

NOTE: This is an unofficial electronic transcript of this document. An official paper copy is given to each Fontana Lot Owner, and the original Declaration can be found on record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1716, pages 477-505.

FONTANA

DECLARATION OF

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION is made this 19th day of June, 1998 by A.M. NICHOLS, TRUSTEE for the FONTANA LAND TRUST under agreement dated September 18, 1997, herein the "Declarant".

WITNESSETH:

WHEREAS, Declarant is the holder of legal title to certain real property located in Albemarle County, Virginia, more particularly shown and described on plat of Roger W. Ray & Assoc., Inc., C.L.S., dated May 20, 1998, last revised June 18, 1998, captioned "Subdivision Plat Lots 1 Thru 19 & 152 Thru 168 and Recreation Center Lot Phase I Fontana Rivanna District Albemarle County, Virginia", which plat consists of 8 sheets attached hereto, and made a part hereof and recorded herewith, hereinafter referred to as the "Plat"; and

WHEREAS, Declarant will convey the Property shown on the Plat, subject to certain covenants, conditions, restrictions, easements, reservations, liens and charges as hereinafter set forth; and

WHEREAS, the Declarant desires to provide a vehicle for providing services, maintaining the Common Area as hereinafter defined and administering and enforcing these covenants and restrictions; and

WHEREAS, the Declarant will cause a non-stock corporation, the Fontana Owners Association, Inc., to be incorporated under the laws of the Commonwealth of Virginia for purposes of exercising the functions hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the Property shown on the Plat (including any real property added pursuant to Article II, Section 2, after such additional real property shall have been so added) shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, reservations, liens and charges (and any valid amendments or supplements hereto), all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property and which shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I – DEFINITIONS

The following words and terms, when used in this Declaration and any valid amendments or supplements hereto (unless the context shall clearly indicate otherwise), shall have the following meanings:

Section 1. “Architectural Review Board” or “ARB” shall mean and refer to the board established in Article VIII herein for the purpose of regulating the external design, appearance and use of the Common Area, Lots and improvements thereon.

Section 2. “Association” shall mean and refer to Fontana Owners Association, Inc., a Virginia non-stock corporation, its successors and assigns.

Section 3. “Board of Directors” shall mean and refer to the Board of Directors of the Association.

Section 4. “Club Facilities” shall mean and refer to the site (designated on the Plat as “Recreation Center Lot” containing 2.1587 acres), including, but not limited to, clubhouse, pool(s), tennis courts, a playfield and parking areas, and further including, but not limited to, personal property designated by the owner thereof and used in common with the clubhouse site properties.

Section 5. “Common Area” shall mean and refer to all real property which is deeded or leased to the Association and designated in said deed or lease as “Common Area”. The term shall also include any personal property acquired or leased by the Association if said property is designated a “Common Area”. All Common Area is to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests and, to the extent permitted by the Board of Directors, visiting members of the general public, subject to fee schedules and operating rules adopted by the Association. All real property intended to be Common Area may be designated on subdivision plats as “Common Area,” “Open Space,” “Recreation Center Lot” and may include other property as may be subsequently designated for such use by Declarant.

Section 6. “Declarant” shall mean and refer to A.M. Nichols, Trustee for the Fontana Land Trust under agreement dated September 18, 1997, and his successors and assigns as Declarant appointed by recorded instrument.

Section 7. “Declaration” shall mean and refer to the covenants, conditions, restrictions, easements, reservations, liens and charges and all other provisions herein set forth in this entire document, as the same may from time to time be amended or supplemented.

Section 8. “Exempt Property” shall mean and refer to those portions of the Property specified in Article VI, Section 9 which shall be exempt from assessments, charges and liens.

Section 9. “Fontana” shall mean that subdivision in Albemarle County, Virginia to be developed on the real property described at Schedule A attached hereto.

Section 10. “Lot” shall mean and refer to any separate numerically designated plot of land within the Property (excluding Open Space, Common Area and Recreation Center Lot) shown on any recorded plat of Fontana and intended by the Declarant to be a site for a single family detached dwelling or a single family attached dwelling.

Section 11. “Master Plan” shall mean and refer to the unrecorded documents, drawings and plans which represent the conceptual plan for the future development of Fontana. Since the concept of the future development of Fontana is subject to continuing revision and change by the Declarant, present and future references to the Master Plan shall be references to the then current version thereof.

Section 12. “Member” shall mean and refer to all those Owners who are Members of the Association as defined in Article III, Section 2.

Section 13. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Owner shall not mean the mortgagee.

Section 14. “Pedestrian Paths” shall mean and refer to that portion of the Property designated “Pedestrian Path Easement” on the Plat or any plat recorded with any Supplementary Declaration.

Section 15. “Phase” shall mean and refer to those Lots included in any area of the subdivision designated on any plat of the subdivision as “Phase.”

Section 16. “Property” shall mean and refer to that certain real property shown on the Plat and such additions thereto as shall hereafter be made subject to this Declaration by Supplementary Declaration hereto. The Property and additions thereto by Supplementary Declaration shall be known as Fontana.

Section 17. “Section” shall mean and refer to any Lots included in any area of the subdivision designated on the plat of subdivision.

Section 18. “Streets” shall mean and refer to the entire right of way on the Plat for the streets, roads, cul-de-sacs, or circles on the Property which provide the Property access for ingress and egress from and to (i) public road(s) and (ii) property adjoining Fontana.

Section 19. “Tenant” shall mean and refer to the lessee under a written agreement with an Owner for the renting of a Lot improved by a dwelling, provided said lease is for a period of at least six months duration.

ARTICLE II - PROPERTY SUBJECT TO DECLARATION

Section 1 - Existing Property.

(a) The real property which at this time is and shall be held, transferred, sold, conveyed, given, leased, devised, inherited and occupied subject to the covenants, conditions, restrictions, easements, reservations, liens and charges set forth in the Declaration is the Property more specifically described on the Plat, excluding that portion of the Property designated on the Plat as "Residue."

(b) The Declarant plans to develop the Property in accordance with the Master Plan, which may be revised from time to time. This statement shall not bind the Declarant, its successors and/or assigns to adhere to the Master Plan in the development of the Property. Subject to its right to modify the Master Plan as stated herein, the Declarant shall convey to the Association certain property as in the reasonable exercise of its discretion it so chooses, without regard to the relative location of such portions or sections within the overall plan. Once conveyed to the Association, these properties shall become Common Area. The Declarant shall not be required to follow any predetermined sequence or order of improvements in development of Fontana and may bring within the plan of this Declaration additional real property and develop the same before completing the development of the Property. The Declarant shall have the full power to add to, subtract from or make changes in the Master Plan regardless of the fact that such actions may affect the relative maximum potential voting strength of the various types of membership of the Association.

Section 2 - Additions to Existing Property.

Declarant shall have the right (but not the obligation) without further consent of the Association or of other Owners and from time to time and at any time to bring within the plan and operation of the Declaration and the jurisdiction of the Association other real property in the vicinity of the Property, including, without limitation, any and all of the residue of the real property described at Schedule A, which includes property on the Plat designated as "Residue," as one parcel or several parcels at different times. To accomplish this, the Declarant shall record one or more Supplementary Declarations (in the form contemplated in Section 3 below) with respect to the real property being added to the Property. The additions of such property pursuant to this paragraph may alter the relative maximum potential voting strength of the various types of membership of the Association.

Section 3 - Supplementary Declaration. The additions authorized herein shall be made by recording a Supplementary Declaration of Covenants, Conditions, Restrictions and Easements with respect to the additional property. Supplementary Declarations shall extend the operation and effect of this Declaration and the jurisdiction of the Association to any such additional property, which additional property shall include that property on the Plat or any subsequent plat designated "Residue." The Supplementary Declaration may contain such additions to and/or modifications of

the provisions of the Declaration as may be necessary or convenient in the sole judgment of Declarant.

