

11599

AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS
OF
FOXCLIFF ESTATES SUBDIVISION

This Amended Declaration is made this 31st day of July, 1980, by two thirds (2/3) of the Lot Owners of Foxcliff Estates Subdivision:

WITNESSETH:

WHEREAS, the following facts are true:

- A. On August 21, 1968, Summit City Development Corporation, as original Declarant, recorded certain restrictions for Foxcliff Estates Subdivision at Deed Record 207, Page 503, which restrictions reserved in Summit City Development Corporation the right to amend the restrictions of Foxcliff Estates Subdivision for a period of five (5) years from the date of recording thereof.
- B. On May 23, 1969, Summit City Development Corporation recorded certain amendments to the restrictions of Foxcliff Estates Subdivision at Deed Record 211, Page 140.
- C. On October 17, 1969, Summit City Development Corporation recorded certain amendments to the restrictions of Foxcliff Estates Subdivision at Deed Record 213, Page 251.
- D. On August 17, 1973, Summit City Development Corporation, recorded certain additional amendments to the restrictions of Foxcliff Estate Subdivision at Deed Record 234, Page 537.
- E. On August 7, 1978, Foxcliff, Inc., as declarant and as successor to Summit City Development Corporation, recorded a Declaration of Amended Covenants and Restrictions of Foxcliff Estates Subdivision at Deed Record 264, Page 182.
- F. The right to amend the covenants and restrictions are incorporated by reference in the plats of the following sections of Foxcliff Estates Subdivision:

- ✓ Section I Recorded in Deed Record 207, Page 503
 ✓ Section II Recorded in Deed Record 209, Page 164

✓✓ Section III	Recorded in Deed Record 213, Page 86
✓✓ Section IV	Recorded in Deed Record 207, Page 510
✓✓ Section V	Recorded in Deed Record 209, Page 167
✓✓ Section VI	Recorded in Deed Record 220, Page 408
✓✓ Section VII	Recorded in Deed Record 212, Page 268
✓✓ Section VIII	Recorded in Deed Record 210, Page 24
✓✓ Section IX	Recorded in Deed Record 210, Page 593
✓✓ Section X	Recorded in Deed Record 226, Page 554
✓✓ Section XI	Recorded in Deed Record 213, Page 88
✓✓ Section XII	Recorded in Deed Record 229, Page 286
✓✓ Section XIII	Recorded in Deed Record 233, Page 307
✓✓ Section XIV	Recorded in Deed Record 213, Page 535
✓✓ Section XV	Recorded in Deed Record 229, Page 407
✓✓ Section XVI	Recorded in Deed Record 220, Page 406
✓✓ Section XVII	Recorded in Deed Record 238, Page 324
✓✓ Section XIX	Recorded in Deed Record 226, Page 555
✓✓ Section XX	Recorded in Deed Record 241, Page 136
✓✓ Section XXX	Recorded in Deed Record 238, Page 322

G. The Owners of Lots in the Foxcliff Estates Subdivision, including Foxcliff, Inc. as Developer and as successor to Summit City Development Corporation, desire to provide for the preservation and enhancement of the property values, amenities and opportunities in the Foxcliff Estates Community and for the maintenance of the Tract and the improvements thereon, and to replace all prior amendments, and to this end desire to subject the Tract, together with such additions as may hereafter be made thereto (as provided in Paragraph 3 hereof), to the amended restrictions, covenants, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit and complement of the lots and lands in the Tract and the present and future Owners thereof.

H. Foxcliff Estates Community Association, Inc., an Indiana not-for-profit corporation, has been delegated and assigned the powers of owning, maintaining, and administering the Common Area; administering and enforcing the restrictions; collecting and disbursing the assessments and charges hereinafter

set forth; and promoting the recreation, health, safety and welfare of the Owners and occupants of the Foxcliff Residential Community and has accepted such powers with respect to the Lots and Common Areas subjected to these Covenants and Restrictions by the existing recorded plats referenced herein.

NOW THEREFORE, the Owners of two-thirds (2/3) of the Lots of Foxcliff Estates Subdivision, including Foxcliff, Inc. as Developer and as an Owner, hereby amend the existing covenants and restrictions and declare that all of the lots and lands in the Tract and such additions thereto as may hereafter be made pursuant to Paragraph 3 hereof, as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are and shall be, subject to this Amended Declaration, all of which is declared and agreed to be in furtherance of a plan for the improvement and sale of lots and lands in the Tract and is established for and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Tract as a whole and of each of said lots and lands situated therein. All of the covenants and restrictions shall run with the land and shall be binding upon any parties having or acquiring any right, title or interest, legal or equitable, in and to the Tract or any part or parts thereof subject to such covenants and restrictions, and shall inure to the benefit of the existing Owners and every one of their successors in title to the Tract or any part or parts thereof. This Declaration shall amend, replace and take precedence over any prior covenants and restrictions or amendments thereof.

1. Definitions. The terms set forth below when used in this Amended Declaration, unless the context clearly requires otherwise, shall mean the following:

a. "Articles" means the Articles of Incorporation of the Corporation as amended from time to time.

b. "Assessments" means and includes all sums lawfully assessed against the members of the Corporation as set forth by this Amended Declaration, any Supplementary Declaration, the Articles or the By-Laws.

c. "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the Articles and the By-laws.

d. "Building Control Committee" means the entity established pursuant to Paragraph 6 of the Amended Declaration for the purposes stated therein.

e. "By-laws" means the Code of By-laws of the Corporation, as amended from time to time.

f. "Common Area" means those areas of land (1) shown on any recorded subdivision plat, (2) described in any recorded instrument, or (3) conveyed to or acquired by the Corporation, together with all improvements thereto, which are intended to be devoted or dedicated to the common use and enjoyment of all of the Members; and any drainage facilities or easements which are located on, over, across or through one or more Parcels.

g. "Community Sewer System" means the sewage collection and treatment system owned and operated by the Summit City Utility Corporation, its successors or assigns upon the Tract as the same may exist or be extended from time to time.

h. "Community Water System" means the water treatment and distribution system owned and operated by Summit City Utility Corporation, its successors or assigns as the same may exist or be extended from time to time.

i. "Condominium" means a common law condominium or a 'condominium unit' as defined in the Indiana Horizontal Property Act, Indiana code § 12-1-6-1, et seq. as the same may be hereinafter amended.

j. "Corporation" means the Foxcliff Estates Community Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

k. "Declaration" means the original restrictions for Foxcliff Estates Subdivision recorded at Deed Record 207, Page 503, the May 23, 1969 Amendments recorded at Deed Record 211, Page 140, the October 17, 1969 Amendments recorded at Deed Record 213, Page 251 and the August 17, 1973 Amendments to the restrictions recorded at Deed Record 234, Page 537, and the August 7, 1978 Amendments recorded at Deed Record 264, page 182 in the Office of the Recorder of Morgan County, Indiana.

l. "Developer" means Foxcliff, Inc., successor to Summit City Development, Inc., the Original Declarant, and its successors and assigns to its interest in the Tract, other than Owners purchasing Lots by deed from the original Declarant or the Developer.

m. "Development Area" means the real estate described in Exhibit "A" attached hereto and made a part hereof.

n. "Foxcliff Estates Subdivision" means the name by which the Tract is known.

o. "General Plan of Development" means that plan as publicly distributed and as approved by appropriate public agencies, including local planning and zoning authorities and governing bodies, which shall represent the total general scheme of development and general use of land in the Development Area as such may be amended from time to time, subject to at least ninety (90) days notice to the Corporation and approval of the public agencies involved and the Corporation. The General Plan of Development shall include a schematic drawing showing the approximate area, number and density of platted and unplatted lots, common areas, including roadways, lakes and recreational areas, and the general use category of each platted or unplatted area. The initial General Plan of Development schematic drawing is attached hereto as Exhibit "C"

p. "Improved Lot" means any lot upon which construction of a Living Unit or any appurtenant structure thereto has commenced.

q. "Living Unit" means any portion of a structure situated upon the Tract designed and intended for use and occupancy by a single family.

r. "Lot" means (1) any plot of land shown on any recorded subdivision plat with the exception of Common Area, and (2) any Condominium.

s. "Member" means a Class A, Class B or Class C member of the Corporation and "Members" means Class A, Class B and Class C members of the Corporation, all as designated in the Articles.

t. "Occupant" means the occupant of a Lot who shall be either the Owner or a lessee who holds a written lease having an initial term of at least twelve (12) months.

u. "Owner" means a person, including Declarant, who at any time has or is acquiring any right, title or interest, legal or equitable, in or to a Lot, including contract Sellers, but excluding a person having such an interest merely as security for the performance of an obligation.

v. "Parcel" means all platted subdivisions or Condominiums, as defined in the Indiana Horizontal Property Act, Indiana Code § 32-1-6-1, et seq. as the same may be hereinafter amended, consisting of one or more Lots which are subject to the same Supplementary Declaration.

w. "Part of Development Area" means any part of the Development Area which is not included in the Tract as the same may exist from time to time.

x. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

y. "Recreational Area" means the real estate designated as such on the General Plan of Development Schematic Drawings attached hereto as Exhibit "C" to this Amended Declaration and any recreational facilities that are built thereon which shall become Common Area and the property of the Corporation upon its conveyance to the Corporation by Developer.

z. "Restrictions" means the covenants, conditions, easements charges, liens, and restrictions and all other provisions set forth in this Amended Declaration, as the same may from time to time be amended.

aa. "Register of Regulations" means the document containing rules, regulations, policies and procedures adopted by the Board of Directors or the Building Control Committee, as the same may from time to time be amended.

bb. "Supplementary Declaration" means any declaration of covenants, conditions, restrictions or Condominium which may be recorded and which extends the provisions of this Amended Declaration to a Parcel and contains such complementary provisions for such Parcel as are required by this Amended Declaration.

cc. "Tract" means the real estate described in Exhibit "B" to this Amended Declaration together with such other real estate as may from time to time be added thereto under the provisions of Paragraph 3 hereof.

dd. "Unimproved Lot" means any Lot which is not an Improved Lot.

