall be subordinate to the lien of any mortgage or deeds of trust and any person, firm or corporation acquiring title to any Condominium Unit and its appurtenant undivided interest in Common Property by virtue of any foreclosure, deed in lieu of foreclosure or judicial sale shall only be liable and obligated for assessments as shall

accrue and become due and payable for said Condominium Unit and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Condominium Unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments shall be absorbed and paid by all Owners of all Condominium Units as a part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

L. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner thereof, FM Association, upon written request of the Owner of such Condominium Unit, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to FM Association by the Owner of such Condominium Unit. Such statement shall be executed by any officer of FM Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and FM Association shall be bound by such statement.

In the event that a Condominium Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the Owner of said Condominium Unit and such Condominium Unit due to FM Association shall be in default (whether or not a claim of lien has been recorded by FM Association), then the rent, proceeds of such purchase or mortgage proceeds shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installments thereof due to FM Association before the payment of any rent, proceeds of purchase or mortgage proceeds to the Owner of any Condominium Unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Condominium Unit, the Grantee shall be jointly and severally liable with Grantor for all unpaid assessments against Grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of Grantee to recover from Grantor the amounts paid by Grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by FM Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

XXV.

COMMON SURPLUS

"Common Surplus," meaning all funds and other assets of FM Association collected from or attributable to Phase II (including excess of receipts of FM Association, including but not limited to assessments, rents, profits and revenues attributable to Phase II from whatever source, over the amount of the Common Expense attributable to Phase II), shall be owned by the Owners of all Condominium Units in Phase II as follows:

A. That portion of the Common Surplus attributable to the Maintenance and Capital Improvement Assessment shall be owned by the Owners of all Condominium Units in Phase II in the same proportion that the undivided interest in Common Property appurtenant to each Owner's Condominium Unit in Phase II bears to the total of all undivided interest in Common Property appurtenant to all Condominium Units in Phase II;

B. That portion of the Common Surplus attributable to the Recreation Assessment shall be owned equally by the Owners of all Condominium Units in Phase II.

However, the said Common Surplus shall be held by FM Association in the manner, and subject to the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution of the Common Surplus. Except for distribution of any insurance indemnity herein provided for, or the termination of Phase II, any attribution of Common Surplus or any distribution of Common Surplus which may be made from time to time shall be made to the then Owners of Condominium Units in Phase II in accordance with paragraphs A and B of this Article.

XXVI.

TERMINATION

Fountain Manor Phase II Condominium shall be terminated, if at all, in the following manner:

A. Termination may be effected only by the unanimous agreement of all Condominium Unit Owners in Phase II by an instrument to that effect duly recorded; and, provided that the holders of all liens affecting any of the said Condominium Units consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the property as hereinafter provided. The termination shall become effective when such agreement has been recorded in the public records of Guilford County, North Carolina.

B. If it is determined in the manner elsewhere provided that the property shall not be reconstructed after casualty, the condominium plan of ownership shall be terminated and this Declaration of Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of FM Association certifying as to the facts effecting the termination, which Certificate shall become effective upon being recorded in the public records of Guilford County, North Carolina.

C. After termination of Phase II, the Condominium Unit Owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the Condominium Unit or Units formerly owned by such Condominium Unit Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Unit Owners. Such undivided shares of the Condominium Unit Owners shall be as set forth in Exhibit "D." All funds held by FM Association and insurance proceeds collected from or attributable to Phase II, if any, shall be and continue to be held for the Condominium Unit Owners in Phase II in the proportion as set forth in Exhibit "D." Any costs incurred by FM Association in connection with the termination shall be a Common Expense.

D. Following termination, the property may be partitioned and sold upon the application of any Phase II Condominium Unit Owner. If, following a termination, three-fourths (3/4) of the Owners of Units in Phase II vote to accept an offer for the sale of the property, each Condominium Unit Owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such form as such Board of Directors of FM Association directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

E. The members of the Board of Directors of FM Association, acting collectively as agent for all Condominium Unit Owners in Phase II, shall continue to have such powers as in this Article are granted, notwithstanding the fact that FM Association itself may be dissolved upon a termination.

#### XXVII.

#### AMENDMENT OF DECLARATION OF CONDOMINIUM

This Declaration of Condominium may be amended in the following manner:

An Amendment or Amendments to this Declaration of Condominium may be proposed by the Board of Directors of FM Association acting upon a vote of the majority of the Directors, or by the members of FM Association owning a majority of the Condominium



Units in Phase II, whether meeting as members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by said Board of Directors or members, such proposed Amendment or Amendments shall be transmitted to the President of FM Association, or other officer of FM Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of FM Association who own Units in Phase II for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed Amendment or Amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his Post Office address as it appears on the records of FM Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such members, waive such notice, and such waiver, when filed in the records of FM Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of seventy-five percent (75%) of the members owning Units in Phase II in order for such Amendment or Amendments to become effective. Thereupon, the Amendment or Amendments of this Declaration of condominium shall be transcribed and certified by the President and Secretary of FM Association as having been duly adopted, and the original or an executed copy of such Amendment or Amendments so certified by the President and Secretary of FM Association as having been duly adopted, and the original or an executed copy of such Amendment or Amendments so certified and executed with the same formalities as a Deed shall be recorded in the Public Records of Guilford County, North Carolina, within ten (10) days from the date on which the same became effective, such Amendment or Amendments to specifically refer to the recording data identifying the Declaration of Condominium. Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the Officers of FM Association shall be delivered to the Owners of all Condominium Units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments. The written vote of any member of FM Association owning a Unit in Phase II shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of FM Association prior to such meeting or at such meeting.

Notwithstanding anything herein contained to the contrary, it is declared as follows:

A. No alteration in the percentage of ownership in Common Property appurtenant to each Condominium Unit, or alteration of the basis for sharing common expenses and other apportionment of assessments which may be levied by FM Association in accordance with the provisions hereof, or alteration of basis of ownership of the Common Surplus, shall be made without written consent of all of the Owners of all Condominium Units in Phase II and the prior written consent of at least seventy-five percent (75%) of the Institutional Lenders (as hereinafter defined) holding first mortgages or deeds of trust on the Condominium Units, based upon one vote for each mortgage owned.

B. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Institutional Lender or Institutional Lenders shall be made without written consent of all Institutional Lenders holding mortgages on Condominium Units in Phase II being first had and obtained.

#### XXVIII.

#### REMEDIES IN EVENT OF DEFAULT

The Owner or Owners of each Condominium Unit shall be governed by and shall comply with the provisions of this Declaration of Condominium, and the Articles of Incorporation and Bylaws of FM Association as any of the same are now constituted or as they may be amended from time to time. A default by the Owner of any Condominium Unit shall entitle FM Association or the Owner of other Condominium Units to the following relief:

A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or Bylaws of FM Association, or which may be adopted pursuant thereto, shall be grounds for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by FM Association or, if appropriate, by an aggrieved Owner of a Condominium Unit.

B. The Owner of each Condominium Unit shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by FM Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Condominium Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by the Owner of any Condominium Unit, FM Association, if successful, shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the Court, but in no event shall the Owner of any Condominium Unit be entitled to such attorney's fees.

D. The failure of FM Association or of the Owner of a Condominium Unit to enforce any right, provision, covenant or condition which may be granted by this Declaration of Condominium or other above mentioned documents shall not constitute a waiver of the right of FM Association or of the Owner of a Condominium Unit to enforce such right, provision, covenant or condition in the future.

