

BY-LAWS
OF
FALCON CREEK COMMUNITY ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION. The name of the corporation is Falcon Creek Community Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 10104 Woodland Plaza Cove, Fort Wayne, IN 46825 but meetings of members and directors may be held at such places within the State of Indiana, County of Allen, as may be designated by the Board of Directors.

ARTICLE II
PURPOSE

The Association is organized exclusively for charitable purposes according to Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue Law). Such charitable purposes shall include the following:

1) to provide for maintenance, preservation and architectural control of the residence lots and common area within that certain tract of property described generally as Falcon Creek Community Association, Inc., Section I, the legal description of which is particularly contained in the Amended Dedication, Protective Restrictions, Covenants, Limitations, Easements And Approvals Appended To As Part Of The Dedication And Plat Of Falcon Creek, Section I hereto attached, and

2) to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Amended Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended To As Part Of The Dedication And Plat Of Falcon Creek, Section I, hereinafter called the "Dedication", applicable to the property and recorded or to be recorded in the Office of the Recorder of Allen County and as the same may be amended from time to time as therein provided, said Dedication being incorporated herein as if set out at length;

(b) fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the terms of the Dedication, to pay all expenses in connection therewith and all other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal

property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Indiana by law may now or hereafter have or exercise.

ARTICLE III DEFINITIONS

Section 1. "Association" shall mean and refer to Falcon Creek Community Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Dedication, Protective Restrictions, Covenants, Limitations, Easements And Approvals Appended To As Part Of The Dedication And Plat Of Falcon Creek Community Association, Inc., Section I, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Zohrab K. Tazian and Naomi K. Tazian, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Amended Dedication, Protective Restrictions, Covenants, Limitations, Easements And Approvals Appended To As Part Of The Dedication And Plat Of Falcon Creek Community Association, Inc., Section I applicable to the Properties recorded in the office of the Recorder of Allen County, Indiana.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE IV MEETING OF MEMBERS

Section 1. Annual Meeting. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day the same month of each year thereafter, at the hour of 7:00 o'clock P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice and Place of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. The Board of Directors may designate any place, within or outside the State of Indiana, as the place of meeting for any annual or special meeting called by the Board of Directors. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Association in the State of Indiana but if all of the members shall meet at any time and place, either within or without the State of Indiana and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting any Association action may be taken.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable

and shall automatically cease upon conveyance by the member of his Lot.

Section 6. Informal Action by Members. Any action required by law to be taken at a meeting of the members, or any action which may be taken at a meeting of members, may be taken without meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

Section 7. Voting List. The -secretary, or assistant secretary of the Association, shall keep at all times, at the principal office of the Corporation, a complete and accurate list of the members entitled to vote at any meeting of the members which may be inspected by any member, for any purpose, at any reasonable time.

ARTICLE V BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. General Powers. The control and management of the affairs of the Association shall be vested in its Board of Directors. Directors must be members of the Association.

Section 2. Number. The affairs of this Association shall be managed by a Board of not less than three (3) directors and not more than nine (9) directors, who must be members of the Association.

Section 3. Term of Office. At the first annual meeting the members shall elect three directors for a term of one year. At the second annual meeting, the members shall elect three directors for a term of one year, three directors for a term of two years and three directors for a term of three years; and at each annual meeting thereafter the members shall elect three directors for a term of three years. Each Director shall be eligible for reelection. The Board of Directors shall have the right to increase or decrease within the limits prescribed by the Articles of Incorporation the number of Directors by a vote of the majority of the Directors present at a properly called meeting of the Board of Directors.

Section 4. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his/her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 5. Compensation. No director shall receive compensation for any service he or she may render to the Association. However, any director may be reimbursed for actual expenses incurred in the performance of directorial duties.

Section 6. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 3. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board or of such committee as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

ARTICLE VIII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employee as they deem necessary, and to prescribe their duties.

Section 2. Power to Appoint Executive Committee. The Board of Directors shall have power to appoint by resolution adopted by a majority of the entire Board an executive committee composed of two or more Directors, who, to the extent provided in such resolution, shall have and exercise the authority of the Board of Directors in the management of the business of the Association between meetings of the Board.

Section 3. Power to Make By-Laws. The Board of Directors shall have the power to make and alter any by-law or by-laws, including the fixing and altering of the number of Directors.

Section 4. Power to Elect and Appoint Officers. The Board of Directors shall select a president, one or more vice-presidents, a secretary and a treasurer. The Board shall have the power to appoint such other officers and agents as the Board may deem necessary for transaction of the business of the Association. Any officer or agent may removed by the Board of Directors whenever in the judgment of the Board the interests of the Association will be served thereby , The Board shall also have power to fill any vacancy in any office occurring for any reason whatsoever.

Section 5. Delegation of Powers. For any reason deemed sufficient by the Board of Directors, whether occasioned by absence or otherwise, the Board may delegate all or any of the powers and duties of any officer to any other officer or Director, but no officer or Director shall execute, acknowledge or verify any instrument in more than one capacity.

Section 6. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members

who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

ARTICLE IX OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create. Any two offices may be held by the same person, except the office of president and secretary.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless they shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority,

and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice President

(b) The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with the addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

Section 8. Vacancies. Vacancies among elected and appointed officers occurring during the annual terms thereof shall be filled by the Board of Directors.

ARTICLE X COMMITTEES

Section 1. The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

Section 2. Standing and Special Committees. The president shall, with the approval of the Board of Directors, appoint such standing or special committees of such size as the president or Board of Directors may deem necessary to properly carry on the activities and effect the purpose of the Association. Such committees shall perform as the president or the Board of Directors may direct.

ARTICLE XI BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable costs.

ARTICLE XI ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 6 percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common area or abandonment of his Lot.

ARTICLE XII CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section 12.1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these ByLaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 12.2. Checks, Drafts, etc. All checks, drafts, or orders for the payment of money,

notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors, such instruments shall be signed by the treasurer, and countersigned by the president or vice-president of the Association.

Section 12.3. Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may select.

Section 12.4. Gifts. The Board of Directors may accept on behalf of the Association any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Association.

ARTICLE XIII CORPORATE SEAL

The Association may have a seal in circular form having within its circumference the words: FALCON CREEK COMMUNITY ASSOCIATION, INC.

ARTICLE XIV CORPORATE INDEMNIFICATION

Section 1. Indemnification. To the extent not inconsistent with the law of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Association shall be indemnified by the Association as provided in the Act.

ARTICLE XV AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these ByLaws, the Declaration shall control.

ARTICLE XVI MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we being all of the directors of the Falcon Creek Community Association, Inc. have hereunto set our hands this ____ day of February, 2001.

Zohrab K. Tazian
10104 Woodland Plaza Cove
Fort Wayne, IN 46825

Naomi K. Tazian
10104 Woodland Plaza Cove
Fort Wayne, IN 46825

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the Falcon Creek Community Association, Inc., an Indiana corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the ____ of _____, 2001.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this ____ day of _____, 2001

Secretary

Falcon Creek Community Association Miscellaneous Rules and Requirements

Fence Requirements & Limitations Adopted by Board of Directors 6/26/02 Revised 5/10/03

- 1) All requirements by governing agencies must be followed in addition to the following community requirements outlined below. If residents are unsure of requirements, please call the Allen County Department of Planning Services.
- 2) All fences must receive written approval of the Architectural Control Committee.
- 3) Owner must submit location (showing lot and house), style/type, height and material.
- 4) Fences are to be Wood or Vinyl only ~ no chain link permitted. However, solid fences can only be Wood.
- 5) Vinyl fences must have a lifetime warranty against fading. Owner must replace faded or yellowing portion of Vinyl fences.
- 6) Solid fences are permitted, but can only be Wood, subject to the following conditions.
- 7) Fences are not allowed to block view of ponds or community signage.
Pond lots can have 5' fences around immediate patio area/rear wall of house.
They cannot have a fence extend into back yard areas.
- 8) Height Limitations are as follows:
 - 5' Height Limit for fences with the following exceptions:
 - a. 8' Height Limit for Rear frontage only for lots bordering adjoining property (including farms, other subdivisions, etc.)
 - b. 6' Height Limit for rear lines of lots bordering common area sidewalks.
- 9) Fences along creeks cannot extend into block area behind lot.
- 10) No fences within front building line (41.5' from back of curb) or side building line (31.5' from back of curb) as shown on the plat.
- 11) Association takes no responsibility for fences installed in utilities or for any encroachments.
- 12) Fences shall be stained or painted neutral color or white only.
- 13) Fences shall be maintained in an attractive manner at all times.

Playground & Other Play Equipment Requirements & Limitations Adopted by Board of Directors 6/26/02

- 1) All playground and other play equipment requires written approval of the Architectural Control Committee
- 2) Owner must submit style, size, material and location on lot
- 3) All play equipment must be in rear of yard only (excluding basketball goals)

- 4) Shall be no larger than 12' tall at highest point
- 5) Must be no closer than 15' to adjoining side property lines
(excluding basketball goals)
- 6) Must be no closer than 10' to adjoining rear property lines
- 7) Shall predominately consist of wood (excluding basketball goals)
- 8) Shall be located in one location only (excluding basketball goals)
- 9) Shall not have large logos advertising products
- 10) Not permitted to pave an separate area in yard for play
- 11) No play equipment permitted in streets at anytime
- 12) Any lighting must meet the requirements &the restrictive covenants
- 13) Basketball goals shall be no closer to the street, than 20' behind back of curb
- 14) Any play equipment of a temporary nature shall be stored inside when not in use

**Flag Pole Requirements & Limitations
Adopted by Board of Directors 05/26/04**

- 1) All flag poles requires written approval of the Architectural Control Committee
- 2) Owner must submit style, size, material and location on lot
- 3) Shall be no larger than 20' tall at highest point
- 4) Any lighting must meet the requirements & the restrictive covenants.
- 5) Flag pole must be well maintained by the homeowner

FIRST AMENDMENT
TO THE DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS,
EASEMENTS, APPROVALS, APPENDED TO AS PART OF THE DEDICATION AND
PLAT OF CLASSIC HEIGHTS, SECTION II

THIS DECLARATION, made on the day date hereafter set forth by CLASSIC HEIGHTS, LLC, hereinafter referred to as "Declarant"

Pursuant to the provisions of Section 9.5 of the Protective Restrictions, Covenants, Limitations, Easements, Approvals, Appended to as Part of the Dedication and Plat of Falcon Creek, Section I, Lots 54 to 106 inclusive, as recorded in Plat Cabinet E, page 98, and as document number 200043904 in the Office of the Recorder of Allen County, Indiana, the undersigned as Declarant, do hereby make and affect the following changes in and to said document:

Section 5.4 (a) as stated:

Beginning the January 1, 2002 the annual assessment shall be shall be one hundred seventy-five dollars (\$175.00) per lot.

Is hereby deleted in its entirety and replaced with:

Beginning January 1, 2002 the annual assessment shall be two hundred dollars (\$200.00) per lot.

Furthermore, Section 6.6 as stated:

No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown below:

Minimum Rear		
Lots Numbered	Building Setback	
64,66-72,79-83,93-100	15'	(Bordering common areas)
54-63,73-78,84-92,101-106	25'	

Is hereby deleted in its entirety and replaced with:

No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown below:

Minimum Rear		
Lots Numbered	Building Setback	
61,64,66-72,79-83,93-100	15'	(Bordering common areas)
54-60,62,63,65,73-78,84-92,101-106	25'	

IN WITNESS WHEREOF, the undersigned have

hereunto set their hands this _____ day of August, 2000.

Zohrab K. Tazian, Declarant

Naomi K. Tazian, Declarant

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State personally appeared Zohrab K. Tazian and Naomi K. Tazian, husband and wife, and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of August, 2000.

My Commission Expires:

Notary Public
Resident of Allen County, Indiana

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.

Section 8.21. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	54,60-62,64-70,79	841.3 feet
	71-73	837.7 feet
	92-100	844.3 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

SECOND AMENDMENT
TO THE DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS,
EASEMENTS, APPROVALS, APPENDED TO AS PART OF THE DEDICATION AND
PLAT OF FALCON CREEK, SECTION I LOTS 54 to 106 INCLUSIVE

THIS DECLARATION, made on the day date hereafter set forth by ZOHRAB K. TAZIAN and NAOMI K. TAZIAN officers of FALCON CREEK, LLC, hereinafter referred to as "Declarant".

Pursuant to the provisions of Section 9.5 of the Protective Restrictions, Covenants, Limitations, Easements, Approvals, Appended to as Part of the Dedication and Plat of Falcon Creek, Section I, Lots 54 to 106 inclusive, as recorded in Plat Cabinet E, page 98, and as document number 200043904 in the Office of the Recorder of Allen County, Indiana, the undersigned as Declarant, do hereby make and affect the following changes in and to said document:

"Section 8.21. Flood Protection Grades" as stated:

In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	54,60-62,64-70,79	841.3 feet
	71-73	837.7 feet
	92-100	844.3 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

Is hereby deleted in its entirety and replaced with:

In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	54,60-62,64-70,79	841.3 feet
	71-73	837.7 feet
	92-100	844.3 feet
	103-106	844.0 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat, excluding those of lots 103 through 106.

