

Cross-References:     **Instrument No. 5797 at Misc. Book 139, Page 353**  
                          **Instrument No. 4213 at Misc. Book 142, Pages 409-426**  
                          **Instrument No. 9309874**

**RESTATED DECLARATION OF CARMELTOWN, INC.**  
**PROPERTY OWNERSHIP**

This Restated Declaration of Carmeltown, Inc. Property Ownership is effective as of the date executed below.

WITNESSTH:

WHEREAS, the Carmeltown townhouse community in Carmel, Hamilton County, Indiana was created by the original Declarant (hereafter defined) pursuant to a Plat, and a certain "Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on August 31, 1973, as **Instrument No. 5797 at Misc. Book 139, Page 353** (hereafter, the "Original Declaration"); and

WHEREAS, the Original Declarant (or developer) subsequently amended said Declaration by an Amended Declaration of Carmeltown, Inc. Property Ownership which was recorded with the Hamilton County Recorder's Office on May 22, 1974, as **Instrument No. 4213 at Misc. Book 142, Pages 409-426** (hereafter, the "Amended Declaration"); and

WHEREAS, at the time of recording of the Declaration and the Amended Declaration, the Declarant, Joseph S. Dawson and/or The Dawson-Evans Company, was the sole owner in fee simple title to the following described real estate located in Hamilton County, Indiana, to-wit:

SEE EXHIBIT "A" attached hereto and incorporated herein by reference;

WHEREAS, the Declarant by execution of the Original Declaration and the Amended Declaration assured that all properties which are conveyed which are a part of the land shall be conveyed subject to the terms and conditions of the Declaration, as amended, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors, and assigns, and shall inure in the benefit of each Owner; and

WHEREAS, the Declaration was subsequently amended by the Lot Owners by the "Amendments to the Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on March 18, 1993, as **Instrument No. 9309874**; and

WHEREAS, the Board of Directors of Carmeltown, Inc. wishes to restate the terms of the Original Declaration, as modified by all subsequent amendments, through this instrument for the ease and convenience of all present and future Owners; and

WHEREAS, this Restated Declaration does nothing more than compile the terms of the Original Declaration together with all subsequent amendments such that there are no changes or amendments to the Declaration which are being made hereby.

NOW, THEREFORE, the terms and provisions of the Declaration of Carmeltown, Inc. Property Ownership, together with all subsequent amendments, is as follows:

1. DEFINITIONS. The following terms as used in this Declaration unless the context clearly requires otherwise, shall mean the following:
  - a. "Articles of Incorporation" means the Articles of Incorporation of the Association, together with any amendments and restatements thereto. The Articles of Incorporation are incorporated herein by reference.
  - b. "Association" means CARMELTOWN, INC., its successors and assigns, a not-for-profit corporation, organized and existing under the laws of the State of Indiana, whose Membership shall be composed of the Owners of Lots.
  - c. "Board of Directors" means the Board of Directors of the Association.
  - d. "Carmeltown" means the name by which the Tract shall be known. "Carmelaire" shall have the same meaning as "Carmeltown".
  - e. "Building" means any separated structure(s) which has two or more Townhouses.
  - f. "By-Laws" shall mean the By-Laws of the Association, together with any amendments and/or restatements thereof. The By-Laws shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.
  - g. "Common Areas" means the ground designated as such upon the recorded Plat of Carmeltown.
  - h. "Common Expenses" means expenses for administration of the Association, for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums assessed against the Owners by the Association.

- i. “Lot” means any plot of ground designated as such upon the recorded Plat of CARMELTOWN and upon which one (1) Townhouse is constructed or is to be constructed. “Lot” shall be deemed to include the Townhouse, if located thereon.
  - j. “Member means a member of the Association.
  - k. “Mortgagee” means the holder of a first mortgage lien on a Lot.
  - l. “Owner” means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple absolute title to a Lot.
  - m. “Plat” means the survey of the Tract, including therein the Lots and Common Areas prepared by Allen H. Weihe, certified by Allen H. Weihe, a registered land surveyor, under date of 6/7/72, and recorded in Plat Book 4, Page 97, in the Office of the Recorder of Hamilton County, Indiana, which is incorporated herein by reference.
  - n. “Property” means the Tract and appurtenant easements, the Lots, Townhouses, Buildings, other improvements on and all property of every kind and nature whatsoever, real, personal, or mixed located upon the Tract, and used in connection with the operation, use and enjoyment of CARMELTOWN, INC.
  - o. “Townhouse” means the living unit located upon a Lot.
  - p. “Tract” means the real estate described in Paragraph “A” above [Exhibit “A” hereto].
2. DECLARATION. Declarant hereby expressly declares that all properties which are conveyed which are a part of the land shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors and assigns, and shall inure in the benefit of each Owner.
3. DESCRIPTION OF CARMELAIRE. CARMELAIRE consists of 110 lots numbered 1 through 110, inclusive, together with the Common Areas as set forth on the Plat. The size of the Lots and Common Areas are as designated on the Plat. The legal description for each Lot in CARMELAIRE shall be as follows:
- Lot \_\_\_\_\_ in CARMELAIRE, a subdivision recorded in Plat Book 4, Page 97, in the Office of the Recorder of Hamilton County, Indiana.

4. DESCRIPTION OF TOWNHOUSES. Each Townhouse shall consist of that portion of the Building situated on a Lot including but not limited to all fixtures, utilities, equipment, appliances and structural components designed and intended for the exclusive enjoyment, use and benefit of the Townhouse wherein the same are located, or to which they are attached. Townhouse shall not include the above which are intended for the use, benefit, support, safety and enjoyment of any other Townhouse, or which may be necessary for the safety, support, maintenance, use and operation of any of the Buildings, or which are normally designed for common use. All fixtures, equipment, and appliances designed or intended for the exclusive enjoyment, use and benefit of a Townhouse shall constitute a part of such Townhouse whether or not the same are located within or partly within the boundaries of such Townhouse.
  
5. LOTS AND EASEMENTS. The boundaries of each Lot in CARMELAIRE shall be as shown on the Plat, provided, however, in the event the vertical boundary line of any Townhouse does not coincide with the actual Lot line for whatever reason, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, in accordance with the existing construction, and shall extend to the intersection of the perpendicular lot lines. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in to such base line outside the actual boundary line of the Lot.
  
6. COMMON AREAS. The definition of Common Areas include all areas not designated as a lot on the recorded Plat of CARMELAIRE.
  
7. OWNERSHIP OF COMMON AREAS. The Common Areas shall be owned by the Association, CARMELTOWN, INC., and shall be conveyed to CARMELTOWN, INC., by the Declarant on or before the date the first lot is transferred to an owner. The Association shall hold the Common Area for the use and enjoyment of the Members of the Association. The Membership rights to the Common Areas shall be subject to the provisions of this Declaration including but not limited to the following:
  - a. The right of the Association to charge reasonable admission and other fees for use of any recreational facility.
  - b. The right of the Association to suspend any Member from the right to use any Common Area for any period during which any assessment against such Member's Lot remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of the Board's published rules and regulations. Such suspension of a Member's rights shall be pursuant to the provisions

and procedures set forth in the Indiana Nonprofit Corporation Act of 1991, as the same may be amended from time to time.

- c. The right of the Association upon approval by a written instrument signed by two-thirds of the Members 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 by the Association.
  - d. The right of the Association or its Board of Directors to determine the time and manner of use of the recreational facilities by the Members.
  - e. The right of the Association to adopt such rules and regulations regarding the Common Areas and Lots as it deems necessary.
8. DELEGATION OF USE OF THE COMMON AREAS. Any member may delegate, in accordance with provisions of this Declaration and the rules and regulations promulgated by the Association, his right of enjoyment, and use of the Common Areas and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.
9. ENCROACHMENTS AND EASEMENTS IN COMMON AREAS. The Declarant hereby grants an easement for ingress and egress over the Common Areas in favor of any or all owner(s). If for any reason, a Common Area encroaches upon any Lot, an easement shall be deemed to exist in favor of the Association.

Each Owner shall have an easement of use in common with Owner(s) to all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in or on the Townhouse(s) or in the Common Area and serving his Townhouse.

10. GARAGES. The usage of the garages shall be subject to such rules and regulations as the Board of Directors may from time to time adopt.
11. COVENANTS AND RESTRICTIONS. The following covenants and restrictions on the use and enjoyment of the Lots, Common Areas and Property are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner or by the Association. The Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from such violation:
- a. All Townhouses shall be used exclusively for residential purposes and occupied by a single family. "Single Family" is defined as a single

housekeeping unit, operating on a non-profit, non-commercial basis between its occupants with a common kitchen and dining area.