E. All rights, remedies and privileges granted to either Association or the Owner or Owners of a Condominium Unit pursuant to any terms, provisions, covenants or conditions of the Declaration of Condominium or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

F. The failure of Developer to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration of Condominium or other above mentioned document shall not constitute waiver of the right of Developer to thereafter enforce such right, provision, covenant or condition in the future.

G. The failure of Institutional Lender or Institutional Lenders, as said term is herein defined, to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by this Declaration of Condominium or other above mentioned documents, shall not constitute waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

#### XXIX.

#### RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

"Institutional Lender" Or "Institutional Lenders," as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies or other reputable mortgage lenders. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any Condominium Unit or Units, or shall be the owner of any Condominium Unit or Units, such Institutional Lender or Institutional Lenders shall have the following rights, to-wit:

A. To approve the company or companies with whom casualty insurance is placed.

B. To examine, at reasonable times and upon reasonable notice, the books and records of FM Association and to be furnished with at least one copy of the Annual Financial Statement and Report of FM Association, prepared by a Certified Public Accountant designated by FM Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished by April 15 of each calendar year.

C. To be given notice by FM Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to this Declaration of Condominium, or to be given notice of the call of any meeting of FM Association for the purpose of considering any proposed amendment to the Articles of Incorporation or Bylaws, which notice shall state the nature of the Amendment being proposed.

D. To be given notice of default by any Condominium Unit Owner owning a Condominium Unit encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association. Whenever any Institutional Lender or Institutional Lenders desire the provisions of this Article to be applicable to it, it shall serve written notice of such fact upon FM Association by Registered Mail or Certified Mail addressed to FM Association and sent to the address stated herein identifying the Condominium Unit or Units upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Condominium Units owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender or Institutional Lenders.

XXX.

#### SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration of Condominium are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

XXXI.

LIBERAL CONSTRUCTION

The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. Throughout this Declaration, wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter. The article headings are for convenience of reference only and shall not be considered terms of this Declaration.

XXXII.

DECLARATION OF CONDOMINIUM BINDING ON HEIRS,  
ASSIGNS AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Condominium Unit and its appurtenant undivided interest in Common Property. This Declaration of Condominium shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become Owners of Condominium Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

XXXIII.

AGENT FOR SERVICE OF PROCESS

The following named individual is designated as the person to receive service of process for FM Association: William P. Aycock II, 230 North Elm Street, Suite 1500, Greensboro, North Carolina, 27401.

\* \* \* \* \*

The foregoing was approved as the Amended and Restated Declaration of FOUNTAIN MANOR CONDOMINIUM, PHASE II, at the meeting of the Board of Directors on March 8, 1994.

FOUNTAIN MANOR ASSOCIATION, INC.

BY: Ernest C. McLean Jr.  
President

BY: Carolyn S. Juran  
Secretary

**EXHIBITS TO THE DECLARATION OF CONDOMINIUM  
ESTABLISHING FOUNTAIN MANOR CONDOMINIUM,  
PHASE II**

**TABLE OF CONTENTS**

Exhibit A	Legal Description Phase II
Exhibit B	Legal Description of Fountain Manor Condominium
Exhibit C	Plan of Condominium Subdivision (Page 1 of 6)
	Site Plans of Condominium Subdivision Phase II (Page 2, 3, 4, 5, 6 of 6)
Exhibit D	Phase II Percentage of Undivided Interest in Common Areas and Facilities
Exhibit E	No longer applicable
Exhibit F	No longer applicable
Exhibit G	Restated Articles of Incorporation of Fountain Manor Association, Inc.
Exhibit H	Restated By-Laws of Fountain Manor Association, Inc.

# EXHIBIT A

Beginning at an iron pin at the northwest corner of Fountain Manor Condominium, Phase I as described in Exhibit A to the Declaration of Condominium for said Phase I as recorded in Book 2724, Page 786, Guilford County Registry, which iron pin is also located the following courses and distances from the intersection of the existing margin of North Elm Street with the south line of Lot 1, Section 15, Irving Park Subdivision, as per plat thereof recorded in Plat Book 23, Page 28, Guilford County Registry: north 66° 21' 15" east 229.06 feet; north 11° 53' 45" west 438 feet; thence from said beginning point north 11° 53' 45" west 161.92 feet to an iron pin, a common corner with Lot 6 and Lot 7, Section 15, Irving Park Subdivision; thence north 41° 42' 20" west 218.65 feet to an iron pin; thence north 22° 31' 10" west 434.20 feet to an iron pin in Sherwood Park Inc.'s south line; thence with the south line of Sherwood Park, Inc. north 54° 33' 20" east 361.74 feet to an iron pin; thence still with the line of Sherwood Park, Inc. north 78° 17' 00" east 36.40 feet to an iron pin in the western margin of Page Street; thence with the western margin of Page Street south 29° 12' 00" east 349.65 feet to an iron pin; thence along a curve to the left a chord bearing of south 52° 48' 00" east, a chord distance of 198.18 feet to an iron pin; thence leaving the margin for Page Street, a new line, south 14° 20' 00" west 158.52 feet to an iron pin; thence south 70° 19' 00" east 149.50 feet to an iron pin; thence south 13° 18' 30" west 222.50 feet to an iron pin; thence south 75° 27' 10" west 39.00 feet to an iron pin, the northeast corner of Fountain Manor Condominium Phase I; thence continuing south 75° 27' 10" west 336.99 feet to the point and place of beginning and containing 8.671 acres, more or less and as shown on a map of survey entitled Phase II Tract, Fountain Manor Condominium by Hugh Creed Associates, Inc. dated January, 1975.



EXHIBIT "B"

TO

Declaration of Condominium Establishing  
Fountain Manor Condominium, Phase II

BEGINNING at an iron pin in the eastern margin of North Elm Street, which iron pin is also located at the intersection of the existing margin of said street with the south line of Lot 1, Section 15, Irving Park Subdivision, as per plat thereof recorded in Plat Book 23, Page 28, Guilford County Registry; thence with the southern boundary of the said Lot 1, North 66° 21' 15" East 229.06 feet to an iron pin, the southeast corner of the said Lot 1; thence North 11° 53' 45" West 599.92 feet to an iron pin, the northeast corner of Lot 6, Section 15, Irving Park Subdivision; thence North 41° 42' 20" West 218.65 feet to an iron pin; thence North 22° 31' 10" West 434.20 feet to an iron pin in Sherwood Park Inc.'s south line; thence with the south line of Sherwood Park, Inc., North 54° 33' 20" East 361.74 feet to an iron pin; thence still with the line of Sherwood Park, Inc., North 78° 17' 00" East 36.40 feet to an iron pin in the western margin of Page Street; thence with the western margin of Page Street the following courses and distances: South 29° 12' 00" East 349.65 feet to an iron pin; thence along a curve to the left, a chord bearing of South 57° 22' 00" East a chord distance of 233.66 feet to an iron pin; thence South 85° 32' 00" East 486.75 feet to an iron pin; thence leaving the right of way of Page Street and with the western boundary of Elm Park Subdivision, as per plat thereof recorded in Plat Book 23, Page 3, Guilford County Registry, South 10° 40' East 739.73 feet to an iron pin in the rear line of Lot 10, Elm Park Subdivision; thence South 03° 43' 00" West 193.60 feet to an iron pin, a common corner between Lots 7 and 8 of the Elm Park Subdivision; thence South 18° 12' 45" West 257.29 feet to an iron pin in the northern margin of Shannon Drive; thence South 18° 05' 50" West 200.87 feet to an iron pin, the southwest corner of Lot 4, Elm Park Subdivision, said point being in St. Benedict's School's north line; thence with St. Benedict's School's line, North 89° 35' 00" West 417.02 feet to an iron pin, a corner with St. Benedict's School; thence North 22° 24' 15" West 460.57 feet to an iron pin, another corner with St. Benedict's School; thence South 66° 21' 15" West 345 feet to an iron pin in the eastern right of way of North Elm Street; thence North 22° 24' 15" West 80 feet to the point and place of BEGINNING, and containing 30.394 acres, more or less, and being all of the property shown on a map of survey of Fountain Manor Condominium by Hugh Creed Associates, Inc., Engineers and Surveyors, Greensboro, North Carolina, dated August 20, 1973.