IN WITNESS WHEREOF, the undersigned have
hereunto set their hands this day of September, 2000.

Zohrab K. Tazian, Declarant

Naomi K. Tazian, Declarant

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State personally appeared Zohrab K. Tazian and Naomi K. Tazian, husband and wife, and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of September, 2000.

My Commission Expires:

Notary Public
Resident of Allen County, Indiana

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.

SECOND AMENDMENT
TO THE DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS,
EASEMENTS, APPROVALS, APPENDED TO AS PART OF THE DEDICATION AND
PLAT OF FALCON CREEK, SECTION I LOTS 54 to 106 INCLUSIVE

THIS DECLARATION, made on the day date hereafter set forth by ZOHRAB K. TAZIAN and NAOMI K. TAZIAN officers of FALCON CREEK, LLC, hereinafter referred to as "Declarant".

Pursuant to the provisions of Section 9.5 of the Protective Restrictions, Covenants, Limitations, Easements, Approvals, Appended to as Part of the Dedication and Plat of Falcon Creek, Section I, Lots 54 to 106 inclusive, as recorded in Plat Cabinet E, page 98, and as document number 200043904 in the Office of the Recorder of Allen County, Indiana, the undersigned as Declarant, do hereby make and affect the following changes in and to said document:

"Section 8.21. Flood Protection Grades" as stated:

In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	54,60-62,64-70,79	841.3 feet
	71-73	837.7 feet
	92-100	844.3 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

Is hereby deleted in its entirety and replaced with:

In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	54,60-62,64-70,79	841.3 feet
	71-73	837.7 feet
	92-100	844.3 feet
	103-106	844.0 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat, excluding those of lots 103 through 106.

IN WITNESS WHEREOF, the undersigned have
hereunto set their hands this day of September, 2000.

Zohrab K. Tazian, Declarant

Naomi K. Tazian, Declarant

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State personally appeared Zohrab K. Tazian and Naomi K. Tazian, husband and wife, and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of September, 2000.

My Commission Expires:

Notary Public
Resident of Allen County, Indiana

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.

THIRD AMENDMENT
TO THE DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS,
LIMITATIONS, EASEMENTS, APPROVALS, APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF FALCON CREEK, SECTION I LOTS 54 to 106
INCLUSIVE

THIS DECLARATION, made on the day date hereafter set forth by ZOHRAB K. TAZIAN officer of FALCON CREEK, LLC, hereinafter referred to as “Declarant”.

Pursuant to the provisions of Section 9.5 of the Protective Restrictions, Covenants, Limitations, Easements, Approvals, Appended to as Part of the Dedication and Plat of Falcon Creek, Section I, Lots 54 to 106 inclusive, as recorded in Plat Cabinet E, page 98, and as document number 200043904 in the Office of the Recorder of Allen County, Indiana, the undersigned as Declarant, do hereby make and affect the following changes in and to said document:

Section 8.4. “Fencing” as stated:

No chain link fence shall be erected on any lot. Wood fences are permitted but require approval from the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply.

Is hereby deleted in its entirety and replaced with:

No chain link fence shall be erected on any lot. Certain wood and vinyl fences are permitted. However, all fences require the written approval of the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply.

FURTHERMORE,

Section 8.5 “Pools” as stated:

No above-ground pool shall be erected or maintained on any lot which exceeds eighteen (18) inches in height above ground level.

Is hereby deleted in its entirety and replaced with:

All pools require the written approval of the Architectural Control Committee prior to installation and may be limited in regards to height, location and size. Regardless, No above-ground pool shall be erected or maintained on any lot which exceeds eighteen (18) inches in height above ground level.

IN WITNESS WHEREOF, the undersigned have

hereunto set their hands this _____ day of June, 2003.

Zohrab K. Tazian, Declarant

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State personally appeared Zohrab K. Tazian and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of June, 2003.

My Commission Expires:

Notary Public
Resident of Allen County, Indiana

This instrument prepared by XXX

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION I
LOTS 54 to 106 INCLUSIVE**

THIS DECLARATION, made on the date hereinafter set forth, by ZOHRAB K. TAZIAN and NAOMI K. TAZIAN, hereinafter referred to as "Declarants".

WITNESSETH:

WHEREAS, Declarants are the owners of certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the Southwest Quarter of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 22; thence North 00 degrees 03 minutes 22 seconds East (based on an adjoining deed bearing of North 00 degrees 00 minutes 00 seconds East for the West line of the Northwest Quarter of Section 27, Township 32 North, Range 12 East, Allen County, Indiana), along the West line of said Southwest Quarter, being within the right-of-way of Coldwater Road, a distance of 595.13 feet to a point situated 726.15 feet, South 00 degrees 03 minutes 22 seconds West from the West Quarter corner of said Section 22, this point being the Southwest corner of a 1.00 acre tract of land conveyed to Karen M. Clapp by deed recorded in Document No. 90-038727 in the Office of the Recorder of said County; thence South 89 degrees 38 minutes 00 seconds East, on and along the South line of said 1.00 acre tract of land, a distance of 208.71 feet to the Southeast corner thereof; thence North 00 degrees 03 minutes 22 seconds East and parallel with the West line of said Southwest Quarter, on and along the East line of said 1.00 acre tract of land, a distance of 50.0 feet to the centerline of McComb ditch; thence South 47 degrees 03 minutes 43 seconds East, on and along said ditch centerline, a distance of 95.00 feet; thence South 85 degrees 40 minutes 11 seconds East, continuing on and along said ditch centerline, a distance of 174.94 feet; thence South 89 degrees 56 minutes 38 seconds East, leaving said ditch centerline, a distance of 136.72 feet; thence South 53 degrees 30 minutes 53 seconds East, a distance of 124.08 feet; thence South 56 degrees 31 minutes 28 seconds East, a distance of 50.00 feet; thence South 53 degrees 32 minutes 02 seconds East, a distance of 130.05 feet; thence North 38 degrees 50 minutes 00 seconds East, a distance of 65.00 feet; thence North 43 degrees 25 minutes 58 seconds East, a distance of 41.57 feet; thence North 87 degrees 09 minutes 50 seconds East, a distance of 35.24 feet; thence North 89 degrees 20 minutes 00 seconds East, a distance of 127.65 feet; thence South 83 degrees 04 minutes 13 seconds East, a distance of 172.24 feet; thence South 89 degrees 50 minutes 02 seconds East, a distance of 55.00 feet to the West line of the East Half of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, along said West line, a distance of 10.00 feet to the Southernmost corner of a 4.800 acre tract of land conveyed to John C. & Glenda K. Dincoff by deed recorded in Document No. 970010774 in the Office of said Recorder; thence North 42 degrees 11 minutes 04 seconds

East, along the Southeast line of said 4.800 acre tract of land, a distance of 120.85 feet to the **true point of beginning**; thence North 42 degrees 11 minutes 04 seconds East, continuing along the Southeast line of said 4.800 acre tract of land, a distance of 211.72 feet; thence South 89 degrees 38 minutes 00 seconds East, along the South line of said 4.800 acre tract of land and parallel to the North line of said Southwest Quarter, a distance of 200.00 feet to the Southeast corner of said 4.800 acre tract of land; thence North 00 degrees 15 minutes 26 seconds West, along the East line of said 4.800 acre tract of land, a distance of 134.95 feet to the Southwest corner of Shiraz Estates, Section 1, the plat of which is recorded in Plat Book 41, pages 10-12 in the Office of said Recorder; thence South 89 degrees 38 minutes 00 seconds East, and parallel to the North line of said Southwest Quarter, along the South line of said Shiraz Estates, Section 1, a distance of 332.94 feet to the Southeast corner thereof; thence North 00 degrees 16 minutes 34 seconds East, along the East line of said Shiraz Estates, Section 1, a distance of 81.50 feet to the Southwest corner of a 1.000 acre tract of land conveyed to Gary L. & Tana J. Rogers by deed recorded in Document No. 92-045612 in the Office of said Recorder; thence South 89 degrees 38 minutes 00 seconds East and parallel to the North line of said Southwest Quarter, along the South line of said 1.000 acre tract of land and the South line of a 2.311 acre tract of land conveyed to Leo L. Kinast, Jr. & Martha Kinast by deed recorded in Document No. 93-035021 in the Office of said Recorder, a distance of 540.00 feet to the East line of said Southwest Quarter; thence South 00 degrees 16 minutes 34 seconds West, along said East line, a distance of 250.67 feet to the Southeast corner of the North Half of the Northeast Quarter of said Southwest Quarter; thence South 53 degrees 03 minutes 09 seconds West, a distance of 475.37 feet; thence North 89 degrees 38 minutes 00 seconds West and parallel to the North line of said Southwest Quarter, a distance of 275.00 feet; thence South 19 degrees 29 minutes 15 seconds West, a distance of 35.00 feet; thence South 01 degrees 19 minutes 28 seconds West, a distance of 63.17 feet; thence South 85 degrees 35 minutes 40 seconds West, a distance of 15.00 feet; thence South 03 degrees 55 minutes 14 seconds East, a distance of 133.72 feet; thence South 02 degrees 51 minutes 10 seconds East, a distance of 50.03 feet to a point on a regular curve to the right having a radius of 50.00 feet; thence Southeasterly, along the arc of said curve, not tangent to the last course, an arc distance of 24.25 feet, being subtended by a long chord having a length of 24.01 feet and a bearing of South 80 degrees 56 minutes 46 seconds East; thence South 03 degrees 28 minutes 42 seconds West, not tangent to the last curve, a distance of 96.17 feet; thence South 20 degrees 33 minutes 36 seconds East, a distance of 110.25 feet; thence South 40 degrees 48 minutes 17 seconds East, a distance of 135.24 feet; thence South 21 degrees 59 minutes 51 seconds East, a distance of 47.60 feet to a point on a regular curve to the left having a radius of 475.00 feet; thence Southwesterly, along the arc of said curve, not tangent to the last course, an arc distance of 14.78 feet, being subtended by a long chord of 14.78 feet and a bearing of South 67 degrees 06 minutes 41 seconds West to the point of tangency; thence South 66 degrees 13 minutes 12 seconds West and tangent to said curve, a distance of 118.60 feet; thence South 46 degrees 26 minutes 55 seconds West, a distance of 52.21 feet; thence South 57 degrees 49 minutes 10 seconds West, a distance of 219.36 feet; thence South 73 degrees 39 minutes 53 seconds West, a distance of 60.74 feet; thence South 84 degrees 17 minutes 14 seconds West, a distance of 84.08 feet; thence North 86 degrees 41 minutes 34 seconds West, a distance of 67.73 feet; thence North 80 degrees 21 minutes 57 seconds West, a distance of 85.00 feet; thence North 89 degrees 48 minutes 31 seconds West, a distance of 149.90 feet to the West line of the East Half of said Southwest Quarter; thence North 00 degrees 09 minutes 58 seconds East, along said West line, a distance of 475.00 feet to the Southeast corner of the Northwest Quarter of said

Southwest Quarter; thence North 00 degrees 09 minutes 58 seconds East, along the West line of the East Half of said Southwest Quarter, a distance of 51.29 feet; thence North 56 degrees 51 minutes 51 seconds East, a distance of 17.20 feet; thence North 29 degrees 18 minutes 51 seconds West, a distance of 29.21 feet to a point on the West line of the East Half of said Southwest Quarter; thence North 00 degrees 09 minutes 58 seconds East, along said West line, a distance of 113.64 feet; thence North 43 minutes 20 minutes 20 seconds East, a distance of 161.60 feet; thence North 46 degrees 40 minutes 00 seconds West, a distance of 50.00 feet to a point on a regular curve to the right having a radius of 300.00 feet; thence Northeasterly, along the arc of said curve, not tangent to the last course, an arc distance of 41.97 feet, being subtended by a long chord having a length of 41.94 feet and a bearing of North 47 degrees 20 minutes 28 seconds East; thence North 08 degrees 32 minutes 24 seconds West, not tangent to the last curve, a distance of 158.24 feet to the true point of beginning, containing 23.460 acres of land, subject to all easements of record.

NOW, THEREFORE, Declarants hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. Blocks "E", "F" and "G" as shown on the face of the plat.

Section 1.6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may

consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty-five (65) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 8000 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Section I et. seq.

Section 1.8. "Declarants" shall mean and refer to ZOHRAB K. TAZIAN and NAOMI K. TAZIAN, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarants for the purpose of development.

Section 1.9. "The North Woodlands" shall refer to lots 84-98 inclusive.

Section 1.10. "Swimming Club" shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;

(b) the, right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

Section 2.3. Additions to Common Areas. Declarant reserves the right so long as Class B membership exists, to convey and transfer to the Association such additional real and/or personal property as Declarant within its sole discretion deems appropriate, and the Association

shall accept such transfer and hold such property as a part of the Common Area.