- b. All buildings or structures erected upon the Lots shall be of new construction and shall be Townhouses joined together by a common exterior roof and foundation.
- c. No additional buildings shall be erected or located on the Property other than on the Lots or as otherwise shown on the Plat or approved in writing by the Board of Directors.
- d. Nothing shall be done or kept in any Townhouse or in the Common Area which will cause an increase in the rate of insurance on any building or the contents thereof, which would result in the cancellation of insurance on any building or the contents thereof or which would adversely affect the health, safety or welfare of other residents.
- e. No sign, awning, canopy, television or radio antennae, satellite dish, or any other attachment or thing of any kind shall be affixed to or placed upon the exterior walls, roofs or windows or on any parts of any Building without the prior written consent of the Board of Directors.
- f. No advertising signs (except one "for sale" sign per parcel of not less (*sic*) than five square feet), unsightly objects or nuisance shall be erected, placed or permitted to remain on any Lot or Common Areas, nor shall any Lot or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof.
- g. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Townhouse or in the Common Area, except that dogs, cats or customary household pets may be kept provided they are not kept, bred or maintained for any commercial purposes, and do not create a nuisance, and further provided that the Board may adopt from time to time such rules and regulations regarding pets as it may deem necessary and any Owner having such pet shall be fully liable for any damage to the Common Area caused by his pet.
- h. Nothing shall be done or permitted in any Townhouse which will impair the structural integrity of any Building or Townhouse or impair any easement. No owner shall do any act or allow any condition to exist which would adversely affect the other Townhouses or their Owners.

- i. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed from any Townhouses or any Lot including but not limited to the Patio where such would be viewable from any part of the Common Area, nor shall any such items be hung out or exposed on any part of the Common Area. All Lots and the Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.
- j. No industry, trade or commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property other than home professional pursuits without employees. No Townhouse or Lot shall be used or rented for transient, motel, or hotel purposes.
- k. All Owners and members of their families, guests or invitees, and all occupants of any Townhouse or any other persons entitled to use the same and to use and enjoy the Common Areas of any part thereof shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Area.
- l. No boats, campers, recreational vehicles, commercial vehicles, trailers of any kind, buses, mobile homes, trucks having more than four (4) tires, mopeds, snow mobiles, dune buggies, motorcycles, mini-bikes, or any other nonconventional vehicles of any description, shall be permitted, parked or stored anywhere within the Property unless the same are stored in a garage and not exposed to view. For conventional vehicles, there must be a minimum of two (2) conventional vehicles stored in the Owner's garage before any other conventional vehicle may be parked on any street within Carmelton. No vehicle of any kind is permitted which is not currently licensed, not in operating condition, or parked without being operated for longer than ten (10) days without prior written Board approval. The Board shall have the power to promulgate such other rules and regulations concerning this provision as it deems appropriate, including provisions on enforcing this provision by towing any unauthorized vehicle at the owner's expense.
- m. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas except with express written permission from the Board of Directors.
- n. If any Owner or resident of a Lot shall fail to maintain such Lot in accordance with the terms of this Declaration within thirty (30) days of being so notified in writing by the Board of Directors, the Board of

Directors or its designated employees, agents or representatives shall have the right to enter upon said Lot to correct such conditions or violations. Any costs or expenses incurred by the Association shall be the responsibility of the Owner of such Lot in the same manner as assessments.

- o. The Board shall have the right to promulgate rules and regulations concerning those portions of the Common Area which may be designated as "No Parking" areas which may be necessary for police, fire or other emergency vehicles to ensure the health, safety and welfare of all residents within Carmelton.
  - p. The Board shall have the right to promulgate rules and regulations establishing posted speed limits for all streets and roads within Carmelton to ensure the health, safety and welfare of all residents.
12. COSTS AND ATTORNEYS' FEES. In any proceeding arising because of an alleged failure of an Owner to comply with any provision of the Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.
13. WAIVER. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Lot.
14. SEVERABILITY CLAUSE. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of any or all of the remaining provisions of this Declaration.
15. PLAT. The Plat setting forth the layout, locations and dimensions of each lot, and of the Common Areas in CARMELAIRE, is incorporated into this Declaration by reference and has been filed in the Office of the Recorder of Hamilton County, Indiana, as of the 28<sup>th</sup> day of July, 1972, as Instrument No. 6337.
16. EASEMENT FOR UTILITIES AND PUBLIC AND QUASI PUBLIC VEHICLES. All Public and quasi public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles and privately owned delivery vehicles shall have the right to enter upon the streets and Common Areas in the performance of their duties. All

utilities and their agents shall also have the right to enter upon the streets and Common Areas in the performance of their duties, provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed and approved by Declarant on the Plat or as thereafter approved by the Board of Directors. All such installations shall be underground. The electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the property and to affix and maintain electrical telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Townhouses. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant or the Board of Directors shall have the right to grant such easement on such Common Areas without conflict with the terms of this paragraph. The easements granted herein shall in no way affect or impair any other easement of record on the Property.

17. RIGHT OF BOARD OF DIRECTORS TO ADOPT RULES AND REGULATIONS. The Board of Directors of the Association may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Lots, Townhouses, Common Areas, Garages, Patios, and any other areas of the Property. Such rules as are adopted may be amended by a vote of the majority of the Board of Directors, and the Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.
18. MANAGEMENT AGREEMENT. The Board of Directors of the Association shall be empowered to employ a reputable Business/Maintenance Agent, a Professional Managing Agent or Real Estate Management Company to assist the Board in performing its duties as provided in the Association's By-Laws.
19. REAL ESTATE TAXES. Real Estate Taxes are to be separately assessed and taxed to each Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Association and treated as a Common Expense.
20. UTILITIES. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expense unless otherwise determined by the Association.
21. MAINTENANCE, REPAIRS AND REPLACEMENTS.
  - a. Owners' Responsibilities. Each Owner shall at his or her expense be responsible for the maintenance, repairs, decoration and replacement within his own Townhouse, except as may be otherwise provided herein. All fixtures and equipment installed within the Townhouse commencing at a point where the

utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair in and to his or her Townhouse which, if neglected, might adversely affect any Townhouse, Common Area, or the value of the Property. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, gas lines, appliances, doors, windows, lamps, and all other accessories belonging to the Owner and appurtenant to the Townhouse. Each Owner shall be responsible for certain exterior portions of the owners' Townhouse, including all glass surfaces, storm windows and storm doors, patio door screens, window screens, all light fixtures and bulbs, the air conditioner compressor unit, power attic ventilators, dead bolts, garage door openers, awnings of any kind, any structure or addition which any Owner has added to the Townhouse, (with or without Board approval), and any flower beds or planters or any other structure made to hold flowers or plants. Additionally, the Owner shall be responsible for the repair and replacement of any portion of the exterior of a Townhouse which has been caused by the negligence of the Owner or occupants of the Townhouse or by the Owner's guests or invitees.

b. The Association's Duties. The maintenance, repair, replacement and upkeep of the Common Areas including but not limited to the clubhouse, shed, pool, pool fence, trees and shrubs, streets, curbs, garage aprons, underground storm/sump pump drainage pipes, perimeter fencing, the concrete sidewalk at the northeast corner of Carmeltown, and the main line sanitary sewers, including any portions under any Townhouse as shown by the City of Carmel. In addition to the maintenance of the Common Areas, the Association shall also provide exterior maintenance upon each Lot, Garage and Townhouse for the following: Repair, replacement and care of all roofs, and roof decking, gutters, downspouts, exterior wood or metal building surfaces, electrical boxes which contain the electric meters, garage service and overhead garage doors, exterior surface of Townhouse front doors, brick, and any interior damage within a Townhome as a result of roof leaks, but only if such roof leak damage qualifies for insurance coverage.

c. Rules and Regulations. The Board of Directors of the Association is empowered to adopt such other rules and regulations concerning maintenance, repair, and replacement.

d. Willful or Negligent Acts of the Owner. In the event that the need for any maintenance, repair or replacement results from the willful or negligent act of the Owner, his or her family, guests or invitees, and is not covered or paid for by any insurance on such Lot, any cost of such maintenance or repair incurred by the Association shall be the Owner's responsibility and shall be added to and become a part of the assessment to which his Lot is subject.

22. ALTERATIONS, ADDITIONS AND IMPROVEMENTS. No exterior additions or alterations to any Townhouse, Lot or any portion of the Common Areas or changes in fences, walls and any other structure shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, materials, exterior color and finish, and location of the same shall have been submitted to and approved in writing as to harmony of external design, color, location in relation to surrounding structures and topography by the Architectural Committee as defined in Article XI of the By-Laws or by the Board of Directors. In the event the Board or the Committee fail to approve or disapprove such request within ninety (90) days after said plans and specifications have been submitted to it, approval will not be required and this section will be deemed to have been fully complied with.

The Board or the Committee may inspect work performed or being performed to assure compliance with this section. Any request for any exterior addition or alteration will be considered on an individual basis; the prior approval of the Board or the Committee for other Townhouses does not constitute approval of any addition or alteration for any other Townhouses in Carmelton. These rules shall not apply to any additions or alterations constructed prior to the date of the recording of these Amendments to the Declaration [March 18, 1993]. However, if any such prior additions or alterations need to be replaced or substantially repaired after the recording of these Amendments to the Declaration [March 18, 1993], these rules shall apply.

23. PARTY WALLS.

- a. General Rules of Law to Apply. Each wall which is built as part of the original construction of the Townhouses upon the Property and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.
- b. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- c. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, subject, however, to the right of any such Owners to call for a larger contribution from the

others under any rule of law regarding liability for negligent or willful acts or omissions.

d. Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

e. Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

f. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the binding decision shall be by a majority of all the arbitrators.

