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MADISON COUNTY
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DANIEL R. DONOHOO
RECORDER

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ORDINANCE 2003- 23

AN ORDINANCE APPROVING
A SPECIAL USE IN A
"RM P.D.P." (RESIDENTIAL MULTIPLE FAMILY)
ZONING CLASSIFICATION OF
CERTAIN TERRITORY
(Robert C. Herr, Joseph Militello, Daniel L. Hurford, and James Poe)

81.00 CL # 2975

1.00 cash

WHEREAS, Robert C. Herr, Joseph Militello, Daniel L. Hurford, and James Poe petitioned the Village of Glen Carbon to permit a Special Use of certain territory legally described on the attached **Exhibit "A"**, which said Exhibit is incorporated herein by reference and made an integral part hereof; and

WHEREAS, the above referenced property was previously zoned "RM"
(Residential Multiple Family); and

WHEREAS, the Petitioners Robert C. Herr, Joseph Militello, Daniel L. Hurford and James Poe have requested a Special Use Permit for said property, which is zoned "RM" (Residential Multiple Family) with a Planned Development Procedure (PDP) overlay zone, for the development of a resubdivision of the Fountains of Sunset, and

WHEREAS, public notice has been given and a public hearing has been conducted concerning the request for a Special Use Permit for the subject property, and

WHEREAS, the Planning/Zoning Commission has recommended and does now recommend on application of Robert C. Herr, Joseph Militello, Daniel L. Hurford, and James Poe that said Special Use application be granted, and

WHEREAS, the Village of Glen Carbon on recommendation of the Glen Carbon Planning/Zoning Commission has and does hereby approve the request for a Special Use Permit on the above referenced property, subject however, to the conditions set forth in the attached "Conditions For Development", which is marked **Exhibit "B"**, incorporated herein by reference and made an integral part hereof,

WHEREAS, the Village of Glen Carbon has approved the Covenants and Restrictions for the Fountains of Sunset development, which said Covenants and Restrictions are attached hereto, marked **Exhibit "C"**, incorporated herein by reference and made an integral part hereof;

NOW THEREFORE be it ordained by the President and Board of Trustees of the Village of Glen Carbon, Madison County, Illinois as follows:

SECTION 1: That the territory legally described in the attached legal description, marked Exhibit "A", be and same is approved for the Special Use Permit for Fountains of Sunset zoned "RM" (Residential Multiple Family); with a Planned Development Procedure (PDP) overlay zone for the development of a resubdivision of the Fountains of Sunset subject to the conditions set forth in the attached "Conditions For Development", which is marked Exhibit "B", incorporated herein by reference and made an integral part hereof.

SECTION 2: That the Covenants and Restrictions which are attached hereto, marked Exhibit "C", and incorporated herein by reference are specifically approved by the Village Board of Trustees, hereof.

SECTION 3: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed and Approved this 24TH day of June, 2003.

AYES: Joe Parente, Ron Slemmer, David Brämmeier, Pat Conreux, Jeff Wehling and Margaret Moggio
 NAYS: None
 ABSTAIN: None
 ABSENT: None

Attest: Peggy M. Hardy
 Village Clerk

B. M. M. M. M.
 President

Prepared by Village of Glen Carbon
 Return to 151 W. Main St.
 Glen Carbon, IL 62034

"EXHIBIT A"

Part of the Northwest Quarter of Section 28, Township 4 North, Range 8 West of the Third Principal Meridian, Village of Glen Carbon, Madison County, Illinois, being more particularly described as follows:

Commencing at the Southeast corner of Country Maples Subdivision as recorded in Plat Cabinet 52, Page 198 of the records of the Madison County, Illinois Recorder's Office; thence North 00 Degrees 17 Minutes 51 Seconds West along the East line of said Country Maples, a distance of 401.88 feet to the Southwest corner of Country Maples 1st Addition as recorded in Plat Cabinet 56, Page 61 in said Recorder's Office; thence North 88 Degrees 19 Minutes 38 Seconds East along the South line of said Country Maples 1st Addition, a distance of 619.43 feet to the Western most line of Lot 41 in Glen Hills 1st Addition, as recorded in Plat Cabinet 56, Page 79 in said Recorder's Office; thence South 00 Degrees 11 Minutes 22 Seconds East along the West line of said Lot 41 and the West line of the Seventh and Eighth Addition of Meridian Hills, as recorded in Plat Cabinet 54, Page 115 and Plat Cabinet 60, Page 137, respectively, in said Recorder's Office, a distance of 936.00 feet; thence South 63 Degrees 11 Minutes 44 Seconds West, a distance of 537.67 feet; thence South 88 Degrees 15 Minutes 45 Seconds West, a distance of 41.22 feet; thence North 53 Degrees 58 Minutes 56 Seconds West, a distance of 355.06 feet; thence North 46 Degrees 01 Minute 14 Seconds West, a distance of 98.11 feet to the beginning of a 100.00 foot radius non-tangent curve to the right whose center bears North 29 Degrees 44 Minutes 50 Seconds East; thence Westerly along said curve through a central angle of 08 Degrees 33 Minutes 06 Seconds, an arc distance of 14.93 feet to the beginning of a 523.00 foot radius tangent curve to the right; thence Westerly along said curve through a central angle of 34 Degrees 43 Minutes 03 Seconds, an arc distance of 316.90 feet; thence North 76 Degrees 28 Minutes 41 Seconds West, a distance of 49.03 feet to the beginning of a 230.00 foot radius tangent curve to the right; thence Westerly along said curve through a central angle of 35 Degrees 34 Minutes 03 Seconds, an arc distance of 142.78 feet to the beginning of a 300.00 foot radius tangent curve to the left; thence Westerly along said curve through a central angle of 09 Degrees 04 Minutes 07 Seconds, an arc distance of 47.48 feet to the beginning of a 300.00 foot radius tangent curve to the right; thence Westerly along said curve through a central angle of 09 Degrees 04 Minutes 07 Seconds, an arc distance of 47.48 feet; thence North 40 Degrees 54 Minutes 38 seconds West, a distance of 24.51 feet to the beginning of a 30 foot radius non-tangent curve to the left whose center bears South 82 Degrees 53 Minutes 52 Seconds East; thence Southerly, along said curve through a central angle of 06 Degrees 13 Minutes 32 Seconds, an arc length of 3.26 feet; thence South 00 Degrees 52 Minutes 36 Seconds West, a distance of 19.06 feet; thence North 40 Degrees 54 Minutes 38 Seconds West, a distance of 70.34 feet; thence South 85 Degrees 42 Minutes 36 Seconds West, a distance of 50.20 feet to a point on the Southeasterly right-of-way line of Illinois Route 157; thence North 49 Degrees 05 Minutes 22 Seconds East along said Southeasterly right-of-way line of Illinois Route 157, a distance of 287.22 feet to the beginning of a 1573.78 foot radius tangent curve to the left; thence Northeasterly

along said curve and right-of-way line through a central angle of 06 Degrees 59 Minutes 51 Seconds, an arc distance of 192.21 feet to a point on the South line of said Country Maples; thence South 89 Degrees 09 Minutes 07 Seconds East, a distance of 576.84 feet to the Point of Beginning, containing 24.64 acres, more or less.

Except coal, gas and other mineral rights excepted or reserved in prior conveyances.

EXCEPTING THEREFROM:

Part of the North Half of Section 28, Township 4 North, Range 8 West of the Third Principal Meridian, Village of Glen Carbon, Madison County, Illinois, being more particularly described as follows:

Commencing at the Southeast corner of Lot 3 of Country Maples Subdivision as recorded in Plat Cabinet 52, page 198 of the Madison County, Illinois Recorder's Office; thence North 89 Degrees 09 Minutes 07 Seconds West, along the South line of said Country Maples Subdivision, a distance of 360.24 feet to the Northwest corner of The Fountains of Sunset, a subdivision as recorded in Plat Cabinet 62, Page 114 in said Recorder's Office, said point being the point of beginning of the tract of land hereinafter described, thence South 01 Degrees 18 Minutes 16 Seconds West, along the West line of said The Fountains of Sunset, a distance of 464.95 feet to a point on the Northerly line of Fountains Drive (variable width) as shown on the said The Fountains of Sunset, said point being the beginning of a 521.50 foot radius non tangent curve to the right whose center bears North 08 Degrees 46 Minutes 04 Seconds West; thence Westerly along said curve and Northerly line of Fountains Drive, through a central angle of 22 Degrees 17 Minutes 23 Seconds, for an arc distance of 202.88 feet; thence North 76 Degrees 28 Minutes 41 Seconds West, along said Northerly line of Fountains Drive, a distance of 46.25 feet to the beginning of 170.00 foot radius tangent curve to the right; thence Northwesterly, along said curve and Northerly line of Fountains Drive, through a central angle of 53 Degrees 15 Minutes 45 Seconds, for an arc distance of 159.52 feet to the beginning of a 170.00 foot radius tangent curve to the left; thence Northwesterly, along said curve and Northerly line of Fountains Drive, through a central angle of 18 Degrees 11 Minutes 42 Seconds, for an arc distance of 53.99 feet; thence North 40 Degrees 54 Minutes 38 Seconds West, along said Northerly line of Fountains Drive, a distance of 56.69 feet to the beginning of a 40.00 foot radius tangent curve to the right; thence Northerly, along said curve and Easterly line of Fountains Drive, through a central angle of 90 Degrees 00 Minutes 00 Seconds, for an arc distance of 62.83 feet to a point on the Southeasterly right-of-way line of Illinois Route 157; thence North 49 Degrees 05 Minutes 22 Seconds East, along said Southeasterly right-of-way line of Illinois Route 157, a distance of 113.19 feet to the beginning of 1573.78 foot radius tangent curve to the left; thence Northeasterly, along said curve and Southeasterly right-of-way line of Illinois Route 157, through a central angle of 06 Degrees 47 Minutes 15 Seconds, for an arc distance of 186.44 feet to a point on the South line of said Country Maples Subdivision; thence South 89 Degrees 09 Minutes 07 Seconds East, along South line

of said Country Maples Subdivision, a distance of 216.61 feet to the Point of Beginning, containing 3.71 acres, more or less.

(WITH PRIVILEGES OF AND SUBJECT TO ALL RESTRICTIONS, RESERVATIONS, RIGHT-OF-WAY GRANTS, COVENANTS, EXCEPTIONS, EASEMENTS, AND AGREEMENTS, ETC., OF RECORD.)

Permanent Parcel No. 14-1-15-28-00-000-003 (Part)

Permanent Parcel No. 14-1-15-28-00-000-003.001 (Part)

Permanent Parcel No. _____

EXHIBIT "B"

CONDITIONS OF DEVELOPMENT

Number of Proposed Dwelling Units: **58**
 Number of Proposed Structures: **56**
 Number of Existing Dwelling Units: **7**
 Number of Existing Structures: **5**
 Number of Proposed Dwelling Units Per Structure: **1/Structure**
 Number of Existing Dwelling Units Per Structure: **1.4/Structure**
 Acreage Devoted to Each Type of Proposed Use: **Duplexes 0.90AC/SFR 13.71AC**
 Acreage Devoted to Each Type of Existing Use: **Duplexes 11.13AC/SFR 6.16AC**
 Number of Proposed Off-Street Parking Spaces: **260**
 Number of Existing Off-Street Parking Spaces: **267**

The Fountains of Sunset is an existing subdivision proposed and approved under the Planned Development Procedure with underlying zoning of multi-family residential. This development consists of two (2) triplex units, (six (6) dwelling units), fifteen (15) duplex units (thirty (30) dwelling units) and twenty-four (24) single family units. Each dwelling occupies a "lot" which is slightly larger than the building footprint. The remaining area is a "commons" area owned and maintained by the owner's association. Within this "commons" area are two (2) lakes with adequate "free-board" to allow for storm water detention. Also, a dedicated green space as required by Village Ordinance is provided.

To meet market demand, the owner wishes to make a major change to the Site Development Plan. These changes consist of eliminating the small "lot" or footprint and instead have a "typical" subdivision lot without the large "commons" area. The "commons" area occupied by the lakes/detention facility and the "green space" will remain in tact. The "lots" shown on the Amended Area Plan preserve the building sites/lots contained in the existing development. They vary in width from 57.3' to 100.6' when measured along the street right-of-way. The lot areas vary from 6,170 square feet to 24,929 square feet. As in the original project, the value of the dwelling units will be \$300,000.00 plus.

Backyard walkways are being eliminated from the project. Sidewalks, however, will be provided along each side of the subdivision streets. It was also found that most potential homeowners would be using the Country Club Swimming Pool and were not interested in having an on-site swimming pool. In response, this has been eliminated from the project.

The essence of the existing project will be preserved in the proposed project. Sidewalks and minimal traffic volume will perpetuate the "neighborhood" feeling of the project. The individual (conventional) lots will allow greater freedom for property owners to landscape and enhance the quality of their home and yard. To the casual observer, the site will remain unchanged. Property ownership will be the major change.