The undersigned hereby acknowledge that this Plat and  
 Attached to be a part of the record of the County of Guilford,  
 North Carolina, and that the same shall be subject to the  
 provisions of the General Statutes of North Carolina, Chapter  
 40A, relating to the subdivision of land.

WATERGATE PARK CORPORATION  
 Agent  
 Charles D. Jones, Secretary  
 Trustees  
 Thomas

Approved by the Planning Board of the City of Guilford,  
 North Carolina, on the \_\_\_\_\_ day of \_\_\_\_\_, 1977.  
 The City of Guilford is hereby authorized to execute the  
 necessary documents to carry out the intent of this  
 approval.

City Clerk  
 Director of Planning and Executive Secretary of  
 the City of Guilford, North Carolina  
 City of Guilford, North Carolina

Subscribed and sworn to before me this \_\_\_\_\_ day  
 of \_\_\_\_\_, 1977.  
 Notary Public  
 My commission expires \_\_\_\_\_

Quilford County, North Carolina  
 I, \_\_\_\_\_, Clerk of the Superior Court of Guilford County, North Carolina, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Guilford, North Carolina.

Notary Public  
 My commission expires \_\_\_\_\_  
 Licensed Surveyor  
 My commission expires \_\_\_\_\_  
 The foregoing certificate of \_\_\_\_\_  
 is hereby certified to be a true and correct copy of the original as the same appears in the records of the County of Guilford, North Carolina.

North Carolina - Guilford  
 The foregoing certificate of \_\_\_\_\_  
 is hereby certified to be a true and correct copy of the original as the same appears in the records of the County of Guilford, North Carolina.

Approved by the Board of Commissioners of Guilford  
 County, North Carolina, on the \_\_\_\_\_ day of \_\_\_\_\_, 1977.  
 The Board of Commissioners of Guilford County, North Carolina, is hereby authorized to execute the  
 necessary documents to carry out the intent of this  
 approval.

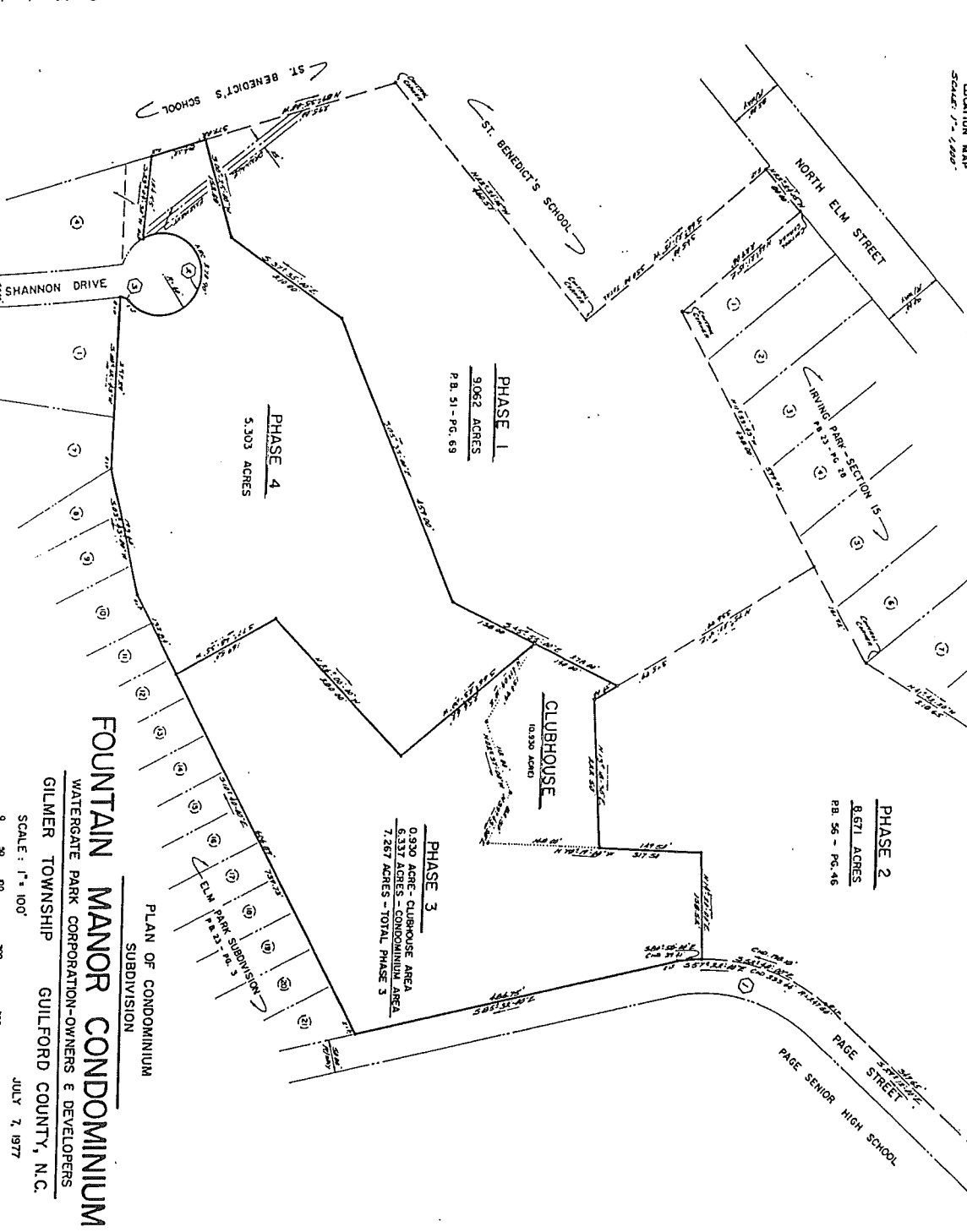
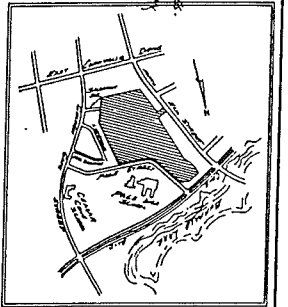
Chairman  
 Members

NOTES:  
 No published U.S.C. & C. National control within 200  
 feet.  
 This Plat does not require a Certificate of Approval by  
 the State of North Carolina, Chapter 40A, relating to the  
 subdivision of land.  
 Signed \_\_\_\_\_  
 Director of Planning  
 Date \_\_\_\_\_

Approved by the Board of Commissioners of Guilford  
 County, North Carolina, on the \_\_\_\_\_ day of \_\_\_\_\_, 1977.  
 The Board of Commissioners of Guilford County, North Carolina, is hereby authorized to execute the  
 necessary documents to carry out the intent of this  
 approval.