24. INSURANCE. The Association acting through its Board of Directors shall obtain fire and extended coverage insurance, insuring the Property including all Townhouses, Garages and Common Area buildings, in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount determined and the insurance renewed annually. Such insurance coverage shall be written in the name of the Association, as Trustee for the benefit of each Owner, and, if applicable the Owner's mortgagee, as its interests may appear. The proceeds of any insurance shall be payable to the Association or the Board of Directors who shall hold such proceeds as Trustee for the individual Owners and mortgagees. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses, except premiums for Townhouse and Garages, to be paid to Association by Owners as an individual Owner's expense.

The Association shall also obtain comprehensive public liability insurance in such limits as the Board of Directors shall deem appropriate together with workmen's compensation insurance and other liability insurance if deemed necessary and appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors and any managing agent or company acting on behalf of the Association. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase at his own expense, any additional insurance he may deem necessary, and each Owner shall be solely responsible for home owners' liability insurance and for the insurance on the contents of his Townhouse, including but not limited to all floor and wall coverings, fixtures and betterments installed by the Owner and his personal property stored elsewhere on the Property.

25. CASUALTY AND RESTORATION. In the event of damage or destruction of the Property by fire or other casualty, the Association shall cause the Property to be promptly repaired and restored. The proceeds of insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are inadequate to cover the cost of reconstruction, or in the event there are no proceeds, the cost for restoring the damage shall be paid by the Owners of the Townhouses directly affected by the damage in such proportion as the Board of Directors shall deem fair and equitable in light of the damages sustained by such Townhouses, provided, however, if the damages are to any improvements which are a part of the Common Area and not a part of a Townhouse, the deficiency, if any, shall be assessed against all Owners. If any Owner refuses or fails to make the required payments, the Association shall complete the restoration and pay the costs thereof, and the cost attributable to the Owner or Owners who refuse or fail to make such payment at the time required by the Board of Directors shall become a lien on such defaulting Owner's Lot, and may be foreclosed in the same manner as provided for a lien for Common Expenses. In the event the insurance proceeds exceed the cost of reconstruction, such excess shall be paid over to the Owners or their respective mortgagee in such proportion as the Board of Directors deem fair and equitable in light of the damage sustained by such Townhouses.

The restoration referred to in this paragraph shall mean construction or rebuilding of the Townhouses in the same condition as they existed immediately prior to the destruction, and with the same type of architecture.

26. LEASE OF LOT BY OWNER. For the purpose of maintaining the congenial and residential character of CARMELTOWN and for the protection of the Owners with regard to financially responsible residents, sale or lease of a Lot by an Owner other than Declarant shall be subject to the following conditions and restrictions:
- a. LEASE. It is in the best interest of all the Owners that all persons residing in Townhouses have similar proprietary interests in their Lots and be Owners. Accordingly, no Owner shall lease his Lot or enter into any other rental or letting arrangement for his Lot without the prior written consent of the Board of Directors. Such consent shall not be unreasonably withheld. Any Owner desiring to enter into a lease for his Lot shall make written application to the Board of Directors, which application shall state the reasons why the applicant wishes to lease the Lot, the name of the proposed tenant, and financial references of the proposed tenant. Within ten (10) days following receipt of the application, the Board of Directors shall issue its written approval or disapproval to the Owner. In the event the Board of Directors fails to issue written approval or disapproval within such period, the application shall for all purposes be deemed approved.

b. SALE. [deleted]

The above provisions with respect to the Association's right to approve a lease of a Lot or the right to purchase a Lot shall remain in full force and effect until the expiration of twenty (20) years from the date of this Declaration.

Any sale or attempted sale, or any lease or attempted lease by an Owner of his Lot, except in accordance with the provisions of this Paragraph 26, shall be void; provided, however that any certificate waiving the Association's right to purchase executed by the Association and delivered to an Owner as provided by this paragraph may be relied upon by any purchaser or mortgagee and shall, with respect to such purchaser or mortgagee, be absolutely binding upon the Association and the Owners unless such purchaser or mortgagee has actual knowledge that the certificate was procured fraudulently or by reason of a misrepresentation of a material fact.

(i) [No longer applicable]

(ii) The provision of sub-paragraph (a) shall not be applicable to such Mortgagee if such Mortgagee acquires possession of a Lot during the period which a foreclosure proceeding is pending or to such Mortgagee who obtains title to a Lot as a result of foreclosure of its mortgage or a conveyance in lieu thereof. The provisions of sub-paragraph (a) shall be binding upon any other person obtaining title to the Lot from such Mortgagee or at any foreclosure or other judicial sale.

The provisions of this sub-paragraph (c) may not be amended without the consent of all of such Mortgagees.

27. NOTICE TO ASSOCIATION OF MORTGAGEE. Any Owner who places a first mortgage lien upon his Lot or the Mortgagee shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgagee and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or proxy granted to such Mortgagee in connection with the mortgage.

28. AMENDMENT OF DECLARATION. Amendments to this Declaration shall be proposed and adopted in the following manner:

- a. NOTICE. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.
- b. RESOLUTION. A resolution to adopt a proposed amendments (*sic*) may be proposed by the Board of Directors or by a majority of the votes cast by the Members.
- c. MEETING. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.
- d. ADOPTION. Any proposed amendment to this Declaration must be approved by not less than seventy-five per cent (75%) of the votes cast and approved by Declarant as long as Declarant owns five (5) lots.

---

In the event any Lot is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed Amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the Declaration.

- e. SPECIAL AMENDMENTS. No amendments to this Declaration shall be adopted which changes the provisions of Paragraph 25 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.
  - f. RECORDING. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.
29. ACCEPTANCE AND RATIFICATION. All present and future Owners, Mortgagees, tenants and Occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and rules and regulations, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind

any person having at any time any interest or estate in a Lot or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Property in any manner shall be subject to the Declaration, the Articles or Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

30. NEGLIGENCE. Each Owner shall be liable for the expense of any maintenance repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Lot or its appurtenances or of the Common Areas.

---

31. INSURANCE (WAIVER). The Association and Owners agree that each shall be relieved of responsibilities and covenants to the extent that injuries or losses to the premises are covered by insurance.
32. ASSOCIATION. The Association shall be a not-for-profit corporation, whose Membership shall be composed of and limited to the Owners of Lots and which shall be known as CARMELTOWN, INC. The Association shall have one class of Membership.

Each Owner of a Lot shall be entitled to one vote on all matters requiring membership approval, for each Lot owned by said Owner. The membership of said Owner shall terminate whenever said Owner ceases to be an owner of a Lot as defined herein, and said certificate of member shall be immediately transferred to the successor in ownership.

The Board of Directors shall be the governing body of the Association and shall be responsible for the functions and duties of the Association, including but not limited to the management, maintenance, repair, replacement and upkeep of the Common Areas. All of the Common Areas shall be owned, operated and managed by the Association.

33. ASSESSMENTS. Assessments and payments of assessments shall be as follows:
  - a. Creation of the Lien and Personal Obligation of Assessments. Each purchaser of any Lot within the Property by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

- (1) Regular Assessments; and
- (2) Special Assessments for capital improvements or unexpected expenditures;

such assessments to be fixed, established and collected from time to time as hereinafter provided. The Regular and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them, but such delinquent accounts shall remain a lien upon the Lot subject to foreclosure.

- b. Purpose of Assessments. The assessment levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in Carmeltown and, in particular, for the improvement and maintenance of the Property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Common Area and of the Lots situated upon the Property as more fully set forth in this Declaration. The assessment shall also be for the purpose of providing such municipal services including, but not limited to, trash and garbage pick-up which are not provided by the local municipal authorities and for such items of repair, maintenance and alteration of the Property as the Board of Directors may, by appropriate action, from time to time authorize through the promulgation of rules and regulations.
- c. Accounting. Every four (4) years and/or at change of Business/Maintenance Managers, the Board of Directors shall cause to be prepared and furnished to each member a financial statement prepared by a certified public accountant then serving the Association. The financial statement (also known as the Annual Report) should show all receipts and expenses received, incurred or paid each of the fiscal years.
- d. Proposed Annual Budget. Annually, prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnishing a copy of such proposed budget to each Member at least two (2)

weeks prior to the annual meeting together with the notice of the annual meeting. Such proposed budget shall be based upon generally accepted accounting principals. If the annual budget is not approved at the annual meeting for any reason, the Board of Directors reserves the right to proceed with a budget that does not exceed the previous budget by five percent (5%).

After the annual meeting at which the budge is presented and approved (if needed), the regular assessments shall commence as to each Lot as of April 1<sup>st</sup>. The failure of the Board to prepare an annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined.

- e. Uniform Rate of Assessments. Both Regular and Special Assessments shall be fixed at a uniform rate for all Lots.
- f. Regular Assessments. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his or her Lot (herein called the "Regular Assessment"). The Regular Assessment against each Lot shall be paid in advance in equal monthly installments, commencing on the first day of April of such calendar year and on the first day of each month thereafter through and including the following March 1<sup>st</sup>. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or an officer of the Association as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments quarter or semi-annually, in advance. Monthly assessments of Regular Assessments shall be due and payable automatically on their respective due dates without further notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statement to Owners for the same. The Regular Assessment for the year shall become a lien on each separate Lot as of April 1<sup>st</sup> of each calendar year, even though the final determination of the amount of the Regular Assessment may not have been made by that date.