ARTICLE III – ASSOCIATION

Section 1 - Duties. Declarant has or will incorporate under the laws of the Commonwealth of Virginia a non-stock corporation to be known as the Fontana Owners Association, Inc. to which shall be delegated the powers of owning, maintaining and administering the Common Area; maintaining, repairing and replacing on and off site storm water detention and runoff control and maintaining and enforcing the protection of critical slopes and easements for such purpose; administering and enforcing the covenants, conditions, restrictions, easements and reservations set forth herein; collecting and disbursing the assessments and charges hereinafter created; maintaining the entrance landscaping and signs for Fontana, including but not limited to maintenance, repair and replacement if necessary, of shrubbery, electricity for lights and signs at the entrance and watering the entrance landscaping; and promoting the health, safety, common good and general welfare of the residents of Fontana. Additionally, the Association may have a fee or leasehold interest in Club Facilities, if so conveyed by Declarant, and may be delegated the power of maintaining, repairing, replacing and administering said Club Facilities.

Section 2 - Membership. Every Owner of a Lot shall be a Member of the Association. In addition, Declarant shall be a Member of the Association so long as Declarant owns (i) any Lot, (ii) any portion of the real property described at Schedule A hereto and/or (iii) any other real property designated by the Master Plan for addition to Fontana. Ownership of such Lot (or any portion of additional real property described at Schedule A and/or any other real property designated by the Master Plan for addition to Fontana in the case of Declarant) shall be the sole qualification for membership.

Section 3 - Voting Rights. The Association shall have three classes of voting membership:

Class A. Class A Members shall be all Owners of Lots with the exception of the Class B Member and Class C Members. Class A Members shall be entitled to one (1) vote for each Lot owned by a Class A Member. In the event that more than one person or entity holds an interest in any Lot, all such persons or entities shall be Members, and the vote for such Lot shall be exercised as they determine among themselves, but in no event shall more than one vote be cast with respect to any such Lot owned by a Class A Member. The vote of one of the joint Owners of a Lot, in person or by proxy, shall bind all Owners of such Lot, and the Association may rely conclusively on the representation, whether oral or written, of such joint Owner that he has the authority to vote for the other co-owners of such Lot.

Class B. The Class B Member shall be the Declarant or its successors and assigns appointed by recorded instrument. The Class B Member shall be entitled to four hundred votes plus one (1) vote for each Lot owned by the Class B Member. The Class B membership shall cease at such time as the Class B Member owns no Lot or any portion of the real property

described at Schedule A or any other real property designated by the Master Plan to be part of Fontana.

Class C. The Class C Members shall be all Initial Builders who are Owners of Lots who have purchased unimproved Lots with the intention of constructing residential buildings on the Lots for resale to Owners who shall be Class A Members. Class C Members shall be entitled to one (1) vote for each Lot owned by a Class C Member. In the event that more than one person or entity holds such interest in any Lot, all such persons or entities shall be Members and the vote for such Lot shall be exercised as they determine among themselves, but in no event shall more than one vote be cast with respect to any such Lot owned by a Class C Member. The vote of one of the joint Owners of a Lot, in person or by proxy, shall bind all Owners of such Lot, and the Association may rely conclusively on the representation, whether oral or written, of such joint Owner that he has the authority to vote for the other co-owners of such Lot.

Section 4 - Board of Directors. The Board of Directors of the Association shall be elected by the Members as set forth in the By-Laws of the Association.

Section 5 - Powers and Duties of the Board of Directors. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may take any such action on behalf of the Association except that required to be exercised or done by the Members of the Association.

Section 6 - Powers and Duties of the Association. In addition to the powers and duties of the Association set forth in this Declaration, such powers and duties may also be set forth in the Articles of Incorporation and the By-Laws of the Association, as the same may be amended from time to time.

Section 7 - Quorum. The quorum required for any action which is subject to the vote of the Members at meetings of the Association shall be as follows:

(a) When a meeting of the Members of the Association is called to vote on (i) an increase in the Annual Assessments greater than provided for in Article VI, Section 3 hereof; (ii) a Special Assessment as provided for by Article VI, Section 4 hereof; (iii) the gift or sale of any parcel of land designated as a Common Area; (iv) an amendment to this Declaration or termination of this Declaration as provided for in Article X, Sections 10 or 11, the presence at the meeting of the Members or proxies entitled to cast at least 30% of the total votes of the Membership required for such action shall constitute a quorum.

(b) When a meeting of the Members of the Association is called to vote on any actions other than those described in subparagraph (a) above, the presence at the meeting of the Members or proxies entitled to cast 15% of the total vote of the Membership required for such action shall constitute a quorum.

(c) If the required quorum is not present at any meeting described in subparagraph (a) or (b) above, with the exception of any meeting called to vote on the termination of this Declaration, another meeting or meetings may be called subject to the giving of proper notice and the required quorum at each subsequent meeting or meetings shall be one-half of the required quorum at the preceding meeting.

Section 8 - Proxies. All Members of the Association may vote and transact business at any meeting of the Association by written proxy.

ARTICLE IV - PROPERTY RIGHTS IN COMMON AREA AND STREETS

Section 1 - Title to Common Area.

(a) Declarant covenants for itself, its successors and assigns that it shall convey as Common Area to the Association at no cost to the Association all Open Space and other real property intended by the Master Plan to be Common Area. Such conveyances shall be subject to (i) all reservations, covenants, conditions, easements, restrictions and limitations imposed by this Declaration as amended or supplemented, including, without limitation, all rights to grant, vacate, revise, relocate or dedicate to public use agreements or easements therein for drainage, utilities, access, signs, sight distance, or maintenance of critical slopes and/or stormwater management facilities reserved to the Declarant, its successors and assigns; (ii) all other reservations, covenants, conditions, easements, restrictions and limitations of record at the time of the conveyance; (iii) any restrictions, limitations, conditions or determinations as to the purposes and uses of the conveyed property as stipulated in the deed to the Association; (iv) deeds of trust of record (but the Declarant shall hold the Association and the Property harmless from the lien thereof); (v) the right of the Declarant to locate and dedicate to public use roads therein; and (vi) any commitments by the Declarant to construct certain improvements thereon as stipulated in said deed. Upon conveyance, such parcels of land and improvements thereon shall become Common Area as designated in said deed.

(b) The Association shall not refuse the conveyance or lease to it of any Common Area, including, without limitation, the Club Facilities, and it shall not refuse the designation of any parcel of land as Common Area by the Declarant. After designation of any parcel of land or any improvements thereon as a Common Area by the Declarant or any other third party, the Association shall immediately become responsible for all maintenance and operation of said property and for such additional construction of the improvements thereon as may be authorized by the Association's Board of Directors.

Section 2 - Members' Easements of Enjoyment in Common Area.

(a) Subject to the provisions of this Declaration, the terms of any Common Area deed, the rules and regulations of the Association, and any fees or charges established by the Association or the Declarant, every Member and every guest of such Member, shall have a right

and easement of enjoyment in and to the Common Area, and such easements shall be appurtenant to and shall pass with the title of every Lot.

(b) A Member's spouse, parents or children who reside with such Member in Fontana shall have the same rights and easement of enjoyment hereunder as a Member.

(c) If a Lot is owned and/or occupied as a Tenant by two (2) or more persons who do not have the relationship of spouse, parent or child to one another or by a corporation, trust or other legal entity, the resident owners or beneficiaries of which do not have the relationship of spouse, parent or child to one another, such joint Owners or Tenants and entity owners or beneficiaries shall annually appoint one (1) person as the "Primary Member." The Primary Member shall have the same easement of enjoyment in the Common Area as a Member. Each remaining joint Owner, joint Tenant or entity owner or beneficiary shall be entitled to an easement of enjoyment in the Common Area by either: (i) paying the same use fees as a guest of Member, or (ii) paying to the Association on an annual basis an amount equal to the Annual Assessment charges against the Lot. The payment of such amount shall not entitle any such person or Lot any additional votes in the Association.