Chairman  
 Members

NOTES:  
 No published U.S.C. & C. National control within 200  
 feet.  
 This Plat does not require a Certificate of Approval by  
 the State of North Carolina, Chapter 40A, relating to the  
 subdivision of land.  
 Signed \_\_\_\_\_  
 Director of Planning  
 Date \_\_\_\_\_



PLAN OF CONDOMINIUM  
 SUBDIVISION  
 FOUNTAIN MANOR CONDOMINIUM  
 WATERGATE PARK CORPORATION-OWNERS & DEVELOPERS  
 GILMER TOWNSHIP GUILFORD COUNTY, N.C.  
 SCALE: 1" = 100'  
 JULY 7, 1977  
 HUGH CREED ASSOCIATES, INC. ENGINEERS & SURVEYORS  
 1506 W. WILKINSON AVENUE  
 275-5004  
 275-5848

TOTAL AREA - 30.303 ACRES

CONDOMINIUM PLAT BOOK 1 PAGE 8

[illegible][illegible]

SECTION 15

2433

4670 22  
127  
4670 22  
126 8

BUILDING NO. 47

721.07'

30° 03' 10"

NO PARKING

NO. 2

N 73° 20' 30" W  
 11.38'

BUILDING  
 NO. 1

109.5  
 109.5

STREET

14th St

15th St

16th St

ROAD HIGH

5.39

CHD 1424

BUILDING

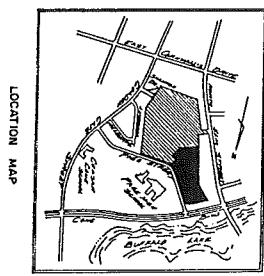
REVISION OF PH  
RECORDED IN CONF

COLLIMATING LENSES

WATERGATE PARK CORP  
GILMER TOWNSHIP

0 30 60

HUGH CREED ASSOCIATES  
22 BATTLEGROUND C



FOUNTAIN MANOR CONDOMINIUM

WATERGATE PARK CORPORATION--OWNERS & DEVELOPERS  
GILMER TOWNSHIP GUILFORD COUNTY, N.C.

SCALE: 1" = 60'

DECEMBER, 1975

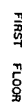
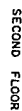
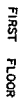


HUGH CREED ASSOCIATES, INC  
ENGINEERS & SURVEYORS  
22 BATTLEGROUND COURT  
GREENSBORO, NC 27404  
275-80064

8-24



LICENSED ENGINEER NO. 3387



275-B084  
275-9826

1000

[illegible][illegible]

Diagram illustrating the components and dimensions of a window assembly:

- 12" PLYWOOD SHEATHING
- 3" x 4" PLATE
- 1/2" MIN. MOOR (1-HOUR RATING)
- 1/2" x 8" JOIST
- 2" x 4" PLATE
- 1/2" x 8" STUDS @ 16" O.C.
- BASEBOARD PLANK COVERING
- MINIUM

5 OF 5



## EXHIBIT D

Percentage of Undivided  
Interest in Common  
Areas and Facilities

[Phase II]

Unit Number\*Column (1)Column (2)

57	4.2339	1.9542
58	4.0005	1.8465
59	4.0005	1.8465
60	3.7939	1.7511
61	3.1338	1.4464
62	3.1338	1.4464
63	3.0937	1.4280
64	3.0937	1.4280
65	4.2339	1.9542
66	3.7472	1.7296
67	4.0005	1.8465
68	4.0005	1.8465
69	3.7472	1.7296
70	4.2339	1.9542
71	4.2339	1.9542
72	4.0005	1.8465
73	4.0005	1.8465
74	4.0005	1.8465
75	4.0005	1.8465
76	4.2339	1.9542
77	3.7939	1.7511
78	3.7472	1.7296
79	4.0005	1.8465
80	4.0005	1.8465
81	3.7472	1.7296
82	3.7939	1.7511
83	0.0000	1.5357
84	0.0000	1.5357
85	0.0000	1.5172
86	0.0000	1.5172
87	0.0000	1.7725
88	0.0000	1.7511
89	0.0000	1.8680
90	0.0000	1.8680
91	0.0000	1.9757
92	0.0000	1.6279
93	0.0000	1.6065
94	0.0000	1.6065
95	0.0000	1.6065
96	0.0000	1.6065
97	0.0000	1.4926
98	0.0000	1.7725
99	0.0000	1.7511
100	0.0000	1.8680

Unit Number

101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116

Column (1)

0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000  
0.0000

Column (2)

1.8680  
1.7725  
1.2895  
1.2895  
1.2895  
1.2895  
1.2710  
1.2710  
1.2710  
1.2710  
1.6279  
1.6065  
1.6065  
1.6065  
1.6065  
1.6279

\* Unit numbers shown in this exhibit represent the legal description of the lot and units in this phase and do not necessarily correspond with the mailing address of these units. See attached schedule 1 to Exhibit showing the mailing address and corresponding legal description for each unit.

TO  
EXHIBIT "D"

Declaration of Condominium Establishing  
Fountain Manor Condominium, Phase II\*

<u>Unit Address</u>	<u>Legal Address</u>	<u>Percentage of Undivided Interest In Common Areas and Facilities</u>	
		<u>Column (1)</u>	<u>Column (2)</u>
5-A FMD	57	4.2339	1.9542
5-B FMD	58	4.0005	1.8465
5-C FMD	59	4.0005	1.8465
5-D FMD	60	3.7939	1.7511
7-A FMD	61	3.1338	1.4464
7-B FMD	62	3.1338	1.4464
7-C FMD	63	3.0937	1.4280
7-D FMD	64	3.0937	1.4280
9-A FMD	65	4.2339	1.9542
9-B FMD	66	3.7472	1.7296
9-C FMD	67	4.0005	1.8465
9-D FMD	68	4.0005	1.8465
9-E FMD	69	3.7472	1.7296
9-F FMD	70	4.2339	1.9542
10-A FMD	116	0.0000	1.6279
10-B FMD	115	0.0000	1.6065
10-C FMD	114	0.0000	1.6065
10-D FMD	113	0.0000	1.6065
10-E FMD	112	0.0000	1.6065
10-F FMD	111	0.0000	1.6279
11-A FMD	71	4.2339	1.9542
11-B FMD	72	4.0005	1.8465
11-C FMD	73	4.0005	1.8465
11-D FMD	74	4.0005	1.8465
11-E FMD	75	4.0005	1.8465
11-F FMD	76	4.2339	1.9542
12-A FMD	104	0.0000	1.2895
12-B FMD	106	0.0000	1.2895
12-C FMD	105	0.0000	1.2895
12-D FMD	103	0.0000	1.2895
12-E FMD	108	0.0000	1.2710
12-F FMD	110	0.0000	1.2710
12-G FMD	109	0.0000	1.2710
12-H FMD	107	0.0000	1.2710
15-A FMD	77	3.7939	1.7511
15-B FMD	78	3.7472	1.7296
15-C FMD	79	4.0005	1.8465
15-D FMD	80	4.0005	1.8465
15-E FMD	81	3.7472	1.7296
15-F FMD	82	3.7939	1.7511
17-A FMD	83	0.0000	1.5357
17-B FMD	84	0.0000	1.5357
17-C FMD	85	0.0000	1.5172
17-D FMD	86	0.0000	1.5172
19-A FMD	87	0.0000	1.7725
19-B FMD	88	0.0000	1.7511
19-C FMD	89	0.0000	1.8680
19-D FMD	90	0.0000	1.8680
19-E FMD	91	0.0000	1.9757
21-A FMD	92	0.0000	1.6279
21-B FMD	93	0.0000	1.6065
21-C FMD	94	0.0000	1.6065
21-D FMD	95	0.0000	1.6065
21-E FMD	96	0.0000	1.6065
21-F FMD	97	0.0000	1.4926
23-A FMD	98	0.0000	1.7725
23-B FMD	99	0.0000	1.7511
23-C FMD	100	0.0000	1.8680
23-D FMD	101	0.0000	1.8680
23-E FMD	102	0.0000	1.7725
TOTAL	60		100.0000

EXHIBIT "E" AND EXHIBIT "F" ARE NO LONGER APPLICABLE.