In addition to meeting the estimated cash requirement for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Area and those portions of the Lots and/or Townhouses for which the Association is responsible to provide maintenance, repair and replacement, which replacement reserve fund

shall be used only for those purposes and not for the usual and ordinary repair expenses of the Association.

- g. Special Assessments for Capital Improvements. In addition to the Regular Assessments authorized above, the Association may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Property, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of those members voting, in person or by proxy, at a meeting duly called for this purpose at which a quorum is present, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.
- h. Failure of Owner to Pay Assessments.
- (i) No Owner may exempt himself from paying Regular and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such Assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments, within ten (10) days after such are due, the Board, in its discretion may (1) impose a late charge of up to twenty-five percent (25%) of the amount in default, (2) eliminate such Owner's right to use the recreational facilities and any other part of the Common Areas as provided in the Indiana Nonprofit Corporation Act of 1991 ("Act"), and (3) eliminate such Owner's right to vote as provided in the Act. In addition, if any Regular or Special Assessment is not paid within thirty (30) days after the due date, such assessment, together with any applicable late charges, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum. In any action to foreclose the

lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Lot.

- (b) Notwithstanding anything contained in this Section or elsewhere in this Declaration and the By-laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided however that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).
- (i) Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment. Sale or transfer of any Lot shall not affect the assessment lien.
- (j) Notice of Unpaid Assessments. The Association shall furnish to a mortgagee or purchaser a statement setting forth the amount of the unpaid

Regular and Special Assessments against the Lot, which statement shall be binding upon the Association and the members and any mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for the unpaid assessments in excess of the amount set forth in such statement.

IN WITNESS WHEREOF, we, the undersigned, do hereby execute this Restated Declaration of Carmeltown, Inc. Property Ownership and certify the truth of the facts herein stated this 9th day of JANUARY, ~~2003~~: 2004 *09 JAN 2004*

Carmeltown, Inc., by:

*Debbie Trisler*  
Debbie Trisler, President

ATTEST:

*Patricia Todd*  
Patricia Todd, Secretary

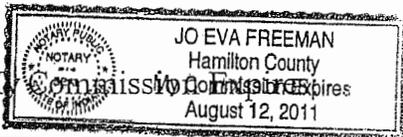
STATE OF INDIANA )  
) SS:  
COUNTY OF Hamilton )

Before me a Notary Public in and for said County and State, personally appeared Debbie Trisler and Patricia Todd, the President and Secretary, respectively, of Carmeltown, Inc., who acknowledged execution of the foregoing Restated Declaration of Carmeltown, Inc. Property Ownership for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal 9th day of January, 2004.

*Jo Eva Freeman*  
Notary Public, Signature

JO EVA FREEMAN  
Printed



Residence County: Hamilton

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads Murray & Pugh, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.

EXHIBIT "A"

TO RESTATED DECLARATION OF CARMELTOWN, INC. PROPERTY OWNERSHIP

A part of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 4 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning 522.50 feet Deed (523.85' Measured) North 00 degrees 03 minutes East of the Southeast corner of the West Half of the Southwest Quarter of Section 30,

This subdivision consists of 110 lots numbered from 1 to 110, both inclusive, with streets and common property as shown within the plat. All dimensions are shown in feet and decimal parts thereof.

200500014868  
Filed for Record in  
HAMILTON COUNTY, INDIANA  
JENNIFER J HAYDEN  
03-11-2005 At 01:32 PM.  
AMEND DECL 21.00

Cross-References:    **Instrument No. 5797 at Misc. Book 139, Page 353**  
                          **Instrument No. 4213 at Misc. Book 142, Pages 409-426**  
                          **Instrument No. 9309874**  
                          **Instrument No. 2004-5952**

**AMENDMENT TO DECLARATION OF CARMELTOWN, INC.**  
**PROPERTY OWNERSHIP**

This Amendment to the Declaration of Carmeltown, Inc. Property Ownership is effective as of the date executed below.

WITNESSTH:

WHEREAS, the Carmeltown townhouse community in Carmel, Hamilton County, Indiana was created pursuant to a Plat, and a certain "Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on August 31, 1973, as **Instrument No. 5797 at Misc. Book 139, Page 353** (hereafter, the "Original Declaration"); and

WHEREAS, the Declarant (or developer) subsequently amended said Declaration by an Amended Declaration of Carmeltown, Inc. Property Ownership which was recorded with the Hamilton County Recorder's Office on May 22, 1974, as **Instrument No. 4213 at Misc. Book 142, Pages 409-426** (hereafter, the "Amended Declaration"); and

WHEREAS, the Declarant (the developer) by execution of the Original Declaration and the Amended Declaration assured that all properties which are conveyed which are a part of the land within Carmeltown shall be conveyed subject to the terms and conditions of the Declaration, as amended, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors, and assigns, and shall inure in the benefit of each Owner; and

WHEREAS, the Declaration was subsequently amended by the Lot Owners by the "Amendments to the Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on March 18, 1993, as **Instrument No. 9309874**; and

WHEREAS, Carmeltown, Inc. restated the terms of the Original Declaration, as modified by all subsequent amendments, through an instrument entitled "Restated Declaration of Carmeltown, Inc. Property Ownership" for the ease and convenience of all present and future Owners; and

WHEREAS, the Restated Declaration was recorded with the Hamilton County Recorder's Office on January 28, 2004, as **Instrument No. 2004-5952**, and did nothing more than compile the terms of the Original Declaration together with all subsequent amendments up to that time such that there were no changes or amendments to the Declaration which were made upon the recording of said Restated Declaration; and

WHEREAS, the Owners, being the members of Carmeltown, Inc., and the Board of Directors of Carmeltown, Inc. desired to further amend the Declaration; and

WHEREAS, after notice was duly given, at a meeting of the Owners held on January 11, 2005, and adjourned to February 8, 2005, the Owners of more than seventy-five percent (75%) of all Lot Owners within Carmeltown voted in favor of the amendment below.

NOW, THEREFORE, the Declaration of Carmeltown, Inc. Property Ownership is amended as follows:

1. Paragraph 26 of the Declaration is hereby deleted in its entirety and replaced with the following provisions, including Sections 26.1 through 26.8:

**26. Prohibition on Leasing of Townhouses**

**Section 26.1. Prohibition of Leased Townhouses ("Rental Ban").** In order to insure that the residents within Carmeltown share the same proprietary interest in and respect of the Townhouses and the Common Areas, there shall be no leasing or rental of any of the Townhouses unless otherwise permitted as described below. Residents of a Townhouse can only consist of the Owner(s) thereof or members of their household.

Notwithstanding the foregoing, the "rental ban" described above shall not apply to any Townhouse of an Owner in Carmeltown who, as of February 1, 2005, is renting or leasing said Townhouse and provides written proof thereof to the Association's Managing Agent by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented Townhouses shall not be subject to the provisions of this Section 26.1, but shall be subject to the remaining provisions of this Paragraph 26. However, when the legal owners of record of any of the above-described Townhouses sell, transfer or convey such Townhouse(s) to another Owner after February 1, 2005, such Townhouse(s) shall immediately become subject to this Section 26.1.

**Section 26.2. Hardship Exceptions and Waiver.** Notwithstanding Section 26.1 above, if an Owner wishes to rent or lease his or her Townhouse, the Owner may request the Board of Directors to waive the “rental ban” and approve a proposed lease if the Owner establishes to the Board’s satisfaction that the “rental ban” will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner’s request, the Board of Directors shall permit the Owner to rent or lease said Townhouse, subject to any further conditions or limitations imposed by the Board in the Board’s discretion, but only if the Owner satisfies all other requirements of this Paragraph 26. 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 or marriage 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 Carmelton 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.

**Section 26.3. General Lease Conditions.** All permitted 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 Townhouse other than the entire Townhouse 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 this Declaration, the 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 Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Townhouse. 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.

**Section 26.4. 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

Association 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 Association for payments of assessments or any other charges.

**Section 26.5. Association's Copy of Lease.** A copy of each executed, permitted 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.

**Section 26.6. Violations.** Any lease or attempted lease of a Townhouse in violation of the provisions of this Paragraph 26 shall be voidable at the election of the Association's Board of Directors or any other Carmeltown Owner, except that neither party to such lease may assert this provision of this Paragraph 26 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Carmeltown Owner, shall have the right to exercise any and all available remedies at law or equity.

**Section 26.7. Institutional Mortgagees.** The provisions set forth in this Paragraph 26 shall not apply to any institutional mortgagee of any Townhouse which comes into possession of the Townhouse 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. However, when a Townhouse is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Paragraph 26.

**Section 26.8. Severability Clause.** The invalidity of any covenant, restriction, condition, limitation or other provision of this Paragraph 26 shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Paragraph 26, and each shall be enforced to the greatest extent permitted by law.

\*\*\*\*\*

2. **Acceptance and Ratification.** The acceptance of a deed of conveyance or the act of occupancy of any one Townhouse or Lot shall constitute a ratification of this Amendment, together with the Declaration and all previous amendments thereto, and all such provisions shall be covenants running with the land and shall bind any person having at any time having any interest or estate in a Townhouse or Lot or the Carmeltown subdivision 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.



STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE

OPY

ARTICLES OF AMENDMENT

To Whom These Presents Come, Greeting:

WHEREAS, there has been presented to me at this office, Articles of Amendment for:

CARMELTOWN INC

and said Articles of Amendment have been prepared and signed in accordance with the provisions of the

laws of Indiana,

as amended.

NOW, THEREFORE, I, JOSEPH H. HOGSETT, Secretary of State of Indiana, hereby certify that I have this day filed said articles in this office.

The effective date of these Articles of Amendment is April 05, 1993.

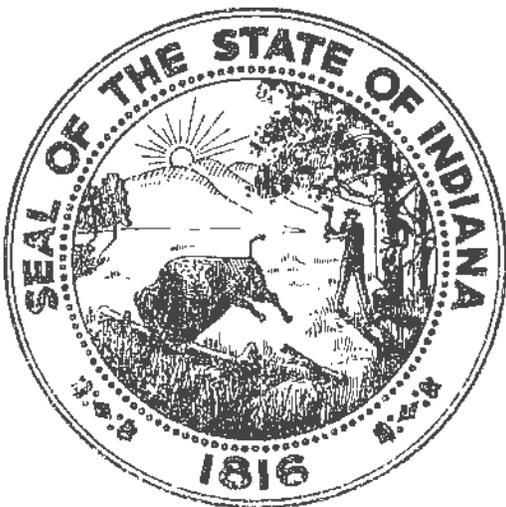
In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Fifth day of April, 1993

*Joseph H. Hogsett*

JOSEPH H. HOGSETT, Secretary of State

By *Rosalie V. Buckner*

Deputy



**ARTICLES OF  
AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
CARMELTOWN, INC.**

The undersigned officer of Carmeltown, Inc., a Corporation existing pursuant to the Indiana Not-For-Profit Corporation Act of 1971, and incorporated under the terms and conditions of the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213 at Book 142, Pages 409 through 426, said Declaration and all amendments thereto hereafter referred to as "Declaration", and having accepted the provisions of and having elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act"), gives notice of the amendment of and executes the following Amended and Restated Articles of Incorporation. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of these Amended and Restated Articles of Incorporation and the Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in these Amended and Restated Articles of Incorporation and the Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

**ARTICLE I**

**NAME**

The name of the Corporation is Carmeltown, Inc. (hereafter referred to as "Corporation").

**ARTICLE II**

**TYPE OF CORPORATION**

This is a mutual benefit Corporation.

**ARTICLE III**

**PURPOSES AND POWERS**

**Section 3.1. Purposes.**

The purposes for which the Corporation is formed are to provide for the maintenance, repair, upkeep, replacement, administration, operation and management of the Common Areas and for certain exterior portions of the Townhouses as designated in the Declaration, to pay any other necessary expenses and costs in connection with the Common Areas in accordance with the Declaration and to perform such other functions as may be designated to it.

**Section 3.2. Powers.** Subject to any limitation or restriction imposed by the Act, any other law, the Declaration, or any other provision of these Articles of Incorporation, the Corporation shall have the power:

(a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Corporation as set forth in the Declaration, as the same may be amended from time to time;

(b) To establish, levy, collect and enforce payment by any lawful means of any charges or assessments made against Members or others pursuant to the terms of the Declaration; to pay all expenses in connection with such collection and all office and other expenses incident to the conduct of the business of the Corporation including any license fees, taxes or other governmental charges levied or imposed against the property of the Corporation;

(c) To borrow money and, with the consent of two-thirds (2/3) of the Members, mortgage, pledge, deed in trust or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;

(d) To enter into, make, perform and carry out, or cancel and rescind, contracts for any lawful purposes pertaining to its business;

(e) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for the public use or otherwise dispose of real or personal property which is held in title by this Corporation in connection with the affairs of the Corporation in accordance with the terms of the Declaration;

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

Members, agreeing to such dedication, sale or transfer, except as otherwise provided in the Declaration;

(g) Sue, be sued, complain, and defend in the Corporation's corporate name;

(h) Make and amend By-Laws not inconsistent with the Corporation's Articles of Incorporation, the Act, the Declaration or with Indiana law for managing the affairs of the Corporation;

(i) Elect directors, elect and appoint officers, and appoint employees and agents of the Corporation, and define the duties and fix the compensation of directors, officers, employees and agents.

(j) Purchase and maintain insurance on behalf of any individual who:

(1) is or was a director, an officer, an employee, or an agent of the Corporation; or

(2) is or was serving at the request of the Corporation as a director, an officer, an employee, or an agent of another entity;

against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, an officer, an employee, or an agent, whether or not the Corporation would have power to indemnify the individual against the same liability under this article.

(k) To have, hold, exercise and enjoy in furtherance of the purposes set forth hereinabove and hereinbelow, all of the rights, powers, privileges and immunities granted, and not

expressly denied, by the Act as now or hereafter amended and under the common law as may be necessary, convenient or expedient in order to accomplish the purposes set forth hereinabove and hereinbelow, but subject to any limitation or restriction imposed by the Act, by any other law, by these Articles of Incorporation, or by the Declaration; provided further, however, that if there is any conflict between the powers established in these Articles of Incorporation and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall govern;

(1) To do everything necessary, proper, advisable, or convenient for the accomplishment of any of the purposes, or the attainment of any of the objects of the furtherance of any of the powers herein set forth, and to do every other act and thing incidental thereto or connected therewith, which is not forbidden by the laws of the State of Indiana, or by the provisions of these Articles of Incorporation or the Declaration.

(m) To do all acts and things necessary, convenient or expedient to carry out the purposes for which the Corporation is formed.

**Section 3.3. Limitation of Activities.** The Corporation shall not possess the power of engaging in any activities for the purpose of or resulting in the pecuniary remuneration to its members as such. This provision shall not prohibit fair and reasonable compensation to members for services actually rendered; nor shall it prohibit the Corporation from charging a fee for services rendered; nor shall it prohibit the Corporation

from charging a fee for admission to any presentation it may make or other undertakings so long as any funds so raised do not inure to the profit of its members.

#### ARTICLE IV

##### REGISTERED AGENT, REGISTERED OFFICE, PRINCIPAL OFFICE

Section 4.1 Registered Agent and Registered Office. The name and street address of the Corporation's registered agent for service of process will be the Corporation's Secretary. The address of the Corporation's registered office for service of process will be the address of the Corporation's Secretary.

#### ARTICLE V

##### MEMBERSHIP

Section 5.1. Members. Every person or entity who owns one or more Lots, shall automatically upon becoming an Owner of a Lot be and become a Member of the Corporation.

Section 5.2. Rights, Preferences, Limitations and Restrictions of Classes. All Members shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members. All Members shall abide by the Articles of Incorporation, the Code of By-Laws, the rules and regulations adopted by the Board of Directors, and all covenants, restrictions and other provisions contained in the Declaration.

Section 5.3. Classes of Members and Number of Votes. The Corporation shall have one class of membership, of which all Members shall be a part. Each Member shall be entitled to one

(1) vote for each Lot of which such Member is the owner with respect to each matter submitted to a vote of Members upon which the Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

**Section 5.4. Voting Rights of Members.** Each Member in good standing shall be entitled to voting rights as follows:

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each member shall be entitled to cast one (1) vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided either by the number of Lots then in Carmelton, as shall have been finally platted from time to time to determine the respective proportions of members who support or oppose such matter, or by the number of Lots the Owners of which are present or represented at such meeting to determine the respective proportions of members present or represented at such meeting who support or oppose such matter.

(b) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the Corporation duly empowered by the board of

directors of such Corporation shall cast the vote to which the Corporation is entitled.

(c) Proxy. A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his attorney-in-fact in writing, delivered to the Corporation prior to the commencement of the meeting.

(d) Quorum. Except where otherwise expressly provided in the Declaration, these Articles, the By-Laws, or the Act, the presence of members or their duly authorized representatives owning fifty percent (50%) of the total number of Lots shall constitute a quorum at all meetings. As used elsewhere in these Articles and in the Code of By-Laws, the term "majority of the Members", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Lots as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting.

(e) Definition of "Owner". The term "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot. Persons or entities owning a single Lot as tenants in common, joint tenants, or tenants by the entirety shall be deemed one Owner.

Section 5.5. Rights, Preferences, Limitations and Restrictions of Members. Any member who fails to comply with the requirements of these Articles, the Declaration, the By-Laws or the rules and regulations made pursuant thereto, including the payment of assessments, shall, if a majority of the Board of Directors by an affirmative vote at a Board of Directors' meeting so determine, forfeit his or its membership rights and interest to use the amenities and to vote on any matter coming before the Members. However, a Member may not be expelled or suspended and a membership may not be suspended except under a procedure adopted by resolution of a majority of the Board of Directors that is fair, reasonable and carried out in good faith. Such a procedure shall fully comply with the Act, as amended.

Section 5.6. Meetings of Members. Meetings of members may be held at any place inside Hamilton County, Indiana, which shall be designated by the Board of Directors of the Corporation, or as the By-Laws may designate.

## ARTICLE VI

### TERM OF EXISTENCE

The period during which the Corporation shall continue as a Corporation is perpetual.