The following additional comments are required as conditions of development as determined by the Planning and Zoning Commission recommendation dated June 3, 2003:

1. That the covenants and restrictions be specified as a document or exhibit on the resubdivision plat.
2. That a drainage pipe be investigated by the Public Works Department to correct a drainage problem as specified in a letter from William and Mary Lovata dated, June 4, 2003.
3. That the amended section plan for the PDP be prepared and submitted in the same fashion as a final plat.

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**FIRST AMENDMENT, BEING A RESTATEMENT
OF THE
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE FOUNTAINS OF SUNSET**

The Subdivision plat of The Fountains of Sunset is recorded in the Office of the Madison County, Illinois, Recorder of Deeds in Plat Book Volume PC 62, page 114, is designated as The Fountains of Sunset.

THE FOUNTAINS OF SUNSET LLC, an Illinois Limited Liability Company, as the "Declarant" on March 19, 2001, promulgated its Declaration of Residential Covenants, Conditions and Restrictions, dated February 21, 2001, said Declaration being recorded as Document 2001R11272 in Book 4421, Page 1601, in the Office of the Recorder of Deeds, Madison County, Illinois.

Section 22.1, "Amendment" of the Declaration states as follows:

"Section 22.2. Amendment. Except as provided in paragraph 5.1.5, this Declaration may be amended upon the written consent of at least two-thirds (2/3) of the Members. Amendments to this Declaration shall become effective upon recordation in the Madison County Office of the Recorder of deeds, unless a later effective date is specified in the recorded Amendment. This provision is subject to the provisions of Article V of the Declaration encompassing rights of Declarant. Major amendments to these Covenants and Restrictions shall be subject to approval by the Village of Glen Carbon Board of Trustees."

Section 5.1.5, "Amendment" of the Declaration states as follows:

"Section 5.1.5. Amendment. Declarant reserves the right to amend this Declaration by modification, addition, or deletion of any provisions hereof for a period extending from the date of recording of this Declaration to the earlier of the sale and conveyance of all lots in the Property or conveyance by Declarant to the Association of all common ground(s) to be conveyed to it. Major amendments to these Covenants and Restrictions shall be subject to approval by the Village of Glen Carbon Board of Trustees."

Neither have all the lots been sold in the Property nor has all the common grounds been conveyed to the Association.

The Declarant wishes to amend the Declaration by restating it in its entirety, and such amendment/restatement requires the approval of the Village of Glen Carbon Board of Trustees.

NOW, THEREFORE, the Declarant, The Fountains of Sunset LLC, hereby amends the Declaration of Residential Covenants, Conditions and Restrictions for The Fountains of Sunset, by restating the Declaration of Residential Covenants, Conditions and Restrictions for The Fountains of Sunset in its entirety, as follows:

THIS FIRST AMENDMENT, BEING A RESTATEMENT OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE FOUNTAINS OF SUNSET is made as of the _____ day of _____, 2003, by THE FOUNTAINS OF SUNSET LLC, an Illinois limited liability company.

WITNESSETH THAT:

WHEREAS, Declarant is the owner of certain real property in Madison County, Illinois, and desires to create thereon a planned unit development community to be known as "The Fountains of Sunset" with open spaces, walkways and the common facilities for the benefit of said community; and

WHEREAS, the subdivision plat of The Fountains of Sunset has been recorded in the Office of the Madison County, Illinois, Recorder of Deeds in Plat Book Volume PC 62, Page 114, and is designated as The Fountains of Sunset; and

WHEREAS, Declarant desires to ensure the attractiveness of the development and to preserve, protect and enhance the values and amenities of said property by the adoption of a sound urban environmental plan and set of covenants, conditions and restrictions to govern said property, and to provide for the maintenance of the Common Ground(s); and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which the Common Ground(s) should be conveyed, and which should have the powers of maintaining and administering the Common Ground(s) and administering and enforcing the covenants, conditions and restrictions hereinafter set forth and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Illinois, The Fountains of Sunset Homeowners Association, an Illinois not-for-profit corporation, for the purpose of exercising the functions aforesaid, and The Fountains of Sunset Homeowners Association joins in the execution of this Declaration and its execution of this Declaration is intended to indicate its consent; and

WHEREAS, there have been and will be designated, established and recited on a recorded plat or by other appropriate recorded instruments of the Subdivision, easements which are for the exclusive use and benefit of the Owners of the Lots shown and to be shown on the Subdivision Plat, and some of these easements may now or may hereafter be dedicated to public bodies and agencies; and

WHEREAS, it is the purpose of this Declaration to provide a plan for maintaining the Common Ground(s); and to provide certain architectural and design controls of structures; and certain use restrictions, all for the benefit of the Owners, their heirs, successors, and assigns and the subsequent Owners, being principally the purchasers of Lots in the Subdivision, so that the Subdivision will have desirable features; and

WHEREAS, the Declarant now creates and establishes the following Declaration of Covenants, Conditions and Restrictions for The Fountains of Sunset, which is to be binding on the land of the Subdivision as it may exist at the time of the recording of this Declaration and as the Subdivision may be later augmented by future recorded plats; and

WHEREAS, Declarant hereby declares that all of the Lots described as The Fountains of Sunset shall be held, sold and conveyed subject to the covenants, conditions and restrictions stated below, all to which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, conditions and restrictions shall run with the Property, and shall be binding on all parties, their heirs, successors, and assigns, regardless of what title or interest they may have in the Property or any part of the Property, and shall inure to the benefit of each Owner; and

WHEREAS, the Village of Glen Carbon has required the Declarant to amend the Declaration to insert an article captioned "Home Construction Standards," and such article has been inserted as ARTICLE 21; existing ARTICLES 21 and 22 have been renumbered as ARTICLES 22 and 23, respectively. The provisions of ARTICLE 21 of this Amendment/Restatement shall take precedence over any contrary provisions of this Declaration; as amended; and

WHEREAS, Section 5.1.5 is being amended herein to provide as follows:

"Section 5.1.5. Amendment. Declarant reserves the right to amend this Declaration by modification, addition, or deletion of any provisions hereof for a period extending from the date of recording of this Declaration to the earlier of the sale and conveyance of all lots in the Property or conveyance by Declarant to the Association of all common ground(s) to be conveyed to it. This Declaration may not be amended or modified at any time without presenting the issue to the Planning and Zoning Commission of the Village of Glen Carbon, or its successors, and receiving the approval of the Board of Trustees of the Village of Glen Carbon. After the original Declaration (and thereafter any rescissions or amendments thereto) have been recorded with the Office of Recorder, Madison County, Illinois, the Developer or Homeowner's Association, as the case may be, shall provide a properly recorded copy of same to the Village of Glen Carbon."

And, WHEREAS, Section 23.2 (formerly 22.2) has been amended herein to be in conformity with Section 5.1.5.

WHEREAS, this Amendment/Restatement is an amendment of the existing Declaration and shall be effective, as provided in this amendment, upon its approval by the Board of Trustees of the Village of Glen Carbon.

NOW, THEREFORE, the Declarant declares that the property described as The Fountains of Sunset and such additions thereto as may hereafter be made pursuant to these covenants, conditions and restrictions is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE 1 **DEFINITION OF TERMS**

Section 1.1. Definitions. The following words when used in this Declaration, unless the context shall clearly indicate a different meaning, shall have the following meanings:

Section 1.1.1. "The Fountains of Sunset" shall mean and refer to the subdivision.

Section 1.1.2. "Architectural Control Committee" shall mean the committee responsible for architectural and environmental compliance and restrictions for the Property as described in ARTICLE XIII of this Declaration. Architectural Control Committee shall apply either to the aforesaid Committee or the Board of Directors, whichever is acting as same at the time.

Section 1.1.3. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association.

Section 1.1.4. "Association" shall mean and refer to The Fountains of Sunset Homeowners Association, an Illinois not-for-profit corporation, and its successors and assigns, which was created by the Declarant.

Section 1.1.5. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.1.6. "Boarder" shall mean a person who is not a member of the immediate family of the Lot Owner or principal occupant of a dwelling (with the exception of parents or foreign exchange students) but who resides therein and pays rent or remuneration in kind to the Lot Owner or principal occupant.

Section 1.1.7. "By-laws" shall mean and refer to the by-laws of the Association.

Section 1.1.8. "Common Ground(s)" shall mean and refer to those areas of land, common walking trails, retention basins and ponds, certain storm sewers, lakes, entrance monument, landscaping, plantings, lawn care and other common facilities, owned by the Association and intended to be devoted to the common and non-exclusive use and enjoyment of the Members of the Association.

Section 1.1.9. "Declarant" means The Fountains of Sunset LLC, an Illinois limited liability company and its successors and assigns.

Section 1.1.10. "Declaration" shall mean and refer to this Declaration of Residential Covenants, Conditions and Restrictions for The Fountains of Sunset.

Section 1.1.11. "Easement Property" shall mean that certain property designated as easements on the Subdivision Plat.

Section 1.1.12. "Living Unit" shall mean and refer to any portion of a building on the Property designed and intended for independent residential use.

Section 1.1.13. "Lot" shall mean and refer to any plot of land shown on any final recorded subdivision plat of the Property with the exception of Common Ground(s) as herein defined.

Section 1.1.14. "Member" or "Members" shall mean and refer to all those Owners who are Members of the Association as defined in Article IV Section 4.1 of this Declaration. For the purpose of this Declaration, the word "Member" shall include any beneficiary of a trust holding legal title to one or more Lots.

Section 1.1.15. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property but shall not mean or refer to the holder of a security interest in any Lot unless and until such security interest holder has acquired title pursuant to foreclosure or any lawful proceeding in lieu of foreclosure.

Section 1.1.16. "Property" shall mean and refer to all real property described in the Subdivision, and a legal description of which real property is attached hereto and incorporated herein as Exhibit A. Property shall also include such additions to the real property of the Subdivision as may later be annexed thereto in accordance with the provisions of this Declaration. When such additions are made in accordance with the provisions of this Declaration, Exhibit A shall be deemed to include the

legal descriptions of such additional real property without the requirement of recording the additional legal descriptions to amend Exhibit A.

Section 1.1.17. "Rules and Regulations" are those rules and regulations established by the Association through its Board of Directors that may from time to time be adopted regarding the use and occupancy of the Lots and the activities of occupants of the Living Units and further described in Article III Section 3.2 of this Declaration.

Section 1.1.18. "Subdivision" shall mean and refer to the subdivision known as The Fountains of Sunset as shown on the Subdivision Plat.

Section 1.1.19. "Subdivision Plat" shall mean and refer to the subdivision plat of The Fountains of Sunset, recorded in the Office of the Madison County, Illinois Recorder of Deeds in Plat Book Volume PC 62, Page 114.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION:

EXISTING AND ADDITIONS

Section 2.1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Madison County, Illinois, and is more particularly described on the Subdivision Plat referencing this Declaration.

Section 2.2. Additions to Existing Property. The Declarant, in its sole discretion, may from time-to-time add to the Property subject to these covenants, conditions and restrictions such land as is now owned or hereafter owned or approved for addition by the Declarant. Declarant, however, shall be under no obligation to add to the Property if it determines, in its sole judgment, that said addition is not in the best interests of the Property.

Section 2.2.1. The additions authorized under this Article II of this Declaration shall be made by executing and filing of record in Madison County, Illinois, an instrument or plat executed by Declarant which shall extend this Declaration to such additional properties. Said instrument may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties that is not inconsistent with the scheme and intent of this Declaration, and may limit the availability of the Common Ground(s), or portions thereof, including the prohibition of use thereof, to such added properties, subject to the limitation of applicable zoning and subdivision ordinances.

Section 2.3. Change in Subdivision Plat. Declarant may be required to resubdivide the Property in order to achieve the overall plan for The Fountains of Sunset

as described in this Declaration or to effect other aspects of the development of the Subdivision. Declarant shall have no liability to the Association, the Owners or any other party of interest as a result of such changes in the Property, it being understood by all parties that such resubdivision may be necessary in order to carry out the plan for The Fountains of Sunset as described in this Declaration.

ARTICLE III **PERSONS SUBJECT TO DECLARATION AND TO RULES AND REGULATIONS**

Section 3.1. Declaration. All Lot Owners, tenants, trustees, trust beneficiaries, deed of trust beneficiaries, mortgagees, guests, and occupants of Lots or Living Units shall comply with this Declaration. The acceptance of a deed, the exercise of any indicia of ownership, the entering into a lease, the acceptance of a mortgage or deed of trust, or the entering into occupancy of a Lot or Living Unit constitutes the agreement that the provisions of this Declaration are accepted and ratified by such Lot Owner, tenant, trustee, trust beneficiary, deed of trust beneficiary, mortgagee, guest of occupant. All the provisions of this Declaration are covenants running with the land and shall bind any persons having an interest or estate in such Lot or Living Unit at any time.

Section 3.2. Adoption of Rules and Regulations. The Association through its authorized Board of Directors may from time to time adopt Rules and Regulations regarding the use and occupancy of the Lots and the activities of occupants of the Living Units. All Lot Owners, tenants, trustees, trust beneficiaries, deed of trust beneficiaries, mortgagees, guests, and occupants shall comply with the Rules and Regulations as promulgated by the Association whether or not said Rules and Regulations have been recorded in the Office of the Madison County, Illinois, Recorder of Deeds.