ARTICLE III DUTIES OF THE ASSOCIATION

The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two “Villas of Falcon Creek” signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Falcon Creek Community Association Membership. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Swimming Club Membership. Every owner of a lot which is subject to assessment shall be a member of the Swimming Club. Swimming Club members shall have access to, and the use and benefit of, the swimming pool and the clubhouse and their facilities. Membership shall be extended to any future sections of Falcon Creek, including those annexed at a future date. Membership shall be limited to a maximum of 500 lot owners as defined herein.

Section 4.3. Sale of Swimming Club Memberships. The Association shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as the Association shall decide at its sole discretion. Declarant, so long as Declarant owns a lot in Falcon Creek, shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as declarant shall decide at its sole discretion. Sales of Swimming Club memberships by Declarant shall be limited to 100 total memberships at any given time.

Section 4.4. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the

Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots owned within the Properties has been conveyed by DECLARANTS to others;

or

(b) on December 31, 2005.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and
(2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be a charge on the land, and shall be a continuing lien upon each lot against which each such assessment is made. The Assessment so levied by the Association shall be available to use for the care, preservation, supervision, improvement, maintenance, and operation by the Association

of the storm water drainage system, and for the storm water detention basin together with its outlet and water level control structures, and of the common areas and any improvements situated thereon, such as the clubhouse, pool area, playground areas and any other recreational facilities, including facilities that do not yet exist and that are not yet planned. The assessment shall be used for the following purposes, including but not limited to:

- (1) payment of taxes and insurance in connection therewith;
- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION I, and/or the Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Annual Assessment. Until January 1, 2002, the annual assessment shall be one hundred twenty five dollars (\$125.00) per Lot.

(a) Beginning January 1, 2002 the annual assessment shall be shall increase to two hundred dollars (\$200.00) per Lot.

(b) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association.

(c) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that

any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the purchase of any lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 5.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the "sale or transfer" of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI

ARCHITECTURAL CONTROL

The lots are numbered through, inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarants. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Association whereupon the functions of the Committee shall be performed by the Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

Lots 54-64 inclusive, and lots 99-106 inclusive:

1 story	1300
1 ½ story	1600
2 story	1800

Lots 65-83 inclusive:

1 story	1400
1 ½ story	1650
2 story	1900

Lots 84-98 inclusive (The North Woodlands):

1 story	1500
1 ½ story	1750
2 story	2000

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown below:

Lots Numbered	Minimum Rear Building Setback	
61,64,66-72,79-83,93-100	15'	(Bordering common areas)
54-60,62,63,73-78,84-92,101-106	25'	

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish.

- (a) For lots 54-64 inclusive and 99-106 inclusive. There must be a minimum of ninety (90) square feet of brick or seventy five (75) square feet of stone on the front elevation unless specifically approved otherwise by the Architectural Control Committee.
- (b) For lots 65-83 inclusive. There must be a minimum of one hundred (100) square feet of brick or eighty (80) square feet of stone on the front elevation unless specifically approved otherwise by the Architectural Control Committee.
- (c) For lots of The North Woodlands (lots 84 to 98 inclusive). There must be a minimum of one hundred twenty (120) square feet of brick or one hundred (100) square feet of stone on the front elevation or the entire front elevation must consist of wood, excluding and fascia, unless specifically approved otherwise by the Architectural Control Committee.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty-five (65) feet at the minimum setback line,

nor shall any dwelling be erected or placed on any lot having an area of less than 8,000 square feet.

Section 6.10. Construction Plan Approval. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of Lots 54-83 inclusive and lots 86-106 inclusive. Construction of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarants, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarants, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping.

- (a) For lots 54-83 inclusive and 99-106 inclusive. There must be a minimum of eight (8) well-developed live shrubs as part of its original landscaping.
- (b) For lots of The North Woodlands (lots 84 to 98 inclusive). There must be a minimum of ten (10) well-developed live shrubs as part of its original landscaping.

Section 6.17. Garages. All dwelling units must have a two-car or larger attached garage with a minimum of 420 square feet.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarants, and their successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housings, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description

accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at the lowest height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarants with the Allen County Plan Commission shall be installed by the Declarants or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of six (6) feet above

the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be permitted on any lot.

Section 8.4. Fencing. No chain link fence shall be erected on any lot. Wood fences are permitted but require approval from the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply.

Section 8.5. Pools. No above-ground pool shall be erected or maintained on any lot which exceeds eighteen (18) inches in height above ground level.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. An outside kennel may house only one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be

allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized water craft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage attached to the home dwelling. No truck other than a light pick-up or panel type shall be in plain view on the premises.

Section 8.15. Storm Water Runoff No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the sanitary sewage system, which shall be a separate sewer system from the storm water and surface water run-off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Outdoor Lighting No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays there from are confined to the lot upon which the source is located. No outdoor light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Developer or the Association.

Section 8.18. Grass and Weeds The owner of any lot within the subdivision, including a vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to

include costs, filing fees, and attorney fees.

Section 8.19. Play Equipment. No play equipment including swing sets will be permitted on any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee reserves the right to limit the size, color and location of said equipment.

Section 8.20. Concrete and Asphalt Play Areas. No concrete or asphalt area other than driveways, porches, patios and stoops shall be permitted on any lot without the prior written approval of the Architectural Control Committee. This includes areas to play basketball and other sports.

Section 8.21. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	54,60-62,64-70,79	841.3 feet
	71-73	837.7 feet
	92-100	844.3 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however,

that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article VI and Article VIII, Section 8.15 and Section 8.16 may be changed by the written agreement of all of the owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners of the lots 52-104 inclusive in this section of the Falcon Creek Subdivision at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANTS and their successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section I to amend any of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarants and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues.

Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2000.

Zohrab K. Tazian, Declarant

Naomi K. Tazian, Declarant

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Zohrab K. Tazian and Naomi K. Tazian, husband and wife, and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2000.

My Commission Expires:

_____, Notary Public
Resident of Allen County, IN

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2000.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION II**

THIS DECLARATION, made on the date hereinafter set forth, by FALCON CREEK, LLC hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the Southwest and Southeast Quarters of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 22, this also being the Southwest corner of Falcon Creek, Section I, the plat of which is recorded in Plat Cabinet "E", page 98 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 41 minutes 54 seconds East (plat bearing and is used as the basis for the bearings in this description), on and along the South line of the Northwest Quarter of said Southwest Quarter and on and along the South line of said Falcon Creek, Section I, a distance of 1292.95 feet to the Southeast corner of the Northwest Quarter of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, on and along the West line of the East Half of said Southwest Quarter and on and along the West line of said Falcon Creek, Section I, a distance of 475.00 feet; thence South 89 degrees 48 minutes 31 seconds East, on and along the South line of said Falcon Creek, Section I, a distance of 149.90 feet; thence South 80 degrees 21 minutes 57 seconds East, on and along said South line, a distance of 85.00 feet; thence South 86 degrees 41 minutes 34 seconds East, on and along said South line, a distance of 67.73 feet; thence North 84 degrees 17 minutes 14 seconds East, on and along said South line, a distance of 84.08 feet; thence North 73 degrees 39 minutes 53 seconds East, on and along said South line, a distance of 60.74 feet; thence North 57 degrees 49 minutes 10 seconds East, on and along said South line, a distance of 50.00 feet to the **true point of beginning**; thence Northerly and Easterly, on and along the Southerly and Easterly lines of said Falcon Creek, Section I on the following courses and distances:

North 57 degrees 49 minutes 10 seconds East, a distance of 169.36 feet; thence North 46 degrees 26 minutes 55 seconds East, a distance of 52.21 feet; thence North 66 degrees 13 minutes 12 seconds East, a distance of 118.60 feet to the point of curvature of a regular curve to the right having a radius of 475.00 feet; thence Northeasterly, on and along the arc of said curve, an arc distance of 14.78 feet, being subtended by a long chord having length of 14.78 feet and a bearing of North 67 degrees 06 minutes 41 Seconds East; thence North 21 degrees 59 minutes 51 seconds West, not tangent to said curve, a distance of 47.60 feet; thence North 40 degrees 48 minutes 17 seconds West, a distance of 135.24 feet; thence North 20 degrees 33 minutes 36 seconds West, a distance of 110.25 feet; thence North 03 degrees 28 minutes 42 seconds East, a distance of 96.17 feet to a point on a regular curve to the left having a radius of 50.00 feet; thence Northwesterly, on and along the arc of said curve, not tangent to the last course, an arc distance of 24.25 feet, being subtended by a long chord having a length of 24.01 feet and a bearing of North 80 degrees 56 minutes 46 seconds West; thence North 02 degrees 51 minutes 10 seconds West, not tangent to said curve, a distance of 50.03 feet; thence North 03 degrees 55 minutes 14 seconds West, a distance of 133.72 feet; thence North 85 degrees 35 minutes 40 seconds East, a distance of 15.00 feet; thence North 01 degrees 19 minutes 28 seconds East, a distance of 63.17 feet; thence North 19 degrees 29 minutes 15 seconds East, a distance of 35.00 feet; thence South 89 degrees 38 minutes 00 seconds East, a distance of 275.00 feet; thence North 53 degrees 03 minutes 09 seconds East, a distance of 162.00 feet; thence South 54 degrees 24 seconds 03 seconds East, leaving the South line of said Falcon Creek, Section I, a distance of 689.00 feet; thence South 07 degrees 42 minutes 55 seconds East, a distance of 140.79 feet; thence South 48 degrees 12 minutes 59 seconds West, a distance of 136.00 feet; thence South 64 degrees 35 minutes 03 seconds West,

a distance of 45.00 feet; thence North 79 degrees 10 minutes 21 seconds West, a distance of 70.00 feet; thence South 21 degrees 45 minutes 00 seconds West, a distance of 175.00 feet; thence North 68 degrees 15 minutes 00 seconds West, a distance of 110.00 feet; thence South 21 degrees 45 minutes 00 seconds West, a distance of 130.15 feet; thence South 65 degrees 05 minutes 00 seconds West, a distance of 115.87 feet; thence South 38 degrees 25 minutes 00 seconds West, a distance of 123.93 feet; thence South 77 degrees 59 minutes 13 seconds West, a distance of 83.79 feet; thence North 55 degrees 25 minutes 27 seconds West, a distance of 114.19 feet; thence South 84 degrees 28 minutes 07 seconds West, a distance of 50.00 feet; thence North 83 degrees 46 minutes 11 seconds West, a distance of 90.00 feet; thence North 06 degrees 10 minutes 00 seconds East, a distance of 5.86 feet; thence North 83 degrees 50 minutes 00 seconds West, a distance of 50.00 feet to a point on a regular curve to the left having a radius of 275.00 feet; thence Northeasterly, on and along the arc of said curve, not tangent to the last course, an arc distance of 19.14 feet, being subtended by a long chord having a length of 19.14 feet and a bearing of North 04 degrees 10 minutes 22 seconds East; thence South 86 degrees 38 minutes 41 seconds West, not tangent to said curve, a distance of 90.58 feet; thence North 61 degrees 24 minutes 30 seconds West, a distance of 90.10 feet to the true point of beginning, containing 15.643 acres of land, subject to all easements of record.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.

Section 1.6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may

consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty-five (65) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 8000 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Section I, Falcon Creek, Section II et. seq.

Section 1.8. "Declarant" shall mean and refer to FALCON CREEK LLC, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.9. "Swimming Club" shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) the right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment against his/her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

Section 2.3. Additions to Common Areas. Declarant reserves the right so long as Class B membership exists, to convey and transfer to the Association such additional real and/or personal property as Declarant within its sole discretion deems appropriate, and the Association shall accept such transfer and hold such property as a part of the Common Area.

ARTICLE III DUTIES OF THE ASSOCIATION

The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two “Villas of Falcon Creek” signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Falcon Creek Community Association Membership. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Swimming Club Membership. Every owner of a lot which is subject to assessment shall be a member of the Swimming Club. Swimming Club members shall have access to, and the use and benefit of, the swimming pool and the clubhouse and their facilities. Membership shall be extended to any future sections of Falcon Creek, including those annexed at a future date. Membership shall be limited to a maximum of 500 lot owners as defined herein.

Section 4.3. Sale of Swimming Club Memberships. The Association shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as the Association shall decide at its sole discretion. Declarant, so long as Declarant owns a lot in Falcon Creek, shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as declarant shall decide at its sole discretion. Sales of Swimming Club memberships by Declarant shall be limited to 100 total memberships at any given time.

