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T. MICHAEL DEVELOPMENT
BY

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LAWRENCE TOWNSHIP
ASSESSOR

AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS--
SPINNAKER COVE PROPERTY OWNERSHIP

THIS AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS--SPINNAKER COVE PROPERTY OWNERSHIP was made on the 29th day of September, 1999.

WITNESSETH:

WHEREAS, Spinnaker Cove was established by a certain "Declaration of Covenants and Restrictions" which was recorded on March 8, 1989, as **Instrument No. 89-21506** in the Office of the Recorder of Marion County, Indiana, said Declaration together with all amendments and/or supplements thereto being hereafter referred to as the "Declaration"; and

WHEREAS, said Declaration was amended by a certain "Amendment to Declaration of Covenants and Restrictions" which was recorded on February 21, 1995, as **Instrument No. 1995-0018873** in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, the definitions and terms, as defined and used in the Declaration, shall have the same meaning in this Amendment to the Declaration, and reference is specifically made to Paragraph 1 of the Declaration containing definitions for terms; and

WHEREAS, Spinnaker Cove Homeowners Association, Inc. ("Corporation") was incorporated as a not-for-profit corporation under the Indiana Not-For-Profit Corporation Act of 1971 by the filing of Articles of Incorporation with the Indiana Secretary of State's Office on March 17, 1989; and

WHEREAS, Paragraph 24 of the Declaration states that any proposed amendment to the Declaration which pertains to leasing must be approved by a vote of not less than ninety percent (90%) in the aggregate of the votes of all Owners; and

WHEREAS, a Special Meeting of the Owners was held on September 29, 1999, for the stated purpose as set forth in the notice to the Corporation's members to vote upon the approval of the following Amendment to the Declaration; and

WHEREAS, at said Special Meeting held on September 29, 1999, more than ninety-two percent (92%) in the aggregate of all Owners of the one hundred ninety-two (192) Lots in Spinnaker Cove voted, in person or by proxy, in favor of amending the Declaration pursuant to the terms below; and

WHEREAS, the Owners of said Lots desire to amend the Declaration pursuant to the terms and conditions below upon the authority set forth in foregoing recitals;

NOW, THEREFORE, the Declaration which is applicable to all Owners and residents within Spinnaker Cove is hereby amended as follows:

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Martha Q. Womack

1. There shall be a new Paragraph 34 added to the Declaration as follows:

34. Leasing of Dwellings.

(a) **Limits on the Number of Leased Dwellings.** In order to insure that the residents within Spinnaker Cove share the same proprietary interest in and respect of the Dwelling Units and the Common Areas, no more than thirty (30) of the one hundred ninety-two (192) Dwelling Units, which is about fifteen percent (15%), may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Paragraph 34. If at any time such percentage of Dwelling Units are leased or rented, an Owner who wants to rent or lease his or her Dwelling Unit which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Dwelling Unit shall immediately notify the Board of Directors or Managing Agent of such fact and that Dwelling Unit cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Dwelling Units. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Dwelling Unit. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Dwelling Units may be leased or whether the maximum number of Dwelling Units within Spinnaker Cove is currently being leased. If the maximum number of Dwelling Units is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

Notwithstanding the foregoing, the "rental cap" described above shall not apply to any Dwelling Unit of an Owner in Spinnaker Cove who, as of September 29, 1999, is renting or leasing said Dwelling Unit and provides written proof thereof to the Corporation's Managing Agent by that date. The Owners of record of such currently-rented Dwelling Units shall not be subject to the provisions of this Paragraph 34(a), but shall be subject to the remaining provisions of this Paragraph 34. However, when the legal owners of record of any of the above-described Dwelling Units sell, transfer or convey such Unit(s) to another Owner after September 29, 1999, such Dwelling Unit(s) shall immediately become subject to this Paragraph 34(a).

(b) **Hardship Exceptions and Waiver.** Notwithstanding Paragraph 34(a) above, if an Owner wishes to rent or lease his or her Dwelling Unit, but the maximum number of thirty (30) Dwelling Units is currently being leased, the Owner may request the Board of Directors to waive the "rental cap" and approve a proposed lease if the Owner establishes to the Board's satisfaction that the "rental cap" will cause undue hardship. If a majority of the entire Board of Directors approves of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Dwelling Unit, even though that would result in more than thirty (30) Dwelling Units being rented at one time, but only if the Owner satisfies all other requirements of this Paragraph 34. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (1) death, dissolution or liquidation of an Owner;
- (2) divorce of an Owner;
- (3) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Spinnaker Cove due to a change of employment or retirement of at least one (1) of such Owners;
- (4) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- (5) other similar circumstances.