The foregoing notwithstanding, if a Class C Member, either individually or through an ownership or management interest in another entity, owns more than one Lot (the Owner of each of which Lots is designated as a Class C Member) for all of such Lots so owned, only one Primary Membership with regard to use of the Club Facilities shall be permitted.

Section 3 - Extent of Members' Easement. The Members' rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association in accordance with its By-Laws to borrow money from Declarant or any lender for the purpose of improving or maintaining the Common Area or providing services authorized herein. In conjunction with such borrowings, the Association may mortgage the Common Area provided, however, that such mortgage is approved by an affirmative vote of two-thirds (2/3) of the Members of the Association voting in person or by proxy at a duly called (in accordance with the By-Laws) meeting of the Members of the Association or by written consent signed by two-thirds (2/3) of the Members of the Association.

(b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure.

(c) The right of the Association to suspend the rights, voting rights and easements of enjoyment of any Member or any guest of a Member (i) for any period during which the payment of any Assessment against the Lot owned by such Member or other fees or charges against a Member remain delinquent and (ii) for any period not to exceed 60 days for each infraction of the Association's established rules and regulations. It shall be understood that any suspension for either nonpayment of any Assessment or other payment or breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members' obligation to pay the

Assessment or other fees or charges and provided that the Association shall not suspend the right to use any Streets belonging to the Association for access to Lots.

(d) The right of Declarant or the Association to charge reasonable initiation, admission and other fees and dues for the availability and/or use of the Club Facilities and other recreational facilities and services on or about the Common Area.

(e) The right of the Declarant or the Association by its Board of Directors to dedicate to public use or to transfer to the public or to any public or private utility such utility, drainage, sight distance, access or other easements as it deems necessary on any part of the Common Area.

(f) The right of the Association to give, convey, transfer or sell all or any part of the Common Area, including leasehold interests subject to (i) this Declaration, as amended and supplemented, (ii) all other restrictions and limitations of record at the time of conveyance, and (iii) such conditions as may be agreed to by the Members provided, however, that no such gift, conveyance or transfer of Common Area by the Association shall be effective unless an instrument consenting to such conveyance or transfer is signed by Members entitled to cast two-thirds (2/3) of the votes entitled to be cast has been recorded, and provided further that written notice of the proposed action is sent to every Member at the property address of such Member's Lot or such other address as the Member may have provided the Association not less than ten days nor more than thirty days in advance by Declarant. The foregoing consent by Members shall not apply to conveyance or transfer of property designated as Open Space on any plat of any Phase or Section of Fontana Subdivision or any other property designated by the Master Plan to become Common Area upon conveyance from the Declarant to the Association prior to conveyance of such Open Space or other property from Declarant to the Association.

Section 4 - Streets. There are shown on the Plat certain rights of way designated as roads which are dedicated to public use as shown on the Plat (herein referred to as the "Streets"). The Declarant shall cause the subdivision roads to be constructed within said rights of way, with such roads as are to be dedicated to public use to be built to Virginia Department of Transportation (VDOT) standards in accordance with approved plans. Except as otherwise provided herein, the entire cost of the construction and maintenance of the Streets shall be borne by the Declarant or its successor until said Streets are accepted by VDOT into the State Secondary System of Highways for maintenance purposes, if ever. Until such time, each Owner shall have the right to use the Streets for ingress and egress from and to (i) any public road and (ii) any drive, road or street on property adjoining Fontana over which Fontana owners may have rights of ingress and egress for himself, his family, invitees, guests, tenants, successors or assigns. The Streets may also be used for such purposes by future additions to Fontana added in accordance with Article II, Section 2 hereof, and by Owners of property on adjoining parcels for whose benefit an easement over certain Streets of Fontana was reserved by deed dated February 28, 1998 from Hurt Investment Company to the Declarant recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1680, page 67.

ARTICLE V – EASEMENTS

Section 1 - Drainage Easement. Declarant reserves unto itself, its successors and assigns, a perpetual and alienable easement and right of way twenty (20) feet in width (which may be granted, vacated, revised or relocated) on, above, and underground and centered along those boundary lines of any Lot for storm and surface water drainage, including pipes, ditches, culverts, swales and other suitable facilities for the disposition of storm and surface water drainage, and for gradient transition to adjoining Lots together with the right of ingress and egress from and to all such facilities and easements for the construction, maintenance, repair and replacement thereof. The easements provided for herein shall include the right to cut such trees, brush and shrubbery, dig or grade such soil and take such other similar action as reasonably necessary. The rights herein reserved may be exercised by any licensee or assignee of Declarant, and shall include the right to temporarily interrupt utility services as necessary or appropriate upon reasonable notice to the affected Owner. Any physical damage to the Property resulting from the use of the easements hereby reserved shall be promptly repaired at the expense of the party causing such damage.

Section 2 - Utility Easements. Declarant reserves unto itself, its successors and assigns, a perpetual and alienable easement and right of way twenty (20) feet in width (which may be granted, vacated, revised or relocated) on, above and underground and centered along those boundary lines of any Lot to construct, maintain, inspect, replace and repair underground lines, wires, cables, conduits, sewers, pipes, water mains and other suitable underground equipment and facilities for the conveyance of water, sewer, gas, telephone, electricity, television cable, exterior lighting and other utilities and public conveniences, including, without limitation, aboveground transformers, switches, connection boxes, manholes, drop inlets, air release valves and other accessories, together with the right of ingress and egress from and to all such facilities and easements for the construction, maintenance, repair and replacement thereof. Aboveground accessories will be located and installed, to the extent reasonable and practicable, in an unobtrusive location and manner. The easements provided for herein shall include the right to cut such trees, brush and shrubbery, dig or grade such soil and take such other similar action as reasonably necessary. The rights herein reserved may be exercised by any licensee or assignee of Declarant, and shall include the right to temporarily interrupt utility services as necessary or appropriate upon reasonable notice to the affected Owner. Any physical damage to the Property resulting from the use of the easements hereby reserved shall be promptly repaired at the expense of the party causing such damage.

Section 3 - Water and Sewer Easements. Declarant reserves unto itself, its successors and assigns, a perpetual and alienable easement and right of way twenty (20) feet in width (which may be granted, vacated, revised or relocated) through all areas subject to this Declaration and any Supplementary Declaration, whether within or without the boundaries of Lots (excepting only such land designated by the Declarant as approved building sites or upon which a structure is built), to construct, install, maintain, inspect, replace, repair and extend underground sewers, lines, water mains and lines and other suitable underground equipment and facilities for the conveyance of water and sanitary sewer, including aboveground meters, connection boxes, manholes, drop

inlets, air release valves and other accessories, together with the right of ingress and egress from and to all such facilities and easements for the purposes described herein. Aboveground accessories will be located and installed, to the extent reasonable and practicable, in unobtrusive locations and manners. As used herein, the phrase “land designated by the Declarant as approved building sites” shall mean (i) the area under buildings, patios, walks, decks, porches or other improvements constructed by Declarant, builders to whom Declarant has sold lots or the agents, contractors or subcontractors of either and (ii) the area under other buildings, patios, walks, decks, porches or other improvements, the location of which is approved by the Declarant. The easements provided for herein shall include the right to cut any trees, brush and shrubbery, dig or grade any soil, remove obstructions, and take any other similar action as reasonably necessary to provide economical and safe water and sewer installation, operation, and maintenance, and there shall be no responsibility for the Declarant, his successors or assigns, to replace or reimburse the cost of said trees, brush, shrubbery or obstructions, if cut, removed or otherwise damaged. The rights herein reserved may be exercised by any licensee or assignee of Declarant, and shall include the right to temporarily interrupt utility services as necessary or appropriate upon reasonable notice to the affected Owner. Any physical damage to the Property resulting from the use of the easements hereby reserved shall be promptly repaired at the expense of the party causing such damage.