# STATE OF NORTH CAROLINA



Department of The  
Secretary of State

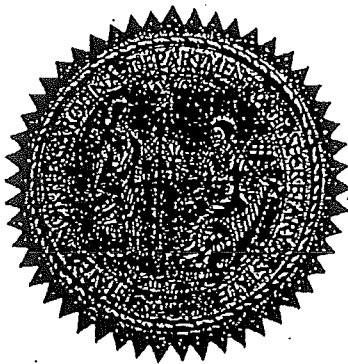
1/92

To all whom these presents shall come, Greetings:

I, Rufus L. Edmisten, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

RESTATED ARTICLES OF INCORPORATION  
OF  
FOUNTAIN MANOR ASSOCIATION, INC.

the original of which was filed in this office on the 31st day of March, 1994.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 31st day of March, 1994.

*Rufus L. Edmisten*

Secretary of State

North Carolina - Guilford County  
Certificate (s) of \_\_\_\_\_

772304  
RECORDED  
KATHERINE LEE PAYNE  
REGISTER OF DEEDS  
GUILFORD COUNTY, NC

BOOK: 4196  
PAGE(S): 1557 TO 1566

04/26/94  
1 CORPORATIONS 772304 6.00  
3 CORP. ADDN. PGS 13.00

Notary (Notaries) Public is (are) certified to correct. This instrument and this certificate duly registered at the date and time shown herein.

KATHERINE LEE PAYNE, REGISTER OF DEEDS

Assistant/Deputy Register of Deeds

04/26/1994 15:05:05

001557

Prepared by & mail to:  
William P. Aycock II  
P. O. Box 21847  
Greensboro, NC 27420

RESTATED CHARTER

OF

FOUNTAIN MANOR ASSOCIATION, INC.

C-0055096  
**FILED**  
9:00 AM

MAR 31 1994

RUFUS L. EDMISTEN  
SECRETARY OF STATE  
NORTH CAROLINA

\* \* \* \* \*

### ARTICLES OF INCORPORATION

In compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned corporation, pursuant to the action of its Board of Directors, hereby executes this Restated Charter for the purpose of integrating into one document its original Articles of Incorporation and all amendments thereto:

#### Article I

The name of the corporation is FOUNTAIN MANOR ASSOCIATION, INC., hereinafter called the "Association."

#### Article II

The principal and registered office of the Association is located at 230 North Elm Street, Greensboro, Guilford County, North Carolina.

#### Article III

WILLIAM P. AYCOCK II, whose address is 230 North Elm Street, Greensboro, North Carolina, is hereby appointed the current Registered Agent of this Association.

#### Article IV

This Association does not contemplate pecuniary gain or profit to the members thereof, and the purposes and objects of the corporation shall be to administer the operation and management of FOUNTAIN MANOR CONDOMINIUM, a series of condominiums established in four (4) phases in accordance with the laws of the State of North Carolina upon property situate, lying and being in Gilmer Township, Guilford County, North Carolina and described in Schedule "A" attached hereto and incorporated herein by reference; and to undertake the performance of the acts and duties incident to the administration of the operation of said FOUNTAIN MANOR CONDOMINIUM in accordance with the terms, provisions, conditions and authorizations contained in these Articles of Incorporation and which are contained in the formal Declarations of Condominium for each Phase which have been recorded in the Public Records of Guilford

County, North Carolina, at the time said property, and the improvements situate thereon, were submitted to a Plan of Condominium Ownership; and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of said FOUNTAIN MANOR CONDOMINIUM.

#### Article V

The corporation shall have the following powers:

1. The corporation shall have all of the powers and privileges granted to Non-Profit Corporations under the law pursuant to which this corporation is chartered, and all of the powers and privileges which may be granted unto said corporation under any other applicable laws of the State of North Carolina, including the Unit Ownership Act.

2. The corporation shall have all of the powers reasonably necessary to implement and effectuate the purposes of the corporation, including but not limited to the following:

(a) To make and establish reasonable rules and regulations governing the use of Condominium Units and Common Property in FOUNTAIN MANOR CONDOMINIUM as said terms may be defined in the Declaration of Condominium.

(b) To levy and collect assessments against members of the corporation to defray the common expenses of the Condominium as may be provided in the Declarations of Condominium and in the Bylaws of this corporation, including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, including Condominium Units in FOUNTAIN MANOR CONDOMINIUM, which may be necessary or convenient in the operation and management of FOUNTAIN MANOR CONDOMINIUM and in accomplishing the purposes set forth in said Declarations of Condominium.

(c) To maintain, repair, replace, operate and manage FOUNTAIN MANOR CONDOMINIUM and the property comprising same, including the right to reconstruct improvements after casualty and to make further improvement of the Condominium property, and to make and enter into any and all contracts necessary and desirable to accomplish said purposes.

(d) To contract for the management of FOUNTAIN MANOR CONDOMINIUM and to delegate to such contractor all the powers and duties of the Association except those

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which may be required by the Declarations of Condominium to have approval of the Board of Directors of the corporation.

(e) To acquire and enter into, now or at any time hereafter, leases and agreements whereby the Association acquires leaseholds, memberships, and other possessory or use interests in lands or facilities including, but not limited to, swimming pools, tennis courts, and other recreation facilities, whether or not contiguous to the lands of FOUNTAIN MANOR CONDOMINIUM, in order to provide enjoyment, recreation or other use or benefit to the owners of Condominium Units.

(f) To enforce the provisions of said Declarations of Condominium, the Articles of Incorporation, the Bylaws of the corporation which may be hereafter adopted, and the rules and regulations governing the use of said FOUNTAIN MANOR CONDOMINIUM as the same may be hereafter established.

(g) To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the corporation pursuant to the Declaration of Condominium aforementioned.

#### Article VI

The qualifications of the members, the manner of their admission to membership and termination of such membership, and voting by members shall be as follows:

1. The owners of all Condominium Units in all phases of FOUNTAIN MANOR CONDOMINIUM shall be voting members of the corporation(s), and no other person or entities shall be entitled to membership.

2. Membership shall be established by the acquisition of fee title to a Condominium Unit in any phase of FOUNTAIN MANOR CONDOMINIUM, or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise, and the membership of any party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in any Condominium Unit, except that nothing herein contained shall be construed as terminating the membership of any party who may own two or more Condominium Units, so long as such party shall retain title to or a fee ownership interest in any Condominium Unit.

3. On all matters on which the membership shall be entitled to vote, there shall be only one vote for each Condominium Unit in FOUNTAIN MANOR CONDOMINIUM, which vote may be exercised or



cast by the owner or owners of each Condominium Unit in such manner as may be provided in the Bylaws hereafter adopted by the Corporation. Should any member own more than one Condominium Unit, such member shall be entitled to exercise or cast as many votes as he owns Condominium Units, in the manner provided by said Bylaws.

4. The interest of a member in the funds and assets of the corporation cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Condominium Unit. The funds and assets of the corporation shall belong solely to the corporation, subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declarations of Condominium and in the Bylaws of the corporation.

#### Article VII

The corporation shall have perpetual existence.