ARTICLE IV **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 4.1. Membership. The Declarant and every person or entity who is a record Owner of a fee simple interest or undivided fee simple interest in any Lot which is subject to this Declaration shall automatically be a Member of the Association. The rights of a Member shall be exercisable appurtenant to and in conjunction with a Member's ownership of a Lot. For each Lot owned, whether vacant or improved, the Owner thereof shall be entitled to one (1) membership, and shall be considered one (1) Member. Membership as a Member shall confer certain rights and privileges as described herein, provided that any person or entity who holds an interest merely as security for the performance of an obligation shall not be a Member. Each purchaser of any Lot shall be a Member of the Association whether or not it shall be so expressed in any deed or other conveyance. Ownership of such Lot shall be the sole qualification for membership as a Member.

Section 4.2. Transfer. The membership of a Member held by any Owner of a Lot shall not be transferred, or pledged in any way, except upon the sale of such Lot, and then only to the purchaser of such Lot, and further, excepting death where the ownership may be transferred by will, trust, or operation of law. Any attempt to make a prohibited transfer is void, and will not be reflected in the books and records of the Association. Any conveyance or change of ownership of any Lot shall convey with it membership as Member in the Association, and no membership as Member in the Association shall be conveyed by a Lot Owner except in conjunction with the sale of a Lot or as stated by reason of death where the ownership is transferred by will, trust, or operation of law. The sale or permissible conveyance of any Lot shall carry with it all the characteristics of membership as Member in the Association although such membership as Member is not expressly mentioned in the deed; provided, however, no right or power conferred upon the Association shall be abrogated.

Section 4.3. Voting Rights. The Association shall have one (1) class of voting membership of the Members. Each Member of the Association shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds a fee or undivided fee interest in any Lot, the vote for such Lot shall be exercised as they among them shall determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

ARTICLE V **DECLARANT RIGHTS**

Section 5.1. Reservations by Declarant. Notwithstanding any provisions of this Declaration to the contrary, the Declarant reserves the following rights, powers, and exceptions regarding each and every Lot subject to the terms and provisions of this Declaration:

Section 5.1.1. Additional Property. Declarant reserves the right to add additional real property which may become subject to this Declaration by reference in a recorded plat, which shall require only the execution and recording by Declarant, and which shall specifically subject the parcel or parcels to this Declaration; provided that the additional property shall be contiguous to the property which is already subject to this Declaration; provided further, that Declarant's rights pursuant to this Article V Section 5.1.1 of this Declaration shall be consistent with the provisions in Article II Section 2.2.1 of this Declaration.

Section 5.1.2. Signs. Nothing herein shall be construed to prohibit the Declarant from establishing or erecting such promotional signs as it shall determine necessary, in its sole discretion, on any Lot or Lots of the Property or the Common Ground. Any such promotional sign may be of a type, size, and character as Declarant solely shall determine suitable to advertise the availability of a Lot or Lots for sale.

Section 5.1.3. Temporary Structures. Nothing herein shall be construed to prohibit the establishment or maintenance by Declarant of a temporary construction headquarters on any part or parts of the Property until a dwelling unit has been constructed.

Section 5.1.4. Liability for Assessments. So long as any Lot shall be owned by the Declarant, such Lot shall not be subject to the provisions of Article XI of this Declaration, and the Declarant shall not be subject to the requirements thereof and shall in no manner whatsoever be held responsible for the payment of any monthly, special, or specific assessment hereunder.

Section 5.1.5. Amendment. Declarant reserves the right to amend this Declaration by modification, addition, or deletion of any provisions hereof for a period extending from the date of recording of this Declaration to the earlier of the sale and conveyance of all lots in the Property or conveyance by Declarant to the Association of all common ground(s) to be conveyed to it. This Declaration may not be amended or modified at any time without presenting the issue to the Planning and Zoning Commission of the Village of Glen Carbon, or its successors, and receiving the approval of the Board of Trustees of the Village of Glen Carbon. After the original Declaration (and thereafter any rescissions or amendments thereto) have been recorded with the Office of Recorder, Madison County, Illinois, the Developer or Homeowner's Association, as the case may be, shall provide a properly recorded copy of same to the Village of Glen Carbon.

Section 5.1.6. Refunds. Declarant reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended, deposited, placed in escrow, or subsequently provided by it for sewers, utility facilities or services, streets, subdivision fees, consultation fees, or any other purpose of any nature or description with respect to any land which is not or may in the future be made subject hereto. Until such time as ninety-five percent (95%) of all of the Lots subject to this Declaration have been conveyed, Declarant further reserves the right to receive and retain any monies, damage payments or condemnation awards for any easement or other interest granted or condemned as to the Common Ground(s) within the Property subject hereto.

Section 5.1.7. Street Lights. Declarant may enter into a binding contractual arrangement with any electric company to provide street lights, in its sole discretion, in the Subdivision, and the Association shall take by assignment the Declarant's contractual obligations.

ARTICLE VI CREATION OF THE ASSOCIATION

Section 6.1. Declarant has formed a not-for-profit corporation created under the laws of the State of Illinois known as "The Fountains of Sunset Homeowners Association," which corporation shall exercise all the rights, duties, powers, and privileges granted the Association under the terms of:

- 1) this Declaration;
- 2) the Articles of Incorporation;
- 3) the By-laws; and
- 4) the laws, statutes, regulations, rules and the like of the State of Illinois pertaining to a not-for-profit corporation.

Section 6.2. The Association is vested with the right in its own behalf and on behalf of each Lot Owner to enforce all the restrictions, conditions, easements, liens, and covenants contained in this Declaration.

Section 6.3. Every right, duty, power, and privilege that this Declaration gives the Association or which is given to the Association by its Articles of Incorporation or By-laws, shall be vested in the Board of Directors, unless otherwise specified expressly in this Declaration.

ARTICLE VII RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 7.1. Common Ground(s). The Association through the Board of Directors, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, maintenance and control of the Common Ground(s), the easement areas and all improvements thereon (including furnishings and equipment related to them, if any), and certain storm sewers and shall keep such Common Ground(s), easement areas and all improvements thereon (including furnishings and equipment related to them, if any) in good, clean, attractive and sanitary condition, order, and repair.

Section 7.1.1. Conveyance of common grounds to the Association. Declarant anticipates development of the subdivision in three phases, I, II, and III. Following the close of the sale of twenty-five percent (25%) of the lots in each phase of the development of the subdivision, the Declarant shall convey the common grounds associated therewith to the Association.

Section 7.2. Streets. The streets as shown on the Subdivision plat will be deeded to the public. Parking in the street will be used only temporarily for visitors. The Owner of each Lot shall provide paved off street parking adequate for each vehicle of Owner and Owner's family occupying the premises. All driveways and parking spaces will be concrete.

Section 7.3. Entrance of The Fountains of Sunset. The entrance to the Property at The Fountains of Sunset shall be the responsibility of and shall be maintained by the Association.

Section 7.4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it by this Declaration or reasonably necessary to effectuate any such right or privilege given to it by this Declaration or to carry out the intent of this Declaration.

ARTICLE VIII BOARD OF DIRECTORS POWERS AND DUTIES

Section 8.1. Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, unless a vote of the Members is required by this Declaration, Articles of Incorporation or By-laws of the Association. Consistent with the provisions of this Declaration, the Board of Directors shall have the powers necessary for, and the duties which flow from the administration of the affairs of the Association and of the Subdivision which shall include, but not be limited to, the following:

Section 8.1.1. Adopt and amend By-laws and Rules and Regulations;

Section 8.1.2. Adopt and amend budgets for revenues, expenditures, and reserves;

Section 8.1.3. Collect assessments from Owners;

Section 8.1.4. Hire and discharge managing agents;

Section 8.1.5. Hire and discharge employees and agents and independent contractors;

Section 8.1.6. Institute, defend, or intervene in litigation or administrative proceedings in the Association's name on behalf of the Association on matters affecting the Subdivision;

Section 8.1.7. Make contracts and incur liabilities;

Section 8.1.8. Regulate the use, maintenance, repair, replacement and modification of the Subdivision easements and Common Ground(s);

Section 8.1.9. Cause additional improvements to be made as a part of the Subdivision;

Section 8.1.10. Acquire, hold or encumber, in the Association's name any right, title or interest to real property or personal property and convey, dedicate or transfer all or any part of the Common Ground(s) to any public agency or authority for such purposes; and subject to such conditions as the Board may determine;

Section 8.1.11. Grant easements for any period of time including permanent easements;

Section 8.1.12. Impose charges or interest or both for late payment of assessments and, after notice, levy reasonable fines for violations of this Declaration and the Rules and Regulations of the Association;

Section 8.1.13. Impose reasonable charges for statements of unpaid assessments and/or statements of account;

Section 8.1.14. Provide for the indemnification of the Association's officers and directors and maintain directors' and officers' insurance;

Section 8.1.15. Assign the Association's right to future income, including the right to receive assessments;

Section 8.1.16. Exercise any other powers conferred by this Declaration;

Section 8.1.17. Exercise all other powers that may be exercised in the State of Illinois by legal entities of the same type as the Association;

Section 8.1.18. Exercise any other powers necessary and proper for the governance and operation of the Association.

Section 8.2. Eminent Domain. In the event it shall become necessary for any public agency to acquire all or any part of the property of the Association, the Association is authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Board of Directors need be made parties, and in any event the proceeds received shall be held by the Association.

Section 8.3. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including legal fees incurred by or imposed upon any officer or director in connection with any action, suite, or other proceeding

(including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misfeasance, willful misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify, defend, and forever hold each officer and director free and harmless against any and all liability to others on account of any such contract or commitment. This right to indemnification shall not exclude other rights to which any officer or director, or former officer or director, may be entitled. The Association may, as a common expense, maintain adequate general liability and directors' and officers' liability insurance to fund this obligation, if such insurance is available.

ARTICLE IX SELECTION OF BOARD OF DIRECTORS OF THE ASSOCIATION

Section 9.1. General Powers. The business and affairs of the Association shall be managed by its Board of Directors.

Section 9.2. Number, Election and Term. The number of Directors of the Association shall be five (5), each of whom shall initially be appointed by the Declarant and known as the "Original Directors." The first Original Director shall be appointed for a one (1) year term, the second Original Director shall be appointed for a two (2) year term, the third Original Director shall be appointed for a three (3) year term, and the fourth Original Director shall be appointed for a four (4) year term, and the fifth Original Director shall be appointed for a five (5) year term.

Section 9.2.1. Upon the expiration of each of the Original Directors' terms, a successor Director shall be appointed by the Declarant or elected by the Members, as the case may be and as set forth hereinafter, for a five (5) year term. In the case of disability, refusal to act, death or resignation of a Director appointed by the Declarant, the Declarant may, in addition, appoint a successor Director for the unexpired term of such Director.

Section 9.2.2. At such time as fifty percent (50%) of the Lots have been sold and transferred of record, the Original Director and second Original Director initially appointed, or his or her successor shall be replaced by election of the Members.

Section 9.2.3. At such time as ninety-five percent (95%) of the Lots have been sold and transferred of record, the Third Original Director initially appointed, or his or her successor shall be replaced by election of the Members.

Section 9.2.4. At such time as one hundred percent (100%) of the Lots have been sold and transferred of record, the Fourth and Fifth Original Directors initially appointed, or his or her successor shall be replaced by election of the Members.

Section 9.2.5. Whenever replacement by an election is required hereunder, an election shall be held at a meeting of the Members called for that purpose, after notice thereof as provided in the by-laws. Elections of directors other than Original Directors or successors as appointed by the Declarant shall be held at each annual meeting of the Association to elect a Director for a term of five (5) years upon the expiration of the term of each such Director, so that the term of one such Director shall expire annually. If the record owner of a Lot is a corporation, the President or Vice President of the corporation may designate a person in its behalf as a person eligible for appointment or election as a Director. In the case of the death, resignation or disqualification of any one or more of the Directors, other than the Directors appointed by the Declarant, a successor or successors of such Directors shall be elected by the Members at a meeting called for that purpose after notice thereof as provided in the by-laws. Where the provisions of this Declaration cannot be fulfilled by reason of unfilled vacancies among the Directors, the Village Council of the Village of Glen Carbon, Illinois, may upon petition of any Lot Owner or resident of the Subdivision, appoint one or more Directors to fill vacancies until such time as Directors are elected in accordance with the By-laws. Any person so appointed who is not a Lot Owner or a resident of the Subdivision shall be allowed a reasonable fee for his or her services by the order of appointment, which fee shall be levied as a special assessment against the Property in the Subdivision, and which shall not be subject to any limitation on special assessments contained in this Declaration or elsewhere.

ARTICLE X

PROPERTY RIGHTS IN THE COMMON GROUND(S)

Section 10.1. Members' Easements of Enjoyment. Subject to the right reserved herein to limit or prohibit the use of Common Ground(s), and subject to the provisions of Article X Section 10.2 of this Declaration, every Member of the Association shall have a right and easement of enjoyment in and to the Common Ground(s), and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 10.2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

Section 10.2.1. The right of the Declarant and of the Association to borrow money for the purpose of improving the Common Ground(s) and in aid thereof to mortgage or otherwise burden or encumber said property.