Section 4.4. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any

one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots owned within the Properties has been conveyed by DECLARANT to others;

or

(b) on December 31, 2006.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be a charge on the land, and shall be a continuing lien upon each lot against which each such assessment is made. The Assessment so levied by the Association shall be available to use for the care, preservation, supervision, improvement, maintenance, and operation by the Association of the storm water drainage system, and for the storm water detention basin together with its outlet and water level control structures, and of the common areas and any improvements situated thereon, such as the clubhouse, pool area, playground areas and any other recreational

facilities, including facilities that do not yet exist and that are not yet planned. The assessment shall be used for the following purposes, including but not limited to:

- (1) payment of taxes and insurance in connection therewith;
- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION II, and/or the Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Annual Assessment. Until January 1, 2002, the annual assessment shall be one hundred twenty five dollars (\$125.00) per Lot.

(a) Beginning January 1, 2002 the annual assessment shall increase to two hundred dollars (\$200.00) per Lot.

(b) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association.

(c) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6. Notice and Quorum for Any, Action Authorized Under Sections 4 and 5.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the purchase of any lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 5.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the "sale or transfer" of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

The lots are numbered 107 through 141, inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarant. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Association whereupon the functions of the Committee shall be performed by the Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission or its successors.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

Lots 112-133 and 138-141 inclusive:

1 story	1400
1 ½ story	1700

2 story	1900
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Lots 107-111 inclusive and 134-137 inclusive:

1 story	1500
1 ½ story	1800
2 story	2000

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown below:

<u>Lots Numbered</u>	<u>Minimum Rear Building Setback</u>
107,108,111-114,116-118,124-126,135,136	15'
115,120-123,127-131,133,137-141	25'
109 (bordering Block "H" only)	15'
109 (bordering Lot 115 and Lot 116)	25'
110 (bordering Block "I" only)	15'
110 (bordering Lot 115)	25'
119 (bordering Block "H" only)	15'
119 (bordering Lot 123)	25'
132 (bordering Block "J" only)	15'
132 (bordering Lot 134)	25'
134 (bordering Block "J" only)	15'
134 (bordering Lot 132)	25'

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish.

- (a) For lots 112-132 inclusive. There must be a minimum of one hundred (100) square feet of brick or eighty (80) square feet of stone on the front elevation unless specifically approved otherwise by the Architectural Control Committee.
- (b) For lots 107-111 and 133-141 inclusive. There must be a minimum of one hundred and thirty (130) square feet of brick or one hundred (100) square feet of stone on the front elevation or the entire front elevation must consist of wood, excluding fascia, unless specifically approved otherwise by the Architectural Control Committee.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be

treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty-five (65) feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 8,000 square feet.

Section 6.10. Construction Plan Approval. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of lots 107 through 141 (all lots in section). Construction of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarant, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against

any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarant, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping. There must be a minimum of eight (8) well-developed live shrubs as part of its original landscaping.

Section 6.17. Garages. All dwelling units must have a two-car or larger attached garage with a minimum of 450 square feet.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarant, and its successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control

over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at the lowest height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarant with the Allen County Plan Commission shall be installed by the Declarant or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of six (6) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be

permitted on any lot.

Section 8.4. Fencing. No chain link fence shall be erected on any lot. Wood fences are permitted but require approval from the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply.

Section 8.5. Pools. No above-ground pool shall be erected or maintained on any lot which exceeds eighteen (18) inches in height above ground level.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. An outside kennel may house only one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system

according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized water craft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment. No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage attached to the home dwelling. No truck other than a light pick-up or panel type shall be in plain view on the premises.

Section 8.15. Storm Water Runoff. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the sanitary sewage system, which shall be a separate sewer system from the storm water and surface water run-off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Outdoor Lighting. No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays there from are confined to the lot upon which the source is located. No outdoor light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Declarant or the Association.

Section 8.18. Grass and Weeds. The owner of any lot within the subdivision, including a

vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to include costs, filing fees, and attorney fees.

Section 8.19. Play Equipment. No play equipment including swing sets will be permitted on any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee reserves the right to limit the size, color and location of said equipment.

Section 8.20. Concrete and Asphalt Play Areas. No concrete or asphalt area other than driveways, porches, patios and stoops shall be permitted on any lot without the prior written approval of the Architectural Control Committee. This includes areas to play basketball and other sports.

Section 8.21. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	107-109,116-119,124-126	844.3 feet
	132,134-136	837.7 feet
	110-114	844.2 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however, that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article V, Article VI and Article VIII may be changed by the written agreement of all of the owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners of the lots in this section of the Falcon Creek Subdivision at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANT and its successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section II to amend any of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarant and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues. Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2001.

Falcon Creek, LLC, Declarant
By: Zohrab Tazian, Partner

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Zohrab K. Tazian and Naomi K. Tazian, husband and wife, and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2001.

My Commission Expires: _____

_____, Notary Public
Resident of _____ County, Indiana

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2001.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION III**

THIS DECLARATION, made on the date hereinafter set forth, by FALCON CREEK, LLC hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the Southwest Quarter of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 22, this also being the Southwest corner of Falcon Creek, Section I, the plat of which is recorded in Plat Cabinet "E", page 98 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 41 minutes 54 seconds East (plat bearing and is used as the basis for the bearings in this description), on and along the South line of the Northwest Quarter of said Southwest Quarter and on and along the South line of said Falcon Creek, Section I, a distance of 1292.95 feet to the Southeast corner of the Northwest Quarter of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, on and along the West line of the East Half of said Southwest Quarter and on and along the West line of said Falcon Creek, Section I, a distance of 475.00 feet to the **true point of beginning**; thence South 00 degrees 09 minutes 58 seconds West, continuing on and along the West line of said East Half, a distance of 375.00 feet; thence South 89 degrees 48 minutes 31 seconds East, a distance of 566.35 feet; thence North 06 degrees 10 minutes 00 seconds East, a distance of 33.04 feet; thence South 83 degrees 50 minutes 00 seconds East, a distance of 100.00 feet; thence South 06 degrees 10 minutes 00 seconds West, a distance of 22.61 feet; thence South 81 degrees 26 minutes 43 seconds East, a distance of 140.04 feet; thence South 32 degrees 19 minutes 55 seconds East, a distance of 70.00 feet; thence South 48 degrees 38 minutes 14 seconds East, a distance of 594.53 feet to the Southeast corner of the Southwest Quarter of said Section 22; thence North 00 degrees 16 minutes 34 seconds East, on and along the East line of said Southwest Quarter, a distance of 179.94 feet; thence North 89 degrees 34 minutes 22 seconds West, a distance of 39.45 feet; thence North 68 degrees 38 minutes 25 seconds West, a distance of 51.86 feet; thence North 43 degrees 49 minutes 37 seconds West, a distance of 101.89 feet; thence North 03 degrees 55 minutes 56 seconds West, a distance of 125.00 feet; thence North 37 degrees 22 minutes 12 seconds East, a distance of 65.90 feet; thence North 46 degrees 00 minutes 13 seconds East, a distance of 89.53 feet; thence North 39 degrees 39 minutes 34 seconds West, a distance of 326.39 feet to a point on the South line of Falcon Creek, Section II; thence on and along the Southerly and Westerly lines of said Falcon Creek, Section II on the following courses and distances:

South 77 degrees 59 minutes 13 seconds West, a distance of 83.79 feet; thence North 55 degrees 25 seconds 27 seconds West, a distance of 114.19 feet; thence South 84 degrees 28 minutes 07 seconds West, a distance of 50.00 feet; thence North 83 degrees 46 minutes 11 seconds West, a distance of 90.00 feet; thence North 06 degrees 10 minutes 00 seconds East, a distance of 5.86 feet; thence North 83 degrees 50 minutes 00 seconds West, a distance of 50.00 feet to a point on a regular curve to the left having a radius of 275.00 feet; thence Northeasterly, on and along the arc of said curve, not tangent to the last course, an arc distance of 19.14 feet, being subtended by a long chord having a length of 19.14 feet and a bearing of North 04 degrees 10 minutes 22 seconds East; thence South 86 degrees 38 minutes 41 seconds West, not tangent to said curve, a distance of 90.58 feet; thence North 61 degrees 24 minutes 30 seconds West, a distance of 90.10 feet to a point on the South line of Falcon Creek, Section I; thence on and along the Southerly line of said Falcon Creek, Section I on the following courses and distances:

South 57 degrees 49 minutes 10 seconds West, a distance of 50.00 feet; thence South 73 degrees 39 minutes 53 seconds West, a distance of 60.74 feet; thence South 84 degrees 17 minutes 14 seconds West,

a distance of 84.08 feet; thence North 86 degrees 41 minutes 34 seconds West, a distance of 67.73 feet; thence North 80 degrees 21 minutes 57 seconds West, a distance of 85.00 feet; thence North 89 degrees 48 minutes 31 seconds West, a distance of 149.90 feet to the true point of beginning, containing 10.948 acres of land, subject to all easements of record.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.

Section 1.6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty (60) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 8000 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Sections I, II, III et. seq.

Section 1.8. "Declarant" shall mean and refer to FALCON CREEK LLC, their

successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.9. "Swimming Club" shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

Section 2.3. Additions to Common Areas. Declarant reserves the right so long as Class B membership exists, to convey and transfer to the Association such additional real and/or personal property as Declarant within its sole discretion deems appropriate, and the Association shall accept such transfer and hold such property as a part of the Common Area.

ARTICLE III DUTIES OF THE ASSOCIATION

The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two "Villas of Falcon Creek" signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to

time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Falcon Creek Community Association Membership. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Swimming Club Membership. Every owner of a lot which is subject to assessment shall be a member of the Swimming Club. Swimming Club members shall have access to, and the use and benefit of, the swimming pool and the clubhouse and their facilities. Membership shall be extended to any future sections of Falcon Creek, including those annexed at a future date. Membership shall be limited to a maximum of 500 lot owners as defined herein.

Section 4.3. Sale of Swimming Club Memberships. The Association shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as the Association shall decide at its sole discretion. Declarant, so long as Declarant owns a lot in Falcon Creek, shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as declarant shall decide at its sole discretion. Sales of Swimming Club memberships by Declarant shall be limited to 100 total memberships at any given time.

Section 4.4. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots owned within the Properties has been conveyed by DECLARANT to others;

or

(b) on December 31, 2006.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be a charge on the land, and shall be a continuing lien upon each lot against which each such assessment is made. The Assessment so levied by the Association shall be available to use for the care, preservation, supervision, improvement, maintenance, and operation by the Association of the storm water drainage system, and for the storm water detention basin together with its outlet and water level control structures, and of the common areas and any improvements situated thereon, such as the clubhouse, pool area, playground areas and any other recreational facilities, including facilities that do not yet exist and that are not yet planned. The assessment shall be used for the following purposes, including but not limited to:

- (1) payment of taxes and insurance in connection therewith;
- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION III, and/or the Allen County

Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Annual Assessment.

(a) The annual assessment shall be two hundred dollars (\$200.00) per Lot.

(b) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association.

(c) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the purchase of any lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate

signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 5.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the "sale or transfer" of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

The lots are numbered 142 through 159 inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarant. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Association whereupon the functions of the Committee shall be performed by the Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

1 story (without a basement)	1600
1 story (with a basement)	1450
1 ½ story (master bedroom on ground floor)	1850
2 story	2000

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown below:

<u>Lots Numbered</u>	<u>Minimum Rear Building Setback</u>
148-159	15'
142-146	25'
147 (bordering Block Area only)	15'
147 (bordering Lot 73 in Falcon Creek, Sec. I)	25'

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish. There must be a minimum of one hundred and twenty (120) square feet of brick or one hundred (100) square feet of stone on the front elevation or the entire front elevation must consist of wood (or approved substitute), excluding soffits and fascia, unless specifically approved otherwise by the Architectural Control Committee.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 8,000 square feet.

Section 6.10. Construction Plan Approval¹. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of all lots. Construction of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarant, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarant, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping. There must be a minimum of eight (8) well-developed live shrubs and/or new trees as part of its original landscaping.

Section 6.17. Garages. All dwelling units must have a two-car or larger attached garage with a minimum of 460 square feet.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarant, and its successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

- (a) Poles and overhead facilities may be used to the extent reasonably necessary at those

places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at the lowest height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarant with the Allen County Plan Commission shall be installed by the Declarant or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of six (6) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be permitted on any lot.

Section 8.4. Fencing. No chain link or plastic fence shall be erected on any lot. Wood fences are permitted but require approval from the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply and all fences must comply with the Allen County Zoning Ordinance and any other governing authority.

Section 8.5. Pools. No above-ground pool shall be erected or maintained on any lot

which exceeds eighteen (18) inches in height above ground level.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. An outside kennel may house only one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized watercraft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment. No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage attached to the home dwelling. No truck other than a light pick-up or panel type shall be in plain view on the premises.

Section 8.15. Storm Water Runoff. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the sanitary sewage system, which shall be a separate sewer system from the storm water and surface water run-off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Yard Light. Each dwelling shall install a yard light at a location within the front twenty (20) feet of the lot. The yard light must be of a design and construction as approved by the Architectural Control Committee. Owner shall insure at Owner's expense that the yard light is illuminated at all times other than daylight hours.