The Declarant for himself, his successors and assigns, to include the Albemarle County Service Authority, its successors and assigns, requires as follows:

(1) New trees, shrubs, fences, buildings, overhangs or other improvements or obstructions shall not be placed within easements for water lines, sewer lines and their appurtenances.

(2) If Declarant, its successors or assigns, is unable reasonably to exercise the right of ingress and egress over the easement, it shall have the right of ingress and egress over the Property adjacent to the easement.

(3) The facilities constructed within the easement shall be the property of the Declarant, his successors or assigns, who shall have the right to inspect, rebuild, remove, repair, improve and make changes, alterations and connections to or extensions of the facilities within the boundaries of the easement.

Section 4 - Pedestrian Paths. Declarant has reserved on the Plat (and may reserve on future plats) areas designated as Pedestrian Path Easement (the “Pedestrian Paths”). The Declarant is not prohibited from locating utilities and easements therefor within the Pedestrian Paths. Declarant reserves unto itself, its successors and assigns, a perpetual and alienable easement and right of way (which may be granted, vacated, revised or relocated) on, over and through each Lot which adjoins the Pedestrian Paths, which easement (i) shall be ten feet in width, (ii) shall run the length of each Lot boundary line adjoining any portion of the Pedestrian Paths, and (iii) shall be for the purpose of constructing, maintaining, inspecting, repairing and replacing the Pedestrian Paths, together with the right of ingress and egress from and to the

Pedestrian Paths for the purposes described herein. The Association shall be responsible for maintaining the Pedestrian Paths and the Declarant may convey them to the Association as Common Area, subject to the reservation set forth herein.

Section 5 - Interruption of Service. The rights herein reserved shall not be deemed to impose any obligation upon Declarant, his successors or assigns, to provide or maintain or to be responsible for the lapse or temporary interruption of services.

Section 6 - Creation of Easements. All Easements shown on the Plat are hereby created as shown on and in accordance with the provisions of the Plat and this Declaration.

ARTICLE VI - COVENANT FOR ASSESSMENTS

Section 1 - Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned or to be created within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association in accordance with the provisions of this Article VI: (1) annual assessments or charges to be collected as frequently as on a monthly basis (herein "Annual Assessments"), (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided (herein "Special Assessments"), and (3) assessments for correction of noncompliance with this Declaration and the implementation of it by the Association (herein "Correction Assessments"), all of which are sometimes collectively referred to as "Assessments" or "Assessment."

Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in the manner as hereinafter provided. Each Assessment, together with such interest, costs and reasonable attorney's fees, shall also be the joint and several personal obligation of each of the Owner(s) of such property assessed at the time when the Assessment fell due. The personal obligation shall not pass to such Owner's successors in title unless expressly assumed by them in writing or unless a memorandum of lien is recorded as set forth in Section 8 hereof.

Section 2 - Purpose of Assessments. Annual Assessments levied by the Association shall be used (i) for the purposes set forth in Article III, Section 1, (ii) for the purpose of promoting the enjoyment, health, safety, and welfare of the residents on the Property, and (iii) for the repair, improvement, provision, maintenance, enhancement and replacement of the Common Area, drainage facilities, signs, landscaping, grounds, fencing, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area. Annual Assessments shall also be used in part for leasing and/or operating the Club Facilities. Annual Assessments shall also be used for establishing reasonable reserves for maintenance and capital expenditures.

The Association shall use such Annual and Special Assessments, to the extent such Assessments are sufficient funds, for the general purposes stated above, and in particular for those functions set forth in Article VII hereof, at such times and in such manner as determined by the Board of Directors.

Section 3 - Basis and Maximum Amount of Annual Assessments.

(a) The initial maximum Annual Assessment for each improved Lot as of the date of this Declaration shall be six hundred dollars. The obligation to pay the Annual Assessment for a Lot shall begin upon settlement on the first sale of the Lot following or in conjunction with the issuance of a temporary or permanent certificate of occupancy by Albemarle County for the dwelling on such lot or upon the first occupancy of the dwelling constructed on the Lot, whichever event shall first occur (the "Commencement Date"). Annual Assessments may be increased by up to ten percent (10%) per year effective January 1 of each year (commencing January 1, 1999) without a vote of the Members, by the Board of Directors, after due consideration of current costs and needs of the Association.

(b) Any increase in the Annual Assessments approved by the Board of Directors in excess of the ten percent (10%) increase described in Section 3(a) above must also be approved by a favorable vote of two-thirds (2/3) of the votes cast by Members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) Assessments may be due in quarterly or monthly installments, or on such other basis (but no more frequently than monthly) as may be determined by the Board of Directors. The payment schedule shall be the same for all properties and all Assessment payments shall be due and payable on the installment due date. When the Commencement Date occurs other than at the beginning of an installment due date the portion of the Annual Assessment due during such installment period prorated through the end of the installment period shall be due on the Commencement Date.

(d) The Board of Directors may authorize a billing agent to collect the Assessments provided for herein.

Section 4 - Special Assessments. The Association may levy in any assessment year, a Special Assessment applicable to that year only for all Lots obligated at the time of such levy to pay annual assessments during that assessment year, for the purpose of defraying, in whole or in part,

- (i) an unexpected or unusually large expense or anticipated expense,
- (ii) the cost of any construction or reconstruction,
- (iii) the cost of additions to the Common Area,

(iv) the cost of repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto,

(v) the cost of necessary fixtures, equipment and personal property to offer the services authorized herein,

(vi) the cost of repayment of any loan made to the Association to enable it to perform the services authorized herein, or

(vii) for any other reason found by the Board of Directors to be in the best interests of the Association.

Any Special Assessment must be approved by a favorable vote of two-thirds (2/3) of the votes cast by Members who are voting in person or by proxy at a meeting duly called for this purpose. The Association shall provide notice to each Lot Owner subject to the Special Assessment (i) that the Special Assessment has been levied and (ii) the date or dates upon which it shall be due and payable.

This provision shall be interpreted to mean that the Association may make in any one year an Annual Assessment up to the maximum set forth above, plus an additional Special Assessment. Such Special Assessment in any one year shall not exceed a sum equal to the amount of the Maximum Annual Assessment for such year, except for emergency or repairs required as a result of storm, fire, natural disaster to other casualty loss.

Section 5 - Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots for which Assessments are due. Correction Assessments shall be fixed on a case-by-case basis and need not be uniform.

Section 6 - Notice of Adjustment of Annual Assessment. The Board of Directors shall fix the amount of the Annual Assessment for each Lot by January 31 of each Annual Assessment period. Written notice of any adjustment in the Annual Assessment shall be sent to every Owner subject thereto. The Annual Assessments shall be due in twelve (12) equal monthly installments on the first day of each month, unless other installment due dates are established by the Board of Directors.

The Association shall, upon written request by an Owner at any time, furnish a certificate in writing signed by an Officer or billing agent of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge set by the Board of Directors may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 7 - Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessments (or periodic installments thereof) which are not paid on or before the due date shall be delinquent and shall, together with interest thereon at the maximum lawful rate from the date

the installment became due and payable and costs of collection, including a reasonable attorney's fee, become a charge and a continuing lien on the Lot against which each such Assessment is made.

If the Assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner(s) personally and there shall be added to the amount of such Assessment the cost's of collection, including a reasonable attorney's fee, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee, together with the costs of the action.