Section 10.2.2. The right of the Association to take such steps as are reasonably necessary to protect the Common Ground(s) against foreclosure; and

Section 10.2.3. The right of the Association to promulgate Rules and Regulations governing the use of the Common Ground(s), including, without limitation, the right to restrict or limit their usage or to permit, on such terms as deemed appropriate by the Board, their use by non-Members; and

Section 10.2.4. The right of the Association, as provided in its By-laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published Rules and Regulations; and

Section 10.2.5. The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Ground(s) and to require licenses and license fees where it is deemed necessary by the Board; and

Section 10.2.6. The right of the Association to dedicate or transfer all or part of the Common Ground(s) to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association and public agency or authority; and

Section 10.2.7. The right of the Declarant or other builder-developers authorized in writing by the Declarant to utilize Common Ground(s) for promotional purposes during periods of development; and

Section 10.2.8. The right of the Association to grant such easements and rights of way to such utility companies or public agencies or authorities or other persons or entities as it shall deem necessary or appropriate; and

Section 10.2.9. The right of the Association to enter into licensing agreements with commercial enterprises for the operation of recreational facilities and related concessions for the benefit of Owners and residents of the Subdivision.

ARTICLE XI **ASSESSMENTS AND COLLECTION**

Section 11.1. Purpose of Assessment. The assessments described in this Declaration shall be used for the general purposes of promoting the recreation, health,

safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Lots and Living Units in the Subdivision, including the maintenance of real property or other property used in conjunction with the real property constituting the Common Ground(s), all as may be more specifically authorized from time to time by the Board of Directors of the Association. This Article XI of this Declaration is subject to the provisions of Article V of this Declaration encompassing rights of the Declarant.

Section 11.2. Common expenses shall include but shall not be limited to:

Section 11.2.1. Expenses of administration, maintenance, insurance, and repair or replacement of the Subdivision easements, Common Ground(s), drainage retention areas, certain storm sewers, or other projects as deemed necessary and appropriate by the Board of Directors of the Association;

Section 11.2.2. Expenses declared to be common expenses by this Declaration;

Section 11.2.3. Repayment of debt incurred by the Association;

Section 11.2.4. Expenses agreed upon as common expenses by the Board of Directors of the Association;

Section 11.2.5. Such reserves as may be established by the Board of Directors of the Association for repair, replacement or additions to the Subdivision easements or Common Ground(s), or other projects, or any other real or personal property acquired or held by the Association;

Section 11.2.6. Expenses for insurance pursuant to Article XII of this Declaration.

Section 11.3. Creation of Assessments, Lien and Personal Obligation of Assessments.

Section 11.3.1. The Owner of each Lot within the Subdivision covenants and each Owner by acceptance of a deed or other conveyance, shall be deemed to covenant and agree to pay the Association:

Section 11.3.1.1. Monthly assessments - see 11.4;

Section 11.3.1.2. Additional assessments- see 11.5;

Section 11.3.1.3. Special assessments against any particular Lot which are established by this Declaration including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration.

Section 11.3.1.4. Special assessments, which shall relate to a particular, one-time-only project;

Section 11.3.1.5. All such assessments, together with late charges, interest not to exceed the maximum legal rate, out-of-pocket costs, and attorneys fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

Section 11.3.2. Each such assessment together with late charges, interest, out-of-pocket costs, and attorneys fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for whatever portion may be due at the time of conveyance, except no first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued before acquisition of title.

Section 11.3.3. Assessments shall be paid in the manner and on dates fixed by the Board of Directors. If the Board of Directors does not otherwise provide, the assessments shall be paid in monthly installments.

Section 11.4. Monthly Assessment. Beginning on the first day of August, 2000, and on the first day of each month thereafter, the Board of Directors shall have the authority to levy uniform monthly assessments of Fifty Dollars (\$50.00) per Lot. The initial monthly assessment shall be One Hundred Ninety Five Dollars (\$195.00).

Section 11.5. Additional Assessments. In the event the monthly assessment is insufficient to pay for the Association's expenses in any given year, the Board of Directors shall have the authority to levy a uniform additional assessment to meet such obligations, not to exceed One Thousand Dollars (\$1,000.00) for that year per Lot, whether vacant or improved.

Section 11.6. Specific Assessments. The Board of Directors may also levy a specific assessment against any Member to reimburse the Association for costs incurred in bringing the Member and/or his or her Lot into compliance with the provisions of this Declaration, Articles of Incorporation, By-laws and Rules and Regulations, as written or as may be amended from time to time. Specific assessments may be levied upon the vote of the Board, after notice to the Lot Owner and the opportunity for hearing before the Board is given.

Section 11.7. Special Assessments.

Section 11.7.1. In the event that the Board considers it necessary to make any expenditure requiring an assessment for a particular project, it shall submit in writing to the Members for approval an outline of the plan for the project contemplated and the estimated amount required for completion. The special assessment must be approved by the assent of the

majority of the Members who are voting in person or by proxy at a meeting duly called for the purpose. Written notice shall be mailed to all Members at least thirty (30) days prior to such meeting.

Section 11.7.2. Quorum. Members or proxies entitled to cast not less than sixty percent (60%) of all votes shall constitute a quorum for a meeting under Article XI Section 11.7.1 of this Declaration. If the required quorum is not present, a second meeting may be called. The required quorum at such meeting shall be thirty percent (30%) of all votes. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 11.8. Calendar Year; Proration. Assessments, where applicable, are to be calculated on a calendar year basis. Proration, where applicable, shall occur for any year in which the ownership of a Lot changes from Declarant to a third party purchaser of a Lot.

Section 11.9. Lien for Assessments.

Section 11.9.1. All sums assessed against any Lot pursuant to this Declaration together with any late charges, interest, out-of-pocket costs and reasonable attorneys fees actually incurred, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot except for liens of ad valorem taxes.

Section 11.9.2. All other entities acquiring liens or encumbrances on any Lot after this Declaration has been recorded shall be deemed to consent to such liens or encumbrances being inferior to future liens for the assessments described in this Declaration, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 11.9.3. The sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from lien rights or any assessments later becoming due.

Section 11.9.4. The purchaser of a Lot shall be liable for the unpaid assessments chargeable to such Lot.

Section 11.10. Effect of non-payment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent.

Section 11.10.1. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge.

Section 11.10.2. If the assessment is not paid within sixty (60) days of the due date, a lien shall attach and the lien shall include the late charges from the date first due and payable; interest, not to exceed the maximum legal rate, on the principal amount due; all out-of-pocket costs; all costs of collection including attorneys fees actually incurred; and any other amounts provided or permitted by law. A notice of claim of lien may be filed by the Association, through it is not mandatory.

Section 11.10.3. In the event the assessment remains unpaid after ninety (90) days from the due date, the Association may, as the Board shall determine, institute suit to collect such amounts and/or foreclose its lien.

Section 11.10.4. Each Owner, by acceptance of a deed, vests in the Association the right and power to bring all actions against the Owner personally for the collection of such charges as a debt and/or to foreclose the lien in the manner established pursuant to the laws of the State of Illinois as they may exist from time to time. The lien provided for in this Article XI shall be in favor of the Association and shall be for the benefit of all Owners.

Section 11.10.5. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot.

Section 11.10.6. No Owner may waive or otherwise escape liability for the assessments by abandonment of the Lot.

Section 11.10.7. All payments shall be applied first to collection costs and attorneys fees, then to late charges, then to interest, then to newly-delinquent assessments, then to any unpaid installments of the assessments which are coming due within thirty (30) days of payment, and then to any unpaid installments of the assessments which are the subject matter of suit.

Section 11.10.8. Upon the timely cure of any default for which a notice of claim of lien was filed by the Association and prior to the commencement of any legal proceedings to enforce the collection of such claims for lien, the Board of Directors is hereby authorized to file or record an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Board of Directors to cover the costs of preparing and filing or recording such notice and such release.

Section 11.10.9. The assessment lien shall be in addition to all remedies provided in this Declaration, Articles of Incorporation, By-laws or Rules and Regulations of the Association or remedies provided or permitted by law. The remedies specified are cumulative and not in substitution of other remedies available at law or equity, including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 11.11. Initial Capital Reserve and Replacement Contribution. Upon acquisition of record title to a Lot by each initial purchaser thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to Five Hundred Dollars (\$500.00). This amount shall be used to create the Association's initial capital reserve and replacement account and may be used by the Association in the manner determined by the Board.

Section 11.12. Initial Maintenance Fund to be Advanced by Declarant. The Declarant commits itself to advance the sum of Five Thousand Dollars (\$5,000) to the Association upon the commencement of the sale of lots of the Subdivision, and up to \$5,000 on the first and second anniversaries thereafter for the purpose of providing a fund for the maintenance of the Subdivision. Such sums advanced by the Declarant shall be deemed to be interest free loans to the Association, and shall be repaid in no less than three (3) annual installments, commencing not later than the end of the fourth, fifth, and sixth anniversaries, the Association being required to make special assessments for this purpose if such funds are not otherwise available.

ARTICLE XII INSURANCE

Section 12.1 Common Ground(s). The Board of Directors, or its duly authorized agent, shall have the authority and shall obtain insurance on the Common Ground(s) for the appropriate needs of the Subdivision. This insurance shall be in an amount sufficient to cover the full replacement costs of any repair or reconstruction in the event of damage or destruction from insurable hazards, if such insurance is reasonably available.

Section 12.1.1. All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as owner and beneficiary.

Section 12.1.2. In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

Section 12.2. Insurance on all Living Units. Subject to Article XII Section 12.3 of this Declaration, the Association shall obtain insurance on all of the Living Units, including original unit specifications and upgrades thereon, and the costs of premiums for such insurance shall be allocated equally among all Owners of the Living Units and shall be added to and treated as a part of the monthly assessment provided for in Article XI of this Declaration.

ARTICLE XIII
ARCHITECTURAL AND ENVIRONMENTAL RESTRICTIONS

Section 13.1. The property shall be subject to the following architectural and environmental restrictions:

Section 13.1.1. Review by Committee. From and after any conveyance of an improved Lot by Declarant, no building, wall or other structure shall be commenced, erected or maintained thereon, nor shall any exterior addition to, removal of all or any part thereof, or exterior change or alteration in any improvement thereon be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, location and other material information of same shall have been submitted to and approved in writing as to harmony of external design, types of materials, colors and location in relation to surrounding structures and topography.

Section 13.1.2. Building and Materials and Construction. It is the intent of this Declaration that all buildings and structures within the Property shall be constructed of attractive exterior materials of high quality. In its review of submissions, the Architectural Control Committee shall evaluate the construction standards and building materials for all proposed construction to insure that they are in conformance with the general objectives of the project as enumerated herein. Accessory buildings, enclosures, appurtenant structures to, or extrusions from any building or structure shall be of similar or compatible materials, design and construction. Exterior finishes once approved shall not be altered without the express written consent of the Architectural Control Committee.

Section 13.1.3. Lakes (Retention Basins), and Drainage System. Lakes (retention basins), if any, may contribute measurably to the overall cohesiveness and aesthetic appeal of the Subdivision; but more importantly, they may serve an essential engineering purpose as an integral part of the drainage system. It is incumbent upon each and every Owner to respect the design and area of the lakes and retention basins, if any, and drainage channels and it shall be each Owner's responsibility to insure that sufficient protective measures are taken at all times to prevent any and all debris from such Owner's lot from entering storm sewers, drainage channels and lakes. Particular attention shall be given to erosion control and the prevention of the introduction of dirt, sand, mud or silt into the drainage facilities. Each Owner shall insure that these areas are kept free of trash and refuse. Any discharge of liquid or solid waste or sanitary waste into the interior drainage facilities from any Lot is expressly prohibited. Specific precautions shall be taken to exclude or prevent petroleum products, polluting-type fertilizers, insecticides, herbicides, and to minimize rock salt and other snow and ice melting chemicals from entering the storm sewer and interior drainage system. No structure, planting or activity shall be undertaken which may damage or interfere

with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels or obstruct or retard the flow of water through said drainage channels. If any Owner fails to comply with these provisions, the Association is empowered to correct all violations at the expense of the Owner concerned, which expenses shall be a lien upon the property of such Owner, equal in priority to the lien provided for in Article XI hereof and enforceable in the same manner as therein provided.

Section 13.1.4. Circulation System. Pedestrian and bicycle circulation systems, if any, throughout the Property are an integral part of the overall planning and design concept. All buildings or structures on Lots immediately adjacent to designed circulation systems shall allow for unrestricted public pedestrian and bicycle passage as provided on the recorded plats of the Property.

Section 13.1.5. Land Use.

Section 13.1.5.1. No structure shall be used for a purpose other than that for which the structure was originally designed without the express written approval of the Association.

Section 13.1.5.2. No Lot shall be improved, used, or occupied other than for residential occupancy by a single family without the express written approval of the Association.

Section 13.1.6. Occupancy Prior to Completion of Residence. No Lot Owner will be permitted to occupy the Lot prior to final completion of all aspects of the Lot.