Section 8.18. Outdoor Lighting. No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays there from are confined to the lot upon which the source is located. No outdoor light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Declarant or the Association.

Section 8.19. Grass and Weeds. The owner of any lot within the subdivision, including a vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to include costs, filing fees, and attorney fees.

Section 8.20. Play Equipment. No play equipment (including swing sets, basketball goals and trampolines) will be permitted on any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee reserves the right to

limit the size, color and location of said equipment.

Section 8.21. Concrete and Asphalt Play Areas. No concrete or asphalt area other than concrete driveways, porches, patios and stoops shall be permitted on any lot without the prior written approval of the Architectural Control Committee including areas for basketball and other sports.

Section 8.22. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	148-156	837.7 feet
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The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however, that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article V, Article VI and Article VIII may be changed by the written agreement of all of the

owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners in Falcon Creek Section III at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANT and their successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section III to amend any of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarant and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues. Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2001.

Falcon Creek, LLC, Declarant
By: Zohrab Tazian

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Zohrab K. Tazian and acknowledged the execution of the foregoing to be his free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2001.

My Commission Expires: _____

_____, Notary Public
Resident of _____ County, Indiana

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2001.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian, Z. K. Tazian Associates, Inc.

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION IV**

THIS DECLARATION, made on the date hereinafter set forth, by FALCON CREEK, LLC hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the Southwest Quarter of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 22, this also being the Southwest corner of Falcon Creek, Section I, the plat of which is recorded in Plat Cabinet "E", page 98 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 41 minutes 54 seconds East (plat bearing and is used as the basis for the bearings in this description), on and along the South line of the Northwest Quarter of said Southwest Quarter and on and along the South line of said Falcon Creek, Section I, a distance of 1292.95 feet to the Southeast corner of the Northwest Quarter of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, on and along the West line of the East Half of said Southwest Quarter, also being the West line of said Falcon Creek, Section I and the West line of Falcon Creek, Section III, a distance of 850.00 feet to the Southwest corner of said Falcon Creek, Section III, this being the **true point of beginning**; thence on and along the Southerly lines of said Falcon Creek, Section III on the following courses and distances:

South 89 degrees 48 minutes 31 seconds East, a distance of 566.35 feet;
thence North 06 degrees 10 minutes 00 seconds East, a distance of 33.04 feet;
thence South 83 degrees 50 minutes 00 seconds East, a distance of 100.00 feet;
thence South 06 degrees 10 minutes 00 seconds West, a distance of 22.61 feet;
thence South 81 degrees 26 minutes 43 seconds East, a distance of 140.04 feet;
thence South 32 degrees 19 minutes 55 seconds East, a distance of 70.00 feet;
thence South 48 degrees 38 minutes 14 seconds East, a distance of 594.53 feet to the Southeast corner of the Southwest Quarter of said Section 22; thence North 89 degrees 45 minutes 49 seconds West, on and along the South line of the Southwest Quarter of said Section 22, a distance of 1290.41 feet to the Southwest corner of the East Half of said Southwest Quarter; thence North 00 degrees 09 minutes 58 seconds East, on and along the West line of the East Half of said Southwest Quarter, a distance of 469.80 feet to the true point of beginning, containing 11.095 acres of land, subject to all easements of record.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. . These areas are indicated as "Blocks" on the face of the plat.

Section 1.6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty-five (65) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 8000 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Sections I, II, III, IV et. seq.

Section 1.8. "Declarant" shall mean and refer to FALCON CREEK LLC, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.9. "Swimming Club" shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

Section 2.3. Additions to Common Areas. Declarant reserves the right so long as Class B membership exists, to convey and transfer to the Association such additional real and/or personal property as Declarant within its sole discretion deems appropriate, and the Association shall accept such transfer and hold such property as a part of the Common Area.

ARTICLE III DUTIES OF THE ASSOCIATION

The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two "Villas of Falcon Creek" signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Falcon Creek Community Association Membership. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Swimming Club Membership. Every owner of a lot which is subject to assessment shall be a member of the Swimming Club. Swimming Club members shall have access to, and the use and benefit of, the swimming pool and the clubhouse and their facilities. Membership shall be extended to any future sections of Falcon Creek, including those annexed at a future date. Membership shall be limited to a maximum of 500 lot owners as defined herein.

Section 4.3. Sale of Swimming Club Memberships. The Association shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as the Association shall decide at its sole discretion. Declarant, so long as Declarant owns a lot in Falcon Creek, shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as declarant shall decide at its sole discretion. Sales of Swimming Club memberships by Declarant shall be limited to 100 total memberships at any given time.

Section 4.4. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots owned within the Properties has been conveyed by DECLARANT to others;

or

(b) on December 31, 2006.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be a charge on the land, and shall be a continuing lien upon each lot against which each such assessment is made. The Assessment so levied by the Association shall be available to use for the care, preservation, supervision, improvement, maintenance, and operation by the Association of the storm water drainage system, and for the storm water detention basin together with its outlet and water level control structures, and of the common areas and any improvements situated thereon, such as the clubhouse, pool area, playground areas and any other recreational facilities, including facilities that do not yet exist and that are not yet planned. The assessment shall be used for the following purposes, including but not limited to:

- (1) payment of taxes and insurance in connection therewith;
- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION IV, and/or the Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Annual Assessment.

- (a) The annual assessment shall be two hundred dollars (\$200.00) per Lot.
- (b) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association. The annual assessment shall not increase more than 10% for any given year.
- (c) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the

purchase of any lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 5.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the "sale or transfer" of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

The lots are numbered 160 through 180 inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarant. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Association whereupon the functions of the Committee shall be performed by the Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable

provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

For Lots 169-174 inclusive, Lot 179 and Lot 180

1 story (without a basement)	1600
1 story (with a basement)	1450
1 ½ story (master bedroom on ground floor)	1850
2 story	2000

For Lots 160-168 inclusive and Lots 175-178 inclusive

1 story (without a basement)	1750
1 story (with a basement)	1600
1 ½ story (master bedroom on ground floor)	2000
2 story	2100

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown as follows:

<u>Lots Numbered</u>	<u>Minimum Rear Building Setback</u>
160-165,176,177,180	15'
167-174,178,179	25'
166,175 (bordering block area only)	15'

166,175 (bordering adjoining lots or other land) 25'

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish. There must be a minimum of one hundred twenty square (120) square feet of brick or one hundred (100) square feet of stone on the front elevation or the entire front elevation must consist of natural materials, excluding soffits and fascia, unless specifically approved otherwise by the Architectural Control Committee. Natural materials consist of wood (or approved substitute), brick or stone. Homes with full porches with railings across the front elevation (excluding garage) may have 20% less than the minimum requirements listed above.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty-five (65) feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 8,000 square feet.

Section 6.10. Construction Plan Approval. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of all lots and all right-of-ways. Construction of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarant, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarant, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping. There must be a minimum of ten (10) well-developed live shrubs and/or new trees as part of its original landscaping.

Section 6.17. Garages. All dwelling units must have a two-car or larger attached garage with a minimum of 480 square feet.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages

or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarant, and its successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at the lowest height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarant with the Allen County Plan Commission shall be installed by the Declarant or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or

occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of three (3) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be permitted on any lot.

Section 8.4. Fencing. No chain link or plastic fence shall be erected on any lot. Wood fences are permitted but require approval from the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply and all fences must comply with the Allen County Zoning Ordinance.

Section 8.5. Pools. No above-ground pool shall be erected or maintained on any lot which exceeds eighteen (18) inches in height above ground level.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. An outside kennel may house only one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary

condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized watercraft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment. No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage. No truck other than a light pick-up or panel type rated 1 ton or less shall be in plain view on the premises.

Section 8.15. Storm Water Runoff. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the sanitary sewage system, which shall be a separate sewer system from the storm water and surface water run-off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority

having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Yard Light. Each dwelling shall install a yard light at a location within the front twenty (20) of the lot. The yard light must be of a design and construction as approved by the Architectural Control Committee. Owner shall insure at Owner's expense that the yard light is illuminated at all times other than daylight hours.

Section 8.18. Outdoor Lighting. No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays there from are confined to the lot upon which the source is located. No outdoor light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Declarant or the Association.

Section 8.19. Grass and Weeds. The owner of any lot within the subdivision, including a vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to include costs, filing fees, and attorney fees.

Section 8.20. Play Equipment. No play equipment (including swing sets, basketball goals and trampolines) will be permitted on any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee reserves the right to limit the size, color and location of said equipment.

Section 8.21. Concrete and Asphalt Play Areas. No concrete or asphalt area other than concrete driveways, porches, patios and stoops having an area of more than 10 square feet shall be permitted on any lot.

Section 8.22. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	160,161	836.8 feet
	162,163,164	837.0 feet
	165,166	837.4 feet
	175,176	836.1 feet
	177,178,180	836.4 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however, that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article V, Article VI and Article VIII may be changed by the written agreement of all of the owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners in Falcon Creek Section IV at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANT and their successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section IV to amend any of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarant and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues. Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2002.

Falcon Creek, LLC, Declarant
By: Ara Z. Tazian, Partner

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Ara Z.

Tazian and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2002.

My Commission Expires:

_____, Notary Public
Resident of _____ County, Indiana

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2002.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian, Z. K. Tazian Associates, Inc.

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION V**

THIS DECLARATION, made on the date hereinafter set forth, by FALCON CREEK, LLC hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the Southwest and Southeast Quarters of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at the Northeast corner of Falcon Creek, Section I, the plat of which is recorded in Plat Cabinet "E", page 98 in the Office of the Recorder of Allen County, Indiana; this point being situated South 00 degrees 16 minutes 34 seconds West (plat bearing and is used as the basis for the bearings in this description), a distance of 408.50 feet from the Northwest corner of the Southeast Quarter of said Section 22; thence South 00 degrees 16 minutes 34 seconds West, on and along the East line of said Falcon Creek, Section I and on and along the West line of the Southeast Quarter of said Section 22, a distance of 250.67 feet to the Northwest corner of the South Half of the Northwest Quarter of said Southeast Quarter, this being the **true point of beginning**; thence South 89 degrees 14 minutes 44 seconds East, on and along the North line of the South Half of the Northwest Quarter of said Southeast Quarter, a distance of 1284.93 feet to the Northeast corner of the South Half of the Northwest Quarter of said Southeast Quarter; thence South 00 degrees 20 minutes 05 seconds West, on and along the East line of said South Half, a distance of 40.00 feet; thence South 29 degrees 20 minutes 00 seconds West, a distance of 143.00 feet; thence South 38 degrees 55 minutes 00 seconds West, a distance of 124.00 feet; thence South 10 degrees 17 minutes 13 seconds West, a distance of 88.50 feet; thence South 02 degrees 12 minutes 12 seconds East, a distance of 126.00 feet; thence South 36 degrees 05 minutes 32 seconds West, a distance of 207.00 feet; thence South 13 degrees 26 minutes 35 seconds West, a distance of 44.50 feet; thence South 17 degrees 45 minutes 00 seconds East, a distance of 81.00 feet; thence South 18 degrees 29 minutes 49 seconds East, a distance of 135.91 feet; thence South 75 degrees 44 minutes 22 seconds West, a distance of 270.12 feet; thence North 88 degrees 42 minutes 15 seconds West, a distance of 95.00 feet; thence North 81 degrees 53 minutes 53 seconds West, a distance of 80.00 feet; thence South 83 degrees 18 minutes 28 seconds West, a distance of 60.00 feet; thence South 65 degrees 10 minutes 03 seconds West, a distance of 55.44 feet; thence South 50 degrees 23 minutes 39 seconds West, a distance of 78.00 feet; thence South 58 degrees 19 minutes 26 seconds West, a distance of 96.27 feet; thence South 68 degrees 21 minutes 05 seconds West, a distance of 97.26 feet; thence South 81 degrees 20 minutes 19 seconds West, a distance of 97.26 feet; thence North 85 degrees 40 minutes 28 seconds West, a distance of 97.26 feet; thence North 72 degrees 58 minutes 45 seconds West, a distance of 94.63 feet; thence North 68 degrees 19 minutes 53 seconds West, a distance of 104.00 feet to an East corner of Falcon Creek, Section II, the plat of which is recorded in Plat Cabinet "D", page 99 in the Office of the Recorder of said County; thence on and along the Easterly lines of said Falcon Creek, Section II on the following courses and distances:

North 21 degrees 45 minutes 00 seconds East, a distance of 130.15 feet;
thence South 68 degrees 15 minutes 00 seconds East, a distance of 110.00 feet;
thence North 21 degrees 45 minutes 00 seconds East, a distance of 175.00 feet;
thence South 79 degrees 10 minutes 21 seconds East, a distance of 70.00 feet;
thence North 64 degrees 35 minutes 03 seconds East, a distance of 45.00 feet;
thence North 48 degrees 12 minutes 59 seconds East, a distance of 136.00 feet;
thence North 07 degrees 42 minutes 55 seconds West, a distance of 140.79 feet;
thence North 54 degrees 24 minutes 03 seconds West, a distance of 689.00 feet to a point on a
South line of said Falcon Creek, Section I; thence North 53 degrees 03 minutes 09 seconds East, on and along said

South line, a distance of 313.37 feet to the true point of beginning, containing 24.530 acres of land, subject to all easements of record.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. These areas are indicated as "Blocks" on the face of the plat.