## ARTICLE VII

### DIRECTORS

Section 7.1. Number of Directors. The number of the directors of this Corporation shall be not less than three (3) nor more than nine (9) as prescribed from time to time in the By-Laws of the

Corporation; but in no event shall the minimum number of directors be less than three (3). Whenever the By-Laws do not specify the exact number, the number of directors shall be five (5). The qualification of directors and the election of directors shall be as prescribed from time to time in the By-Laws of the Corporation.

**Section 7.2. Election of Directors.** The Board of Directors shall be elected by ballot at the annual meeting of the Members and each Director shall hold office for a term of three (3) years or until his successor shall have been elected and qualified.

**Section 7.3. Vacancies in the Board of Directors.** Any vacancy occurring on the Board of Directors caused by a death, removal, resignation or otherwise, shall be filled until the next annual meeting through a vote of a majority of the remaining members of the Board, unless specified otherwise in the By-Laws.

**Section 7.4. Removal of Directors.** A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director or Directors elected by the Board may be removed with or without

cause by the vote of a majority of the Directors then in office.

#### **ARTICLE VIII**

##### **INCORPORATORS**

The incorporators of the Corporation are as specified in the original Articles of Incorporation of the Corporation.

#### **ARTICLE IX**

##### **STATEMENT OF PROPERTY**

All assets and liabilities, real, personal, and otherwise are in no way changed by this Amended and Restated Articles of Incorporation and they stand for and constitute all of the assets and liabilities of the Corporation.

#### **ARTICLE X**

##### **PROVISIONS FOR REGULATION OF BUSINESS AND CONDUCT OF AFFAIRS OF THE CORPORATION**

Section 10.1. Powers Exercised by Board. Subject to any limitations or restrictions imposed by law, by these amended Articles of Incorporation or by the Declaration, the Board of Directors of the Corporation is hereby authorized to exercise, in furtherance of the purposes of the Corporation, all the powers of the Corporation without prior authorization or subsequent approval of the Members of the Corporation or of any other person or entities.

Section 10.2. Liability of Members. Neither the individual Members of the Corporation nor their individual property shall be subject to any liability for any debts of the Corporation.

Section 10.3. Dissolution. The Corporation may be dissolved only with the written consent of all Members.

Section 10.4. Distribution of Property On the Voluntary or Involuntary Dissolution of the Corporation. Upon the voluntary or involuntary dissolution of the Corporation, the Board of Directors shall, after paying or making provision for payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation by transferring the same to the Corporation's Members.

Section 10.5. Amendment of Articles of Incorporation. Amendment to the Articles of Incorporation shall require the consent of at least a majority of the Members.

Section 10.6. No Private Benefit. No money or property received or held by the Corporation shall ever inure, directly or indirectly, to the private benefit of any Member, Director or Officer of the Corporation or to any other person whomsoever except for reasonable compensation for services actually rendered to the Corporation.

Section 10.7. Indemnification. The Board of Directors of this Corporation may, at its discretion, indemnify any or all directors, officers, employees, or agents or former directors, officers, employees or agents of the Corporation, as shall be prescribed from time to time in the By-Laws of the Corporation.

Whenever the By-Laws of the Corporation shall not specify any indemnification provisions for the benefit of such above-named persons, all such above-named persons shall have all rights of indemnification as are proscribed in the Act.

Section 10.8. Compensation of Employees. In order to carry out the purposes and activities of the Corporation, such individuals as are deemed necessary may be employed, and each such employee may be paid such compensation for services actually rendered in the course of such employment as may be fixed in the manner provided by the Board of Directors of the Corporation.

Section 10.9. By-Laws. The By-Laws of the Corporation may be amended as set forth in the By-Laws. Said By-Laws may contain other provisions consistent with the laws of the State of Indiana, for the regulation and management of the affairs of the Corporation.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Amended and Restated Articles of Incorporation and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin W. Egan  
Signature

EDWIN W. EGAN  
Printed

President  
Title

I affirm under penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

form.art

9309874

AMENDMENTS TO THE DECLARATION OF  
CARMELTOWN, INC. PROPERTY OWNERSHIP

The undersigned officer of Carmeltown, Inc., a corporation existing pursuant to the Indiana Not-For-Corporation Act of 1971, and incorporated under the terms and conditions of a certain Declaration of Carmeltown, Inc., said Declaration being recorded in the Hamilton County Recorder's Office on the 31st day of August, 1973, as Instrument No. 5797 at Misc. Book 139, Page 353, said Declaration hereafter referred to as the "Original Declaration", said Original Declaration being thereafter amended and superseded by a certain "Declaration of Carmeltown, Inc. Property Ownership" being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974 as Instrument No. 4213 at Misc. Book 142, Pages 409-426; (hereafter referred to as the "Amended Declaration") and having accepted the provisions of and having been elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended, (the "Act"), gives notice of the amendment of certain provisions of the Declaration which are set forth below.

WHEREAS, Section 28 of the Amended Declaration states that said document may be amended after a resolution concerning the proposed amendments shall have been adopted by a resolution of the Board of Directors of Carmeltown, Inc. and thereafter approved at a meeting of the members of Carmeltown, Inc. by a vote of not less than seventy-five percent (75%) of all Lot Owners; and

WHEREAS, the Board of Directors of Carmeltown, Inc. passed a resolution at a Board of Directors' meeting held in 1992 wherein the Board of Directors approved the following amendments to the Declaration and approved the following to be presented to the members of Carmeltown, Inc. at a special meeting of the membership; and

WHEREAS, after notice was duly given, a special meeting of the Owners was held on March 1, 1993, whereat the Owners of 90 of the 110 total Lots within Carmeltown were present, either in person or by proxy; and

WHEREAS, at said special meeting, 83 of the Owners present in person or by proxy approved the following amendments to the Declaration; and

WHEREAS, the said Owners of 83 lots voting to approve the following amendments constitute more than seventy-five percent (75%) of all Lot Owners within Carmeltown; and

WHEREAS, said Owners, under the authority of the Declaration, wish to make certain changes and amendments to the Declaration as described below.

NOW, THEREFORE, the undersigned Officer of Carmeltown, Inc. hereby executes the following amendments to the "Declaration of Carmeltown, Inc. Property Ownership":

1. Section 1.a. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- a. "Articles of Incorporation" means the Articles of Incorporation of the Association, together with any amendments and restatements thereto. The Articles of Incorporation are incorporated herein by reference.

2. Section 1.d. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- d. "Carmeltown" means the name by which the Tract shall be known. "Carmelaire" shall have the same meaning as "Carmeltown".

3. Section 1.f. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- f. "By-Laws" shall mean the By-Laws of the Association, together with any amendments and/or restatements thereof. The By-Laws shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.

4. Section 1.g. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- g. "Common Areas" means the ground designated as such upon the recorded Plat of Carmeltown.

5. Section 1.i. of the Amended Declaration is hereby amended by deleting the phrase "CARMELAIRE" and replacing such term with "CARMELTOWN" in lieu thereof.

6. Section 7.b. of the Amended Declaration is hereby amended by adding the following sentence to the end thereof:

Such suspension of a Member's rights shall be pursuant to the provisions and procedures set forth in the Indiana Nonprofit Corporation Act of 1991, as the same may be amended from time to time.

7. Section 7.e. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- e. The right of the Association to adopt such rules and regulations regarding the Common Areas and Lots as it deems necessary.

8. Section 11.a. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- a. All Townhouses shall be used exclusively for residential purposes and occupied by a single family. "Single Family" is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants with a common kitchen and dining area.

9. Section 11.d. of the Amended Declaration is hereby amended by adding the following phrase to the end thereof:

or which would adversely affect the health, safety or welfare of other residents.

10. Section 11.e. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- e. No sign, awning, canopy, television or radio antennae, satellite dish, or any other attachment or thing of any kind shall be affixed to or placed upon the exterior walls, roofs or windows or on any parts of any Building without the prior written consent of the Board of Directors.

11. Section 11.f. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- f. No advertising signs (except one "for sale" sign per parcel of not less than five square feet), unsightly objects or nuisance shall be erected, placed or permitted to remain on any Lot or Common Areas, nor shall any Lot or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof.

12. Section 11.j. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- j. No industry, trade or commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property other than home professional pursuits without employees. No Townhouse or Lot shall be used or rented for transient, motel, or hotel purposes.

13. Section 11.1. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

1. No boats, campers, recreational vehicles, commercial vehicles, trailers of any kind, buses, mobile homes, trucks having more than four (4) tires, mopeds, snow mobiles, dune buggies, motorcycles, mini-bikes, or any other nonconventional vehicles of any description, shall be permitted, parked or stored anywhere within the Property unless the same are stored in a garage and not exposed to view. For conventional vehicles, there must be a minimum of two (2) conventional vehicles stored in the Owner's garage before any other conventional vehicle may be parked on any street within Carmelton. No vehicle of any kind is permitted which is not currently licensed, not in operating condition, or parked without being operated for longer than ten (10) days without prior written Board approval. The Board shall have the power to promulgate such other rules and regulations concerning this provision as it deems appropriate, including provisions on enforcing this provision by towing any unauthorized vehicle at the owner's expense.