Section 13.1.7. Building Setback Lines. No building shall be located on any Lot nearer to the front or nearer to the side or rear Lot lines than the minimum setback lines shown on the Subdivision Plat.

Section 13.1.8. Uncompleted Structures. No building, addition or alteration shall be permitted to stand with its exterior in an unfinished condition for longer than three (3) months after commencement of construction, unless such condition is the result of force majeure.

Section 13.1.9. Frontage. All residences shall present a good, well-maintained frontage harmonious in design to the neighborhood and on street on which it is located as shown on the Subdivision Plat. Residences located on corner lots shall present a good, well-maintained frontage harmonious in design to the neighborhood on both streets.

Section 13.1.10. Driveways. Driveways must be constructed of concrete.

ARTICLE XIV RECONSTRUCTION

Section 14.1. Each Owner, his or her successors and assigns, hereby covenants and agrees to maintain his or her Lot and Living Unit in a neat and proper condition and to perform all necessary repairs except where the Association is required to maintain and repair. Each Owner further covenants and agrees to promptly restore, rebuild or replace all or any portion of the Owner's Living Unit and its appurtenances located on the Owner's Lot when destroyed or damaged by cause. If the Owners maintain such insurance pursuant to Article XII Section 12.3 of this Declaration, then each Owner further covenants to guarantee performance of this covenant that each Owner will maintain casualty insurance covering his or her Lot and Living Unit with reputable companies in an amount sufficient to restore or rebuild the Living Unit and its appurtenances.

Section 14.2. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

ARTICLE XV USE RESTRICTIONS

Section 15.1. The Property shall be subject to the following use restrictions for and on behalf of each and every Owner of any Lot in The Fountains of Sunset, their grantees, lessees, heirs, successors, and assigns.

Section 15.1.1. Resubdivision. No Lot shall be resubdivided nor shall a fractional part of any Lot be sold without the prior written consent of the Association. This provision shall not, however, require the consent of the Association for the sale of an entire Lot as shown on the Subdivision Plat.

Section 15.1.2. No Commercial Activities. No commercial activities of any kind shall be conducted on any Lot other than home professional pursuits which shall not include the use of employees or agents, public visits or non-residential storage, mail or trash for such home professional pursuits.

Section 15.1.3. Nuisances. No noxious or offensive activity shall be performed upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood in the sole judgment of the Association, except that any construction or related activity performed by Declarant shall not be deemed to be a nuisance hereunder. No exterior lighting shall be directed outside the boundaries of a Lot.

Section 15.1.4. Maintenance of Lots and Living Units. Each Owner shall maintain and keep his or her Lot and Living Unit (including all areas or facilities exclusively reserved for such Lot) in good order and repair (except for such repairs and maintenance as may be assigned to the Association), and shall do nothing which will prejudice the structural integrity or increase the rate of insurance on the improvement or which would be in violation of any law, statute, code, rule, regulation, ordinance or the like. Each Owner shall maintain, repair and replace, at his or her own cost and expense, the portion of his or her Living Unit requiring maintenance, repair or replacement, including but not limited to, air conditioning and heating equipment, hot water heaters, and all other appliances and equipment (including any facility and connection required to provide utility service to serve the Living Unit and no other).

Section 15.1.5. Obstructions. There shall be no obstruction of any portion of the Common Ground(s) or any storage or construction thereon by any Owner. Any plantings thereon shall not be made by an Owner on any Lot without the prior written approval of the Architectural Control Committee. The Association shall not be responsible for maintenance of any of the plantings which have been made by the Owners on a Lot or the Common Ground(s). No clothes, laundry or other articles or equipment shall be placed, hung, exposed or stored on the Common Ground(s) or any Lot, and no structure or facility for housing of pets or animals shall be placed or maintained in any portion of the Common Ground(s) or in any portion of the exterior or yard area of any Lot or on or about the exterior of any building.

Section 15.1.6. Animals. No animals, horses, poultry, cattle or livestock of any kind shall be brought onto or kept on the Property, except dogs, cats, or other household pets (except house pets with vicious propensities) may be kept outside Living Unit, provided they are maintained in a secure environment which will preclude such pets from escape outside the Living Unit, e.g., underground pet fencing of such a nature and quality that will preclude escape. Owners shall immediately pick up and dispose of all pet waste from Lots or the Common Ground(s). The keeping of any pet which by reason of its noisiness, number, or other factor is a nuisance or annoyance to the neighborhood, in the sole discretion of the Association, is prohibited. Deceased pets may not be buried in Subdivision.

Section 15.1.7. Parking of Motor Vehicles, Boats, Motorcycles, Campers and Trailers. No trucks or other commercial vehicles, boats, motorcycles, campers, house trailers, boat trailers and trailers of any other description shall be permitted to be parked or stored on any Lot unless they are parked or stored in an enclosed garage, except only during periods of approved construction on the Lot, and except for automobiles of temporary guests parked in parking spaces designed therefor by the Association or on the

Lot. The foregoing prohibition shall not apply to temporary parking, such as for pick-up, delivery, and other commercial services.

Section 15.1.8. Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on any Lot without the prior written consent of the Association.

Section 15.1.9. Obstruction of Traffic. No wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no live tree shall be removed without the prior written approval of the Association.

Section 15.1.10. Antennas. No outside radio or television antennas or satellite dishes shall be erected, installed, constructed or maintained on any Lot without the prior written approval of the Architectural Control Committee. All satellite dishes if approved by the Architectural Control Committee shall be limited to no more than eighteen inches (18") in diameter.

Section 15.1.11. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 15.1.12. Storage of Rubbish. No rubbish, trash or garbage receptacle shall be placed on the exterior of a Living Unit except on the day of regularly scheduled collection.

Section 15.1.13. Garages. All garages must be equipped with doors which shall be kept closed as much as practicable to preserve the appearance of the elevation of the Living Unit fronting on the street.

Section 15.1.14. Boathouses, Docks and Wharfs. No boathouse, dock, wharf, or other structure of any kind shall be erected, placed or altered on the shores of a retention basin or lake, if any, unless the construction plans and specifications and a plan showing the location of the structure have the prior written approval of the Association as to quality of workmanship and materials, harmony or exterior design with existing structures, location with respect to topography and finish grade elevation, and as to desirability per se. It is the intention of this Declaration to authorize the Association, in its sole discretion, to approve or disapprove any such boathouse, dock, wharf, or other structure on purely aesthetic grounds, any other grounds or for the reason that there should be no such boathouse, dock, wharf or other structure on the retention basin or lake, if any. The Association shall have the power to promulgate such Rules and

Regulations as it deems necessary to carry out the provisions and intent of this Article XV Section 15.1.14 of this Declaration.

Section 15.1.15. Shoreline Contours. Shoreline contours of retention basins or lakes, if any, may not be changed without the prior written approval of the Association and any necessary governmental authority. No Lot shall be increased in size by filling in the waters, if any, upon which it abuts.

Section 15.1.16. Refuse. No refuse of any kind shall be disposed of or placed in the lakes or retention basins.

Section 15.1.17. Use of Lots. Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for purposes only as a residence for a single family. A single-family residence means a single housekeeping unit operating on a non-profit, non-commercial basis between its occupants. Garages are limited to the storage of vehicles and accessories.

Section 15.1.18. Signs. No signs, window displays, or advertising signs shall be placed on any Lot or structure without the prior written approval of the Association. This use restriction is subject to the provisions of Article V encompassing reservations of the Declarant. Exceptions include:

Section 15.1.18.1. Customary name and address signs not to exceed twenty-four (24) square inches in size. The Association shall provide granite or bronze house numbers and shall provide mailboxes.

Section 15.1.18.2. One (1) "For Sale" sign, not to exceed five (5) square feet in size, for the sole and exclusive purpose of advertising for sale of the Lot upon which it is posted and only to be posted at the time of the open house for such sale.

Section 15.1.19. Grades. Within any slope area established on the plats and plans, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction or flow or drainage channels, or obstruct or retard the flow of water through drainage channels. The slope areas of each Lot shall be maintained continuously by the Association, except for those improvements for which a public authority or utility is responsible.

Section 15.1.20. Drilling and Quarrying. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall

be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in burrowing oil, natural gas, or minerals shall be erected, maintained, or permitted upon any Lot.

Section 15.1.21. Dumping of Trash and Rubbish. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, rubbish, garbage, or other waste shall not be kept except in sanitary containers, or other equipment for the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition. No trash, garbage, rubbish, refuse, debris, trash cans, or trash receptacles of any type shall be stored outside a building on any Lot, except that after sunrise on any day designated for trash pickup, said trash, garbage, rubbish, refuse, and debris secured within appropriate trash cans or receptacles may be placed at the street curbing for pickup. Trash cans or receptacles shall be removed and secured within the improvements for each Lot prior to sundown of the same day.

Section 15.1.22. Balconies, Porches and Decks. The use of these areas shall be limited to the Unit to which they are attached. The balconies, porches and decks shall be used only for the purposes intended and shall not be used for storage of appliances or other objects, or for cleaning of rugs or other household items. None of these areas shall be kept in an unsightly or disorderly condition or used for storage of items not directly associated with normal use of such areas. The Board may require removal of rusty furniture, rusty bar-b-que pits, dead plants, or other objects that detract from the appearance of the Subdivision. Any damage to such areas caused or made worse by use of a bar-b-que pit, or due to excessive weight placed on such areas shall be repaired at the expense of the Owner. The Board shall have the power to make further rules and regulations regarding the use of the areas described in this subparagraph.

Section 15.1.23. Fuel Tanks. No fuel tanks or containers of any nature shall be placed, erected, installed, or constructed on any Lot. No underground, enclosed propane tank shall be allowed without the prior written approval of the Association.

Section 15.1.24. Swimming Pools. In-ground swimming pools may be constructed, no such pool may be constructed on a Lot in which set backs do not meet the requirements of the applicable ordinances of the Village of Glen Carbon. Above-ground pools shall not be permitted.

Section 15.1.25. Fences. Deleted.

Section 15.1.26. Laundry Lines and Flag Poles. No permanent poles for attaching wires or lines for the purpose of hanging laundry shall be constructed on any Lot. Temporary, foldable, or removable devices may

be used so long as they are not kept erected for more than twenty-four (24) hours at a time. No permanent flag poles may be constructed or erected on any Lot. Temporary or removable devices may be used for the purpose of displaying flags.

Section 15.1.27. Rentals and Boarders. Owners shall not have the right to rent rooms. No Boarders shall be permitted to reside in the Subdivision.

Section 15.1.28. Sale or Lease of Units. The Board shall be given thirty-(30) days' notice of an Owner's intent to sell or lease the Unit. Such notice must include any Purchaser's or lessee's form designated by the Board to be completed by both the Owner and the buyer or tenant, and a copy of this form must then be returned to the Board with a reasonable administrative fee which shall be set periodically by the Board, to be used to defray clerical and office expenses involved with the transfer. The purpose of this notice is to assist the Board in the collection of past due assessments and shall not be considered as a right of the Board to prevent or delay any conveyance of a Unit.

Section 15.1.28.1. The Owner shall be responsible for delivering a copy of the Declaration, by-laws, policies, rules and regulations to the new Owner or tenant, and the new Owner or tenant shall be responsible for knowing and following all of the above requirements immediately upon purchase of the Lot. If the Association is requested to provide a copy of the Declaration, by-laws, policies, rules and regulations, or other information not generally distributed by the Board, it shall have the right to charge an additional reasonable fee set periodically by the Board for such materials.

Section 15.1.29. Solar Collectors. No Lot shall have an exterior solar collection system, wind generator system, or any other similar type system or appliance.

Section 15.1.30. Storage of Personal Property and Vehicles. Personal property including, without limitation, boats, trailers, campers, commercial vehicles, camper shells, all-terrain vehicles (ATV's) shall not be placed or stored permanently or temporarily in the open of any Lot, nor shall they be parked on any private street overnight. The Association may cause any item of such personal property to be towed or removed at the Owner's expense.

Section 15.1.30.1. Recreational vehicles such as motor homes must be stored inside a garage.

Section 15.1.30.2. No tractor trailers shall be placed on any Lot.

Section 15.1.30.3. No commercial vehicles, including Owner-owned vehicles with commercial signs, emblems or markings, will be allowed unless they are stored in a garage. This prohibition shall not apply to temporary parking of trucks or commercial vehicles for pick-up or delivery, construction, or other commercial services. Pick-up trucks and van type vehicles with a capacity of three-quarters (3/4) ton or less and used exclusively for private or personal purposes and not in any manner for commercial or business purposes shall not be classified as commercial vehicles, unless such vehicles are Owner-owned with commercial signs, emblems or markings.

Section 15.1.30.4 No disabled, vagrant, unlicensed, or inoperable motor vehicle shall be placed on any Lot.

Section 15.1.30.5. No repairing, body work, painting of any motor vehicles, including passenger cars, except while in an enclosed garage, shall be permitted and only then when the repairing, body work, or painting is occurring to a motor vehicle owned by a resident dwelling on the Lot on which such activity takes place.