Section 1.6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty-five (65) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 8000 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Sections I, II, III, IV, V et. seq.

Section 1.8. "Declarant" shall mean and refer to FALCON CREEK LLC, their

successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.9. "Swimming Club" shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) the right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment against his/her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

Section 2.3. Additions to Common Areas. Declarant reserves the right so long as Class B membership exists, to convey and transfer to the Association such additional real and/or personal property as Declarant within its sole discretion deems appropriate, and the Association shall accept such transfer and hold such property as a part of the Common Area.

ARTICLE III DUTIES OF THE ASSOCIATION

The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two "Villas of Falcon Creek" signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the

power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Falcon Creek Community Association Membership. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Swimming Club Membership. Every owner of a lot which is subject to assessment shall be a member of the Swimming Club. Swimming Club members shall have access to, and the use and benefit of, the swimming pool and the clubhouse and their facilities. Membership shall be extended to any future sections of Falcon Creek, including those annexed at a future date. Membership shall be limited to a maximum of 500 lot owners as defined herein.

Section 4.3. Sale of Swimming Club Memberships. The Association shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as the Association shall decide at its sole discretion. Declarant, so long as Declarant owns a lot in Falcon Creek, shall have the right to sell memberships to the Swimming Club to persons who are not Owners as defined herein. Such sales shall be under the terms as declarant shall decide at its sole discretion. Sales of Swimming Club memberships by Declarant shall be limited to 100 total memberships at any given time.

Section 4.4. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots owned within the Properties has been conveyed by
DECLARANT to others;

or

(b) on December 31, 2006.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be a charge on the land, and shall be a continuing lien upon each lot against which each such assessment is made. The Assessment so levied by the Association shall be available to use for the care, preservation, supervision, improvement, maintenance, and operation by the Association of the storm water drainage system, and for the storm water detention basin together with its outlet and water level control structures, and of the common areas and any improvements situated thereon, such as the clubhouse, pool area, playground areas and any other recreational facilities, including facilities that do not yet exist and that are not yet planned. The assessment shall be used for the following purposes, including but not limited to:

- (1) payment of taxes and insurance in connection therewith;
- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which

shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION V, and/or the Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Annual Assessment.

- (a) The annual assessment shall be two hundred dollars (\$200.00) per Lot.
- (b) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association. The annual assessment shall not increase more than 10% for any given year.
- (c) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the purchase of any lot. The first annual assessment shall be adjusted according to the number of

months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 5.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the "sale or transfer" of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

The lots are numbered 181 through 243 inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarant. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Association whereupon the functions of the Committee shall be performed by the Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

For Lots 181-189, 200-204 and 230-243

1 story (without a basement)	1450
1 story (with a basement)	1300
1 ½ story	1700
2 story	1900

For Lots 190-199, 205-211, 216-220 and 227-229

1 story (without a basement)	1600
1 story (with a basement)	1450
1 ½ story	1850
2 story	2000

For Lots 212-215 and 221-226

1 story (without a basement)	1750
1 story (with a basement)	1600
1 ½ story	2000
2 story	2100

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown below:

<u>Lots Numbered</u>	<u>Minimum Rear Building Setback</u>
191-202, 207-210, 213, 214, 222-243	20'
181-190, 203-206, 211, 212, 215-221	25'

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish.

(a) For lots 205-229 inclusive. There must be a minimum of one hundred twenty (120) square feet of brick or one hundred (100) square feet of stone on the front elevation or the entire front elevation must consist of wood (or approved substitute), excluding soffits and fascia, unless specifically approved otherwise by the Architectural Control Committee. Homes with full porches across the front elevation (excluding garage) may have 20% less than the minimum requirements listed above.

(b) For lots 181-204 inclusive and 230-243 inclusive. There must be a minimum of ninety (90) square feet of brick or seventy-five (75) square feet of stone on the front elevation or the entire front elevation must consist of wood (or approved substitute), excluding soffits and fascia, unless specifically approved otherwise by the Architectural Control Committee. Homes with full porches across the front elevation (excluding garage) may have 20% less than the minimum requirements listed above.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 8,000 square feet.

Section 6.10. Construction Plan Approval. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot

boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of ALL LOTS and all right-of-ways. Construction of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarant, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarant, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping. There must be a minimum of eight (8) well-developed live shrubs and/or new trees as part of its original landscaping.

Section 6.17. Garages.

(a) For lots 206-228 inclusive. All dwelling units must have a two-car or larger attached garage with a minimum of 480 square feet.

(b) For lots 181-205 inclusive and 229-243 inclusive. All dwelling units must have a two-car or larger attached garage with a minimum of 420 square feet.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following

provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarant, and its successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at the lowest height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public

utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarant with the Allen County Plan Commission shall be installed by the Declarant or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of three (3) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be permitted on any lot.

Section 8.4. Fencing. No chain link or plastic fence shall be erected on any lot. Wood fences are permitted but require approval from the Architectural Control Committee prior to installation and may be limited in regard to height and type. All restrictions under Section 6.14 apply and all fences must comply with the Allen County Zoning Ordinance.

Section 8.5. Pools. No above-ground pool shall be erected or maintained on any lot which exceeds eighteen (18) inches in height above ground level.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they

are not kept, bred or maintained for any commercial purpose. An outside kennel may house only one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized watercraft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment. No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage. No truck other than a light pick-up or panel type rated 1 ton or less shall be in plain view on the premises.

Section 8.15. Storm Water Runoff. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time

be discharged into or permitted to flow into the sanitary sewage system, which shall be a separate sewer system from the storm water and surface water run-off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Yard Light. Each dwelling shall install a yard light at a location within the front twenty (20) feet of the lot. The yard light must be of a design and construction as approved by the Architectural Control Committee. Owner shall insure at Owner's expense that the yard light is illuminated at all times other than daylight hours.

Section 8.18. Outdoor Lighting. No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays there from are confined to the lot upon which the source is located. No outdoor light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Declarant or the Association.

Section 8.19. Grass and Weeds. The owner of any lot within the subdivision, including a vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to include costs, filing fees, and attorney fees.

Section 8.20. Play Equipment. No play equipment (including swing sets, basketball goals and trampolines) will be permitted on any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee reserves the right to limit the size, color and location of said equipment.

Section 8.21. Concrete and Asphalt Play Areas. No concrete or asphalt area other than concrete driveways, porches, patios and stoops shall be permitted on any lot having an area of more than 10 square feet.

Section 8.22. Flood Protection Grades. In order to minimize potential damage from

surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	190-194	844.3 feet
	230-243	836.1 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however, that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article V, Article VI and Article VIII may be changed by the written agreement of all of the owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners in Falcon Creek Section V at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANT and

their successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section V to amend any of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarant and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues. Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2001.

Falcon Creek, LLC, Declarant
By: Ara Z. Tazian, Partner

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Ara Z. Tazian and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2001.

My Commission Expires:

, Notary Public

_____ Resident of _____ County, Indiana

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2001.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian, Z. K. Tazian Associates, Inc.

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION VI**

THIS DECLARATION, made on the date hereinafter set forth, by FALCON CREEK, LLC referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant owns certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the West Half of the Southwest Quarter of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 22, this also being the Southwest corner of Falcon Creek, Section I, the plat of which is recorded in Plat Cabinet "E", page 98 in the Office of the Recorder of Allen County, Indiana; thence North 00 degrees 03 minutes 22 seconds East (plat bearing and is used as the basis for the bearings in this description) on and along the West line of said Southwest Quarter and the West line of said Falcon Creek, Section I, being within the right-of-way of Coldwater Road, a distance of 595.13 feet to a point situated 726.15 feet, South 00 degrees 03 minutes 22 seconds West from the Northwest corner of the Southwest Quarter of said Section 22, this point being the Northwest corner of said Falcon Creek, Section I; thence South 89 degrees 38 minutes 00 seconds East, on and along the North line of said Falcon Creek, Section I, and parallel to the North line of said Southwest Quarter, a distance of 208.71 feet; thence North 00 degrees 03 minutes 22 seconds East and parallel with the West line of said Southwest Quarter, on and along a West line of said Falcon Creek, Section I, a distance of 50.00 feet; thence South 47 degrees 03 minutes 43 seconds East, on and along a North line of said Falcon Creek, Section I, a distance of 95.00 feet; thence South 85 degrees 40 minutes 11 seconds East, on and along a North line of said Falcon Creek, Section I, a distance of 174.94 feet; thence South 89 degrees 56 minutes 38 seconds East, on and along a North line of said Falcon Creek, Section I, a distance of 136.72 feet to the **true point of beginning**; thence North 00 degrees 03 minutes 22 seconds East and parallel with the West line of said Southwest Quarter, a distance of 229.77 feet to a point situated 522.0 feet South of the North line of said Southwest Quarter; thence South 89 degrees 38 minutes 00 seconds East and parallel with said North line, a distance of 252.00 feet; thence North 00 degrees 03 minutes 22 seconds East and parallel with said West line, a distance of 2.50 feet; thence South 89 degrees 38 minutes 00 seconds East and parallel with said North line, a distance of 453.00 feet to a point on the East line of the West half of said Southwest Quarter, said point being situated 519.50 feet South from the Northeast corner of the West half of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, on and along said East line, a distance of 343.30 feet to a North corner of said Falcon Creek, Section I; thence Westerly, on and along the North line of said Falcon Creek, Section I on the following courses and distances:

North 89 degrees 50 minutes 02 seconds West, a distance of 55.00 feet;

thence North 83 degrees 04 minutes 13 seconds West, a distance of 172.24 feet;

thence South 89 degrees 20 minutes 00 seconds West, a distance of 127.65 feet;

thence South 87 degrees 09 minutes 50 seconds West, a distance of 35.24 feet;

thence South 43 degrees 25 minutes 58 seconds West, a distance of 41.57 feet;

thence South 38 degrees 50 minutes 00 seconds West, a distance of 65.00 feet;

thence North 53 degrees 32 minutes 02 seconds West, a distance of 130.05 feet;

thence North 56 degrees 31 minutes 28 seconds West, a distance of 50.00 feet;

thence North 53 degrees 30 minutes 53 seconds West, a distance of 124.08 feet to the true point of

beginning, containing 5.345 acres of land, subject to all easements of record.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions,

covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5 "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. Blocks "V" (the letter) as shown on the face of the plat.

Section 1.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. The lots are numbered 37 through 52 inclusive. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty (60) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 7500 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Section I, II, III, IV, V, VI et. seq.

Section 1.8. "Declarant" shall mean and refer to FALCON CREEK, LLC, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.9. “Falcon Creek Villas” shall refer to lots 1-52 inclusive of Falcon Creek Subdivision.

Section 1.10. “Swimming Club” shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;

(b) the, right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

ARTICLE III DUTIES OF ASSOCIATION AND VILLA ASSOCAITION

Section 3.1. Duties of Association. The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two “Villas of Falcon Creek” signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to

time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

Section 3.2. Duties of Villa Association. The Villa Association shall have responsibility and authority for reasonable maintenance and repair of the lawns of the Villa lots and the removal of snow from villa driveways. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant villa lots; the removal of snow and ice from driveways; and the maintenance of the two "Villas of Falcon Creek" signs (if declarant chooses to install them).

The Villa Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Villa Association of all action taken by the Villa Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every owner of a lot which is subject to assessment shall be a member of both the Association and the Villa Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when title to all Lots owned within the properties has been conveyed by DECLARANT to others;

or

- (b) on December 31, 2006.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be used for the following purposes, including but not limited to:

- (1) payment of taxes and insurance in connection therewith;
- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION VI, and/or the Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Maximum Annual Association Assessment. Until December 31, 2002, the

maximum annual assessment of The Falcon Creek Community Association shall be two hundred dollars (\$200.00) per Lot.

(a) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association.

(b) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Maximum Monthly Villa Association Assessment. Until December 31, 2002, the maximum monthly assessment shall be seventy-five dollars (\$75.00) per Lot payable in four quarterly installments of \$225.00.

(a) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Villa Association, at each annual meeting thereafter, shall set the amount of the monthly assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Villa Association.

(a) The annual assessment shall never be less than six hundred dollars (\$600.00).

Section 5.6. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association and/or Villa Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.7. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.9. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the purchase of any lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount annual assessment against each Lot at least thirty (30) days advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association and/or Villa Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association and/or Villa Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association and/or Villa Association as to the status of assessments on a lot is binding upon the Association and/or Villa Association as of the date of its issuance.