14. There shall be added new Sections 11.n., 11.o., and 11.p. to the Amended Declaration as follows:

- n. If any Owner or resident of a Lot shall fail to maintain such Lot in accordance with the terms of this Declaration within thirty (30) days of being so notified in writing by the Board of Directors, the Board of Directors or its designated employees, agents or representatives shall have the right to enter upon said Lot to correct such conditions or violations. Any costs or expenses incurred by the Association shall be the responsibility of the Owner of such Lot in the same manner as assessments.
- o. The Board shall have the right to promulgate rules and regulations concerning those portions of the Common Area which may be designated as "No Parking" areas which may be necessary for police, fire or other emergency vehicles to ensure the health, safety and welfare of all residents within Carmelton.
- p. The Board shall have the right to promulgate rules and regulations establishing posted speed limits

for all streets and roads within Carmelton to ensure the health, safety and welfare of all residents.

15. Section 17 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

17. Right of Board of Directors to Adopt Rules and Regulations. The Board of Directors of the Association may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Lots, Townhouses, Common Areas, Garages, Patios, and any other areas of the Property. Such rules as are adopted may be amended by a vote of the majority of the Board of Directors, and the Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.

16. Section 18 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

18. Management Agreement. The Board of Directors of the Association shall be empowered to employ a reputable Business/Maintenance Agent, a Professional Managing Agent or Real Estate Management Company to assist the Board in performing its duties as provided in the Association's By-Laws.

17. Section 21 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

21. Maintenance, Repairs and Replacements.

a. Owners' Responsibilities. Each Owner shall at his or her expense be responsible for the maintenance, repairs, decoration and replacement within his own Townhouse, except as may be otherwise provided herein. All fixtures and equipment installed within the Townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair in and to his or her Townhouse which, if neglected, might adversely affect any Townhouse, Common Area, or the value of the Property. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, gas lines, appliances, doors,

windows, lamps and all other accessories belonging to the Owner and appurtenant to the Townhouse. Each Owner shall be responsible for certain exterior portions of the owners' Townhouse, including all glass surfaces, storm windows and storm doors, patio door screens, window screens, all light fixtures and bulbs, the air conditioner compressor unit, power attic ventilators, dead bolts, garage door openers, awnings of any kind, any structure or addition which any Owner has added to the Townhouse, (with or without Board approval), and any flower beds or planters or any other structure made to hold flowers or plants. Additionally, the Owner shall be responsible for the repair and replacement of any portion of the exterior of a Townhouse which has been caused by the negligence of the Owner or occupants of the Townhouse or by the Owner's guests or invitees.

- b. The Association's Duties. The maintenance, repair, replacement and upkeep of the Common Areas including but not limited to the clubhouse, shed, pool, pool fence, trees and shrubs, streets, curbs, garage aprons, underground storm/sump pump drainage pipes, perimeter fencing, the concrete sidewalk at the northeast corner of Carmelton, and the main line sanitary sewers, including any portions under any Townhouse as shown by the City of Carmel. In addition to the maintenance of the Common Areas, the Association shall also provide exterior maintenance upon each Lot, Garage and Townhouse for the following: Repair, replacement and care of all roofs, and roof decking, gutters, downspouts, exterior wood or metal building surfaces, electrical boxes which contain the electric meters, garage service and overhead garage doors, exterior surface of Townhouse front doors, brick, and any interior damage within a Townhouse as a result of roof leaks, but only if such roof leak damage qualifies for insurance coverage.
- c. Rules and Regulations. The Board of Directors of the Association is empowered to adopt such other rules and regulations concerning maintenance, repair, and replacement.
- d. Willful or Negligent Acts of the Owner. In the event that the need for any maintenance, repair or replacement results from the willful or negligent act of the Owner, his or her family, guests or invitees, and is not covered or paid for by any

insurance on such Lot, any cost of such maintenance or repair incurred by the Association shall be the Owner's responsibility and shall be added to and become a part of the assessment to which his Lot is subject.

18. Section 22 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

22. Alterations, Additions and Improvements. No exterior additions or alterations to any Townhouse, Lot or any portion of the Common Areas or changes in fences, walls and any other structure shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, materials, exterior color and finish, and location of the same shall have been submitted to and approved in writing as to harmony of external design, color, location in relation to surrounding structures and topography by the Architectural Committee as defined in Article XI of the By-Laws or by the Board of Directors. In the event the Board or the Committee fail to approve or disapprove such request within ninety (90) days after said plans and specifications have been submitted to it, approval will not be required and this section will be deemed to have been fully complied with.

The Board or the Committee may inspect work performed or being performed to assure compliance with this section. Any request for any exterior addition or alteration will be considered on an individual basis; the prior approval by the Board or the Committee for other Townhouses does not constitute approval of any addition or alteration for any other Townhouses in Carmelton. These rules shall not apply to any additions or alterations constructed prior to the date of the recording of these Amendments to the Declaration. However, if any such prior additions or alterations need to be replaced or substantially repaired after the recording of these Amendments to the Declaration, these rules shall apply.

19. Section 23 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

20. Party Walls.

a. General Rules of Law to Apply. Each wall which is built as part of the original

construction of the Townhouses upon the Property and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

- b. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- c. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, subject, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- d. Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- e. Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.
- f. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the binding decision shall be by a majority of all the arbitrators.

21. Section 26 of the Amended Declaration is hereby amended by deleting the phrase "Carmelaire" and replacing in lieu thereof

with the phrase "Carmeltown". Furthermore, the caption or title of said Section 26 is hereby amended to read "LEASE OF LOT BY OWNER".

22. Section 26.b of the Amended Declaration is hereby deleted in its entirety.

23. Section 33 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

33. Assessments. Assessments and payments of assessments shall be as follows:

a. Creation of the Lien and Personal Obligation of Assessments. Each purchaser of any Lot within the Property by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

- (1) Regular Assessments; and
- (2) Special Assessments for capital improvements or unexpected expenditures;

such assessments to be fixed, established and collected from time to time as hereinafter provided. The Regular and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them, but such delinquent accounts shall remain a lien upon the Lot subject to foreclosure.

b. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in Carmeltown and, in particular, for the improvement and maintenance of the

Property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Common Area and of the Lots situated upon the Property as more fully set forth in this Declaration. The assessment shall also be for the purpose of providing such municipal services including, but not limited to, trash and garbage pick-up which are not provided by the local municipal authorities and for such items of repair, maintenance and alteration of the Property as the Board of Directors may, by appropriate action, from time to time authorize through the promulgation of rules and regulations.

- c. Accounting. Every four (4) years and/or at change of Business/Maintenance Managers, the Board of Directors shall cause to be prepared and furnished to each member a financial statement prepared by a certified public accountant then serving the Association. The financial statement (also known as the Annual Report) should show all receipts and expenses received, incurred or paid each of the fiscal years.
  
- d. Proposed Annual Budget. Annually, prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnishing a copy of such proposed budget to each Member at least two (2) weeks prior to the annual meeting together with the notice of the annual meeting. Such proposed budget shall be based upon generally accepted accounting principles. If the annual budget is not approved at the annual meeting for any reason, the Board of Directors reserves the right to proceed with a budget that does not exceed the previous budget by five percent (5%).

After the annual meeting at which the budget is presented and approved (if needed), the regular assessments shall commence as to each Lot as of April 1st. The failure of the Board to prepare an annual budget and to furnish a copy thereof to the Owners shall

not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined.

- e. Uniform Rate of Assessments. Both Regular and Special Assessments shall be fixed at a uniform rate for all Lots.
- f. Regular Assessments. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his or her Lot (herein called the "Regular Assessment"). The Regular Assessment against each Lot shall be paid in advance in equal monthly installments, commencing on the first day of April of such calendar year and on the first day of each month thereafter through and including the following March 1st. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or an officer of the Association as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments quarter or semi-annually, in advance. Monthly installments of Regular Assessments shall be due and payable automatically on their respective due dates without further notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statement to Owners for the same. The Regular Assessment for the year shall become a lien on each separate Lot as of April 1st of each calendar year, even though the final determination of the amount of the Regular Assessment may not have been made by that date.

In addition to meeting the estimated cash requirement for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Area and those portions of the Lots and/or Townhouses for which the Association is responsible to provide maintenance, repair and replacement, which replacement reserve fund shall be used only

for those purposes and not for the usual and ordinary repair expenses of the Association.

g. Special Assessments for Capital Improvements.  
In addition to the Regular Assessments authorized above, the Association may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Property, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-third (2/3) of those members voting, in person or by proxy, at a meeting duly called for this purpose at which a quorum is present, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

h. Failure of Owner to Pay Assessments.

(i) No Owner may exempt himself from paying Regular and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such Assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments, within ten (10) days after such are due, the Board, in its discretion may (1) impose a late charge of up to twenty-five percent (25%) of the amount in default, (2) eliminate

such Owner's right to use the recreational facilities and any other part of the Common Areas as provided in the Indiana Nonprofit Corporation Act of 1991 ("Act"), and (3) eliminate such Owner's right to vote as provided in the Act. In addition, if any Regular or Special Assessment is not paid within thirty (30) days after the due date, such assessment, together with any applicable late charges, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Lot.

- (b) Notwithstanding anything contained in this Section or elsewhere in this Declaration and the By-Laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such

installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).