2. Amendment. Pursuant to the power of amendment provided in the original Declaration, two thirds (2/3) of the Lot Owners of Foxcliff Estates Subdivision by the affirmative signature of Owners representing 270 of 404 Lots hereby declare that the Tract and any additions thereto pursuant to Paragraph 3 hereof shall be held, transferred, sold, conveyed and occupied subject to this Amendment. The Owners of any Lot subject to these restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or any other present Owner of such Lot, their successors or assigns, or (ii) by the act of occupancy of any Lot, shall accept such deed, execute such contract or occupy such Lot subject to each and every Restriction and Agreement herein contained. By acceptance of such deed, execution of such contract, or the act of occupancy the Owner acknowledges the right and powers of Developer and of the Corporation with respect to these Covenants and Restrictions, and also for themselves, their heirs, personal representatives, successors, and assigns, and such Owners covenant, agree and

consent to and with Developer, the Corporation and to and with the present Owners and subsequent Owners of each of the Lots affected by these Covenants and Restrictions to keep, observe, comply with and perform such Covenants, Restrictions and agreements. By the execution of this Amended Declaration, the Present Owners: Foxcliff Estates Community Association, Inc.; and Foxcliff, Inc., individually and as successor to Summit City Development Corporation, agree and consent with each other to keep, observe, comply with and perform each and every Covenant, Restriction and agreement herein contained.

3. Additions to the Tract. Additional real estate may become subject to the Restrictions in the following manner:

a. Within the Development Area.

(1) The Developer may bring within the scheme of this Amended Declaration and add to the Tract, an additional Parcel or Parcels of real estate which is a part of the Development Area, with the written consent and acceptance of the Corporation. Such consent and acceptance shall be given by the Board of Directors of the Corporation, and shall not be unreasonably withheld, provided that the proposal to add any such Parcel meets the following standards;

(a) The proposal complies with the general use and restrictions shown on the General Plan of Development.

(b) The proposal has the prior approval of the Morgan County Plan Commission and the other appropriate governmental agencies.

(c) The Supplementary Declaration of Covenants and Restrictions for such Parcel is compatible with this Amended Declaration and subjects the Parcel to the provisions of this Amended Declaration.

(d) Adequate provisions have been made to fund and guarantee the completion, within one year from the date of the acceptance of the Parcel by the Corporation, of the improvement of the Parcel with roadways; sewers; water, gas and electric services; and proper surface drainage, all to the same standards as may be established from time to time within Tract.

(e) The Developer transfers to the Corporation, by general warranty deed, free of all liens and encumbrances except the lien of current taxes, all of its right, title and interest in and to the roadways; common areas, including lakes and recreational areas; and drainage facilities or easements within the Parcel, and the Corporation accepts such transfer subject to the completion of the improvements described in Paragraph 3a (1) (d) herein, upon the acceptance of the Parcel into the Tract.

(2) In the event that a proposal by the Developer to add real estate to the Tract does not meet the standard described in Paragraph 3a (1) hereof or in the event that any other owner of real estate within the Development Area desires to bring such real estate within the scheme of the Amended Declaration, then any such real estate may be added to the Tract and accepted by the Corporation by a two-thirds (2/3) vote of the Board of Directors, provided that:

(a) it reviews and tentatively approves the proposed plat, the Supplementary Declaration, the General Plan of Development and any other terms and conditions it deems appropriate all at a regular or a special meeting of the Board called for such purpose,

(b) it thereupon causes the Proposal to be mailed to all Class A and Class B members for their review and comment, and

(c) upon the expiration of at least thirty (30) but not more than ninety (90) days following the mailing of the Proposal to the members, it approves and accepts the Proposal at a regular or special meeting called for such purpose.

b. Other Real Estate. Notwithstanding the foregoing, additional real estate may be brought within the scheme of this Amended Declaration and added to the Tract with the written consent of the Corporation acting through its Board of Directors upon the authorization of twenty-five percent (25%) of the Owners.

c. The additions authorized under subparagraph (a) and (b) shall become effective upon the filing of record of one or more approved Supplemental Declarations and plats with respect to the additional real estate.

4. Foxcliff Estates Community Association, Inc.

a. Membership. Each Occupant shall automatically be a Member of the Corporation and shall enjoy the privileges and be bound by the obligations contained in the Articles and By-laws. Any mortgagee or other lien holder who becomes an Owner of real estate which is subject to this Amended Declaration and which is security for his mortgage or lien shall upon becoming an Owner be subject to all the requirements and limitations imposed by this Amended Declaration, including those provisions with respect to the payment of assessments.

b. Powers. The Corporation shall have such powers as are set forth in this Amended Declaration and in the Articles as each may be amended from time to time, together with all other powers that belong to it by operation of law.

c. Classes of Members. The Corporation shall have Three (3) classes of members as follows:

Class A. Every person who is an Owner of an Improved Lot shall be a Class A member.

Class B. Every person who is an Owner of an Unimproved Lot shall be a Class B member.

Class C. Every person who is an Occupant but not an Owner shall be a Class C member.

d. Voting and Other Rights of Members. The voting and other rights of members shall be as specified in the Articles and By-laws.

e. Mergers. Upon a merger or consolidation of another corporation with the Corporation, its properties, rights and obligations may, as provided in its Articles of Incorporation, by operation of law, be transferred to another surviving or consolidated corporation or, alternatively, the properties, rights and obligations of another corporation may be transferred to this

Corporation as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Amended Declaration within the Tract as hereinafter provided.

5. Assessments.

a. Creation of the Lien and Personal Obligation of Assessments. Developer hereby covenants and agrees, and each Owner, and each subsequent Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Corporation the following: (1) General Assessments, (2) Special Assessments, (3) Additional Special Assessments, and (4) Annual and Special Parcel Assessments, such assessments to be established and collected as hereinafter provided.

All assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a continuing lien upon the Lot against which each assessment is made until paid in full. Each Assessment together with interest thereon and costs of collection thereof, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due and payable.

b. General Assessment.

(i) Purpose of Assessment. The General Assessment levied by the Corporation shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and Occupants in the Foxcliff Estates Subdivision and in particular for the improvement, maintenance and repair of the Common Area and the operation of the Corporation.

(ii) Basis for Assessment.

1. Improved Lots. Each Improved Lot shall be assessed at a uniform rate.
2. Unimproved Lots. Each Unimproved Lot shall be assessed at a uniform rate which may be equal to, greater than or less than the rate for Improved Lots.

(iii) Maximum Annual Assessment.

1. Until December 31, 1980, the Maximum General Assessment in any assessment year of the Corporation shall be:
 - (a) For Improved Lots Two Hundred Fifty Dollars (\$250.00)
 - (b) For Unimproved Lots Two Hundred Fifty Dollars (\$250.00)
2. Thereafter the Board of Directors may in any fiscal year increase the Maximum General Assessment by an amount not in excess of Fifteen percent (15%) of the amount of the maximum General Assessment then in effect, to be effective the first day of the next assessment year.
3. The basis of assessment or for the Maximum General Assessment may be changed with the approval of two-thirds (2/3) of the Class A and Class B Members who are voting in person or by proxy at a meeting of such Members duly called for this purpose.

(iv) Method of Assessment. By a vote of two-thirds (2/3) of the Directors, the Board of Directors shall fix the General Assessment for each assessment year of the Corporation upon the basis in subparagraph (ii) and at an amount not in excess of the current maximum permitted by subparagraph (iii) provided, however, that notwithstanding the foregoing, the General Assessment shall be sufficient to meet the obligations imposed by the Amended Declaration upon the Corporation. The Board of Directors shall establish the date(s) the General Assessment shall become due, and the manner in which it shall be paid.

c. Special Assessment.

(i) Proposed Method of Assessments. The Corporation may levy in any fiscal year a Special Assessment applicable to that year and not more than the next two succeeding fiscal years for the purpose of defraying, in whole or in part, the cost of any purchase, construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property relating thereto, provided that any such Special Assessment shall have the assent of a majority of the Class A and Class B Members who are voting in person or by proxy at a meeting of such Members duly called for this purpose.