Section 5.10. Effect of Nonpayment of Assessments: Remedies of the Association or Villa Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association or Villa Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

The lots are numbered 37 through 52, inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarant. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Villa Association whereupon the functions of the Committee shall be performed by the Villa Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove

construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

Lots 37-52 inclusive:

One story	1300
1 ½ story	1500
2 story - total aggregate	1700

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building on lots 37 through 46 shall be located nearer than 5 feet on each side lot line and no building on lots 47 through 52 shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown on the table below:

Lots numbered	Minimum Rear Building Setback
38-42	15'
37,43-52	25'

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and

good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish. There must be a minimum of seventy-five (75) square feet of brick, stone or wood on the front elevation unless specifically approved otherwise by the Architectural Control Committee.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 7,500 square feet.

Section 6.10. Construction Plan Approval. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended.

The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of all Lots. Installation of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarant, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarant, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping. Each lot must contain a minimum of ten (10) well-developed live shrubs as part of its original landscaping. Declarant, at Declarant's sole cost, reserves the right to plant one tree per lot in the street right-of-way between sidewalk and each lot. The future maintenance of trees after planting will be the responsibility of the Association.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarant, and their successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such

work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarant with the Allen County Plan Commission shall be installed by the Declarant or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of six (6) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be permitted on any lot.

Section 8.4. Fencing. Fences of any kind are not permitted unless approved in writing by the Architectural Control Committee.

Section 8.5. Pools. Pools are not permitted on any lot.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. An outside kennel may house only one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized water craft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment. No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage attached to the home dwelling. No truck other than a light pick-up or panel type shall be in plain view on the premises.

Section 8.15. Storm Water Runoff. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the sanitary sewage system, which shall be a separate sewer system from the storm water and surface water run off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Yard Light. Each dwelling shall install a yard light at a location within the front twenty (20) feet of the lot. The yard light must be of a design and construction as approved by the Architectural Control Committee. Owner shall insure at Owner's expense that the yard light is illuminated at all times other than daylight hours.

Section 8.18. Outdoor Lighting. No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays therefrom are confined to the lot upon which the source is located. No outdoor

light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Developer or the Association.

Section 8.19. Grass and Weeds. The owner of any lot within the subdivision, including a vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to include costs, filing fees, and attorney fees.

Section 8.20. Play Equipment. No play equipment including swing sets, trampolines, basketball goals and the like will be permitted on any lot unless approved in writing by the Falcon Creek Community Association, Inc. Architectural Control Committee.

Section 8.21. Concrete and Asphalt Play Areas. No concrete or asphalt area other than driveways, porches, patios and stoops shall be permitted on any lot. This includes areas to play basketball and other sports.

Section 8.22. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	37-42	841.3 feet
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The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however, that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article VI and Article VIII, Section 8.15 and Section 8.16 may be changed by the written agreement of all of the owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners of lots 37-52 inclusive of Falcon Creek subdivision at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANT and their successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section VI to amend any of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarant and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of

these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues.

Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2002.

Falcon Creek, LLC, Declarant
By: Zohrab Tazian, Partner

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Zohrab

K. Tazian and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2002.

My Commission Expires:

_____, Notary Public
Resident of _____ County, Indiana

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2002.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.

**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
FALCON CREEK SECTION I
LOTS 1 to 36 INCLUSIVE**

THIS DECLARATION, made on the date hereinafter set forth, by ZOHRAB K. TAZIAN and NAOMI K. TAZIAN, hereinafter referred to as "Declarants".

WITNES SETH:

WHEREAS, Declarants are the owners of certain property in Fort Wayne, County of Allen, State of Indiana, which is more particularly described as:

Part of the Southwest Quarter of Section 22, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Beginning at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 22; thence North 00 degrees 03 minutes 22 seconds East (based on an adjoining deed bearing of North 00 degrees 00 minutes 00 seconds East for the West line of the Northwest Quarter of Section 27, Township 32 North, Range 12 East, Allen County, Indiana), along the West line of said Southwest Quarter, being within the right-of-way of Coldwater Road, a distance of 595.13 feet to a point situated 726.15 feet, South 00 degrees 03 minutes 22 seconds West from the West Quarter corner of said Section 22, this point being the Southwest corner of a 1.00 acre tract of land conveyed to Karen M. Clapp by deed recorded in Document No. 90-038727 in the Office of the Recorder of said County; thence South 89 degrees 38 minutes 00 seconds East, on and along the South line of said 1.00 acre tract of land, a distance of 208.71 feet to the Southeast corner thereof; thence North 00 degrees 03 minutes 22 seconds East and parallel with the West line of said Southwest Quarter, on and along the East line of said 1.00 acre tract of land, a distance of 50.0 feet to the centerline of McComb ditch; thence South 47 degrees 03 minutes 43 seconds East, on and along said ditch centerline, a distance of 95.00 feet; thence South 85 degrees 40 minutes 11 seconds East, continuing on and along said ditch centerline, a distance of 174.94 feet; thence South 89 degrees 56 minutes 38 seconds East, leaving said ditch centerline, a distance of 136.72 feet; thence South 53 degrees 30 minutes 53 seconds East, a distance of 124.08 feet; thence South 56 degrees 31 minutes 28 seconds East, a distance of 50.00 feet; thence South 53 degrees 32 minutes 02 seconds East, a distance of 130.05 feet; thence North 38 degrees 50 minutes 00 seconds East, a distance of 65.00 feet; thence North 43 degrees 25 minutes 58 seconds East, a distance of 41.57 feet; thence North 87 degrees 09 minutes 50 seconds East, a distance of 35.24 feet; thence North 89 degrees 20 minutes 00 seconds East, a distance of 127.65 feet; thence South 83 degrees 04 minutes 13 seconds East, a distance of 172.24 feet; thence South 89 degrees 50 minutes 02 seconds East, a distance of 55.00 feet to the West line of the East Half of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, along said West line, a distance of 10.00 feet to the Southernmost corner of a 4.800 acre tract of land conveyed to John C. & Glenda K. Dincoff by deed recorded in Document No. 970010774 in the Office of said Recorder; thence North 42 degrees 11 minutes 04 seconds

East, along the Southeast line of said 4.800 acre tract of land, a distance of 120.85 feet; thence South 08 degrees 32 minutes 24 seconds East, a distance of 158.24 feet to a point on a regular curve to the left having a radius of 300.00 feet; thence Southwesterly, along the arc of said curve, not tangent to the last course, an arc distance of 41.97 feet, being subtended by a long chord having a length of 41.94 feet and a bearing of South 47 degrees 20 minutes 28 seconds West; thence South 46 degrees 40 minutes 00 seconds East, not tangent to the last curve, a distance of 50.00 feet; thence South 43 degrees 20 minutes 00 seconds West, a distance of 161.60 feet to a point on the West line of the East Half of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, along said West line, a distance of 113.64 feet; thence South 29 degrees 18 minutes 51 seconds East, a distance of 29.21 feet; thence South 56 degrees 51 minutes 51 seconds West, a distance of 17.20 feet to a point on the West line of the East Half of said Southwest Quarter; thence South 00 degrees 09 minutes 58 seconds West, along said West line, a distance of 51.29 feet to the Southeast corner of the Northwest Quarter of said Southwest Quarter; thence North 89 degrees 41 minutes 54 seconds West, on and along the South line of the Northwest Quarter of said Southwest Quarter, a distance of 1292.95 feet to the point of beginning, containing 16.036 acres of land, subject to right-of-way for Coldwater Road and subject to all easements of record

NOW, THEREFORE, Declarants hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Falcon Creek Community Association, Inc., its successors and assigns.

Section 1.2 "Villa Association" shall mean and refer to The Falcon Creek Villa Association, Inc., its successors and assigns.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.4 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5 "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.

Blocks "A", "B", "C" and "D" as shown on the face of the plat.

Section 1.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. For the purposes of this plat and the covenants appended thereto, the word "lot" may mean either any of said lots as platted, or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, PROVIDED, HOWEVER, no tract of land consisting of part of any one lot or parts of more than one lot shall be considered a "lot" unless said tract of land has a width of sixty (60) feet at the established building lines as shown in this plat and said tract of land has a minimum area of at least 7500 square feet.

Section 1.7. "Subdivision". The term "Subdivision" when herein used shall mean and refer to the subdivision known as Falcon Creek, Section I et. seq.

Section 1.8. "Declarants" shall mean and refer to ZOHRAB K. TAZIAN and NAOMI K. TAZIAN, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarants for the purpose of development.

Section 1.9. "Falcon Creek Villas" shall refer to lots 1-53 inclusive of Falcon Creek Subdivision.

Section 1.10. "Swimming Club" shall refer to The Falcon Creek Swimming Club.

ARTICLE II PROPERTY RIGHTS

Section 2.1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the Common Area shall be accessed only through public rights of way, streets and walks as shown on the recorded plat;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2.2. Delegation of Use. Any owner may delegate, in accordance with the "By-Laws, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, or contract purchasers who reside on the property.

ARTICLE III DUTIES OF ASSOCIATION AND VILLA ASSOCIATION

Section 3.1. Duties of Association. The Association shall have responsibility and authority for reasonable maintenance and repair of the common areas in the Subdivision, including streets, walking easements, dams, culverts, and all community facilities therein. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant lots (excluding villa lots); the removal of snow and ice; the maintenance of signage (excluding the two "Villas of Falcon Creek" signs), and the installation, maintenance and operation of street lights.

The Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Association of all action taken by the Association, all contracts entered into, and all expenses incurred.

Section 3.2. Duties of Villa Association. The Villa Association shall have responsibility and authority for reasonable maintenance and repair of the lawns of the Villa lots and the removal of snow from villa driveways. Such responsibility shall include but not be limited to: the cutting of grass and weeds, including grass and weeds located on vacant villa lots; the removal of snow and ice from driveways; and the maintenance of the two "Villas of Falcon Creek" signs (if declarant chooses to install them).

The Villa Association may make contracts to carry out its responsibilities and shall have the power to pay taxes and other charges on the land and other property owned by it from time to time. Records shall be kept by the Secretary of the Villa Association of all action taken by the Villa Association, all contracts entered into, and all expenses incurred.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every owner of a lot which is subject to assessment shall be a member of both the Association and the Villa Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of the

Declarant), and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots owned within the Properties has been conveyed by DECLARANTS to others;

or

(b) on December 31, 2005.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and
(2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and any improvements situated thereon.

Section 5.3. Maintenance of Approved Facilities. Each Class A member agrees to pay to the Association the annual assessment chargeable to each lot. The annual assessment shall be used for the following purposes, including but not limited to:

(1) payment of taxes and insurance in connection therewith;

- (2) repair, replacement and making additions thereto;
- (3) costs, including but not limited to, labor, equipment, and materials required for the management, supervision, maintenance and repair of such facilities;
- (4) and, for such other community purposes as the Association may properly determine.

The Association shall be obligated to maintain, repair and/or replace, if necessary, the storm water drainage system and any future storm water detention basin together with its outlet and water level control structures, as filed with the Allen County Plan Commission in conjunction with this subdivision, approval of which has been granted for the use and benefit of this section of this subdivision, and of further sections of FALCON CREEK, the cost of which shall be borne by all of the owners and subsequent owners of lots in any and all of the sections of the FALCON CREEK subdivision.

The owner of any lot in FALCON CREEK SECTION I, and/or the Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligation to maintain, repair, or replace the storm water drainage system and any future storm water detention system improvements as provided above, and to assess the owners of all lots in this section and further sections of FALCON CREEK the cost thereof.

Section 5.4. Maximum Annual Association Assessment. Until January 1, 2001, the maximum annual assessment shall be one hundred twenty-five dollars (\$125.00) per Lot.

(a) Beginning the January 1, 2002 the annual assessment shall be shall be one hundred seventy-five dollars (\$175.00) per Lot.

(b) From and after January 1, 2003, and each year thereafter, the Board of Directors of the Association, at each annual meeting thereafter, shall set the amount of the annual assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Association.

(c) The annual assessment shall never be less than one hundred dollars (\$100.00).

Section 5.5. Maximum Monthly Villa Association Assessment. Until January 1, 2002, the maximum monthly assessment shall be seventy-five dollars (\$75.00) per Lot payable in four quarterly installments of \$225.00.

(a) From and after January 1, 2002, and each year thereafter, the Board of Directors of the Villa Association, at each annual meeting thereafter, shall set the amount of the monthly assessment for the following year for each lot, taking into consideration the current maintenance costs and future needs of the Villa Association.

(b) The annual assessment shall never be less than six hundred dollars (\$600.00).

Section 5.6. Special Assessments for Capital Improvements. In addition to the annual

assessments authorized above, the Association and/or Villa Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.7. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis, as the Board of Directors determines.