The Association may also bring a suit in equity to foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area or by abandonment of his Lot.

Section 8 - Lien for Payment of Assessments and Subordination of Lien to First and Second Mortgages. There shall be a continuing lien upon each of the Lots herein, in order to secure the payment of the Assessments (including interest, costs of collection and reasonable attorney's fees) provided under this Declaration, which lien shall be enforced and perfected in accordance with the provisions of § 55-516 of the Code of Virginia 1950, as amended, (or any redesignated section governing the subject matter thereof) as the same may be amended from time to time. A statement from the Association showing the balance due on any Assessment shall be prima facie proof of the current Assessment balance due and delinquency, if any, due on a particular Lot. The lien provided for herein shall be subordinate to that of any deed of trust recorded prior to the filing of a memorandum of lien for unpaid assessments in the Clerk's Office of the Circuit Court of Albemarle County.

Section 9 - Exempt Property. All Property except Lots as described in Section 3 of this Article shall be exempt from the Assessments, charges and liens created herein.

Section 10 - Correction Assessments. The Declarant or the Association may impose Correction Assessments upon any Lot or Owner in the manner set forth in Article IX, Section 2.

Section 11 - Annual Statements. The President, Treasurer or such other officer as may have custody of the funds of the Association shall annually prepare and execute a general itemized statement showing the actual assets and liabilities of the Association as of the close of such fiscal year and a statement of revenues, costs and expenses. Such officer shall furnish to each Member of the Association who may make a request therefor in writing a copy of such statement within a reasonable time.

Section 12 - Annual Budget. Prior to the coming fiscal year, the Board of Directors shall prepare and make available to any Member, upon written request, a budget outlining the anticipated receipts and expenses for the following fiscal year. The financial books of the Association shall be available for inspection by all Members at all reasonable times.

ARTICLE VII - FUNCTIONS OF THE ASSOCIATION

Section 1 - Ownership and Maintenance of Properties. The Association shall be authorized to own, lease and/or maintain Common Area and equipment, furnishings and improvements devoted to, but not limited to, the following uses:

- (a) Landscaped entrances, entrance easements, entrance signs, and street, section and directional signs throughout the Property;
- (b) Roadway medians and cul-de-sac islands throughout the Property;
- (c) Pedestrian Paths and sidewalks throughout the Property;
- (d) Indoor and outdoor recreational and community facilities throughout the Property;
- (e) Such Club Facilities as may be located on the Property;
- (f) Water, sewage and/or stormwater detention and drainage facilities, and any other utilities, if not adequately provided by a private utility or by the County of Albemarle;
- (g) Providing any of the services the Association is authorized to offer;
- (h) Other purposes set out in deeds by which Common Area is conveyed to the Association.

Section 2 - Minimum List of Functions and Services. The following list shall establish and define the minimum level of functions and services which the Association must furnish to its Members. So long as the Declarant is engaged in the development of the Property and the sale of the Lots, the Association shall not reduce the level of functions and services it furnishes to its Members below such minimum level without the Declarant's prior written consent. The minimum list of functions and services the Association is to provide is as follows:

- (a) Provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation and the By-Laws, including, but not limited to, legal, accounting, financial and communications services.
- (b) Administer and enforce the covenants and restrictions established in this Declaration and Supplementary Declarations, including, but not limited to the following:
 - (i) Setting, levying and collecting Assessments and notifying the Members of such Assessments;
 - (ii) Preparing accurate indices of Members;

(iii) Operating an Architectural Review Board when the responsibilities of such Board as described herein are delegated to the Association by Declarant;

(iv) Maintaining and operating all Common Area;

(v) Holding annual meetings and special meetings as required, including elections for Board of Directors as required and giving proper notice of such meetings;

(vi) Preparing Annual Statements and Annual Budgets and making financial books of the Association available for inspection by the members at reasonable times.

(c) Maintain, repair, and replace all Common Area, including storm water detention or runoff control facilities and Storm Detention Ponds not publicly owned, and in particular to undertake all duties and responsibilities of the Landowner set forth in any document entitled "Stormwater Management/BMP Facilities Maintenance Agreement."

(d) After construction of the Club Facilities by the Declarant, to maintain and operate the Club Facilities, including the establishment of rules, regulations and appropriate charges as it deems fit and proper.

(e) Maintain and operate such other recreational facilities, if any, as it deems fit and proper and make such additional charges, as it deems proper for the use of such recreational facilities.

(f) Within the Common Area provide, maintain and replace as necessary the following: Association or Declarant installed signs, entrance fencing, walkways, lighting, landscaping, trees and sprinkler systems, if any, at the entrance to Fontana and directional, section and street signs installed by the Declarant or the Association as deemed appropriate by the Board of Directors, and execute and maintain in effect such maintenance bonds as may be required by governmental agencies.

(g) Provide regular and thorough maintenance, repair, replacement and clean-up of all streets, cul-de-sac islands, sidewalk, entrance and entrance landscaping, neighborhood and subdivision signs, Pedestrian Paths, and Club Facilities.

(h) Maintain, mow, trim, repair, and replace grass, landscaping, shrubs, trees, fencing, planting, sprinkler systems, subdivision signs and other improvements located within the area designated "NEW SIGN EASEMENT" on the plat of Lot A by Roger W. Ray & Assoc. Inc. dated January 23, 1998, revised February 25, 1998 and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 1680, pages 64-65.

(i) Maintain and post any and all governmental maintenance and performance bonds as shall be required by governmental agencies in connection with Fontana and perform the obligations of Declarant under any agreement with any governmental agency in connection with

the subject for which such bond is required to be maintained, as and when such obligations shall be assigned to the Association by Declarant. Upon such assignment to the Association, if any certificate of deposit, bond, etc. posted by Declarant is assigned to the Association, the Association shall pay Declarant the then value of the certificate of deposit with accrued interest or any other refund amount to which Declarant would have been entitled had Declarant's obligation been otherwise satisfied on the date of such assignment.

(j) Maintain and annually review insurance coverages including the following: public liability insurance in a minimum amount of at least two million dollars to cover the Association, Declarant and the Owners as a group and hazard insurance coverage on all Common Area and improvements on the Common Area, including personal property owned by the Association, in an amount equal to the full replacement value of such improvements and personal property owned by the Association. All insurance policies purchased by the Association shall be for the benefit of the Association, the Declarant, the Owners and their mortgagees as their interests may appear.

(k) Provide appropriate directors and officers legal liability insurance and indemnify persons pursuant to the provisions of the Articles of Incorporation and By-Laws.

(l) When the Declarant assigns to the Association any of the rights reserved to it in this Declaration and/or any other covenants and restrictions of record or any requirements and obligations imposed by the County of Albemarle or any other governmental agency, including the enforcement thereof, the Association shall assume such responsibility and any obligations which are incident thereto.

(m) Ensure compliance with the provisions of Zoning Map Amendment 94-06 (ZMA-94-06).

(n) Establish and maintain reasonable reserves to accomplish all of the above.

Section 3 - Authorized Services. In addition to the minimum list of functions and services set forth above, the Association shall be authorized, but not required, to provide the following services:

(a) Such services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration, which may include providing parking areas, lighting, fire protection, garbage and trash collection, insect and pest control, day care and/or child care services, instructional and/or recreational programs.

(b) Pursuant to the zoning on the Property, Proffer 3 of Zoning Map Amendment 94-06 (ZMA-94-06) (the "Proffer"), Declarant is required to provide or retain at least ten trees per acre on all Lot designated areas of final plans of Fontana as approved by Albemarle County, which trees (i) shall consist of deciduous trees at least 1 1/2 inches in caliper and non-deciduous trees at least four feet in height and (ii) be distributed among all Lots. All plans involving the

removal of any deciduous tree 1 1/2 inches or more in caliper and/or any non-deciduous tree four feet or greater in height must include provision for preservation or remaining trees of qualifying caliper or height and/or replacement of trees to be removed, if such replacement shall be deemed necessary by Declarant.