(ii) Basis for Assessment. The basis for assessment shall be the same as specified in Paragraph 5(b) (ii) above.

d. Additional Special Assessment. The Board of Directors of the

Corporation may levy an Additional Special Assessment upon any Lot for the purpose of recovering the cost of damage or repairs to the Common Area caused in whole or in part by the Owner of such Lot or by any of his guests, tenants, licensees, agents, or members of his family.

e. Effect of Nonpayment of Assessment - Remedies of the

Corporation. Any Assessment not paid within thirty (30) days after the due date may upon resolution of the Board of Directors bear interest from the due date at a percentage rate, no greater than the current statutory maximum annual interest rate, to be set by the Board of Directors for each assessment year. The Corporation shall be entitled to institute in any court of competent jurisdiction such procedure, at law or in equity, by foreclosure or otherwise to collect the delinquent Assessment plus any expenses or costs, including interest and attorneys' fees, incurred by the Corporation in collecting the same. If the Corporation has provided for the collection of any Assessment in installments, upon default in any payment, the Corporation may declare the entire balance of said Assessment due and payable in full. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The Board of Directors of the Corporation may accept title for the Corporation to any Lot, free and clear of any other liens or encumbrances, as payment in full for the outstanding balance of Assessments provided for herein and levied against that Lot.

f. Subordination of the Lien to Mortgages. The lien of the

Assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage which is recorded following the date of recording hereof covering such Lot and which is for the construction or purchase of a residence thereon and to any valid tax or special assessment lien on such lot in favor of any governmental taxing or assessing authority. The sale or transfer of any Lot shall not affect the assessment lien, unless the sale of or transfer of such Lot is pursuant to a foreclosure of the lien of a superior mortgage or any proceedings in lieu thereof, which 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 any Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

g. Certificate. The Corporation shall, upon demand, at any time, furnish a certificate in writing signed by the Treasurer or Assistant Treasurer of the Corporation certifying that the Assessments on a Lot have been paid or that certain Assessments remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

h. Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charges and liens created herein: (1) all properties to the extent of any easement or other interest therein dedicated and accepted by the a public authority and devoted to public use; (2) the Common Area; (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption; (4) any Unimproved Lots where a non-discriminatory waiver of Assessments has been granted by the Board of Directors upon the recommendation of the Building Control Committee following the hearing and approval of a petition for the waiver as provided in the Register of Regulations; (5) prior to January 1, 1982 Foxcliff, Inc. shall not be subject to any Assessment or charge of any type for Lots owned by it within the area described in the existing recorded plats recited herein, exclusive of Lots sold on contract or by agreement for deed in which Foxcliff, Inc. retains legal title, which Lots shall be subject to Assessments and charges. From and after January 1, 1982 Foxcliff, Inc. shall pay all Assessments and charges made pursuant to this Paragraph 5. Notwithstanding any other provisions herein, no land or improvements devoted to dwelling use shall be exempt from said Assessments, charges or liens.

i. Annual Budget. The Board of Directors shall prepare, not later than sixty (60) days prior to the close of the prior fiscal year, a proposed annual budget for the subsequent fiscal year, which shall provide for the budgeting and allocation of expenses in such a manner that the obligations imposed by the Amended Declaration and all Supplementary Declarations (except those with respect to Condominiums, will be met.

j. Adopting the Budget. Said Budget shall be mailed to each Member for his review and comments within five (5) days following the meeting of the Board of Directors at which it was proposed. The Board of Directors shall, by a two-thirds (2/3) vote, adopt the budget, taking into account the comments of the Members, not later than fifteen (15) days prior to the close of the prior fiscal year.

6. Building Control.

a. The Building Control Committee. A Building Control Committee consisting of three (3) or more persons as provided in the By-laws shall be appointed by the Board of Directors.

b. Purpose. The Building Control Committee shall regulate the external design, appearance, use, location and maintenance of the Tract and of the improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and natural vegetation and topography.

c. Conditions. No improvements, alterations, repairs, excavations, changes in grade, or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the original Declarant or the Developer to any Owner or which exist as of the date of the recording of this Amended Declaration, shall be made or done without the prior written approval of the Building Control Committee, except as otherwise expressly provided in this Amended Declaration. No building, sign, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, repaired, altered, made or done without the prior written approval of the Building Control Committee.

d. Development Bond. No improvements, alterations, repairs, excavations, changes in grade or other work upon a Lot may be commenced until and unless the Owner of such Lot shall have first provided a bond as required by the Register of Regulations established by the Building Control Committee, to the Corporation, to insure that such work will be completed in compliance with the

restrictions contained in this Amended Declaration and the guidelines of the Building Control Committee and to protect the Corporation from any damages to the Community Area caused in whole or in part by such work.

e. Procedures. In the event that the Building Control Committee fails to approve, modify, or disapprove in writing an application within fifteen (15) days after notice of such application has been given to affected Owners in accordance with the Register of Regulations, approval will be deemed granted, provided that if such procedures authorize a continuance of the application upon the motion of the applicant, such a motion shall constitute a waiver by the applicant of the fifteen (15) day requirement. A decision of the Building Control Committee may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors.

7. Common Area.

a. Ownership. The Common Area shall remain private, and neither the original Declarant's nor The Developer's execution or recording of an instrument portraying the Common Area, nor the doing of any other act by the original Declarant or Developer is, or is intended to be, or shall be construed as, a dedication to the public of such Common Area; provided, that the Corporation may dedicate or transfer all or any part of its interest in the Common Area to any public agency, authority, or utility for use as roads, utilities, parks or other public purposes. The Corporation may sell its interest in the Common Area, except the Road and Lakes, provided that any such sale shall not be effective unless an instrument signed by two thirds (2/3) of the Class A and Class B Members agreeing to such transfer, has been recorded.

b. Obligations of the Corporation. The Corporation, subject to the rights of the Owners set forth in this Amended Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

c. Members' Easements of Enjoyment. Subject to the provisions herein, every Member shall have a right and easement of enjoyment in and to the Common Area, which right and easement shall be appurtenant to and shall pass with the title to every Lot.

d. Extent of Members' Easements. The Members' easements of enjoyment created hereby shall be subject to the following:

(i) The right of the Corporation to establish reasonable rules and to charge reasonable admission and other fees for the use of the Common Area or the Recreation Area.

(ii) The right of the Corporation to suspend the right of an Owner to use the recreational facilities within the Common Area for any period during which any Assessments against his Lot remain unpaid for more than thirty (30) days after notice; the right of the Corporation to suspend the right of a Member to use such recreational facilities for a period not to exceed sixty (60) days for any other infraction of this Amended Declaration or of the Register of Regulations.

(iii) The right of the Corporation to mortgage any or all of the Common Area or the facilities thereon for the purposes of improvement to, or repair of, the Common Area or structures constructed thereon, pursuant to the approval of a majority of the Class A and Class B Members voting in person or by proxy at a regular or special meeting of the Corporation duly called for this purpose.

(iv) The right of the Corporation 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 Owners. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Class A and Class B Members agreeing to such dedication or transfer, has been recorded.

e. Delegation of Use. Any Member may delegate his right of enjoyment to the Common Area and facilities to the members of his family and to his guests subject to such general regulations as may be established from time to time by the Corporation and included within the Register of Regulations.

f. Damage or Destruction by Owner. In the event the Common Area is damaged or destroyed by an Owner or any of his guests, tenants, lessees, licensees, agents or member of his family, such Owner does hereby authorize the Corporation to repair said damaged area. The Corporation shall repair said damaged area in a good and workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Corporation in the discretion of the Corporation. The amount necessary for such repairs shall become an Additional Special Assessment upon the Lot of said Owner.

8. Use of Tract.

a. Protective Covenants.

(i) Residential Use. All Lots designated for residential use, shall be used, improved and devoted exclusively to residential use. Nothing herein shall be deemed to prevent an Owner from leasing a Living Unit to a single family, subject to the provisions of this Amended Declaration and any Supplementary Declaration. All Lots included in the plats referenced in Exhibit "B" hereto shall be designated for residential use only.

(ii) Nuisances. No Nuisance shall be permitted to exist or operate upon any Lot so as to be detrimental to any other Lot in the vicinity thereof or its occupants. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other domesticated household pets may be kept, provided that they are kept within the Owner's property.

(iii) Other Restrictions. At the first meeting of the Building Control Committee following the recording of this Amended Declaration, said Committee shall propose general rules to implement the purposes set forth in Paragraph 6 and interpret the covenants in this Paragraph 8. Upon or before the first conveyance of the first Lot in any Parcel added to or included in the

Tract, the Building Control Committee shall adopt general rules appropriate to that Parcel which shall be consistent with the rules governing other parcels in the Tract. Such general rules may be amended by a two-thirds (2/3) vote of the Building Control Committee, following an open meeting of the Members of which due notice has been provided. Such rules shall be deemed adopted upon the vote of two-thirds (2/3) of the Board of Directors. All such general rules and any subsequent amendments thereto shall be placed in the Register of Regulations.

(iv) Exceptions. The Building Control Committee may issue temporary or permanent permits to except or waive any prohibitions expressed or implied by this Paragraph 8, provided the Building Control Committee can show good cause and acts in accordance with adopted guidelines and procedures and such permits are on a lot-by-lot basis and are approved by a two-thirds (2/3) vote of the Board of Directors.

(v) Type, Size and Construction of Living Units.

Notwithstanding the authority granted herein to the Building Control Committee to regulate the improvement, alteration, or repair of the exterior of Lots, no improvements, alterations or repairs shall be made on any of the Lots in the Foxcliff Estates Subdivision which do not conform to the following minimum standards:

(1) Ground Floor Area. No Living Unit shall be erected or permitted on any Lot, the ground floor area of which, exclusive of porches, terraces or garages, is less than Fifteen Hundred (1500) square feet, in the case of a one-story structure, or less than One Thousand (1000) Square feet in the case of a structure other than one-story structure, with a total area of not less than Sixteen Hundred (1600) square feet provided, however, that a smaller ground floor area may be allowed by the Building Control Committee if confirmed and approved by the Board of Directors for any lot where the topography renders such restrictions impracticable.

(2) All construction on said Lots must be new. No building shall be moved onto said Lots. No trailer, mobile home, tent, uncovered basement, shack, garage, barn or other structure shall be placed or constructed on any of said Lots at any time for use as either a temporary or permanent residence or for any other purpose except incident to the construction and use of a Living Unit on such Lot.