#### Article VIII

The affairs of the corporation shall be managed by the President of the corporation assisted by the Vice Presidents, Secretary and Treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, subject to the directions of the Board of Directors. The Board of Directors, may employ a Managing Agent and/or other managerial and supervisory personnel or entities to administer or assist in the administration of the operation and management of FOUNTAIN MANOR CONDOMINIUM and the affairs of the corporation, and any such person or entity may be so employed without regard to whether such person or entity is a member of the corporation or a director or officer of the corporation, as the case may be.

#### Article IX

The number of directors who shall serve on the Board of Directors of the Association shall be eight (8), composed of two members elected from each of the four condominium phases of FOUNTAIN MANOR CONDOMINIUM. The members of the Board of Directors of the Association shall be elected at each Annual Members' Meeting of the Association.

The members of the Board of Directors of the Association shall be elected as follows:

1) Two members by and from the Owners of Condominium Units in Phase I;

2) Two members by and from the Owners of Condominium Units in Phase II;

3) Two members by and from the Owners of Condominium Units in Phase III; and

4) Two members by and from the Owners of Condominium Units in Phase IV.

At the Annual Members' Meeting in 1992, the director from each of the four condominium phases who receives the highest number of votes cast by the members from the condominium phase such director is to represent shall be elected for a term of two years and the director receiving the second highest number of votes cast by the members from the condominium phase such director is to represent shall be elected for a term of one year.

At each annual meeting thereafter, four (4) directors shall be elected for a term of two years. The person who receives a plurality of the votes cast by the members from the condominium phase such director is to represent shall be deemed elected.

Each director must be a member of the Association. A director will be permitted to succeed himself. Should a vacancy occur in the Board of Directors for any reason, the remaining directors shall have the exclusive right to fill the unexpired term of such vacant directorship; provided, however, that the person chosen to fill such vacancy shall be a Unit Owner in the same condominium phase as that of the director whose seat has become vacant. Any person appointed to fill such a vacancy shall serve until a designated successor is elected and qualified.

A director may be removed, with or without cause and at any time, by the vote of a majority of the members of the Association in the condominium phase which elected such director, present and voting, either in person or by proxy, at a special meeting called for such purpose.

At least ninety (90) days prior to the Annual Members' Meeting, the president of the Association shall appoint a Nominating committee composed of four (4) members of the Association, one from each condominium phase. On or before thirty (30) days prior to the Annual Members' Meeting, the Nominating Committee shall submit to the Board of Directors a list of prospective candidates for the four (4) positions on the Board of Directors to be elected at the Annual Members' Meeting, which list shall include at least one candidate from each condominium phase.

When the Nominating Committee reports to the Board of Directors, it shall submit, in addition to the list of prospective candidates, the written consent of each candidate to serve as director along with that candidate's brief resume.

At least sixty (60) days prior to the Annual Members' Meeting, the Secretary shall mail or deliver to all members of the Association a notice that nominations for the Board of Directors are open and will remain open for a period of thirty (30) days. A member may nominate any member for a position on the Board of Directors by submitting a written nomination to the Secretary along with written consent of such person to serve and a brief resume of the nominee.

Any nomination for the Board of Directors not in writing and not accompanied by a consent to serve and a brief resume shall be invalid. Nominations from the floor at the Annual Members' Meeting shall not be permitted.

#### Article X

The Board of Directors shall elect a President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall determine to be necessary. The President and the Vice Presidents shall be elected from among the membership of the Board of Directors, but no other officer need be a director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

#### Article XI

The names and addresses of the then existing Board of Directors who, subject to the provisions of these Articles of Incorporation, the Bylaws, and the laws of the State of North Carolina, shall hold office until their successors are elected and have qualified shall be kept current in the minutes of the annual meeting of the membership.

#### Article XII

The original Bylaws of the corporation shall be adopted by a majority vote of the initial Board of Directors and thereafter, such Bylaws may be altered or rescinded only in such manner as said Bylaws may provide.

#### Article XIII

Every director and every officer of the corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the corporation, whether or not he is a director or officer at the

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time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

#### Article XIV

An Amendment or Amendments to these Articles of Incorporation shall require the assent of seventy-five percent (75%) of the Board of Directors.

This is the Restated Charter of Fountain Manor Association, Inc. approved by action of the Board of Directors of said corporation pursuant to Section 55A-37.1 of the N. C. General Statutes. This Restated Charter merely restates, but does not change, the provisions of the original Articles of Incorporation, as supplemented and amended, and there is no discrepancy, other than as expressly permitted by Section 55A-37.1, between the provisions of the original Articles of Incorporation, as supplemented and amended, and the provisions of this Restated Charter.

IN WITNESS WHEREOF, this statement is executed by the President and Secretary of the corporation this 8<sup>th</sup> day of March, 1994.

Ernest C. W. Peay Jr.  
President

Carolyn L. Turner  
Secretary

\* \* \* \* \*

The foregoing was adopted as the Charter of Fountain Manor Association, Inc., a non-profit corporation under the laws of the

State of North Carolina, at the meeting of the Board of Directors  
on March 8, 1994.

Ernest C. McLean, Jr.  
President

Carolyn S. Turner  
Secretary

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

I, Michele W. Shore, a Notary Public, hereby  
certify that on this 8<sup>th</sup> day of March, 1994,  
personally appeared before me Ernest C. McLean, Jr.  
and Carolyn S. Turner, each of whom being by me  
first duly sworn, declared that he signed the foregoing document  
in the capacity indicated, that he was authorized so to sign, and  
that the statements therein contained are true.

Michele W. Shore  
Notary Public

My commission expires:

9-23-98

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## SCHEDULE "A"

Attached to and made a part of that certain Restated Charter of Fountain Manor Association, Inc. executed March 8, 1994.

BEGINNING at an iron pin in the eastern margin of North Elm Street, which iron pin is also located at the intersection of the existing margin of said street with the south line of Lot 1, Section 15, Irving Park Subdivision, as per plat thereof recorded in Plat Book 23, Page 28, Guilford County Registry; thence with the southern boundary of the said Lot 1, North  $66^{\circ} 21' 15''$  East 229.06 feet to an iron pin, the southeast corner of the said Lot 1; thence North  $11^{\circ} 53' 45''$  West 599.92 feet to an iron pin, the northeast corner of Lot 6, Section 15, Irving Park Subdivision; thence North  $41^{\circ} 42' 20''$  West 218.65 feet to an iron pin; thence North  $22^{\circ} 31' 10''$  West 434.20 feet to an iron pin in Sherwood Park Inc.'s south line; thence with the south line of Sherwood Park, Inc., North  $54^{\circ} 33' 20''$  East 361.74 feet to an iron pin; thence still with the line of Sherwood Park, Inc., North  $78^{\circ} 17' 00''$  East 36.40 feet to an iron pin in the western margin of Page Street; thence with the western margin of Page Street the following courses and distances: South  $29^{\circ} 12' 00''$  East 349.65 feet to an iron pin; thence along a curve to the left, a chord bearing of South  $57^{\circ} 22' 00''$  East a chord distance of 233.66 feet to an iron pin; thence South  $85^{\circ} 32' 00''$  East 486.75 feet to an iron pin; thence leaving the right-of-way of Page Street and with the western boundary of Elm Park Subdivision, as per plat thereof recorded in Plat Book 23, Page 3, Guilford County Registry, South  $10^{\circ} 40'$  East 739.73 feet to an iron pin in the rear line of Lot 10, Elm Park Subdivision; thence South  $03^{\circ} 43' 00''$  West 193.60 feet to an iron pin, a common corner between Lots 7 and 8 of the Elm Park Subdivision; thence South  $18^{\circ} 12' 45''$  West 257.29 feet to an iron pin in the northern margin of Shannon Drive; thence South  $18^{\circ} 05' 50''$  West 200.87 feet to an iron pin, the southwest corner of Lot 4, Elm Park Subdivision, said point being in St. Benedict's School's north line; thence with St. Benedict's School's line, North  $89^{\circ} 35' 00''$  West 417.02 feet to an iron pin, a corner with St. Benedict's School; thence North  $22^{\circ} 24' 15''$  West 460.57 feet to an iron pin, another corner with St. Benedict's School; thence South  $66^{\circ} 21' 15''$  West 345 feet to an iron pin in the eastern right-of-way of North Elm Street; thence North  $22^{\circ} 24' 15''$  West 80 feet to the point and place of Beginning, and containing 30.394 acres, more or less, and being all of the property shown on a map of survey of Fountain Manor Condominium by Hugh Creed Associates, Inc., Engineers and Surveyors, Greensboro, North Carolina, dated August 20, 1973.