Section 15.1.31. Indemnification for Actions for Others. Each Owner does hereby indemnify and hold harmless the Association, its officers and directors, and other Owners and occupants for the actions of such Owner's children, tenants, guests, pets, servants, employees, agents, invitees, or licensees which violate this Declaration or otherwise cause harm.

ARTICLE XVI EASEMENTS

Section 16.1. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Subdivision Plat. Such easements shall include the rights of egress and ingress for construction and maintenance purposes. No structure, planting, or other material shall be permitted to be placed or remain within easements which may damage or interfere with the installation or maintenance of utilities or which change the direction or flow of drainage channels, or which in any other manner obstruct the use for which these easements are reserved. Any such structure, planting or other materials which may be damaged or interfere with such easement shall not be replaced or restored by Declarant but may be replaced or restored by the Association, at its sole discretion.

Section 16.2. Maintenance Easement. The Declarant does hereby give, grant, extend and confer to the Association an easement to landscape, maintain, repair, and reconstruct the Easement Property with all rights and privileges necessary or convenient for the full enjoyment or the use thereof for the purposes described herein, subject to the following conditions and limitations:

Section 16.2.1. The Association may use such additional space adjacent to the Easement Property as may be required for temporary working room during the landscaping, maintenance, repair and reconstruction of the aforementioned improvements.

Section 16.2.2. All provisions of this maintenance easement, including the benefits and burdens, run with the Easement Property, and are binding upon and inure to the heirs, successors and assigns of the Association and the Declarant.

Section 16.2.3. All rights granted to the Association hereunder are subject to the rights of the Declarant and its heirs, successors and assigns, to use and enjoy the remaining parcels of land adjacent to the Easement Property and the Association's use and enjoyment of the Easement Property shall not interfere with the use of the remaining parcels of land adjacent to the Easement Property by the Declarant or its successors and assigns. At its sole cost and expense, the Association shall, immediately after exercising any rights granted hereunder, restore the Easement Property to the condition existing prior to exercising any such rights. Notwithstanding the foregoing, the Declarant and its successors and assigns shall in no event remove any existing trees, bushes, or shrubberies of the Association on the Easement Property.

Section 16.3. Storm Sewers. The Glen Carbon Public Works Department is required to maintain storm sewers. If for any reason Glen Carbon Public Works does not maintain such storm sewers then the Association shall maintain the storm sewers. Under no circumstances, including Glen Carbon Public Works refusal to maintain the storm sewers shall the Declarant be responsible for such maintenance of the storm sewers after its escrows have been released by the appropriate governmental authority.

Section 16.3.1. Detention/Retention Areas. The Homeowners Association will assume responsibility for the maintenance of all common grounds and properties for detention and retention areas. Failure of the Homeowners Association to maintain the commons, detention and retention areas for a period of thirty (30) days after receiving written notice from the Village of Glen Carbon in writing, the Village of Glen Carbon shall have the right to maintain same and charge the cost for same, as a lien, upon said lots and/or the Homeowners Association, or both. As in the case of storm sewers, the Declarant shall not be responsible for the maintenance of the common grounds and properties for detention and retention areas.

Section 16.4. Encroachment. Through construction, settlement or shifting, should any part of a Living Unit encroach upon the Common Ground(s) or upon any other Lot, perpetual easements for the maintenance of any such encroachment and for the

use of the space required thereby are hereby established and shall exist for the benefit of the Owner of the encroaching property; provided, however, that no easement shall be created in the event the encroachment is due to the willful conduct of the Owner or a person under the direction of the Owner.

Section 16.5. Easements Appurtenant. Perpetual easements are hereby established, running with the land, appurtenant to all Lots and Living Units, for use by the Owners thereof, their families and guests, invitees and servants, of the Common Ground(s). Each Living Unit is further granted a perpetual easement, running with the ownership of the Unit, to use and occupy the balcony, terrace, patio, sidewalks, driveways and garage, if any, which are part of the Living Unit, should there be any encroachment on the Common Ground(s) or any other Lot; provided, however, that no Owner shall enclose, decorate or landscape any such balcony, terrace, patio, sidewalks, driveways or garage contrary to any Rules and Regulations established by the Association.

Section 16.6. Easements in Gross. The property and each Lot shall be subject to a perpetual easement in gross to the Association for ingress and egress, to perform their obligations and duties as required by this Declaration. Should it be necessary to enter a Lot or Living Unit to effect a necessary repair, the employees, agents and workmen shall be entitled to entrance by exhibiting to the Owner a written order from the Association.

Section 16.7. Effect of Easements. All easements and rights herein established shall run with the land and inure to the benefit of and be binding on each Lot Owner, his or her heirs, successors and assigns, and any Owner, purchaser, mortgagee or other person having an interest in any portion of the Property, whether or not such easements are mentioned or described in any deed of conveyance.

ARTICLE XVII **MAINTENANCE**

Section 17.1. Association's Responsibility for Common Ground(s). The Association shall maintain and keep in good repair the Subdivision entrance, gates, the Subdivision Common Ground(s), and other projects and improvements of the Association. Maintenance shall be funded by the Association's assessments.

Section 17.2. Owner's Failure to Comply. In the event the Association determines that any Owner has failed to maintain his or her Lot and Living Unit in a neat and attractive manner consistent with the provisions of this Declaration, the Association shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair, replacement, or improvement at the Owner's sole cost and expense. The notice shall set forth with reasonable particulars the maintenance, repairs, replacements, or improvements deemed necessary. The Owner shall have thirty (30) days within which to complete the maintenance, repair, replacement or improvement or in the event that such maintenance, repair, replacement or improvement is not capable of

completion within the thirty (30) day period, to commence such work which shall be completed within a reasonable time as established by the Association. One (1) notice per violation will be given and will cover any continuation of that violation.

Section 17.2.1. In an emergency, the Association may take remedial action immediately without giving the thirty (30) day notice. In such an emergency situation, in the sole discretion of the Association, the Association will not need to comply with this Article XVII Section 17.4 of this Declaration.

Section 17.2.2. Each Owner covenants and agrees that if such Owner fails to comply with the provisions of this Declaration, the Association shall have the right, without being deemed guilty of trespass, to enter upon the Lot to provide any maintenance, repair, replacement or improvement at the Owner's sole cost and expense.

ARTICLE XVIII **PARTY WALLS (only on lots 43, 44, 59 and 60)**

Section 18.1. General Rules of Law to Apply. If, and only if, the Owners vote to insure their Living Units pursuant to Article XII Section 12.3 of this Declaration, this Article XVIII Section 18 shall apply. Each wall, including fence walls and common garage walls, which is built as a part of the original construction of a Living Unit upon the Property and placed on the dividing line between the Lots and each foundation wall upon which more than one (1) Living Unit is built shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article XVIII of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Penetration of a party wall for any reason shall be strictly prohibited.

Section 18.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 18.3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use and such contribution shall be without prejudice to the right of any such Owners to call for a larger contribution from others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 18.4. Weatherproofing. Notwithstanding any other provisions of this Article XVIII, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.

Section 18.5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article XVIII shall be appurtenant to the land and shall pass to such Owner's heirs, successors or assigns in title.

ARTICLE XIX
ARBITRATION OF PARTY WALL DISPUTES (only on lots 43, 44, 59 and 60)

Section 19.1. Arbitration. All claims, demands, disputes, controversies, and differences that may arise under Article XVIII of this Declaration concerning a party wall shall be settled by arbitration as herein set forth pursuant to Chapter 710 ILCS 5/1 and following, as amended.

Section 19.2. Selection of Arbitrators. Either party to a dispute concerning a party wall may, by written notice to the other party within ten (10) days after receipt of such notice by the first party, appoint a second arbitrator, and in default of such second appointment, then the first arbitrator appointed shall be the sole arbitrator.

Section 19.2.1. When two arbitrators have been appointed as hereinabove provided, they shall, if possible, agree on a third arbitrator and shall appoint him or her by written notice signed by both arbitrators and a copy shall be mailed to each party to the dispute within ten (10) days after such appointment of the third arbitrator.

Section 19.2.2. In the event ten (10) days shall elapse after the appointment of the second arbitrator without notice of appointment of the third arbitrator as hereinabove provided, then either party to the dispute, or both, may in writing, within fifteen (15) days after the original appointments, request the Association to appoint a third arbitrator.

Section 19.3. Arbitration Hearing and Award. On appointment of three (3) arbitrators as hereinabove provided, such arbitrators shall hold an arbitration hearing in Madison County, Illinois, within twenty (20) days after such appointments. At the hearing, the laws of evidence of the State of Illinois shall apply, and the three (3) arbitrators shall allow each party to present his or her case, evidence, and witnesses, if any, in the presence of the other party, and shall render their award, including a provision for payment of costs and expenses of arbitration to be paid by one or both of the parties, as the arbitrators deem just.

Section 19.4. Finality of Award. The award of the majority of the arbitrators shall be binding on the parties, and judgment may be entered thereon in any court having jurisdiction.

ARTICLE XX
UTILITIES/JOINT CONNECTIONS (only on lots 43, 44, 59 and 60)

Section 20.1. The rights and duties of the Owners of Lots and Living Units within the Property with respect to sewer, water, electricity, gas and telephone connections thereto shall be subject to the following conditions:

Section 20.1.1. Easements. Whenever connections of sanitary sewers, storm sewers, water, electricity, gas, telephone lines, television aerial lines, cable television lines or any other utilities are installed within the Property, and the connections, or any portion thereof, lie in or upon Lots or Living Units thereon owned by others than the Owner served by said connections, the Association, the utility companies and the Owners of any Lots or Living Units served by said connections shall have the right, and are hereby granted easements to the full extent necessary to construct, reconstruct, repair, replace and maintain said connections, and to enter upon Lots or to have the utility companies or repair personnel enter upon Lots within the Property in or upon which said connections, or any portion thereof, lie to repair, replace and generally maintain said connections as and when the same may be necessary, and further, if the Association deems the repair, replacement or maintenance of any such connection to be necessary, and further, if the Association deems the repair, replacement or maintenance of any such connection to be necessary or are requested by the Owner, of a Lot or Living Unit served by any such connection to repair, replace or maintain the same, the Association shall have the right to repair, replace or maintain such connection and pay for such repair, replacement or maintenance out of the assessments collected by the Association under Article XI of this Declaration; provided, however, that in the event that the repair, replacement or maintenance of the connection is necessitated by the act of an Owner of a Lot or Living Unit served thereby, said Owner shall bear all of the cost of repair, replacement or maintenance in accordance with Article XX Section 20.1.2 of this Declaration.

Section 20.1.2. Damage or Destruction: Fault. In the event any portion of any connection or line is obstructed, damaged or destroyed through the act of any Owner of a Lot or Living Unit being served by said connection, or any of his or her agents, guests, or members of his or her family, whether or not such act is negligent or the Owner is otherwise culpable, so as to deprive the other Owners being served by said connection of the full use and enjoyment of said connection, then the Owner who is responsible for such obstruction, damage or destruction shall forthwith proceed to replace or repair the same to as good a condition as existed prior to such destruction, damage, or obstruction, without cost to the other Owners served by said connection at said Owner's sole cost and expense, and if said Owner fails to make such replacement or repair, then the Association shall have the right to do so and assess the costs thereof against said

Owner's Lot and Living Unit, and said Owner, for himself or herself, or his or her heirs, successors and assigns, covenants that he or she will pay the Association said assessment upon demand or in such periodic payments as may be determined by the Association, and that said assessment, if not so paid on the date when due, shall become a continuing lien on the Lot and Living Unit and the personal obligation of said Owner, and shall be subject to collection, enforceability, foreclosure and remedies of the Association in the provisions set forth in Article XI hereof for other assessments by the Association.

Section 20.1.3. Damage or Destruction - No Fault. In the event any portion of any connection or line is obstructed, damaged or destroyed by some cause other than the act of any of the Owners being served by said connection, their agents, guests, or members or their families (including ordinary wear and tear and deterioration from lapse of time), then in such event, if said obstruction, damage or destruction shall prevent the full use and enjoyment of said connection by the Owner of any Lot or Living Unit served by said connection, said Owner shall notify the Association and the Association shall proceed forthwith to replace or repair said connection to as good condition as formerly in accordance with the terms hereof.

Section 20.1.4. Restoration. In conjunction with any repair, replacement or maintenance of any connection, the premises thereby affected shall be restored to their condition prior to such repair, replacement and maintenance and the cost thereof borne as provided for the cost of repairs.

ARTICLE XXI

HOME CONSTRUCTION STANDARDS

Section 21.1. Land Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling, not to exceed two stories in height, excluding the basement, plus an attached garage. The Owner of each Lot shall construct a sidewalk (or sidewalks) on such Lot, when and as required by the Village of Glen Carbon, at such Lot Owners expense. If any Lot Owner fails to complete said sidewalk (or sidewalks), and deliver a letter from the Village of Glen Carbon approving said sidewalk (or sidewalks) within sixty (60) days of demand, then the Homeowners Association may complete said sidewalk (or sidewalks) and bill the cost thereof to said Lot Owners; if not paid within thirty (30) days, a lien may be filed.