(3) All Living Units shall have inside bathroom facilities.

(4) All Living Units shall be completed on the exterior within six (6) months from the date of the commencement of construction as certified by the Building Control Committee. All Living Units shall be completed and the site graded and sodded, seeded or landscaped within one (1) year from the date of the start of construction as certified above. During the period of construction the Lot shall be kept and maintained in a sightly and orderly manner.

(5) No improvements, alterations or repair to a Lot shall be approved by the Building Control Committee and no construction shall commence on any Lot unless and until complete plans and specifications for the installation of septic or other private sewage disposal systems on said Lot have been submitted to and approved by the appropriate public authority of Morgan County having control over the approval thereof. No septic or other private sewage disposal system shall be approved for any Lot for which the Community Sewer System is available as certified by the Building Control Committee. In the event that the Community Sewer System or the Community Water System is extended to any Improved Lot upon which an existing septic or other private sewer disposal system is located, the Owner of said Lot shall tap onto such System(s) at his expense within one (1) year of the date of the completion of said extension as certified by the Building Control Committee and hereby agrees to pay such tap-on and service fees as are established by the Public Service Commission of Indiana for said System(s).

(6) No Living Unit shall be located on any Lot nearer to the front line or the side line than the minimum setback lines shown on the recorded plat thereof. No projection of any Living Unit shall be permitted to extend into or encroach upon the space between said building line and the street adjacent thereto, except steps and platform in front of the main door may extend over said line, not to exceed five (5) feet. No boat docks, floats or other structures extending into any lake shall be constructed or placed into or on said lake without the prior approval of the Building Control Committee and the Board of Directors.

(7) Any tank for storage of fuel placed on or maintained on any Lot outside of any Living Unit shall be located at least two (2) feet below the surface of the ground. Outdoor receptacles for ash or garbage shall be underground and shall be located at least fifty (50) feet to the rear of the front line of the Lot. No refuse pile or other unsightly or objectionable material or thing shall be allowed or maintained on any Lot.

(8) Any Living Unit, garage or other structure on any Lot which may in whole or in part, be destroyed by fire, windstorm or other natural cause must be restored to its original condition or otherwise rebuilt with the approval of the Building Control Committee, or the Lot restored to a slightly and natural condition as approved by the Building Control Committee within a reasonable time.

b. Maintenance of Tract. To the extent that exterior maintenance is not provided for in a Supplementary Declaration, an Owner shall keep all Lots owned by him, and all improvements thereon, in good order and repair and free of debris all in a manner and with such frequency as is consistent with good property management.

c. Public Health & Safety Easements. An easement is hereby created for the benefit of and granted to, all police, fire protection, school, ambulance, postal service, delivery vehicles and all similar persons to enter upon the Common Area in the performance of their duties.

d. Utility and Drainage Easements. Easements for the installation and maintenance of public utilities and for the maintenance and correction of surface water drainage are reserved as shown on the recorded plats and run in favor of all public utilities, including Summit City Utilities Corporation and the Corporation. Such easements shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways as approved by the Building Control Committee.

9. Enforcement. The Corporation and any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, guidelines, rules or decisions of the Building Control Committee, and any charges or liens now or hereafter imposed by the provisions of this Amended Declaration and of Supplementary Declarations, but the Corporation shall not be liable for damages of any kind to any person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any person to enforce any of these Restrictions or to invoke any available remedy with respect to a violation or violations thereof, shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or an estoppel of that person to enact any right available to him upon the occurrence, reoccurrence or continuation of any violation or violations of the Restrictions.

10. Amendment. This Amended Declaration may be amended at any time by an instrument signed by two-thirds (2/3) of the Owners. The Developer shall not have the power to amend this Amended Declaration other than the power to vote as an Owner in a vote of all Owners taken for the purpose of amending this Amended Declaration. Any such amendment shall become effective upon its recordation in the office of the Recorder of Morgan County, Indiana.

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

12. Duration. The foregoing Covenants and Restrictions are for the mutual benefit and protection of the present and future Owners, the Corporation, and the Developer, and shall run with the land and shall be binding on all parties and all Persons claiming under them until July 25, 1988, at which time said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those Persons who are then the Owners of a majority of the Lots in the Tract.

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

14. Counterparts. This Amended Declaration and any amendments hereto may be executed in several counterparts and when so executed shall constitute one agreement binding upon all of the Owners hereunder, notwithstanding that all are not signatories to the original or the same counterpart.

IN TESTIMONY WHEREOF, we the undersigned, being the Corporation, the Developer and Owners of Lots in The Foxcliff Estates Subdivision, hereby ratify and accept the foregoing Amended Declaration by the execution hereof and by the execution of separate Signature Pages which shall, together with this Amended Declaration, constitute the entire agreement.

WITNESSETH the execution hereby by the undersigned on behalf of Foxcliff Estates Community Association, Inc. (the "Corporation") and Foxcliff, Inc. (the "Developer"). Dated this 13th day of June, 1980.

Foxcliff Estates Community Association, Inc.

Witness:

Patrick K. Brown
Sec. Secretary
PATRICK K. BROWN

By: *Frank C. Springer*
President
FRANK C. SPRINGER

State of Indiana)

) SS:

Warrick
County of (Morgan)

On the 13th day of June, 1980 before me personally came Frank C. Springer and Robert K. Brown who are known to me to be the President and ^{asst} Secretary of the Foxcliff Estates Community Association, Inc. and who acknowledged execution of the foregoing Amended Declaration and being duly sworn, stated that the statements set forth therein are true.

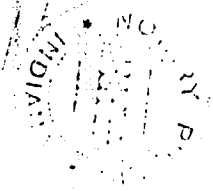
IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13th day of June, 1980.

Sidney Mishkin
Notary Public Residing in Warrick County

My Commission Expires:

3-11-82

Sidney Mishkin
Printed Signature



Foxcliff, Inc.

By: John H. Fewell
President
JOHN H. FEWELL

Witness:

Charles E. Delph
Secretary
CHARLES E. DELPH

State of Indiana)

) SS:

County of Marion
(Marion)

BOOK 275 PAGE 333

On the 13th day of June, 1980 before me personally came
John H. Fewell and Charles E. Delph who are known to me
to be the President and Secretary of the Foxcliff Inc. and who acknowledged the
execution the foregoing Amended Declaration and being duly sworn stated that the
statements set forth therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13th day of
June, 1980.

Sidney Mishkin
Notary Public Residing in Marion County

My Commission Expires:

3-11-82

Sidney Mishkin
Printed Signature



EXHIBIT "A" TO
 AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS
 OF
 FOXCLIFF ESTATE'S SUBDIVISION
 (THE DEVELOPMENT AREA)

The South half of the Southwest quarter of Section 11; The South half of the Southeast quarter of Section 11; The North half of the Northwest quarter and the South half of the North quarter of Fraction Section 11, which lies South of White River, except that part on the West side thereof described as being 40 acres off of the West side of Lots 5 and 6 in said Fractional Section 11.

Also; all that part of the Northwest quarter of the Southeast quarter of Section 11, lying South of the present channel of White River now being a part of Lot No. 4 of said Fractional Section 11.

Also, all that part of the Northeast quarter of the Southeast quarter of Section 11, lying South of the present channel of White River.

Also, the Southwest fraction, West of White River, being otherwise described as the Southwest Fractional quarter of Section 12.

Also, all that part of the Northwest quarter of the Southwest quarter of Section 12, lying North of the above described 43.22 acres and South and East of the former channel of White River and West of 82.87 acre tract formerly owned by John Tackett, lying mostly in the Southwest quarter of said Section 12, and described in a deed dated June 7, 1917, and recorded in Deed Record No. 89, page 549.

Also, Twenty-five (25) and 50/100 acres off of and across the entire North end of the West half of the Northwest quarter of Section 13.

Also, the Northwest quarter of Section 14.

Also, the North half of the North half of the Southwest quarter of Section 14. The Northeast quarter of Section 14, except the following part thereof: Beginning at the Southeast corner of said tract and running thence West 8.50 chains, thence North 9 chains, thence East 4.50 chains, thence North 8 chains, thence North 34 degrees West 4.75 chains, thence North 24 degrees East 3 chains, thence North 38 degrees East 4.75 chains, thence East to the East line of said tract, thence South to the place of beginning.

Also, the North half of the Northwest quarter of the Southeast Quarter of Section 14.

All in Township 12 North, Range 1 East.

Also, parts of the East half of Section 14, Township 12 North, Range 1 East and the West half of Section 13, Township 12 North, Range 1 East, more particularly described as follows:

A part of the Northeast quarter of said Section 14, Township 12 North, Range 1 East, more particularly described as follows: Beginning at the Southeast corner of said quarter section, thence West on and along the South line of said quarter section for a distance of 270.70 feet; thence North parallel to the East line of said quarter section for a distance of 1125.40 thence North 34 degrees West for a distance of 313.50 feet; thence North 24 degrees East a distance of 198.00 feet; thence North 38 degrees East for a distance of 313.50 feet; thence East parallel to the North line of said quarter section for a distance of 200.0 feet to a point in the East line of said quarter section; thence South on and along said East line for a distance of 1798.50 feet to the point of beginning.