(c) **General Lease Conditions.** All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Dwelling Unit other than the entire Dwelling Unit shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Corporation; and shall provide for direct action by the Corporation and/or any Owner against the tenant with or without joinder of the Owner of such Dwelling Unit. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

(d) **One Year Waiting Period.** In addition to all other provisions of this Paragraph 34, for a period of at least one (1) year after an Owner's acquisition of a Dwelling Unit, said Owner cannot lease such Dwelling Unit. After such time, said Dwelling Unit will be eligible to be leased if all other conditions of this Paragraph 34 are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Corporation.

(e) **Owner is Still Liable.** No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Corporation and the other Owners for compliance with the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Corporation for payments of assessments or any other charges.

(f) Corporation's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Managing Agent by the Owner within thirty (30) days after execution.

(g) Violations. Any lease or attempted lease of a Dwelling Unit in violation of the provisions of this Paragraph 34 shall be voidable at the election of the Corporation or any other Owner, except that neither party to such lease may assert this provision of this Paragraph 34 to avoid its obligations thereunder.

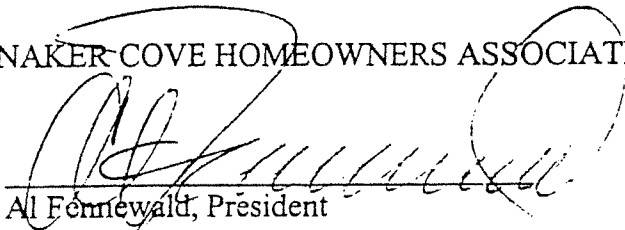
(h) Institutional Mortgagees. The provisions set forth in this Paragraph 34 shall not apply to any institutional mortgagee of any Dwelling Unit which comes into possession of the Dwelling Unit by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

2. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any one Dwelling Unit or Lot shall constitute a ratification of this Amendment, together with the Declaration, the By-Laws, and any rules or regulations adopted pursuant thereto, all as amended, and all such provisions shall be covenants running with land and shall bind any person having at any time having any interest or estate in a Dwelling Unit or Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

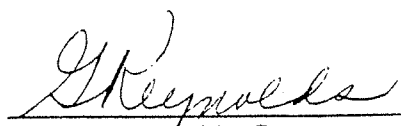
3. Certification. The undersigned persons hereby represent and certify that all requirements for and conditions precedent to the Amendment of the Declaration have been fulfilled and satisfied.

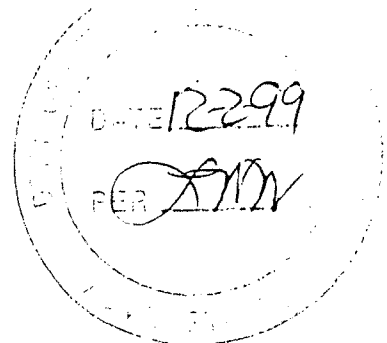
Executed this 6 day of October, 1999.

SPINNAKER COVE HOMEOWNERS ASSOCIATION, INC.


Al Fennewald, President

Attest:


Glenna Reynolds, Secretary



STATE OF INDIANA)
COUNTY OF Marion) SS:

Before me, a notary public, in and for said County and State, personally appeared Al Fennewald and Glenna Reynolds, the President and Secretary, respectively, of Spinnaker Cove Homeowners Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing Amendment to the Declaration of Covenants and Restrictions -- Spinnaker Cove Property Ownership, for and on behalf of said corporation and its members and who, being duly sworn, stated that the Certifications and representations made therein are true. Witness my hand and notarial seal this 6 day of October, 1999.

Catherine D. Worley
Notary Public - Signature
CATHERINE D. Worley
Printed

My Commission Expires:
June 10, 2008

Residence County: Marion

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads & Murray, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550. C:\OFFICE\PTM\Worley\Associates\Documents\Spinnaker Cove\Spinnaker And Dec\wpd