Section 21.1.1. The Village of Glen Carbon requires that all sidewalks be maintained in accordance with the Village of Glen Carbon's then current subdivision control ordinance by, and at the cost of, the homeowner. This obligation shall exist whether the sidewalk is constructed on private property, on the road right-of-way, or partially on each. In the event the

homeowner fails to repair or maintain the sidewalks as herein provided, the Village may, make said repairs and charge the cost thereof to the homeowner, and/or as a lien upon the real estate where said repairs were made. The Village of Glen Carbon shall have the power and authority to maintain an action to foreclose upon said lien.

Section 21.2. Building Location. No building shall be located on any Lot nearer to any street line than the building lines shown on said plat of the subdivision. No structure shall be located closer than seven and one-half feet (7-1/2') from any side lot line, or closer than twenty-five feet (25') from any rear lot line. However, where more than one lot is used for the construction of one dwelling overlapping the lot lines, the side line restrictions are hereby waived as to the lines between said combined lots; and the combined lots shall thereafter be considered one "lot" for purposes of this Declaration. For purposes of the setback requirements herein, eaves, steps and open porches shall not be considered a part of the building, provided however, that this shall not be construed to permit any portion of a building, on a Lot, to encroach upon another Lot.

Section 21.3. Plans and Specifications. An Architectural Control Committee is hereby established, which shall initially be comprised of the officers or appointees of the undersigned, Fountains of Sunset LLC. The following documents shall be submitted to the Architectural Control Committee for approval prior to the commencement of any site preparation or construction on any Lot and also to the Village of Glen Carbon for obtaining proper permits, to wit:

- A. Floor Plans;
- B. Front, sides and rear elevations;
- C. Exterior materials and color selections;
- D. Name of General Contractor or Construction Company;
- E. Plot plan showing front, side and rear setback lines, driveways, parking areas, and location of all structures on the Lot;
- F. Landscaping plan.

Section 21.4. Dwelling Size and Miscellaneous. No one-story dwelling shall be permitted on any Lot which does not meet the minimum square footage requirements outlined below, excluding garages, any space below ground level, and open porches and balconies; no one-and-one half story or two story dwelling shall be permitted on any Lot which does not meet the minimum square footage requirements outlined below, (any clerestory square footage may be counted as both first-floor and second-floor space). The character and design of garages must conform to the character and design of the dwelling structure.

Ranch	1900 square foot
Two Story	2300 square foot
Minimum 1st Floor	900 square foot

Section 21.5. Garage Requirements. Each Lot with a dwelling shall have a garage fully capable of housing a minimum of two automobiles. All buildings, including garages, shall be attached to the dwelling structure. Any exterior parking area will be restricted to operable automobiles, and such parking space will be allowed only upon prior written approval of the Architectural Control Committee. The paving materials of all parking areas, driveways, and turnarounds shall be Portland cement concrete, brick or stone and subject to Glen Carbon requirements.

Section 21.5.1. Driveways must be located a minimum of five feet (5') from the nearest side Lot line at the point of intersection with right-of-way in agreement with the Glen Carbon zoning ordinance.

Section 21.5.2. Any and all mechanical work, or vehicle maintenance, (except for washing or waxing) will be performed in the garage of each residence.

Section 21.6. Brick and Exterior Wall Requirements. The home which may be erected on a Lot shall be constructed of good quality, new materials, suitable for use in the construction of residences and no old buildings shall be placed on or moved to the premises. No tin, tarpaper, composition paper, or similar materials may be used as the exterior covering of any building. No A-frame design, modular or mobile homes, or underground homes are allowed. The Architectural Committee may approve "front split foyer" design which otherwise meet these restrictions. Brick, brick veneer, or stone is required on at least fifty-percent (50%) of the entire exterior wall surface on the 1st floor (excluding windows and doors). A ranch style home will need to have the entire front of the dwelling and one side covered with brick, brick veneer or stone (excluding doors and windows). On a two-story home, the brick requirement can be met by combining on the front and or sides if desired, such as making the entire front brick. In addition, to 50% brick, lakefront lots must have 50% on rear of the house. The balance of the exterior walls may be natural wood siding, finished masonite type siding, aluminum siding, premium grade Dutch Lap vinyl siding gauge 0.42 to 0.44 or better; NO DOUBLE 4 VINYL SIDING ALLOWED, or a combination thereof approved by the Architectural Control Committee. All exterior portions of all structures shall be fully enclosed and finished, including, by way of example and not by way of limitation, all soffit, undereave, overhang and porch areas.

Section 21.7. Fence Requirements. No wall, fences, or fencing of any kind shall be allowed in front of the rear exterior wall of the premises of any Lot. In addition, for all corner Lots, no wall, fences, or fencing of any kind shall be allowed nearer to any street than the side exterior wall of the premises facing that street. No wall, fences or fencing over five feet (5') in height shall be allowed on any Lot, nor shall any wall, fence or fencing be located closer than one foot (1') to any Lot line. All walls, fences and fencing shall be vinyl, aluminum or professionally constructed wrought iron construction, subject to the conditions herein set out for materials. ALL FENCES MUST BE BLACK. No chain link, wire, or other metal wall, fence or fencing shall be permitted. All walls, fences, and fencing must be submitted to, and approved by the Architectural Control

Committee prior to construction, and must be continually maintained to present an attractive appearance, or, after sixty (60) day notice, such walls, fences and fencing may be removed by the Homeowners Association and the cost thereof billed to the Lot Owner. If such a bill remains unpaid over thirty (30) days, a lien may be attached and filed against any such Lot.

Section 21.7.1. If Glen Carbon zoning ordinances on fencing around in-ground swimming pools is changed and this Declaration as it currently exists will not meet the changed zoning requirement then this Declaration will automatically be changed to adopt the minimum change required to bring them in compliance with the new zoning ordinance.

Section 21.8. Shingle Requirements. All roofs shall be covered with HEAVYWEIGHT ARCHITECTURAL GRADE SHINGLES OR BETTER. Shingles must have a textured design and appearance, and constructed of fiberglass, asphalt shingle, or wood materials. Any questions on Architectural Shingles meeting requirements will be addressed to the Architectural Control Committee. NO 3 TAB SHINGLES ARE PERMITTED. All roofs must have a MINIMUM OF 6/12 PITCH FRONT TO BACK, AND 8/12 PITCH ON FRONT GABLES.

Section 21.9. Mailboxes and Address Blocks. All Lot Owners will be required to install MATCHING MAILBOXES and ADDRESS BLOCKS which will be furnished by the Developer on the initial installation. Any additional mailboxes, lights, and address blocks must match and will be purchased by the Lot Owner.

Section 21.10. Construction of Residences, Maintenance of Property. During the construction, maintenance or refurbishment of any dwelling house or Lot, any littering or damage to the public and private roadways and easements in the Subdivision, any and clean up of them (including mud), shall be the responsibility of the Owner of any Lot upon which such work is being performed. During construction, maintenance and refurbishment of any Lot, the Lot must be maintained in a neat and orderly condition. All trash, scraps and debris must be placed in a dumpster or suitable container.

Section 21.10.1. The burning of any material outside of any dwelling house shall be prohibited, except the burning of leaves in conformity with the Statutes of the State of Illinois and Ordinances of the Village of Glen Carbon.

Section 21.10.2. All sites shall have a finish grade that will allow the natural flow of surface drainage water from one Lot to another without erosion or damage. Under no circumstances shall the Owner of any Lot or parcel of land in the Subdivision after the topographic conditions of said Owners property in any way that will permit or cause additional quantities of water to flow from or across the owners property and onto adjoining property or public right of way. Grading shall be sloped and tapered at the side or rear Lot lines in such a manner as to permit construction on an adjacent Lot without the need for retaining walls. Gutter down spouts run-

off shall be connected to storm sewers whenever permitted by municipal regulations, but shall never be connected to any sanitary sewer. However, this paragraph is in no way intended to prevent a house or driveway from being built on any certain Lot or Lots.

Section 21.10.3. The initial Homeowners Association dues will be One Hundred Twenty Dollars (\$120) per Lot per year. The initial charge will be collected at closing for the first year and for subsequent years all annual charges are due by April 30 of each year.

Section 21.10.4. Should the Homeowners Association fail to maintain the common areas, detention basins or any other Homeowner Association responsibility for a period of thirty (30) days after receiving written notice from the Village of Glen Carbon in writing, the Village of Glen Carbon shall have the right to maintain same and change the cost for same, as a lien, upon said Lots and/or the Homeowners Association or both.

Section 21.11. The provisions of this, ARTICLE 21, shall take precedence over any contrary provisions of any of the foregoing provisions of this Declaration.

ARTICLE XXII REMEDIES AND ENFORCEMENT

Section 22.1. Enforcement. The Association and each person to whose benefit this Declaration inures, may proceed through the judicial system to prevent the occurrence or contribution of any violation of any provision of this Declaration.

Section 22.2. Suspension of Rights. The Association may suspend all of an Owner's voting rights for any period during which any assessment against such Owner remains unpaid, or during the period of any continuing violation of the provisions of this Declaration or the Rules and Regulations. Suspension shall commence when an Owner is declared to be in violation of this Declaration or the Rules and Regulations by the Association and such suspension shall continue for an additional period not to exceed thirty (30) days after the violation has been cured.

Section 22.3. Cumulative Remedies. Remedies are cumulative and any specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy. No delay or failure on the part of an aggrieved party to invoke an available remedy shall be a waiver by that party of any right available to him or her upon the recurrence or continuation of said violation or the occurrence of a different violation.

Section 22.4. Self-Help. In addition to any other remedies, the Association or its duly authorized agent shall have the power to enter upon a Lot to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration or the Rules and Regulations. Unless an emergency situation exists, the Association shall give the violating Owner thirty (30) days written notice of its intent to exercise self-help. All costs of self-help, including attorneys fees actually incurred shall be assessed against the violating Owner and shall be collected as a specific assessment. Neither the Association nor its agents shall be deemed guilty in any manner of trespass.

Section 22.5. Attorneys Fees. The court in any action relating to the terms and provisions of this Declaration between the Association and any other party may award the Association reasonable expenses in prosecuting or defending such action, including attorneys fees actually incurred. In the event the Declarant or Association shall bring suit against any Owner for a violation of any of the provisions of this Declaration, the cost of suit and attorneys fees actually incurred will be assessed as costs against the Owner. The Association may include as a specific assessment to any violating Owner the cost of any effort before legal action to enforce provisions of this Declaration. In the event that any attorneys fees and costs are not paid by the Owner of said Lot within thirty (30) days after the Association has assessed them specifically to the Owner of said Lot or within thirty (30) days after judgment for them has been rendered, then those fees and costs shall bear the maximum legal interest rate. The Association may execute and acknowledge an instrument reciting this specific assessment and record it in the Office of the Recorder of Deeds for Madison County, Illinois. Thereupon the specific assessment shall become a continuing lien on the Lot of that Owner and shall bind the Owner, his or her heirs, successors and assigns.

Section 22.6. Fines. The Board may by resolution levy a fine of up to five percent (5%) of the monthly assessment per day upon any Lot for the continuing violation of this Declaration or the Rules and Regulations by the Lot Owner or the Lot Owner's tenant or occupant. Such fine shall only be imposed after the Board has given the Owner at least twenty (20) days written notice that a hearing will be held to determine the existence of any violation and only after the Board determines at such hearing that a violation exists. Any unpaid fines shall constitute a lien against the Lot.

ARTICLE XXIII **GENERAL PROVISIONS**

Section 23.1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the property and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Lot, his or her respective legal representatives, heirs, successors and assigns, for the duration of the Subdivision. In the event the Subdivision is vacated, fee simple title to the Common Ground shall vest in the then record Owners of all Lots and Living Units constituting a part of the Property, as

tenants in common. The rights of said tenants in common shall only be appurtenant to and in conjunction with their ownership of Lots or Living Units in the Subdivision, and any conveyance or change of ownership of any Lot or Living Units and none of the owners of the Common Ground shall have such rights of ownership as to permit them to convey their interest in the Common Ground except as is incident to the ownership of a Lot or Living Unit, and any sale of any Lot or Living Unit shall carry with it without specifically mentioned it, all the characteristics of ownership of the Common Ground; provided, however, that all of the rights, powers and authority conferred upon the Association shall continue to be possessed by the Association.

Section 23.2. Amendment. Except as provided in paragraph 5.1.5, this Declaration may be amended upon the written consent of at least two-thirds (2/3) of the Members. Amendments to this Declaration shall become effective upon recordation in the Madison County Office of the Recorder of Deeds, unless a later effective date is specified in the recorded Amendment. This provision is subject to the provisions of Article V of the Declaration encompassing rights of Declarant. This Declaration may not be amended or modified at any time without presenting the issue to the Planning and Zoning Commission of the Village of Glen Carbon, or its successors, and receiving the approval of the Board of Trustees of the Village of Glen Carbon. After the original Declaration (and thereafter any rescissions or amendments thereto) have been recorded with the Office of the Recorder, Madison County, Illinois, the Developer or Homeowners Association, as the case may be, shall provide a properly recorded copy of same to the Village of Glen Carbon.