Also, a part of the West half of the Northwest quarter of Section 13, Township 12 North, Range 1 East, more particularly described as follows: Beginning at the Southwest corner of

said quarter section, thence North on and along the West line of said quarter section for a distance of 1798.50 feet; thence East parallel to the North line of said quarter section for a distance of 288.0 feet, said point lying in the center line of a creek approximately 40 feet in width; thence deflecting right on and along the center line of said creek in a southeasterly direction for a distance of 2232.00 feet to a point in the East line of said half quarter section; thence south on and along said East line of said half quarter section for a distance of 12.60 feet to the southeast corner of said half quarter section; thence west on and along the south line of said half quarter section for a distance of 1320.00 feet to the point of beginning;

Also, a part of the Northeast quarter of the Southeast quarter of said Section 14, Township 12 North, Range 1 East, more particularly described as follows: Beginning at the Northeast corner of said quarter-quarter section, thence South on and along the East line of said quarter-quarter section to a point lying in the center line of Maple Turn Road; thence in a Northwesterly direction on and along the center of said Maple Turn Road for a distance of 413.55 feet; thence North parallel to the East line of said quarter-quarter section for a distance of 307.67 feet to a point in the North line of said quarter-quarter section; thence East on and along said North line for a distance of 270.70 feet to the point of beginning.

Also, the Northwest quarter of the Southwest quarter of Section 13, Township 12 North, Range 1 East.

Also, a part of the East half of Section 14, Township 12 North, Range 1 East, more fully described as follows:

A part of the Northeast quarter of said Section 14, beginning on the Quarter Section line at an iron pipe 270.7 feet West from the East quarter post of said Section 14, thence continuing West on the Quarter Section line 95.0 feet; thence North 17 degrees 18 minutes West 622.05 feet to an iron pipe marking the Northwest corner of real estate owned by Williams; thence East parallel to the Quarter Section line 290.3 feet to an iron pipe; thence South one (1) degree zero (0) minutes West parallel to and 270.7 feet West of the East line of said Section 594.0 feet to the place of beginning, subject to Water flood rights for Lake construction.

Also, a part of the Southeast quarter of said Section 14, beginning on the Quarter Section Line at an iron pipe 270.7 feet West from the East Quarter Post of said Section 14, thence South zero (0) degrees 42 minutes West parallel to the East line of said Section 255.15 feet to an iron pipe thence West parallel to the Quarter Section line 50.0 feet to an iron pipe; thence North nine (9) degrees zero (0) minutes West 258.98 feet to a point on the Quarter Section line 95.0 feet West of the place of beginning; thence East along the Quarter Section Line 95.0 feet to the place of beginning, subject to Water flood rights for Lake Construction.

ALSO, The Northeast quarter of the Northeast quarter of Section 22; the Northwest quarter of the Northwest, the West half of the Northeast quarter, the East half of the Northwest quarter of Section 23, all in Township 12 North, Range 1 East; Ten (10) acres off of the South end of the East half of the Southwest quarter of Section 14, Township 12 North, Range 1 East, containing 250 acres, more or less.

ALSO, The Southwest quarter of the Northwest quarter of Section 23, and the Southeast quarter of the Northeast quarter of Section 22, all in Township 12 North, Range 1 East, containing 80 acres, more or less.

ALSO, sixty (60) acres off of the South end of the West half of the Southwest quarter of Section 14, Township 12 North, Range 1 East.

ALSO, The East half of the Southwest quarter of Section 14, Township 12 North, Range 1 East, except twenty (20) acres off of the North end thereof and except ten (10) acres off of the South end thereof, containing exclusive of said exceptions, fifty (50) acres, more or less.

The following described real estate in XIV, XI and XIII,
Township 12 North, Range 1 East:

West
Beginning at the quarter post of said Section XIV; thence
North 1 degree, 35 minutes West line of said along the Section
1,333.84 feet; thence North continuing over and along said
Section line North 1 degree, 35 minutes West, 1,035.39 feet;
thence East 5 feet to an iron pin in the Northwest corner of
Lot 283, Section X, Foxcliff Estates as per plat thereof
recorded in Deed Record 226, Page 554; thence South 79
degrees 11 minutes East 40.25 feet to the Southwesterly most
corner of Lot 238, Section VIII, Foxcliff Estates as per
plat thereof and recorded in Deed Record 210 Page 24; thence
28 degrees 37 minutes West 337.08 feet to an iron pin;
thence North 4 degrees 33 minutes West 40 feet to an iron
pin; thence South 80 degrees 27 minutes East 128.15 feet;
thence South 71 degrees 25 minutes East 598.5 feet to the P.T.
of a curve to the left having a radius of 200 feet; thence
North thence along said curve 158.80 feet to a P.T. of said
curve; thence North 62 degrees 19 minutes East 353.83 feet
to the Southwest corner of Lot 234 Section III, Foxcliff
Estates as per plat thereof and recorded at Deed Record 213,
Page 86; thence North 15 degrees 56 minutes West 258 feet;
thence North 80 degrees 56 minutes East 145 feet; thence
North 77 degrees 53 minutes East 205.85 feet; thence South
76 degrees 13 minutes East 201.97 feet; thence North 37
degrees 31 minutes West 201.56 feet; thence South 79 degrees
50 minutes West 306.99 feet; thence North 3 degrees 58
minutes East 158.75 feet; thence South 86 degrees 2 minutes
West 150 feet; thence North 16 degrees 47 minutes West 202
feet; thence South 87 degrees 17 minutes West 15.78 feet;
thence North 9 degrees 3 minutes East 48 feet; thence North
1 degree 4 minutes East 40.39 feet; thence South 80 degrees
57 minutes East 477.46 feet; thence North 22 degrees 37
minutes West 444.69 feet to the Southeast corner of Lot 182
Section XIII of Foxcliff Estates as per plat thereof recorded
in Deed Record 233, Page 307; thence North 50 degrees 40
minutes West 129.07 feet; thence North 47 degrees 33 minutes
West 158.86 feet; thence North 34 degrees 18 minutes East
157.68 feet; thence Northerly over and along a curve having
a radius of 840 feet 857.06 feet (chord bearing North 17
degrees 41 minutes West 820.46 feet) to the PT of said
curve; thence tangent to said curve North 11 degrees 33
minutes East 45.40 feet; thence North 66 degrees 49 minutes
West 541.42 feet; thence Norther 3 degrees 4 minutes West
44.60 feet to an iron pin; thence North 23 degrees 11 minutes
East 335 feet more or less to the South bank of White River;
thence meandering with the bank of White River Easterly to
the Southeast corner of Lot 90 in Foxcliff Estates Section V
as shown on the plat thereof recorded at Deed Record 209,
Page 167 in the Office of the Recorder of Morgan County,
Indiana; thence South 68 degrees 25 minutes West 205.0 feet
to a P.C.; thence Southerly along a curve to the right
having a radius of 1,450 feet 457.36 feet to the point of
tangent; thence tangent to said curve 0 degrees 5 minutes
East 523.48 feet; thence Southwesterly over and along a
roadway known as Somerset Drive or River Road to point of
its intersection with Foxcliff Drive East; thence Southerly
along the east right-of-way line of Foxcliff Drive East to
the Northwest corner of Lot 445 as shown on the plat of
Foxcliff Estates Section XIX recorded Deed Record 226, Page
555 in the Office of the Recorder of Morgan County, Indiana;
thence South 72 degrees 35 minutes East 249.87 feet to an
iron pipe; thence North 85 degrees 2 minutes East 510 feet
to an iron pipe; thence South 4 degrees 58 minutes East
244.43 feet to an iron pipe; thence South 67 degrees 11
minutes East 910.75 feet; thence South 22 degrees 49 minutes
West 14 feet to the Northern most corner of Lot 327 in the
plat of Foxcliff Estates Section XVI; thence South 66 degrees
46 minutes 30 seconds East 227.53 feet to an iron pin which
is 1,017.93 feet North of the East quarter post of Section
14; thence South on said Section line 119.97 feet; thence
North 71 degrees 32 minutes 30 seconds East 156.21 feet;
thence South 71 degrees 52 minutes 40 seconds East 130;
thence South 17 degrees 5 minutes East 228.32 feet; thence

South 38 degrees 7 minutes 30 seconds East 605.69 feet; thence South 38 degrees 7 minutes 30 seconds East 354.06 feet; thence South 71 degrees 45 minutes East 200 feet; thence South 24 degrees 1 minutes East 162.3 feet thence South 5 degrees 7 minutes West 136.48 feet; thence South 13 degrees 52 minutes 30 seconds West 331.34 feet; thence South 63 degrees 40 minutes West 296.40 feet; thence North 33 degrees 16 minutes 15 seconds West 165.35 feet; thence North 12 degrees 41 minutes 15 seconds West 156.63 feet; thence North 48 degrees 37 minutes 30 seconds West 321 feet; thence South 58 degrees 25 minutes West 379.45 feet; thence South 0 degrees 13 minutes 30 seconds East 350 feet; thence South 89 degrees 47 minutes 30 seconds West 200 feet; thence South 0 degrees 13 minutes 30 seconds East 25 feet to the P.C. of a tangent curve to the right of 300 foot radius; thence along said curve 189.80 feet to the P.T. thereof; thence tangent to said curve 76.81 feet to the centerline of Maple Turn Road; thence North 54 degrees 7 minutes 30 seconds West along the centerline of said road 180.33 feet; thence North degrees 16 minutes 30 seconds West 750.51 feet; thence South 89 degrees 4 minutes 30 seconds West 50 feet; thence North 9 degrees 55 minutes 30 seconds West 45 feet to an iron pipe on contour elevation 644.0 being sea level; thence meandering along said contour with the shoreline of Lake Foxcliff East to a point at the Southeast corner of Lot 389, Foxcliff Estates Section XV as shown on the plat thereof recorded at Deed Record 226, Page 407 in the Office of the Recorder of Morgan County, Indiana; thence South 88 degrees 15 minutes 30 seconds West 298.05 feet; thence South 0 degrees 11 minutes West 666.10 feet; thence South 0 degrees 11 seconds East 30 feet to the centerline of Maple Turn Road; thence over and along said centerline 1,333.69 feet; thence North 2 degrees 7 minutes West 667.07 feet; thence North 15 degrees 0 minutes West 345 feet; thence North 2 degrees 24 minutes 30 seconds West 130 feet; thence North 10 degrees 18 minutes 30 seconds East 128 feet; thence North 49 degrees 56 minutes West 365.2 feet; thence over and along a curve to the right of 550 foot radius a distance of 491.96 feet; thence South 57 degrees 30 minutes West 236.33 feet; thence North 76 degrees 42 minutes West 480 feet; thence South 80 degrees 2 minutes West 137.66 feet; thence South 64 degrees 48 minutes West 183.43 feet; thence North 25 degrees 12 minutes West 200 feet; thence South 64 degrees 48 minutes West 314.57 feet; thence South 25 minutes 12 degrees East 200 feet; thence South 64 degrees 48 minutes West 254 feet; thence South 34 degrees 45 minutes West 75.94 feet; thence South 32 degrees 36 minutes West 100 feet; thence South 7 degrees 54 minutes East 472.53 feet thence South 1 degrees 46 minutes West 46.29 feet; thence South 1 degrees 46 minutes West 476.29 feet; thence South 89 degrees 22 minutes West 399.18 feet to the West line of said Section XIV thence North 0 degrees 38 minutes West over and along said line to the place of beginning.