(c) Administrative services including, but not limited to, legal, accounting, financial and communications services (including, but not limited to, community newsletters and newspapers) to inform Members of activities, notice of meetings and referendums and other issues and events of community interest.

ARTICLE VIII - ARCHITECTURAL CONTROL

Section 1 - Purpose. Declarant shall regulate the external design, appearance, use, location and maintenance of improvements and landscaping on the Property. Declarant has promulgated the Fontana Architectural and Landscaping Guidelines (the "Guidelines") which Declarant reserves the right to amend from time to time. The purpose of the Guidelines is to ensure that improvements are constructed on the Property and landscaping is performed on the Property in such a manner so as (i) to preserve and enhance values, (ii) to maintain a harmonious relationship among structures and the natural vegetation and topography and (iii) to preserve the general character and color, tone and architectural compatibility of the area as originally constructed.

Section 2 - Required Approval to Commence Work.

(a) No exterior improvements, alterations, repairs, painting, changes of paint or stain color, roofing, changes of roof color, excavations, changes in grade, clearing, major landscaping or other work which in any way alters any Lot from its natural or improved state on the date when said Lot was first conveyed in fee by Declarant shall be made or done upon the Property without the prior written conditional approval of the Declarant, except as otherwise provided herein. No building, fence, wall, residence or other structures or changes to any existing structures upon the Property shall be made until given prior written conditional approval of the Declarant, except as otherwise provided herein. [Note: It is not the intent of the Declarant to require approval for work simply to return the exterior of any structure on a Lot to its prior approved condition whether by re-painting or re-staining using the same prior approved color(s) or re-roofing or repairing using the prior approved material(s) and color(s).]

(b) Declarant intends to preapprove certain building plans, exterior materials and color schemes for the builders of the initial improvements on Lots sold to such builders by Declarant.

Section 3 - Procedure. None of the improvements, changes or other work described in detail in Article VIII, Section 2(a) above shall be commenced until plans and specifications therefor showing the nature, size, kind, shape, height, materials, colors and location of the same shall have been submitted to the Declarant and conditionally approved in a writing signed by Declarant after consideration of the details of the submission and the purpose of the Guidelines

as set forth herein. Declarant may set a fee for review by Declarant in conjunction with requests for conditional and final approvals. In addition to the items set forth herein, the Declarant may adopt additional procedures or standards as to the information it requires to be submitted to it with any request for approval.

Section 4 - Conditional Approval Presumption. In the event that the Declarant fails to approve, modify or disapprove in writing a request for approval required herein within 60 days after plans, specifications or other appropriate materials have been submitted in writing to it, the submitted plans and specifications shall be deemed to have been conditionally approved. The burden shall be upon the Owner to show the date of the submission and that the plans and specifications were properly submitted to the Declarant.

Section 5 - Conditional and Final Approval. Preconstruction approvals granted by the Declarant herein shall be deemed to be conditional approvals. They shall become final approvals upon the Declarant's inspection of the completed improvements, modifications or repairs, if Declarant finds the completed work to be as set forth in the plans and specifications submitted to and conditionally approved by Declarant. In the event that the actual completed modifications, improvements or repairs do not, in the judgment of the Declarant, conform to the plans and specifications approved by it, then the Declarant's conditional approval, whether given in writing or by presumption, may be withdrawn. It shall be incumbent upon the Owner to notify the Declarant in writing upon completion of the work that he requests final approval. The Declarant shall then have 10 business days to inspect and grant or refuse final approval in writing. If final approval is refused, the Owner shall make changes and resubmit until final approval is obtained.

Section 6 - Final Approval Presumption. In the event that appropriate equitable action, together with the filing of a lis pendens, has not been commenced within 180 days after the completion of any construction, improvements or alterations, it shall be conclusively presumed that such construction, improvements or alterations have received final approval by the Declarant.

Section 7 - No Approval. Should an Owner commence any work which requires Declarant's approval without Declarant's conditional approval or complete any work without seeking Declarant's final approval within 30 days of completion, the Declarant, the Association or any Member may take appropriate legal or equitable action and may cause a lis pendens to be filed against such Owner's Lot, except as set forth herein. Furthermore, the Declarant or the Association has the right (but not the obligation) to correct any violation and impose Correction Assessments as set forth in Article IX, Section 2.

Section 8 - Architectural Review Board (ARB). At such time as Declarant shall choose, Declarant may transfer its rights and obligations set forth in Sections 1 thru 7 of this Article to an Architectural Review Board (ARB). For so long as Declarant owns any Property or any real estate described on Schedule A or designated in the Master Plan to be a part of Fontana, the ARB shall consist of three persons appointed by Declarant. Such persons may, but need not, be Members of the Association. At such time as Declarant so chooses, Declarant may transfer the power to appoint members of the ARB to the Association. The Board of Directors shall then

appoint three Members to the ARB. Each appointee on the ARB shall serve at the pleasure of the person or entity which appointed them, and accordingly, ARB members may be replaced at any time for any reason whatsoever. The ARB shall act by a majority of its members conducting the review.

Declarant shall not be required to seek or obtain the consent or approval (either conditional or final) of the ARB or of the Association for any work, including, but not limited to, improvements, changes, repairs, alterations, painting, roofing, excavating, construction, grading, clearing or landscaping performed by Declarant, or his agents, contractors and subcontractors.

Declarant may transfer to the ARB the rights and obligations described hereinabove on a Section by Section or Phase by Phase basis, while preserving Declarant's rights and obligations described hereinabove with regard to all of the rest of the Property, the real property described at Schedule A and any other real property designated in the Master Plan to be a part of Fontana.

ARTICLE IX- USE RESTRICTIONS

Section 1 - Limitation on Use of Lots and Common Area. The Property, including Lots and Common Area, shall be occupied and used as follows:

(a) Residential Use. All Lots shall be used for residential purposes and customary recreational and accessory uses and purposes incidental thereto. The use of a portion of a dwelling on a Lot as a home office by the Owner or Tenant thereof shall be considered a residential use, provided that the use of the Lot does not, as determined by the Declarant in its sole discretion, create undue customer, client or delivery traffic to and from the Lot. The provisions of this paragraph shall not prohibit the Declarant or any builders permitted by the Declarant to use any house or other dwelling unit on a Lot as a model home or as a sales office for homes in Fontana. The Declarant shall also be permitted to use the Club Facilities or any portion of the Club Facilities as a sales office for homes in Fontana.

(b) Single Family Dwellings. No building, except as herein provided, shall be erected, altered, placed or permitted to remain on any of the Lots other than one building for a single family dwelling and one or two accessory buildings which may include a detached garage or guest suite without kitchen facilities. If two accessory building are permitted, one shall be for storage purposes only.

(c) Exterior Completion. The exterior of each structure must be completed within six months (and yard/landscaping must be completed within 12 months) after the commencement of construction of same, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamity. Declarant may require the funding of an escrow to insure completion of the landscaping. The failure to timely complete the exterior of any improvements or landscaping required herein may be enforced by the Declarant by means of a Correction Assessment.

(d) Nuisance. No noxious, boisterous or offensive activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Owner or a fire hazard or safety hazard to any other Owner or to any improvement. The Declarant shall have the authority to determine in writing whether any activity conducted upon any such area constitutes a nuisance upon the submission to it of a complaint in writing by any Owner regarding such activity. The Declarant shall have full authority and power to abate any nuisance found to be existing by giving the Owner written notice specifying the nature of the nuisance provided that the Owner has failed to abate said nuisance within a reasonable time after notice. Construction and land development activities of the Declarant or builders shall not be considered a nuisance.