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**RESTATED BY-LAWS**  
**OF**  
**FOUNTAIN MANOR ASSOCIATION, INC.**

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EXHIBIT "H"

RESTATED

BYLAWS

OF

FOUNTAIN MANOR ASSOCIATION, INC.

1. IDENTITY

These are the Bylaws of FOUNTAIN MANOR ASSOCIATION, INC., a non-profit corporation under the laws of the State of North Carolina, the Articles of Incorporation of which were filed in the Office of the Secretary of State on October 23, 1973. FOUNTAIN MANOR ASSOCIATION, INC., hereinafter called "Association," has been organized for the purpose of administering the operation and management of FOUNTAIN MANOR, a series of condominiums established in four phases in accordance with the laws of the State of North Carolina upon the property situate, lying and being in Gilmer Township, Guilford County, North Carolina, and described in schedule "A" attached hereto and incorporated herein by reference.

a) The provisions of these Bylaws are applicable to all phases of FOUNTAIN MANOR CONDOMINIUM, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions and authorization contained in the Articles of Incorporation and in the formal Declarations of Condominium for each phase which have been recorded in the Public Records of Guilford County, North Carolina, the terms and provisions of said Articles of Incorporation and Declarations of Condominium to be controlling wherever the same may be in conflict herewith.

b) All present and future owners, tenants, future tenants, or their employees, or any other person that might use FOUNTAIN MANOR CONDOMINIUM or any other facilities thereof in any manner, are subject to the regulations set forth in these Bylaws and in said Articles of Incorporation and Declarations of Condominium.

c) The office of the Association shall be 230 North Elm Street, Greensboro, North Carolina, or such other place as the Board of Directors shall designate from time to time.

d) The fiscal year of the Association shall be the calendar year.

2. PURPOSE

FOUNTAIN MANOR CONDOMINIUM is a series of four condominiums which were developed on the real property described in Schedule "A" attached hereto. While each condominium is designated as a separate phase of Fountain Manor Condominium, all of the



condominiums were developed under a Common Plan, the features of which include common swimming and recreation facilities, and the providing of maintenance and other services through a common administration. Each Phase was subjected to condominium ownership by the recording of a separate Declaration of Condominium. This Association has been incorporated to facilitate the operation and administration of all Phases of Fountain Manor Condominium under the Common Plan. This Association shall have the general authority and responsibility for the operation and administration of the condominium as set forth and described in the Declarations of Condominium, the Articles of Incorporation and these Bylaws.

### 3. MEMBERSHIP

The qualification of members, the manner of their admission to membership and termination of such membership, shall be set forth in Article VI of the Articles of Incorporation of the Association, the provisions of which are incorporated herein by reference.

### 4. ANNUAL AND SPECIAL MEETING OF MEMBERSHIP

a) The Annual Members' Meeting shall be held at a place and time as designated by the Board of Directors in November of each year for the purpose of electing members of the Board of Directors, of informing the membership of the status of the Budget for the coming year and for such other purposes as the directors may determine.

b) Special Members' Meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors.

c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or other Officer of the Association in the absence of said Officers, to each member, unless waived in writing; such notice to be written or printed and to state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed to be properly given when deposited in the United States mails addressed to the member at his post office address as it appears on the records of the Association (Register of Owners) as of the date of mailing such notice, the postage thereon prepaid. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by

written waiver of notice signed by such member, waive such notice; such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member.

#### 5. BOARD OF DIRECTORS

a) The number of directors who shall serve on the Board of Directors of the Association shall be eight (8), composed of two members elected from each of the four condominium phases of Fountain Manor Condominium. The members of the Board of Directors of the Association shall be elected at each Annual Members' Meeting of the Association.

The members of the Board of Directors of the Association shall be elected as follows:

1) Two members by and from the Owners of Condominium Units in Phase I;

2) Two members by and from the Owners of Condominium Units in Phase II;

3) Two members by and from the Owners of Condominium Units in Phase III; and

4) Two members by and from the Owners of Condominium Units in Phase IV.

At the Annual Members' Meeting in 1992, the director from each of the four condominium phases who receives the highest number of votes cast by the members from the condominium phase such director is to represent shall be elected for a term of two years and the director receiving the second highest number of votes cast by the members from the condominium phase such director is to represent shall be elected for a term of one year.

At each annual meeting thereafter, four (4) directors shall be elected for a term of two years. The person who receives a plurality of the votes cast by the members from the condominium phase such director is to represent shall be deemed elected.

Each director must be a member of the Association. A director will be permitted to succeed himself. Should a vacancy occur in the Board of Directors for any reason, the remaining directors shall have the exclusive right to fill the unexpired term of such vacant directorship; provided, however, that the person chosen to fill such vacancy shall be a Unit Owner in the same condominium phase as that of the director whose seat has become vacant. Any person appointed to fill such a vacancy shall serve until a designated successor is elected and qualified.

b) A director may be removed, with or without cause and at any time, by the vote of a majority of the members of the

Association in the condominium phase which elected such director, present and voting, either in person or by proxy, at a special meeting called for such purpose.

c) At least ninety (90) days prior to the Annual Members' Meeting, the President of the Association shall appoint a Nominating Committee composed of four (4) members of the Association, one from each condominium phase. On or before thirty (30) days prior to the Annual Members' Meeting, the Nominating Committee shall submit to the Board of Directors a list of prospective candidates for the four (4) positions on the Board of Directors to be elected at the Annual Members' Meeting, which list shall include at least one candidate from each condominium phase.

When the Nominating Committee reports to the Board of Directors, it shall submit, in addition to the list of prospective candidates, the written consent of each candidate to serve as director along with that candidate's brief resume.

At least sixty (60) days prior to the Annual Members' Meeting, the Secretary shall mail or deliver to all members of the Association a notice that nominations for the Board of Directors are open and will remain open for a period of thirty (30) days. A member may nominate any member for a position on the Board of Directors by submitting a written nomination to the Secretary along with the written consent of such person to serve and a brief resume of the nominee.