ALSO, A part of the Southwest Quarter of the Southeast Quarter of Section 11, Township 12 North, Range 1 East, Morgan County, State of Indiana, and more fully described as follows:

Beginning at an iron pin at the Southwest corner of Lot 127 in "Foxcliff Estates - Section VII, Book 212, page 269 in the Morgan County Recorder's Office; thence North 88 degrees 25 minutes East 338.8 feet along the South line of said Lot 127 to an existing iron pipe at the Southeast corner thereof; thence South 0 degrees 03 minutes East 65.0 feet along the West line of Lot 126 in Foxcliff Estates - Section V to an existing iron pipe at the Southwest corner thereof; thence South 75 degrees 33 minutes East 139.0 feet along the South line of said Lot 126 to an iron pipe at the South corner thereof; thence South 64 degrees 56 minutes West 277.13 feet to an iron pipe; thence North 88 degrees 31 minutes West 180.77 feet to an iron pipe in the East right-of-way of a platted road in aforementioned Section VII, thence along said East right-of-way, North 12 degrees 56 minutes West 147.30 feet to an iron pipe at the P.C. of a curve to the right with a radius of 900 feet; and then over and along said curve 60.0 feet to the point of beginning and containing 1.629 acres, more or less.

ALSO: A part of the North Half of the Southwest Quarter of Section 11 in Township 12 North, Range 1 East, Morgan County, State of Indiana, and more fully described as follows:

Commencing in the West line of the plat of Foxcliff Estates, Section XIII, as it is recorded in Deed Record 233, page 307, of the Morgan County Recorder's Office, at a point South 3 degrees 04 minutes East 44.60 feet from the Southwest corner of Lot 175 in said plat; thence South 66 degrees 49 minutes East along the South right-of-way of Warwick Road 326.97 feet to the true point of beginning; thence South 66 degrees 49 minutes East over said right-of-way 169.05 feet; thence South 33 degrees 47 minutes 45 seconds West 190.0 feet; thence North 57 degrees 14 minutes West 151.62 feet to a proposed road right-of-way; thence North 19 degrees 07 minutes East along said proposed right-of-way 134.38 feet to the P.C. of a tangent 25 foot radius curve to the right; thence over and along said curve 41.04 feet to the true point of beginning and containing .689 acres, more or less, subject however, to a 10 feet wide drainage easement off the East side thereof. The above described parcel to become Lot 179 and the plat of Foxcliff Estates, Section XVIII, when same is recorded.

ALSO, the real estate contained in the subdivision known as Foxcliff Estates South Section XXX which consists of lots 611 and 612, lots 630 thru 650 inclusive and lots 663 thru 667 inclusive and the roadways and common areas described in the plat thereof recorded in Deed Record 238, Page 322 of the Morgan County Recorder's Office.

EXCEPT: Beginning at the Southwest corner of Lot 106 Foxcliff Estates Section V recorded in Deed Record 209 Page 167; thence South 75 degrees 20 minutes East 465 feet; thence South 48 degrees 55 minutes East 315 feet; thence South 40 degrees 20 minutes West 336.1 feet; thence South 21 degrees 35 minutes East 194.05 feet to an iron pipe in the Northeast corner of Lot 130 Foxcliff Estates Section VII recorded in Deed Record 212 Page 268; thence South 78 degrees 12 minutes West 197.2 feet; thence on a curve to the left having a radius of 150 feet 64.09 feet; thence tangent to said curve 37 degrees 46 minutes East 78 feet; thence over and along a curve to the right having a radius of 300 feet 135.42 feet; thence North 11 degrees 46 minutes West 170 feet; thence South 78 Degrees 14 minutes West 50 feet; thence South 69 degrees 52 minutes West 203.61 feet; thence South 47 degrees 46 minutes West 130; thence South 27 degrees 37 minutes West 375 feet; thence South 85 degrees 7 minutes East 122.71 feet; thence North 5 degrees 33 minutes 30 seconds East 188.40 feet; thence North 4 degrees 37 minutes West 220.33 feet; thence over and along a curve having a radius of 840 feet to the left 102.44 feet to a P.T.; thence North 2 degrees 23 minutes West 163.14 feet; thence North 58 degrees 1 minutes East 50 feet; thence over and along a curve to the left having a radius of 800 feet for a length of 133.18 feet; thence North 26 degrees 17 minutes 30 seconds West 276.7 feet; thence over and along curve to the left having a radius of 800 feet for a length of 168.95 feet; thence to a P.T.; thence North 38 degrees 23 minutes 30 seconds West 192.58 feet; thence along a curve to the right having a radius of 510 feet 128.18 feet to a P.C.; thence North 20 degrees 59 minutes 30 seconds West 34.65 feet to a P.C.; thence over and along a curve to the right having a radius of 70 feet but a length of 108.75 feet to a P.C.; thence North 65 degrees 1 minutes 30 seconds East 348.67 feet to the place of beginning containing after said exception acres more or less.

Amended Declaration of Covenants and Restrictions of Foxcliff Estates Subdivision

Signature Page

The undersigned, being Owners of Lots in the Foxcliff Estates Subdivision and desiring to ratify and accept the Amended Declaration of Covenants and Restrictions of Foxcliff Estates Subdivision, hereby agree to all of the terms and conditions of said document and authorize this Signature Page to be Attached to said document as contemplated by Paragraph 14 thereof.

WITNESSETH the execution hereby by the undersigned as Owner of the lot(s) indicated and individually. Dated this 13th day of June, 1980.

NAME/SIGNATURE

LOT DESCRIPTION

Handwritten entries listing names/signatures (e.g., Foxcliff #134, JOHN H. FEWELL, CHARLES L. DELPH) and lot descriptions (e.g., Section VI, Section VII, Section VIII, etc.)

State of Indiana)
County of Warren) SS:
My Commission Expires: 3-11-82

On the 13th day of June, 1980, before me personally came the persons whose names and signatures appear above and who are known to me to be the individuals described in and who executed the foregoing Amended Declaration and being duly sworn, acknowledged that they executed the same, and that the statements set forth therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13th day of June, 1980.

Notary Public Residing in Warren County
Signature: Sidney Mishkin
Print of Signature: Sidney Mishkin

CERTIFICATION

IN TESTIMONY WHEREOF, we the undersigned, being the President and Secretary, respectively, of the Foxcliff Community Association, Inc. hereby certify that the signatures and lot descriptions appearing on the aforementioned Signature Pages are accurate and complete as of the 31st day of July, 1980, and represent in excess of the required two-thirds (2/3) of the lots in the Foxcliff Estates Subdivision.

FOXCLIFF ESTATES COMMUNITY ASSOCIATION, INC.

By: Frank C. Springer
President
Frank C. Springer

ATTEST:

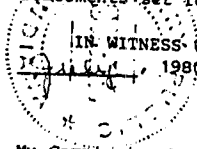
By: Stephen J. Hatt
Secretary

State of Indiana)

) SS:

County of Morgan)

On the 31st day of July, 1980 before me personally came FRANK C. SPRINGER and STEPHEN J. HATT who are known to me to be the President and Secretary of the Foxcliff Estates Community Association, Inc. and who executed the foregoing certification and being duly sworn state that the statements set forth therein are true.



IN WITNESS WHEREOF, I have hereunto set my hand and seal this 31st day of July, 1980.

Donald E. Vnina
Notary Public Residing in Morgan County

My Commission Expires:
7/14/82

DONALD E. VNINA
Printed Signature

This instrument prepared by Patrick K. Brown, Attorney at Law, 5500 West Bradbury Avenue, Indianapolis, Indiana 46241.