(e) Garbage and Storage Receptacles. The Owner of each Lot shall provide a screened area in which garbage receptacles or similar storage receptacles, and other unsightly objects must be placed or stored in order to conceal them from view from the Streets and from adjacent Lots or parts of the Property. Plans for such screened area must be a part of the Architectural Control approval process.

(f) Garbage Pick-up. Garbage pick-up shall take place at such locations as are approved or designated by the Declarant. If curb-side pick-up is approved, no Owner shall place the garbage receptacles at the curb earlier than 12 hours before pick-up and shall remove the same within 12 hours after pick-up. Declarant reserves the right to designate from time to time one or more companies and/or individuals authorized to provide garbage pick-up service, and each Owner or Tenant shall (i) use only the garbage pick-up service so designated by Declarant and (ii) be responsible for contracting directly with the garbage pick-up service for such service to the Owner's or Tenant's Lot.

(g) Clothes Drying. No clothing, laundry or wash shall be aired or dried except inside the residence and/or accessory building on any Lot.

(h) Inoperable Vehicles. No inoperable vehicle shall remain on the Property for more than 48 hours. The Declarant may conclusively define what is an inoperable motor vehicle.

(i) Vehicles. Vehicles of any kind or description which do not have a current license and a valid inspection sticker shall not be kept or maintained on the Property, except in garages. The maximum number of vehicles which may be maintained or stored on any Lot (excluding those stored in garages) shall be four (4).

(j) Recreational and Other Vehicles. No mobile home, trailer, camper, bus, recreational vehicle, dune buggy, tow truck, tractor, backhoe, boat, trailer or truck over 3/4 ton rated capacity shall be placed, stored or parked on the Property, except in garages, either temporarily or permanently. Additionally, the Declarant shall have the power to regulate or prohibit the placement, storage or parking, whether temporary or permanent, within the Property of any vehicle which in the opinion of the Declarant detracts from the general aesthetic character

and harmony of Fontana by reason of: (i) the general disrepair or dilapidated state of such vehicle, (ii) the types or quantities of materials or items stored on or within such vehicle, or (iii) the unusual or tasteless exterior appearance of such vehicle. The provisions of this section shall in no way limit or proscribe the rights of Declarant and its approved home building contractors and their agents, contractors and subcontractors to park vehicles related to construction activities upon the Property.

(k) Signs. No sign of any kind (including “For Sale” signs and information boxes) shall be displayed to the public view on or from any Lot, street, the Common Area, or on or from within any structure (including in windows) located on any Lot, except (i) those signs approved in writing by the Declarant; (ii) those signs used by the Declarant, its real estate sales/marketing agents, or the Association for the following purposes: street name signs, directional signs, Club Facilities signs, Lot number signs, model signs, model home signs, subdivision and section signs, construction signs, open house signs, for sale/marketing signs (by the Declarant and/or its agents) and sold signs; (iii) those signs used for the following purposes by “Initial Builders” (builders of the initial improvements on Lots sold to such builders by Declarant) and the real estate sales/marketing agents for the Initial Builders: for sale/marketing signs, model home signs, open house signs and sold signs; (iv) those signs, if any, which shall be required by the County of Albemarle or VDOT.

(l) Temporary Structures. No structure of temporary character, mobile home, tent or trailer shall be used on any Lot or the Common Area at any time as a residence.

(m) Toys, Bicycles, Equipment. All toys, bicycles, tricycles, motorcycles, lawn and garden implements, machines, equipment and the like shall be kept and stored out of sight on any Lot from the rest of the Property from sunset to sunrise each day.

(n) Drainage. No Owner shall interfere unreasonably with the natural drainage of surface water from his Lot to the detriment of any other Lot.

(o) Antennas, Satellite Dishes. Except as otherwise required by law to be permitted, no exterior or roof antenna or satellite dish or similar device shall be attached to or installed on any Lot or on the exterior portion of any structure on any Lot.

(p) Boundary Revisions. No Lot may be subdivided or its boundary lines changed except with the prior written consent of the Declarant. The Declarant expressly reserves to itself, the right to replat any Lot owned by it and shown on any subdivision plat of the Property in order to create a modified building Lot or Lots and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site, including but not limited to, the relocation of easements, Open Space, rights of way, Pedestrian Paths and other amenities to conform to the new boundaries of said replatted Lot.

Declarant may combine two or more contiguous Lots into one larger Lot. Following the combining of two or more Lots into one larger Lot, only the exterior boundary lines of the

resulting larger Lot shall be considered in interpretation of these covenants, particularly with respect to easements and building setbacks.

(q) Firewood. No more than a cord of firewood may be stored at any time on any Lot. All woodpiles shall be in the rear of the Lot no closer than 10 feet to any structure used as a residence and shall be either uncovered or covered with tarpaulins of dark (green, black or brown) color, properly secured.

(r) Mailboxes and Newspaper Boxes. No mailbox or newspaper box shall be erected or maintained nor shall the exterior appearance of any mailbox or newspaper box be altered on or adjacent to any Lot unless the proposed mailbox or newspaper box is of a design pre-approved by the Declarant until the proposed mailbox or newspaper box design, color and location have been approved in writing signed by the Declarant. No real estate sales information box shall be permitted to be mounted on any mailbox or newspaper box.

(s) Exterior Appearance. Every Owner shall be responsible for maintaining a neat exterior appearance of his Lot and improvements thereto, including, but not limited to, reasonable maintenance of dwelling and other improvements, lawn, trees and shrubbery. In compliance herewith, each Owner shall maintain and mow the grass on his Lot so that it does not exceed six (6) inches in length. Each Owner shall maintain all decks, porches and patios in a neat and orderly fashion and shall not use them for permanent storage.

(t) Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on the Property, except that dogs, cats or other domesticated household pets (collectively "Household Pets") may be kept on Lots, subject to rules and regulations adopted by the Association. No Household Pet except cats shall be permitted off the Lot occupied by such Household Pet's Owner except on a leash. Owners of Household Pets shall promptly clean up and properly dispose of said pet's feces wherever deposited on the Property. No pit bull dogs or dogs having a predominant percentage of pit bull breed in them shall be permitted upon any Lot or Common Area.

(u) Fences. No fence may be erected upon any Lot in the front yard. If approved by the ARB, fences may be erected in the side and/or back yards of Lots, provided that no fence shall extend closer to a Street than the front corners of the dwelling on the Lot. The "front" shall be that side of the dwelling on a Lot facing, or most nearly facing, a Street. Should a question arise about the location of the front, side or rear yard, it shall be conclusively determined by the Declarant.

(v) Trees. Any dead or diseased tree on any Lot may be cut down or removed without Declarant's permission; provided, however, that if any such tree removal would cause the number of trees per acre for the Lot designated area shown on the recorded subdivision plat of any Phase of Fontana to be less than ten, the Owner cutting down or removing such tree shall immediately plant on his or her Lot either a deciduous tree 1 1/2 inches or more in caliper or a non-deciduous tree four feet or taller in height once the dead or diseased tree is cut down or removed. No living

deciduous tree 1 1/2 inches or more in caliper nor any living non-deciduous tree four feet or taller in height upon any Lot may be cut down or removed after the conveyance of the Lot from the Declarant without prior written permission signed by the Declarant. A landscape plan shall be submitted with the plans and specifications for cutting, such plan to show existing trees and shrubs and to clearly indicate those to be removed. Regardless of size, trees planted by Declarant or the agents, contractors or subcontractors of Declarant in any buffer area, Common Area, or landscape easement may not be cut down or removed without Declarant's prior written permission.