Any nomination for the Board of Directors not in writing or accompanied by a consent to serve and a brief resume shall be invalid. Nominations from the floor at the Annual Members' Meeting shall not be permitted.

d) 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 the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.

e) Special meetings of the directors may be called by the President, and must be called by the Secretary at the written request of two members of the Board. Not less than three (3) days' notice of a meeting shall be given to each director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

f) Any director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

g) A quorum at a Directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation, or these Bylaws. If any directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation or these Bylaws, the directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

h) The presiding officer of directors' meetings shall be the Chairman of the Board, if such an officer has been elected; and if none, then the President shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

i) directors' fees, if any, shall be determined by the Board of Directors of the Association.

j) All of the powers and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these Bylaws and the Declarations of Condominium of each of the phases. Such powers and duties shall be exercised in accordance with said Articles of Incorporation, these Bylaws and the Declarations of Condominium, and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy and collect assessments against Condominium Unit Owners and their Condominium Units in all phases of Fountain Manor to defray the costs of the Condominium, as provided for in the various Declarations of Condominium in the paragraph entitled "Assessments: Liability, lien and Enforcement," which paragraph is herein incorporated by reference, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) The maintenance, repair, replacement, operation and management of the Common Areas and

Facilities wherever the same is required to be done and accomplished by the Association for the benefit of its members; and further to approve any expenditures made or to be made for said purposes;

iii) The reconstruction of improvements after casualty, and the further improvement of the property, real and personal, and to make and enter into any and all contracts necessary and desirable to accomplish said purposes;

iv) To make and amend regulations governing the use of the property, real and personal, of FOUNTAIN MANOR CONDOMINIUM, so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Declarations of Condominium;

v) To acquire, operate, lease, manage and otherwise trade and deal with property, real and personal, including Condominium Units, in all Phases of FOUNTAIN MANOR CONDOMINIUM, in order to accomplish the purposes set forth in the Declarations of Condominium;

vi) To now or at any time hereafter acquire and enter into leases and agreements whereby the Association acquires leaseholds, memberships, and other possessory or use interests in lands or facilities including, but not limited to, swimming pools, tennis and other recreational facilities, whether or not contiguous to the lands of FOUNTAIN MANOR CONDOMINIUM, in order to provide enjoyment, recreation or other use or benefit to the owners of Condominium Units;

vii) To contract for the management of FOUNTAIN MANOR CONDOMINIUM and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Declarations of Condominium to have approval of the Board of Directors of FOUNTAIN MANOR ASSOCIATION or the membership of the Association;

viii) To enforce by legal means the provisions of the Articles of Incorporation and Bylaws of the Association, the Declarations of Condominium and the regulations hereinafter promulgated governing use of the property in FOUNTAIN MANOR CONDOMINIUM;

ix) To pay all taxes and assessments which are liens against any part of FOUNTAIN MANOR CONDOMINIUM other than Condominium Units and the appurtenances

thereto, and to assess the same against the members and their respective Condominium Units subject to such liens;

x) To carry insurance for the protection of the members and the Association against casualty and liability;

xi) To pay all costs of power, water, sewer and other utility services rendered to the condominium and not billed to the owners of the separate Condominium Units; and

xii) To designate and remove personnel necessary for the maintenance, repair, replacement and operation of the condominium including the Common Areas and Facilities.

#### 6. OFFICERS

a) The executive officers of the Association shall be elected by the Board of Directors and shall consist of a President, who shall be a director, a Vice President, who shall be a director, a Treasurer, a Secretary and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. Any person may hold two or more offices, except that the President shall not also be Vice President, Secretary or an Assistant Secretary. The Board of Directors shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

b) The President shall be the chief executive officer of the Association. ~~He shall have all of the powers and duties which~~ are usually vested in the office of the president of any association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may, in his discretion, determine appropriate, to assist in the conduct of the affairs of the Association.

c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and shall affix the same to instruments requiring a seal when duly signed. He shall keep the records of

the Association except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the directors or President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

e) The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidence of indebtedness. He shall keep, or supervise the keeping of, the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer.

f) The compensation of all officers and employees of the Association shall be fixed by the directors. This provision shall not preclude the Board of Directors from employing a director as an employee of the Association, nor preclude contracting with a director for the management of the condominium.

g) All officers shall serve at the pleasure of the Board of Directors and any officer may be removed from office at any time, with or without cause, by a majority vote of the Board of Directors.

#### 7. FISCAL MANAGEMENT AND COMPENSATION

The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

a) The assessment rolls (Maintenance and Capital Improvement and Recreation) shall be maintained in a set of accounting books in which there shall be an account for each Condominium Unit. Such an account shall designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

b) The Board of Directors shall adopt an overall budget for the entire FOUNTAIN MANOR CONDOMINIUM for each calendar year, which budget shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following:

i) Maintenance and Capital Improvement costs, which shall include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of Common Areas and Facilities, landscaping, street and walkways, office expense, utility services, casualty insurance, liability insurance, administration and reserves (operating and

replacement), management fees and costs of maintaining leasehold, memberships and other possessory or use interests in lands or facilities, whether or not contiguous to the lands of Fountain Manor Condominium;

ii) Recreation Costs, which shall include the estimated amount necessary to operate and maintain the swimming pool, clubhouse and other recreational facilities for the use and benefit of the owners of the condominium units;

iii) Each phase's proportionate share of the maintenance and capital improvement cost and recreation cost, which proportionate share shall be allocated to each phase based on the number of Condominium Units in that phase; and

iv) The proposed Maintenance and Capital Improvement and Recreation assessments against each individual Condominium Unit Owner and his Condominium Unit.

Upon the adoption of the Overall Budget by the Board of Directors and the allocation to each Phase of its respective proportionate share of the Overall Budget, copies of the Overall Budget and of the budget for the respective phases shall be delivered to each owner of a Condominium Unit prior to January 1 of the year for which the budgets are made. If the budgets are subsequently amended before the assessments are made, a copy of the amended budget or budgets shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for such assessments, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors to levy, at any time in their sole discretion, any additional assessments in the event that the budgets originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

c) The depository of the Association shall be such bank or banks as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

d) An audit of the accounts of the Association shall be made annually by a Certified Public Accountant, and a copy of the report shall be furnished to each member not later than April 15 of the year following the year for which the report is made.



e) Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors. The premiums on such bond shall be paid by the Association.

#### 8. PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these Bylaws or with the Statutes of the State of North Carolina.

#### 9. AMENDMENTS TO BYLAWS

Amendments to these Bylaws shall be proposed and adopted in the following manner:

a) Amendments to these Bylaws may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the directors.

b) In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of seventy-five percent (75%) of the entire membership of the Association. Thereupon, such amendment or amendments to these Bylaws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the public records of Guilford County, North Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the directors. No amendment shall become operative or effective until it shall have been duly recorded.

c) Upon the approval and proper recording of any amendment or amendments, the same shall become binding upon all Condominium Unit Owners and all such Owners shall abide thereby.

#### 10) RULES OF CONDUCT

a) No resident of the condominium shall post any advertisements or posters of any kind in or on the Common Areas and Facilities except as authorized by the Association.

b) Residents shall exercise extreme care about making noises or the use of musical instruments, radios, television and amplifiers that may disturb other residents. Those keeping domestic animals will abide by the sanitary regulations of the City of Greensboro.

c) It is prohibited to throw garbage or trash outside the disposal installations provided for such purposes in the service areas.

d) No owner, resident or lessee shall install wiring or electrical or telephone installation, television antennae, machines or air conditioning units, etc., on the exterior of any building, or that protrude through the walls or roof of any building except as authorized by the Association.

\* \* \* \* \*

The foregoing were adopted as the Amended and Restated ByLaws of FOUNTAIN MANOR ASSOCIATION, INC., a non-profit corporation under the laws of the State of North Carolina, at the meeting of the Board of Directors on March 8, 1994.

Carolyn S. Turner  
Secretary

APPROVED:

Ernest C. McLean Jr.  
President