DECLARATION OF AMENDED COVENANTS AND RESTRICTIONS OF
FOXCLIFF ESTATES SUBDIVISION

This Declaration WITNESSETH, that;
 WHEREAS, Foxcliff, Inc. Declarant herein, is successor
 in title to Summitt City Development Corporation, and;
 WHEREAS, Summitt City Development Corporation did
 heretofore record certain amended restrictions of Foxcliff
 Estates Subdivision on the 17th day of August,
 1973, at Deed Record 234, Page 537, which restrictions
 reserved in Summitt City Development Corporation, its successors
 and assigns the right to further amend the restrictions of
 Foxcliff Estates Subdivision and which amended restrictions
 are incorporated by reference in the plats of the following
 sections of Foxcliff Estates Subdivision, to-wit:

- ✓ Section II Recorded in Deed Record 209 Page 164.
- ✓ Section III Recorded in Deed Record 213 Page 86
- ✓ Section V Recorded in Deed Record 209 Page 167
- ✓ Section VI Recorded in Deed Record 220 Page 403
- ✓ Section VII Recorded in Deed Record 212 Page 268
- ✓ Section VIII Recorded in Deed Record 210 Page 24
- ✓ Section IX Recorded in Deed Record 210 Page 593
- ✓ Section X Recorded in Deed Record 226 Page 554 ✓
- ✓ Section XI Recorded in Deed Record 213 Page 88
- ✓ Section XII Recorded in Deed Record 229 Page 286 - ✓
- ✓ Section XIII Recorded in Deed Record 233 Page 307 - ✓
- ✓ Section XIV Recorded in Deed Record 213 Page 535
- ✓ Section XV Recorded in Deed Record 220 Page 407
- ✓ Section XVI Recorded in Deed Record 220 Page 406
- ✓ Section XVII Recorded in Deed Record 238 Page 324 -
- ✓ Section XIX Recorded in Deed Record 226 Page 555 -
- ✓ Section XXX Recorded in Deed Record 238 Page 322 -

Foxcliff, Inc. does hereby exercise its right pursuant
 to said amended restrictions to further amend the restrictions
 of Foxcliff Estates Subdivision as defined herein to be
 effective upon execution and recording of the amended declarations.

1. Foxcliff Estates Subdivision shall mean the real estate described in the plats of the sections of Foxcliff Estates Subdivision recorded in the Office of the Recorder of Morgan County at the following times and in the following places, to-wit:

Section II	Recorded in Deed Record 209	Page 164
Section III	Recorded in Deed Record 213	Page 86
Section V	Recorded in Deed Record 209	Page 167
Section VI	Recorded in Deed Record 220	Page 408
Section VII	Recorded in Deed Record 212	Page 268
Section VIII	Recorded in Deed Record 210	Page 24
Section IX	Recorded in Deed Record 210	Page 593
Section X	Recorded in Deed Record 226	Page 554
Section XI	Recorded in Deed Record 213	Page 88
Section XII	Recorded in Deed Record 229	Page 286
Section XIII	Recorded in Deed Record 233	Page 307
Section XIV	Recorded in Deed Record 213	Page 535
Section XV	Recorded in Deed Record 220	Page 407
Section XVI	Recorded in Deed Record 220	Page 406
Section XVII	Recorded in Deed Record 238	Page 324
Section XIX	Recorded in Deed Record 226	Page 555
Section XXX	Recorded in Deed Record 238	Page 322

together with such further sections and plats thereof as may be hereinafter recorded by the Declarant under the name and designation of Foxcliff Estates Subdivision.

2. "Association" shall mean, The Foxcliff Estates Community Association, Inc. an Indiana Not-for-Profit Corporation, whose Articles are recorded in the Offices of the Recorder of Morgan County, in miscellaneous record 50, page 436.

3. "Owner" and "Owners" 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 Foxcliff Estates Subdivision, including contract sellers.

4. "Common Areas" shall mean those areas shown on the recorded subdivision plats for the sections of Foxcliff

Estates which are designated thereon as "Common Areas".

5. "Declarant" shall mean and refer to Foxcliff, Inc., its successors and assigns.

ARTICLE II. MEMBERSHIP RIGHTS AND OBLIGATIONS IN FOXCLIFF COMMUNITY ASSOCIATION, INC.

1. Imposition of Assessments

Each and every owner of a lot in Foxcliff Estates by acceptance of a deed therefor, from the Declarant or Declarant's predecessor, 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 and charges, and 2. Special assessments for capital improvements. Such assessments to be established and collected as hereinafter provided. The annual special assessments, together with interest, costs, reasonable attorney fees, and any other obligation which may be charged to an owner pursuant to this declaration shall be a charge on the lot and shall be a continuing lien upon the lot against which each assessment is made, without the necessity of filing any further evidence thereof, with the Morgan County Recorder. Each such assessment, or charge, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such lot at the time when the assessment fell due.

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 of the properties and for the improvement, maintenance, repairs and replacement of the common areas and roadways of Foxcliff Estates.

3. Annual Assessment.

The amount of annual assessment referred to herein shall be established by the members of the Association in the manner prescribed by the Association's bylaws, which assessments shall be payable annually, quarterly or monthly as the membership may determine, provided however, that there shall be no annual assessment for lots owned by the Declarant.

4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above,

the Association may levy by a majority vote of its membership in any assessment year, a Special Assessment against all lots except those owned by the Declarant, applicable to that year only, for the purpose of deferring in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon a common area, including fixtures and personal property related thereto.

5. Procedure for Determination and Collection of Assessments.

a. The procedure for the determination of assessments shall be established by the articles and bylaws of the Foxcliff Community Association, Inc. as the same may be in effect from time to time provided that no regular or special assessment may be imposed unless approved by a majority of a quorum present at any regular or special meeting called pursuant to the articles and bylaws of the Foxcliff Community Association, Inc.

b. Both annual and special assessments must be fixed at a uniform rate for all lots except for those owned by Declarant, which lots, as set out hereinabove, shall not be subject to either annual or special assessments.

c. The annual assessments provided for herein, shall commence as to all lots on January 2, 1979. Any increase in the annual assessment shall be fixed by the Association at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. Mailing of said notice, first class mail to the lot owner's address as the same appears in the transfer records of the Auditor of Morgan County, Indiana, shall be deemed to be sufficient notice of such assessment. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Association setting forth whether assessments on a specified lot have been paid. The 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.

d. Any assessment or portion thereof not paid within thirty (30) days after the due date shall bear interest at the rate of 8 per cent 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 lot. 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 lot. In the event any action to foreclose the lien of the Association is brought, the procedure for foreclosure of such lien shall be the same as provided for in the law of the State of Indiana for the foreclosure of mortgage liens.

ARTICLE III. PROPERTY RIGHTS

Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appertenant to and shall pass with the title to every lot, subject to the following provisions:

A. The Association shall have the right to establish reasonable regulations for the control and use of Common Areas, including the right to suspend the use thereof by an owner for any period during which any assessment or portion thereof against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of Association regulations. The Association shall have the right to dedicate or transfer all or any part of a 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 of the Association, subject to the consent of Declarant, so long as Declarant is the owner of any lots subject to these restrictions.

B. The rights of enjoyment and use of the Common Areas and facilities granted herein shall extend to the owner, members of owners family permanently residing in the owner's household, social guests when accompanied by the owner or a member of his household, tenants who reside in a residence which is subject to these restrictions, and contract purchasers who reside on or have the right to reside on a lot subject to these restrictions.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

1. With the exception of Declarant, every owner of a lot in Foxcliff Estates shall become a member of the Association. Membership shall be appertenant to and may not be separated from ownership of any lot.

2. The Association shall have one class of voting membership and members in good standing whose dues or assessments have been paid under the terms and conditions set forth in the bylaws, shall have voting rights on the following basis:

There shall be one vote cast for each lot regardless of the number of individuals who have an ownership interest in such lot. In the event more than one lot is owned by the same owners, the owners shall have the right to one (1) vote for each lot owned. The Association shall have the right to determine procedural rules for conducting any election.

ARTICLE V. BUILDING CONTROL

1. In order to regulate the external design, appearance, use and location of the properties and improvements of Foxcliff Estates in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and natural vegetation and topography, there is hereby established a body to be known as a Building Control Committee. No structure shall be commenced in Foxcliff Estates until such time as the plans therefore, have been approved by the Building Control Committee.

2. The Building Control Committee shall consist of three (3) persons. So long as the Declarant owns lots in Foxcliff Estates Subdivision, the Declarant shall have the right to appoint two (2) persons to the committee and the Association shall have the right to appoint one (1) person to the Committee. At such time as Declarant ceases to be owner of any lots in Foxcliff Estates Subdivision, all members of the Building Control Committee shall be appointed by the Association.

3. Plans for the construction of any structure and any change or alteration to be made in the exterior design of any structure shall be submitted to the Building Control Committee. The Building Control Committee shall act upon any such submission of plans within sixty (60) days, or in the event of their failure to act, plans will be deemed to have been approved. An applicant may appeal an adverse ruling of the Building Control Committee to the Board of Directors of the Association which may reverse or modify such decision by a two-thirds (2/3) vote of the members

present and voting.

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4. Any lot owner who makes a cut in any roadway or curb for the purpose of constructing a driveway, sewer line, water line or for any other purpose, shall be required to restore such roadway and curb to its original condition including the use of granular backfill and repaving of said cut. The Building Control Committee may, as a condition of approval of any plans, require that a bond be posted conditioned upon the repair of any said road cuts and may fix the amount of said bond in such amount as shall be reasonably necessary to restore any such road cuts.

ARTICLE VI. TYPE, SIZE AND CONSTRUCTION OF RESIDENCES

Notwithstanding the authority granted to the Building Control Committee herein to approve the plans of structures, no structures shall be erected which does not conform to the following minimum standards.