Section 2 - Correction Assessments and Remedies. In the event that any Owner shall violate or fail to comply with the Architectural Control provisions set forth in Article VIII or violate or fail to comply with any one or more of the Use Restrictions set forth in Section 1 of this Article IX (herein the "Violation"), such Owner shall be liable for Correction Assessments provided that such Owner shall have been sent prior written notification by the Declarant or Association or their agents, employees, or attorneys (hand delivered or sent by registered or certified mail to the Owner at the Lot address or the Owner's last known address on file with the Association) of such Violation. In the event such Violation is not stopped, halted or corrected within the time set forth in such written notification, then, without further notice, the Declarant or Association (or their agents, contractors or employees) are hereby irrevocably granted permission to come upon the Lot of said Owner and may cause such Violation to be fully or partially stopped, halted or corrected, without liability for so doing, and may cause any and all costs incurred (including interest and attorneys' fees) in connection therewith to be charged as a Correction Assessment to such Owner. The Declarant or the Association has the right (but not the obligation) to correct the Violation or in its discretion to partially correct such Violation. Correction Assessments may be collected as other Assessments in any of the manners specified in Article VI hereof, including suit at law or in equity. The remedy herein provided shall be in addition to any other remedy provided or allowed by law or in equity and shall not be deemed an exclusive remedy. Election of one remedy shall not act as a bar to the subsequent or concurrent use of other available remedies.

ARTICLE X - GENERAL PROVISIONS

Section I - Enforcement. The Declarant and Association shall have the right to enforce, by any proceeding at law or in equity, all easements, covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or Supplementary Declaration and may seek damages for violations of such provisions. Before seeking injunctive relief against any Owner, the Owner shall be given the opportunity for a hearing before Declarant or the Board of Directors. Fourteen (14) days prior written notice in accordance with Section 3 hereof of a hearing shall be given to the Owner by hand delivery or certified mail return receipt requested. An Owner may also seek to enforce any of these covenants and restrictions against another Owner. The enforcing Owner must also give notice and the opportunity for a hearing before the Declarant or Board as aforesaid. Failure by the Declarant, the Association or by any Owner to enforce any easement, covenant, condition,

restriction, reservation, lien or charge herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2 - Entry for Repair. The Declarant or the Association or the agents of either may enter any Lot or Property and take such actions (including but not limited to actions to repair, improve, clean, preserve, clear, remove or correct a breach of this Declaration) as deemed advisable with regard to any Lot and exterior improvements thereon in connection with any use restriction or maintenance required by this Declaration. Any such entry shall not be deemed a trespass.

Section 3 - Notices. Unless otherwise specifically provided, any notice required by this Declaration to be sent by the Declarant, Board of Directors or the Association to any Owner or Member shall be deemed given if either hand delivered or mailed by first class mail to the Lot address or to the last known address on file with the Association of such Owner or Member, if different from the Lot address. The date of hand delivery or the date of mailing shall be deemed to be the date notice was given. Unless otherwise specified, a notice shall be given no more than thirty (30) nor no less than ten (10) days prior to the event noticed. Notice to any one of two or more joint Owners or Members whose membership derives from one Lot shall be deemed to constitute notice to all. It shall be the obligation of each Owner and Member to notify the Association in writing of any change of address.

Section 4 - Fees and Costs. The Association, in seeking enforcement of the provisions of this Declaration or damages due to violation thereof, shall be awarded court costs and reasonable attorney's fees, if it substantially prevails.

Section 5 - Severability. Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 6 - Interpretation. The provisions of this Declaration shall be given that interpretation or construction that will best tend toward the consummation of the Master Plan for development at Fontana.

Section 7 - Waiver of Restrictions. Declarant reserves for himself, his Successors and assigns the right to waive in whole or in part any and all of the covenants, conditions, restrictions and reservations contained in the Declaration and/or, to the extent permitted by law, shown on the Plat or any plat attached to any Supplementary Declaration hereafter recorded, as the same may apply to any Lot.

Section 8 - Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Declarant, the Association, including the Board of Directors, and/or the ARB, the Declarant, the Declarant's agents, the Association, including the Board of Directors, and/or the ARB shall not be liable to any Owner, Member or other person on account of any claim, damage or expense suffered or incurred by or threatened

against an Owner, Member or such other person arising out of or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals whether given, granted, withheld or denied.

Section 9 - Gender and Number. Where appropriate to the context, language expressed in (i) one gender shall include the other genders, and (ii) the singular shall include the plural and vice versa.

Section 10 - Amendment. The covenants, conditions, restrictions and reservations of this Declaration may be modified or amended by (i) an instrument signed by Declarant and any other Members together constituting more than three-fourths (3/4) of the total number of votes of Members, or (ii) an instrument signed by the President and Secretary of the Association after being approved by more than two-thirds (2/3) of the votes cast by Members who are voting in person or by proxy at a meeting duly called and noticed for this purpose. Any modification or amendment must be properly recorded, stating the modification or amendment, the effective date and relevant information (date, notice, quorum, number of votes for and against) about the meeting at which it was approved. So long as Declarant is a Class B member no amendment of the Declaration shall be made without the written consent of Declarant.

Section 11 - Duration. The covenants, conditions, restrictions and reservations of this Declaration, including any modifications or amendments thereto, shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years unless rescinded by the vote of more than two-thirds (2/3) of the votes cast by Members who are voting in person or by proxy at a meeting duly called and noticed for such purpose, which meeting shall require a quorum of at least thirty percent (30%) of the total votes entitled to be cast.

Section 12 - Non-Waiver. The failure of the Declarant, the Association and/or any Owner to enforce any rights, reservations, restrictions, easements or conditions contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or bar of such right to enforcement. The remedies granted hereunder are cumulative, and the exercise of any one or more shall not be deemed an election of remedies or waiver of the right to pursue other remedies.

WITNESS the following signature and seal of the Declarant.

[signed by A.M. Nichols, Trustee]

_____(SEAL)

A.M. Nichols, Trustee for the Fontana
Land Trust under agreement dated
September 18, 1997

STATE OF VIRGINIA

CITY/COUNTY OF CHARLOTTESVILLE; to-wit:

The foregoing instrument was acknowledged before me this 19 day of June, 1998, by
A. M. Nichols, Trustee for the Fontana Land Trust under agreement dated September 18, 1997.

My commission expires: 6/30/2001

[signed by Elizabeth B. Payne]

Notary Public

C:\LAMFONTANA\DECLARAT
June 19, 1998 (2:47 pm)

SCHEDULE A

All that certain tract or parcel of land situated in Albemarle County, Virginia, on the north side of U. S. Route 250, east of Charlottesville, containing 117.702 acres, more or less, being the residue of a parcel originally containing 119.310 acres, more or less, shown and described as Parcel X, on Sheet 2 of 2 on a plat of B. Aubrey Huffman & Associates, Ltd., dated January 9, 1998, captioned "Plat Showing Revised Parcels "X" & "Y" Being Portions of Parcel 57 as Shown on Sheet 78 County Tax Maps, Albemarle County, Virginia", of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1678, page 239 (the "Plat"), less and except therefrom Lot A containing 1.608 acres, as shown and described on a plat thereof prepared by Roger W. Ray & Assoc., Inc., dated January 23, 1998, revised February 25, 1998, captioned "Subdivision Plat Lot A, A Portion of Hurt Investment Company Property Also New Variable Width Access Easement, New Sign Easement and New Waterline & Appurt. Easement Located on State Route 20, Near Charlottesville Rivanna District Albemarle County, Virginia," and being the same property conveyed to A. M. Nichols, as Trustee for the Fontana Land Trust, pursuant to the terms of a certain Land Trust Agreement dated September 18, 1997, by deed of Hurt Investment Company, a Virginia corporation, dated February 25, 1998, recorded in the Clerk's Office aforesaid in Deed Book 1680, page 67.