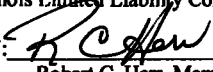
Section 23.3. Severability. Every provision of this Declaration is declared to be independent of and severable from every other provision. If any provision shall be held by a court of competent jurisdiction to be invalid or unenforceable, all remaining provisions shall remain unimpaired and in full force and effect.

Section 23.4. Captions and Gender. Captions in this Declaration are for convenience only and do not in any way limit or amplify the terms or provisions. Any reference to the masculine shall include the feminine and any reference to the feminine shall include the masculine and any reference to the singular shall include the plural.

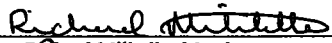
Section 23.5. Binding Arbitration. All disputes and controversies between the parties to this Declaration regarding the subject matter of this Declaration shall be resolved by arbitration in Madison County, Illinois before a proceeding administered by the American Arbitration Association and in accordance with the rules of the American Arbitration Association. In connection therewith, discovery shall be permitted pursuant to the provisions of the Illinois Rules of Civil Procedure. Any matter determined by arbitration as aforesaid shall be final and binding upon all of the parties thereto. Only upon more than the majority of the Owner's approval shall the Association be allowed to represent an Owner in arbitration with respect to the subject matter of this Declaration.

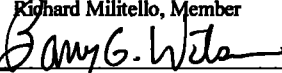
**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION
WHICH MAY BE ENFORCED BY THE PARTIES.**

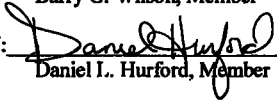
The Fountains of Sunset, LLC, an
Illinois Limited Liability Company

BY: 
Robert C. Herr, Member

BY: 
Joseph Militello, Member

BY: 
Richard Militello, Member

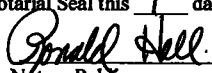
BY: 
Barry G. Wilson, Member

BY: 
Daniel L. Hurford, Member

STATE OF ILLINOIS)
) SS.
COUNTY OF MADISON)

I, the undersigned Notary Public, in and for said County and State aforesaid, DO
HEREBY CERTIFY that **ROBERT C. HERR**, personally known to me to be the same
person whose name is subscribed to the foregoing instrument, as having executed the
same, appeared before me this day in person and acknowledged that he signed, sealed and
delivered the said instrument as his free and voluntary act for the uses and purposes
therein set forth.

Given under my hand and Notarial Seal this 1 day of July, 2003.


Notary Public

My Commission Expires:

August 14, 2005

"OFFICIAL SEAL"
RONALD HALL
Notary Public-State of Illinois
My commission expires
August 14, 2005

STATE OF ILLINOIS)
) SS.
 COUNTY OF MADISON)

I, the undersigned Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that JOSEPH MILITELLO, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 1 day of July, 2003.

Ronald Hall
 Notary Public

My Commission Expires:

August 14, 2005

"OFFICIAL SEAL"
 RONALD HALL
 Notary Public-State of Illinois
 My commission expires:
 August 14, 2005

STATE OF ILLINOIS)
) SS.
 COUNTY OF MADISON)

I, the undersigned Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that RICHARD MILITELLO, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 1 day of July, 2003.

Ronald Hall
 Notary Public

My Commission Expires:

August 14, 2005

"OFFICIAL SEAL"
 RONALD HALL
 Notary Public-State of Illinois
 My commission expires
 August 14, 2005

STATE OF ILLINOIS)
) SS.
 COUNTY OF MADISON)

I, the undersigned Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that BARRY G. WILSON, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 1 day of July, 2003.

Ronald Hall
 Notary Public

"OFFICIAL SEAL"
 RONALD HALL
 Notary Public-State of Illinois
 My commission expires
 August 14, 2005

My Commission Expires:

August 14, 2005

STATE OF ILLINOIS)
) SS.
 COUNTY OF MADISON)

I, the undersigned Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that DANIEL L. HURFORD, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 1 day of July, 2003.

Ronald Hall
 Notary Public

"OFFICIAL SEAL"
 RONALD HALL
 Notary Public-State of Illinois
 My commission expires
 August 14, 2005

My Commission Expires:

August 14, 2005

THE FOUNTAINS OF SUNSET
HOMEOWNERS ASSOCIATION

BY: *R. C. Herr*
ROBERT C. HERR, PRESIDENT

ATTEST:

BY: *Joseph Militello*
JOSEPH MILITELLO, SECRETARY

VILLAGE OF GLEN CARBON

BY: *B. M. Longenecker*
President
Date: 7/2/03

ATTEST:

BY: *Dagmar M. Gansley*
Village Clerk
Date: 7/2/03

4589 3896

EXHIBIT A

(LEGAL DESCRIPTION)

Part of the Northwest Quarter of Section 28, Township 4 North, Range 8 West of the Third Principal Meridian, Village of Glen Carbon, Madison County, Illinois, being more particularly described as follows:

Commencing at the Southeast corner of Country Maples Subdivision as recorded in Plat Cabinet 52, Page 198 of the records of the Madison County, Illinois Recorder's Office; thence North 00 Degrees 17 Minutes 51 Seconds West along the East line of said Country Maples, a distance of 401.88 feet to the Southwest corner of Country Maples 1st Addition as recorded in Plat Cabinet 56, Page 61 in said Recorder's Office; thence North 88 Degrees 19 Minutes 38 Seconds East along the South line of said Country Maples 1st Addition, a distance of 619.43 feet to the Western most line of Lot 41 in Glen Hills 1st Addition, as recorded in Plat Cabinet 56, Page 79 in said Recorder's Office; thence South 00 Degrees 11 Minutes 22 Seconds East along the West line of said Lot 41 and the West line of the Seventh and Eighth Addition of Meridian Hills, as recorded in Plat Cabinet 54, Page 115 and Plat Cabinet 60, Page 137, respectively, in said Recorder's Office, a distance of 936.00 feet; thence South 63 Degrees 11 Minutes 44 Seconds West, a distance of 537.67 feet; thence South 88 Degrees 15 Minutes 45 Seconds West, a distance of 41.22 feet; thence North 53 Degrees 58 Minutes 56 Seconds West, a distance of 355.06 feet; thence North 46 Degrees 01 Minute 14 Seconds West, a distance of 98.11 feet to the beginning of a 100.00 foot radius non-tangent curve to the right whose center bears North 29 Degrees 44 Minutes 50 Seconds East; thence Westerly along said curve through a central angle of 08 Degrees 33 Minutes 06 Seconds, an arc distance of 14.93 feet to the beginning of a 523.00 foot radius tangent curve to the right; thence Westerly along said curve through a central angle of 34 Degrees 43 Minutes 03 Seconds, an arc distance of 316.90 feet; thence North 76 Degrees 28 Minutes 41 Seconds West, a distance of 49.03 feet to the beginning of a 230.00 foot radius tangent curve to the right; thence Westerly along said curve through a central angle of 35 Degrees 34 Minutes 03 Seconds, an arc distance of 142.78 feet to the beginning of a 300.00 foot radius tangent curve to the left; thence Westerly along said curve through a central angle of 09 Degrees 04 Minutes 07 Seconds, an arc distance of 47.48 feet to the beginning of a 300.00 foot radius tangent curve to the right; thence Westerly along said curve through a central angle of 09 Degrees 04 Minutes 07 Seconds, an arc distance of 47.48 feet; thence North 40 Degrees 54 Minutes 38 seconds West, a distance of 24.51 feet to the beginning of a 30 foot radius non-tangent curve to the left whose center bears South 82 Degrees 53 Minutes 52 Seconds East; thence Southerly, along said curve through a central angle of 06 Degrees 13 Minutes 32 Seconds, an arc length of 3.26 feet; thence South 00 Degrees 52 Minutes 36 Seconds West, a distance of 19.06 feet; thence North 40 Degrees 54 Minutes 38 Seconds West, a distance of 70.34 feet; thence South 85 Degrees 42 Minutes 36 Seconds West, a distance of 50.20 feet to a point on the Southeasterly right-of-way line of Illinois Route 157; thence North 49 Degrees 05 Minutes 22 Seconds East along said Southeasterly right-of-way line of Illinois Route 157, a distance of 287.22 feet to the beginning of a 1573.78 foot radius tangent curve to the left; thence Northeasterly

along said curve and right-of-way line through a central angle of 06 Degrees 59 Minutes 51 Seconds, an arc distance of 192.21 feet to a point on the South line of said Country Maples; thence South 89 Degrees 09 Minutes 07 Seconds East, a distance of 576.84 feet to the Point of Beginning, containing 24.64 acres, more or less.

Except coal, gas and other mineral rights excepted or reserved in prior conveyances.

EXCEPTING THEREFROM:

Part of the North Half of Section 28, Township 4 North, Range 8 West of the Third Principal Meridian, Village of Glen Carbon, Madison County, Illinois, being more particularly described as follows:

Commencing at the Southeast corner of Lot 3 of Country Maples Subdivision as recorded in Plat Cabinet 52, page 198 of the Madison County, Illinois Recorder's Office; thence North 89 Degrees 09 Minutes 07 Seconds West, along the South line of said Country Maples Subdivision, a distance of 360.24 feet to the Northwest corner of The Fountains of Sunset, a subdivision as recorded in Plat Cabinet 62, Page 114 in said Recorder's Office, said point being the point of beginning of the tract of land hereinafter described, thence South 01 Degrees 18 Minutes 16 Seconds West, along the West line of said The Fountains of Sunset, a distance of 464.95 feet to a point on the Northerly line of Fountains Drive (variable width) as shown on the said The Fountains of Sunset, said point being the beginning of a 521.50 foot radius non tangent curve to the right whose center bears North 08 Degrees 46 Minutes 04 Seconds West; thence Westerly along said curve and Northerly line of Fountains Drive, through a central angle of 22 Degrees 17 Minutes 23 Seconds, for an arc distance of 202.88 feet; thence North 76 Degrees 28 Minutes 41 Seconds West, along said Northerly line of Fountains Drive, a distance of 46.25 feet to the beginning of 170.00 foot radius tangent curve to the right; thence Northwesterly, along said curve and Northerly line of Fountains Drive, through a central angle of 53 Degrees 15 Minutes 45 Seconds, for an arc distance of 159.52 feet to the beginning of a 170.00 foot radius tangent curve to the left; thence Northwesterly, along said curve and Northerly line of Fountains Drive, through a central angle of 18 Degrees 11 Minutes 42 Seconds, for an arc distance of 53.99 feet; thence North 40 Degrees 54 Minutes 38 Seconds West, along said Northerly line of Fountains Drive, a distance of 56.69 feet to the beginning of a 40.00 foot radius tangent curve to the right; thence Northerly, along said curve and Easterly line of Fountains Drive, through a central angle of 90 Degrees 00 Minutes 00 Seconds, for an arc distance of 62.83 feet to a point on the Southeasterly right-of-way line of Illinois Route 157; thence North 49 Degrees 05 Minutes 22 Seconds East, along said Southeasterly right-of-way line of Illinois Route 157, a distance of 113.19 feet to the beginning of 1573.78 foot radius tangent curve to the left; thence Northeasterly, along said curve and Southeasterly right-of-way line of Illinois Route 157, through a central angle of 06 Degrees 47 Minutes 15 Seconds, for an arc distance of 186.44 feet to a point on the South line of said Country Maples

4589 3899

Subdivision; thence South 89 Degrees 09 Minutes 07 Seconds East, along South line of said Country Maples Subdivision, a distance of 216.61 feet to the Point of Beginning, containing 3.71 acres, more or less.

(WITH PRIVILEGES OF AND SUBJECT TO ALL RESTRICTIONS, RESERVATIONS, RIGHT-OF-WAY GRANTS, COVENANTS, EXCEPTIONS, EASEMENTS, AND AGREEMENTS, ETC., OF RECORD.)

Permanent Parcel No. 14-1-15-28-00-000-003 (Part)

Permanent Parcel No. 14-1-15-28-00-000-003.001 (Part)

Permanent Parcel No. _____

A RESUBDIVISION OF THE FOUNTAINS OF SUNSET

PART OF THE NW 1/4 OF SECTION 28,
T.4N., R.8W., OF THE 3rd PRIN. MER.,
VILLAGE OF GLEN CARBON,
MADISON COUNTY, ILLINOIS

SUNSET HILLS BOULEVARD

IL. RTE. 157

VILLAGE OF GLEN CARBON

SUNSET HILL CEMETERY

EXITING
LAKE

NOTES:

- Lots 41 & 42 and 57 & 58 are combination duplex lots. The remaining lots are single family lots.
- Except for the common line for duplex lots, the lots will have a minimum side yard of seven and one half (7 1/2) feet with a minimum distance between dwelling units of fifteen (15) feet.

			PROJECT MANAGER
			YDB
			DRAWN
			JHN
1	05/10/03	review side yard set back to 7 1/2 feet	CHECKED
NO.	DATE	REMARKS	WDS

BLOTEVOGEL ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND SURVEYORS

2 GINGER CREEK PARKWAY, GLEN CARBON, ILLINOIS 62034

TELEPHONE: 635/635-4335 • FAX: 635/635-7187 • e-mail: bte@blotevogelassociates.com

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