A. Ground floor area - No dwelling house shall be erected or permitted on any said lots, the ground floor area of which, exclusive of porches, terraces or garages, is less than 1500 square feet, in the case of a one story structure, or less than 1000 square feet in the a structure other than a one story structure, with a total area of not less than 1600 square feet, provided however, that such ground floor areas may be modified by the Building Control Committee for any lot where the topography renders such restrictions impracticable.

B. All construction materials must be new. No building shall be moved into said subdivision. No trailer, mobile home, tent, basement, shack, garage, barn or other structure shall be placed or constructed on any lot at any time for use as either a temporary or permanent residence or for any other purpose except incident to the construction of a dwelling on the premises.

C. All residences must have inside bathroom facilities.

D. Fencing - No screen planting over 36 inches high nor any fence shall be permitted between the street right-of-way and the building set-back line. Further, no fence, wall, or hedge higher than 36 inches shall be erected or maintained on any said lot.

E. All structures shall be completed on the exterior within six (6) months from the start of construction. All structures must be completed and site graded, sodded, seeded or reasonably landscaped within one (1) year from the date of commencement of construction. During the period of construction the premises shall be kept and maintained in a sightly and orderly manner.

F. No plans shall be accepted for construction by the Building Control Committee unless and until the complete plans and specifications for the installation of septic or other private sewer systems shall be submitted to the appropriate officer of Morgan County having control over the approval thereof. No sewer or septic system shall be permitted on any lot for which the community sewer system is available and in the event the community sewer system is extended to any lot upon which an existing septic system is located, the owner of said lot shall hook onto the community sewer system within one (1) year of the date of completion of said extension, and shall agree to pay such hook on fees as are established by the Public Service Commission of Indiana for said central sewer system. Declarant will construct a community water system to serve lots in the subdivision and the lot owners who have erected residences on their respective lots will be obligated to pay Declarant, its successors and assigns, for a permit to tap onto said system as soon as said system is available to any given lot in the subdivision.

G. No building shall be located on any lot nearer to the front line or the side street line than the minimum setback lines shown on the recorded plat. No projection of any building shall be permitted to extend into or encroach upon the space between said building line and the street adjacent thereto, except steps and platform in front of the main door may extend over said line, not to exceed five (5) feet. No boat docks, floats or other structures extending into any lake shall be constructed or placed into or on said lake without the prior approval of the Building Control Committee.

H. Any tank for the storage of fuel placed on or maintained on any lot outside of any building shall be located at least two (2) feet below the surface of the ground. Outdoor receptacles for ash or garbage shall be

underground and shall be located at least fifty (50) feet to the rear of the front lot line. No refuse pile or other unsightly or objectionable material or thing shall be allowed or maintained on any lot in this subdivision.

I. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats and other domesticated household pets may be kept provided they are kept within the owner's property.

J. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or to any lot owners of Foxcliff Estates Subdivision.

K. Any dwelling or garage on any lot which may in whole or in part, be destroyed by fire, windstorm or for any other reason, must be rebuilt and all debris removed and the lot restored to a slightly condition within a reasonable time.

ARTICLE VII. ROADWAYS

The roadways of Foxcliff Estates Subdivision have been dedicated to the private use of the owners of lots in Foxcliff Estates Subdivision. The Association shall have the right to establish reasonable rules and regulations to govern the use of said roads, including parking and traffic regulations and the right to grant license to use said roads to other types of traffic. There is hereby granted a license to use said roadways to Declarant or its agents, and to emergency vehicles including fire and police, for public school busses and postal service for the delivery of mail.

ARTICLE VIII. LAKES

1. The Association shall have the right to adopt reasonable rules and regulations to control the use of all lakes, streams or other bodies of water which are a part of Foxcliff Estates Subdivision, including but not limited to control of the types of boats which may be permitted on said lakes and shall further have the right to require and charge reasonable fees for permits for the operation of any boat on said lakes, and the right to suspend the use of said lakes for non-payment of assessments, or to suspend the use of the lakes for a period not to exceed sixty (60) days for the violation of its rules and regulations.

2. Declarant, so long as Declarant owns any lot in the Subdivision, and the Association shall have an easement twenty (20) feet in width along the entire shoreline from the high water level of all lakes for the purpose of operating, maintaining and servicing said lakes together with the right to trim, cut and remove any trees or brush necessary for the purpose of maintaining said lakes.

3. Lots which abutt or border on any lakes shall not include any rights in and to the waters of said lakes or the land below said waters, in the interest of health and sanitation, and so that the owners of the lots in Foxcliff Estates Subdivision may be benefitted by a decrease in hazard of pollution by the protection of the waters used for recreation and wildlife, lot owners of Foxcliff Estates Subdivision are not to use the lakes contained therein for any purpose that would result in the pollution of any waterway that flows into or adjacent to said property by refuse, sewage or other material that might tend to pollute the water of any such lakes or otherwise impair the equiological balance of the surrounding lands thereto.

ARTICLE IX. LOT MAINTENANCE

1. Owners of unoccupied lots shall at all times keep and maintain such lots in an orderly manner causing weeds and other growth to be seasonably cut and preventing the accumulation of rubbish and debris upon the premises. In the event the owner shall fail to maintain his lot in such a manner, the Association shall have the right to perform the work necessary to obtain compliance with said provision and the cost of performing such work shall become a lien against such lot which may be enforced as provided in Article V. of this declaration.

2. No lots may be subdivided and not more than one single family dwelling house may be erected or constructed on any one lot, however, lots may be divided to increase the size of adjoining lots. In the event of such division, each such enlarged lot shall be considered one lot only, for all purposes including membership and voting rights.

ARTICLE X. OTHER RESTRICTIONS

1. The right is granted to the Association to adopt from time to time such rules as it deems necessary for the regulation and use of the lots, common areas, lakes and roadways of Foxcliff Estates Subdivision provided such rules

and regulations are not inconsistent with owners reasonable use and enjoyment of said properties or with these restrictive covenants. This authority shall include but not be limited to rules with reference to the regulation of animals, antennas, signs including for sale signs, maintenance of lots, use of the lakes, burning of trash, storage of trash containers, removal of trees and other vegetation and the storage and maintenance of recreational vehicles, boats, boat trailers, campers and trucks.

ARTICLE XI. EASEMENTS

1. Easements for the installation and maintenance of public utilities or drainage facilities are reserved along and within a five (5) feet of all side lot lines as shown on the recorded plat and shall run in favor of all public utilities The Declarant and the Association.

ARTICLE XII. GENERAL PROVISIONS

1. The Association, Declarant 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 herein and after imposed by the provisions of this declaration. Failure by the Association, Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to enforce any other violation thereafter.

2. Severability - Invalidation of any one (1) of these covenants or restrictions by Judgment or Court Order shall in no way effect any other provisions which shall remain in full force and effect.

3. Except where permanent easements or other rights or interests are herein created, the covenants and restrictions of this declaration shall run with and bind the land and shall to the benefit of and be enforceable by the Association, Declarant or any owner of any lot subject to this declaration and their respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date of this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds 2/3 of the lots has been recorded, agreeing to revoke

the said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless made and recorded within six (6) months in advance of the effective date of such change and unless written notice of the purposed agreemtn is sent to every owner at least ninety (90) days in advance of any action taken and no such agreement to change shall be effective with respect to any permanent easements or permanent rights or interest relating to the common area herein created. Provided, however, this limitation shall be inapplicable to an amendment which is provided for herein.

Declarant shall have the exclusive right to amend this declaration as heretofore provided in the previous restrictions and amendments thereto, after which time this dedication may be amended by an instrument signed by two-thirds of all the owners of lots in Foxcliff Estates Subdivision.

Declarant shall have the first option to purchase any lot within Foxcliff Estates Subdivision which is offered for sale by an owner. This shall be a condition to any sale of a lot within the properties, that Declarant shall be supplied with a copy of a bona fide purchase agreement executed by the owner and perspective buyer. Declarant shall have the option exercisable within seven (7) days after receipt of a copy of such bona fide purchase agreement, to notify owner of his intent to accept the option created hereby, on the same terms and conditions as those agreed to by the owner and perspective buyer in such bona fide purchase agreement. Notice to Declarant shall be deemed sufficient if delivered to Declarant's principle office or deposited first class mail directed to Declarant agent, provided however, that the time for Declarant to exercise its option shall commence upon receipt of owner's offer.

Dated at Martinsville, Indiana, this 2 day of August, 1978.

FOXCLIFF, INC.

By: John H. Fewell
John H. Fewell, President

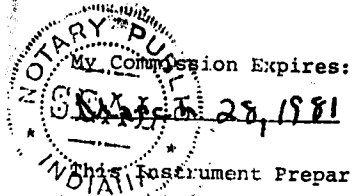
ATTEST:
Charles E. Delph
Charles E. Delph, Secretary

STATE OF INDIANA)
)SS:
COUNTY OF MORGAN)

Before me, the undersigned, a Notary Public, in and for said County and State, this 2 day of August, 1978, personally appeared the within named John H. Fewell, President and Charles E. Delph, Secretary, Grantors in the above conveyance, and acknowledged the same to be their voluntary acts and deeds, for the uses and purposes herein mentioned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

James Bruce Dodd
Notary Public James Bruce Dodd



This Instrument Prepared By:
James Bruce Dodd
McNUTT, HURT & BLUE
239 North Jefferson Street
Martinsville, Indiana 46151
342-3318 or 831-0477

RECEIVED
FOR RECORD
AUG 7 9 53 AM '78

Laura Jay Collins
RECORDER OF
MORGAN COUNTY