Section 5.9. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the date of execution of documents transferring title of any lot to its owner or from the date of execution of any land contract for the purchase of any lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount annual assessment against each Lot at least thirty (30) days advance of each annual assessment period. Written notice of the annual assessment dates shall be established by the Board of Directors. The Association and/or Villa Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association and/or Villa Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association and/or Villa Association as to the status of assessments on a lot is binding upon the Association and/or Villa Association as of the date of its issuance.

Section 5.10. Effect of Nonpayment of Assessments: Remedies of the Association or Villa Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the prevailing prime lending rate plus one percent per annum. The Association or Villa Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

Section 5.11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any

Lot shall not affect the assessment lien. However, the sale or transfer" of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

The lots are numbered 1 through 36, inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use and for their usual and intended purpose.

Section 6.1. Architectural Control Committee. The Architectural Control Committee shall be composed of three members appointed by the Declarants. The majority of such Committee may designate a representative to act for it. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant hereto. Declarant may, by an instrument recorded in the Allen County Recorder's Office, transfer the functions of the Committee to the Villa Association whereupon the functions of the Committee shall be performed by the Villa Association.

Section 6.2. Construction Plan Approval. The Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article. The Committee's approval or disapproval shall be in writing and sent by regular mail to the owners of record or their representative. If the Committee, or its designated representative, fails to approve or disapprove them as required by these provisions within thirty (30) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions thereof shall be deemed to have been fully complied with.

Section 6.3. Use. All lots shall be used for single-family residential purposes, but domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling shall be constructed or maintained on a lot. Before any lot or tract may be used or occupied, such user or occupier shall first obtain an Improvement Location Permit and Certificate of Occupancy from the Allen County Plan Commission.

Section 6.4. Number of Buildings Allowed/Temporary Structures. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, which shall be built as part of said structure and attached thereto. No structure of a temporary character, trailer, basement, tent, shack, garage or other out building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently, nor shall any building be moved into or upon any lot for such purpose.

Section 6.5. Minimum Floor Areas. No dwelling shall be permitted unless it meets or

exceeds the following minimum floor areas in square feet, exclusive of open porches, breezeways, or garages, as follows:

Lots 1-36 inclusive:

One story	1200
1 ½ story	1400
2 story - total aggregate	1600

Section 6.6. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer than 7 feet on each side lot line. No dwelling shall be located on any interior lot nearer to the rear lot line than shown on the table below:

Lots numbered	Minimum Rear Building Setback
7-28,32-36	15'
1-6,29-31	25'

Section 6.7. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos shingle siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any lot, and no roll roofing of any description or character shall be used on the roof of the dwelling house or attached garage of any of said lots.

Section 6.8. Exterior Finish. There must be a minimum of eighty (80) square feet of brick, stone or wood on the front elevation unless specifically approved otherwise by the Architectural Control Committee.

Section 6.9. Subdivision of Lots. No lot may be subdivided, except that a lot may be divided into two parts where each part is under common ownership and use with an entire, contiguous lot, in which case the part and the entire lot with which it is contiguous shall be treated as one building site. Any further subdivision of lots shall be first approved by the Allen County Plan Commission, or its successor agency. However, no dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 7,500 square feet.

Section 6.10. Construction Plan Approval. No building shall be erected, placed or altered on any lot until construction plans showing floor plans and elevations, have been approved by the Architectural Control Committee as to quality of workmanship and materials, and harmony of external design with existing structures.

Section 6.11. Improvements. Before any house or building on any platted lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions above, the Declarant or any subsequent developing owner of said platted lot or tract shall install all improvements serving said platted lot or tract as provided in said plans

and specifications for this addition filed with the Allen County Plan Commission.

Section 6.12. Driveways. All driveways shall be hard-surfaced. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width. Any driveway constructed within the boundary lines of any lot prior to the existence of sidewalks shall be so constructed that the elevation thereof at a point one (1) foot outside of the lot boundary line shall be four (4) inches above the grade elevation of the established curb adjacent to such lot. It shall at this point have installed a one-half inch bituminous expansion joint, and then proceed at a gradient of one-fourth inch per foot to a point of five (5) feet outside the lot boundary line at which point another one-half inch bituminous expansion joint shall be installed. The remaining distance shall have a gradient of one-half inch per foot.

Section 6.13. Clotheslines. No rope, wire or other device shall be installed on the exterior of any dwelling for the purpose of air drying linens or wearing apparel.

Section 6.14. Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight line at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.15. Sidewalks. Plans and specifications for this Subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of all Lots. Installation of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Declarants, and shall be completed in accordance with said plans and specifications, and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to Declarants, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

Section 6.16. Landscaping. Each lot must contain a minimum of ten (10) well-developed live shrubs as part of its original landscaping. Declarant, at Declarant's sole cost, reserves the right to plant one tree per lot in the street right-of-way between sidewalk and each lot. The future maintenance of trees after planting will be the responsibility of the Association.

ARTICLE VII UTILITIES

Section 7.1. Platted Utility Easements All lots in the Subdivision shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the following

provisions for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone, radio and television and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees, and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the obstruction.

Section 7.2. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of Section 7.4 below, by municipal, public and quasi-public utilities and by Declarants, and their successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of any utility, subject to reasonable regulation by any governmental body having jurisdiction of the streets and subject to the obligation of any such utility which installs a line in any street to repair and return the pavement of such street to at least as good as condition as existed prior to such work.

Section 7.3. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals, or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility, for its records, a drawing or other description accurately showing the location underground for the service entrance from the easement or street to the owner's structure. Each utility having a plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

Section 7.4. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Subdivision shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Subdivision, and;

(b) Housing, pedestals and other facilities may be above the surface of the ground to the extent permitted by Section 7.3 above and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable.

Section 7.5. Street Easements. In addition to the utility easements herein designated,

easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted and their respective successors and assigns, to install, lay, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintain and repair of said streets.

Section 7.6. Completion of Utilities Before Occupation. All street, drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarants with the Allen County Plan Commission shall be installed by the Declarants or any subsequent developing owner before any dwelling house on that lot in the Subdivision is used or occupied.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Signage. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one foot square, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8.3. Antennae. No radio or television antenna with more than ten (10) square feet of grid area, or 36 inches in diameter, or which attains a height in excess of six (6) feet above the highest point of the roof shall be attached to any dwelling house. No free standing radio or television antenna including dish-like fixtures for the reception of satellite transmission shall be permitted on any lot.

Section 8.4. Fencing. Fences are not permitted unless approved by the Architectural Control.

Section 8.5. Pools. Pools are not permitted on any lot.

Section 8.6. Oil. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. An outside kennel may house only

one animal unless approval is obtained from the Association for more than one such pet. In no event shall a dog be allowed to bark constantly or to any extent that it will create a nuisance to any other owner or owners in the Subdivision.

Section 8.8. Refuse Disposal/Recycling. No lot shall be used or maintained as a dumping ground or storage/holding place for rubbish, trash, garbage, recyclable materials or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. No incinerators or outside incinerators shall be kept or allowed on any lot. All other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 8.9. Fuel Tanks. All fuel and oil storage tanks shall be concealed within the main structure of the dwelling house, its basement or attached garage.

Section 8.10. Burning of Materials. The burning of papers, grass, and other materials shall not be allowed except in receptacles approved by the Association. Either the Developer or the Association may order discontinuance of all burning during such times as it reasonably believes that such burning would be hazardous to lot owners and/or their property because of weather conditions or other reasons.

Section 8.11. Sewage and Water Supply Systems. No individual water supply, system or individual sewage disposal system shall be installed, maintained or used on any lot in this subdivision. Sewers on lots in said Subdivision shall be connected to the sanitary sewage system according to the plans and specifications of the Declarant.

Section 8.12. Hunting, Shooting, or Trapping. No hunting, shooting or trapping shall be allowed in the Subdivision except by the written consent of the Association which shall allow the same for the sole purpose of protecting and preserving the Common Area or to prohibit any such animal from becoming a nuisance. Provided, however, that trapping of animals may be attempted for purposes of pest and rodent control, at the direction of the Board of Directors.

Section 8.13. Recreational Vehicles No all-terrain vehicle, snowmobile, motorcycle, moped, or any other motorized vehicle shall be operated in any area of the Subdivision except for the lawful operation of licensed motor vehicles within the streets and except such as are necessary in connection with utility uses. No motorized water craft or vehicle shall be permitted on the lake.

Section 8.14. Storing of Equipment. No boat, motor home, camping or other trailer, or other equipment or machinery of any kind shall be allowed on any lot unless stored inside the garage attached to the home dwelling. No truck other than a light pick-up or panel type shall be in plain view on the premises.

Section 8.15. Storm Water Runoff. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the sanitary sewage system, which shall be a

separate sewer system from the storm water and surface water run off sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned storm water and surface water run off sewer system.

Section 8.16. Surface Drainage Easements. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8.17. Outdoor Lighting. No outdoor light source shall be located more than 12 feet above ground level. All outdoor lighting sources in excess of 1,500 lumens shall be installed so that direct rays therefrom are confined to the lot upon which the source is located. No outdoor light source shall exceed 4,500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by Developer or the Association.

Section 8.18. Grass and Weeds. The owner of any lot within the subdivision, including a vacant lot, shall be required to maintain the lot and to keep weeds and grass trimmed to a height acceptable to the Architectural Control Committee. Further, if a lot owner fails to comply, the Windsor Woods Association shall have the right to hire the work to be performed and to charge the costs to the lot owner. The Association shall then have the right to file and hold a lien against the property if the outstanding costs remain unpaid for a period of more than 60 days, the amount of the lien to include costs, filing fees, and attorney fees.

Section 8.19. Play Equipment. No play equipment including swing sets will be permitted on any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee reserves the right to limit the size, color and location of said equipment.

Section 8.20. Concrete and Asphalt Play Areas. No concrete or asphalt area other than driveways, porches, patios and stoops shall be permitted on any lot without the prior written approval of the Architectural Control Committee. This includes areas to play basketball and other sports.

Section 8.21. Flood Protection Grades. In order to minimize potential damage from surface water, flood protection grades are hereby established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of the lowest point of entry at which water may enter the structure. The flood protection grades shall be Mean Sea Level Datum and shall be as follows:

Lots numbered:	7-10	838.5 feet
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11-14	840.0 feet
15-17	839.0 feet
22-28	841.3 feet
31,32	843.5 feet

The foregoing Flood Protection Grades are also shown, boxed on the face of the plat.

ARTICLE IX MISCELLANEOUS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Dedication. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9.4. Duration. The covenants and restrictions herein contained shall run with the land, and be effective for a period of 25 years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each; provided, however, that nothing contained in this Section shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

Section 9.5. Amendment. These protective covenants, restrictions, and limitations (but not the public utility easements) may be changed or abolished, in whole or in part and at any time as follows:

(a) The introductory provisions of these covenants and the provisions of Article II, Article VI and Article VIII, Section 8.15 and Section 8.16 may be changed by the written agreement of all of the owners of all of the lots in this Section of the Subdivision, and;

(b) The provisions of all of the other paragraphs may be changed by the written agreement of at least eighty-five percent (85%) of all of the owners of lots 1-34 inclusive of Falcon Creek subdivision at the time the alteration or amendment of said restrictions is made, provided, however, DECLARANTS and their successors or assigns shall have the exclusive right of five (5) years from the date of recording of the plat for Falcon Creek Section I to amend any

of the covenants and restrictions, subject in each case to such approval of governmental authorities as may be required by law at any time. The provisions of any such amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana. The term "owners" shall be a person, firm or corporation in whose name the fee simple title appears of record in the Office of the Recorder of the Allen County, Indiana. Any and all amendments or alterations to these restrictions and covenants shall be made subject to the prior approval of the Allen County Plan Commission.

Section 9.6. Annexation. Additional residential properties may be annexed by Declarant and made subject to this Declaration. Said additional properties may be developed for villas and/or single family residences. Said annexation may be perfected without the consent of the Owners, subject to any approval required by the Allen County Plan Commission.

Section 9.7. Investigation and Compliance. The Declarants and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 9.8. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues.

Further, the owners expressly acknowledge that they have no right of reversion in the event any one of these covenants is violated by a subsequent owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and this _____ day of _____, 2000.

Zohrab K. Tazian, Declarant

Naomi K. Tazian, Declarant

Before me, the undersigned Notary Public in Allen County, State of Indiana personally appeared Zohrab K. Tazian and Naomi K. Tazian, husband and wife, and acknowledged the execution of the foregoing to be their free and voluntary act and deed for the uses and purposes mentioned therein, this _____ day of _____ 2000.

My Commission Expires:

, Notary Public
Resident of Allen County, IN

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented the content of the restrictions contained in said document conforms to the requirements of the Allen County Zoning and Subdivision Control Ordinances and the document is now eligible for recording. This certificate does not extend to the form or validity of the document.

Dated this _____ day of _____, 2000.

ALLEN COUNTY PLAN COMMISSION

By: _____
Dennis A. Gordon, AICP
Executive Director

This instrument prepared by Ara Z. Tazian
Z. K. Tazian Associates, Inc.