- i. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment. Sale or transfer of any Lot shall not affect the assessment lien.
- j. Notice of Unpaid Assessments. The Association shall furnish to a mortgagee or purchaser a statement setting forth the amount of the unpaid Regular or Special Assessments against the Lot, which statement shall be binding upon the Association and the members and any mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for the unpaid assessments in excess of the amount set forth in such statement.



AMENDED AND RESTATED CODE OF BY-LAWS OF  
CARMELTOWN, INC.  
A Nonprofit Corporation

ARTICLE I

NAME

Section 1.1. Name. The name of this Corporation is Carmeltown, Inc. (hereinafter referred to as "Corporation").

ARTICLE II

IDENTIFICATION & APPLICABILITY

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Property and the administration, the welfare, the social activities and conduct of the affairs of the Corporation. These By-Laws shall also constitute the By-Laws of the Corporation.

Section 2.2. Individual Application. Each of the Owners within Carmeltown shall automatically and mandatorily be members in the Corporation and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213, at Book 142, Pages 409 through 426, the Articles of Incorporation, the rules and regulations of the Corporation and of the provisions hereof. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), as all the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Amended and Restated Articles of Incorporation and these Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Amended and Restated Articles of Incorporation and these Amended and Restated Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

## ARTICLE III

### MEETINGS OF CORPORATION

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, receiving and approving the annual budget, and for such other purposes as may be required by the Declaration, these By-Laws, the Articles, or the Act.

Section 3.2. Annual Meeting. The annual meeting for the Members of the Corporation shall be held on the 1st Tuesday of March in each calendar year. At each annual meeting, the Owners shall elect the Board of Directors and approve the annual budget of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Members of the Corporation may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the Lots. The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 3.4. Notice and Place of Meetings. All meetings of the members of the Corporation shall be held at any suitable place in Hamilton County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Corporation to each member entitled to vote there at not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Owners as part of a newsletter or other publication regularly sent to the Owners constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a

representative to attend the meeting. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 3.6. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one vote for each Lot owned on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Lots then in Carmelton, as the same shall have been finally platted from time to time, to determine the respective proportions of Owners supporting or opposing such matter, or by the number of Lots the Owners of which are present or represented at such meeting, to determine the respective proportions of Owners present or represented at such meeting supporting or opposing such matter. In voting for directors, each Owner (or his representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his votes. To the extent provided in the Act, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Corporation, but all of such persons or entities shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of

the Corporation stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Corporation prior to the commencement of the meeting. No such proxy shall remain valid for longer than one (1) year from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles or the Act, the presence of Owners or their duly authorized representatives owning at least fifty percent (50%) of the total Lots shall constitute a quorum at all meetings. As used elsewhere in these By-Laws, the term "majority of Owners", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Owners as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting at which a quorum is present.

Section 3.7. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Corporation. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the members held subsequent thereto, unless such reading is waived by a majority of the vote.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior fiscal year and the proposed budget for the next year which shall commence on April 1st.

(3) Budget. The proposed budget for the following fiscal year shall be presented to the Owners for approval or amendment, if necessary.

(4) Election of Board of Directors. A slate of nominees shall be presented by the Nominating Committee. Further nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations with prior approval of the nominee must be in writing and presented to the Secretary of the Corporation at least ten (10) days prior to the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(6) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) Adjournment. Upon completion of all business before the Corporation, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming fiscal year.

Section 3.8. Conduct of Special Meeting. The President of the Corporation shall act as Chairman of any special meetings of the Corporation if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

## ARTICLE IV

### BOARD OF DIRECTORS

Section 4.1. Board of Directors. The affairs of the Corporation shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of five (5) persons who each own at least one (1) Lot. The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed nine (9). If the number of Directors is ever greater than five (5), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than five (5) nor more than nine (9) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his term. In the event the number of Directors is increased as provided herein, the election of the additional Director or Directors shall be by a vote of the members according to a procedure established by the Board by resolution.

The immediate past President of the Corporation may be appointed to an additional year of service on the Board by a majority vote of the Board. If such past President is so appointed, he or she shall serve only in an advisory capacity and shall be a non-voting member of the Board.

Section 4.2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time. Additionally, if an Owner owns more than one (1) Lot, no such persons having an ownership interest in said Lots or, in the case of a partnership, corporation, trust or other legal entity owning said Lots, no partners, officers or trustees of such entities, shall be eligible to serve on the Board of Directors other than one (1) person from said entities.

Section 4.3. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of three (3) years. One-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Corporation. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with a Board

consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 4.4 of this Article IV. Each Director shall hold office throughout the term of his election until his successor is elected and qualified.

The Directors shall appoint an Election Committee comprised of Members of the Corporation who shall not then be members of the Board. The Election Committee shall conduct the election of the Board of Directors with ballots submitted by the Nominating Committee.

Section 4.4. Removal of Directors. A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. However, a Director or Directors elected by the Board to fill the vacancy of a Director elected by the Owners may be removed without cause by the Owners but not by the Board.

Section 4.5. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Corporation, social activities and welfare of Owners within Carmelton, the maintenance, upkeep and replacement of the Common Areas and the collection and disbursement of the Common Expenses. These duties include, but are not limited to, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Business/Maintenance Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining private streets, parking areas, and sidewalks in Common Areas, to the extent the same are not included within the description of a Lot and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each fiscal year, which accounting shall be delivered to each Owner within three (3) months of the close of the Association's fiscal year;
- (h) The Board shall establish policies and procedures for maintaining the Corporation's business records. These shall include: (1) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property; (2) Specifying and itemizing the Common Expenses; (3) Matters concerning computer software, applications, documentation, logons, operations manuals, and data. A current copy of the Corporation's business records (i.e., contracts), including software applications and manuals, shall be maintained in a fireproof box or bank vault. Updated weekly, all records shall be available for inspection by any Owner provided an appointment is made.
- (i) Appoint a Nominating Committee and Election Committee at least forty-five (45) days prior to the Annual Meeting.
- (j) Appoint an Architectural and Grounds Committee.
- (k) Appoint an auditor with no membership in the corporation, no ownership interests in Carmelton, and no other affiliation of the Corporation or its Members.

Section 4.6. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a reputable Business/Maintenance Agent, a professional managing agent or real estate management company (either being hereinafter referred to as "Business/Maintenance Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods.

(b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and improvements on the Lots and the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners, the Corporation;

(d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business, social activities, welfare and affairs of the Corporation;

(e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas;

(f) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Corporation; and

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the

Property provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.7. Limitations on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Two Thousand Five Hundred Dollars (\$2,500.00), unless the prior approval of a majority of Owners is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as presented to the Owners at the annual meeting and, if necessary, approved by the Owners at such annual meeting.

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

The said \$2,500.00 maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price Deflator or any comparable, successor index.

Section 4.8. Compensation. No Director or Officer shall receive any compensation for his services as such.

Section 4.9. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. All such meetings shall be open to all Members of the Corporation. Members who wish to address the Board or to present matters within the constraints of the agenda may do so. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to

the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a director may conduct or participate in a regular or special meeting of the Board of Directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is considered to be present in person at the meeting.

Section 4.10. Waiver of Notice. Before or after any meeting of the Board, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.11. Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.12. Bond. The Board of Directors may require the Business/Maintenance Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.13. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

## ARTICLE V

### OFFICERS

Section 5.1. Officers of the Corporation. The principal officers of the Corporation shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer

and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Corporation and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Corporation and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Corporation's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Corporation or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately the financial condition of the Corporation and such other duties incident to the office of Treasurer. He shall be legal custodian

of all monies, notes, securities, and other valuables which may from time to time come into possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Corporation. The Treasurer may permit the Business/Maintenance Agent, if any, to handle and account for monies and other assets of the Corporation to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time hire, designate or elect from among the Owners an Assistant Secretary, an Assistant Treasurer or Advisory Officers, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

## ARTICLE VI

### ADDITIONAL RIGHTS AND DUTIES OF BOARD

Section 6.1. Right of Entry. An Owner or occupant of a Lot shall be deemed to have granted the right of entry to his Lot or Townhouse to the Board, the Business/Maintenance Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Lot or Townhouse, the Building located thereon, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Lot or Townhouse for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 6.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation, social activities, and welfare of the Property as the Board may deem desirable, including but not limited to the use of the Common Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

## ARTICLE VII

### AMENDMENT TO BY-LAWS

Section 7.1. Amendment. These By-Laws may be amended by an affirmative vote of sixty-six percent (66%) of those Owners present, in person or by proxy, at a duly constituted meeting called for such purpose at which there is a fifty percent (50%) quorum, except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

## ARTICLE VIII

### NOTICES AND MORTGAGES

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot or Townhouse or the Mortgagee thereof may notify the Secretary of the Corporation and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.2. Notice of Assessments. Upon ten (10) days written notice to the Corporation, the Corporation shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot or Townhouse, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Lot, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Corporation in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.3. Availability of Information. The Corporation shall keep and shall make available to prospective purchasers of

Lots, upon request at reasonable business hours, copies of the Declaration, Articles of Incorporation, By-Laws, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Association.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1. Fiscal Year. The fiscal year of the Corporation shall commence on April 1 and end on March 31 of the following year.

Section 9.2. Personal Interests. Except as provided in Section 5.7 above, no member of the Corporation shall have or receive any earnings from the Corporation, except a member who is an officer, director, employee, or agent of the Corporation may be reimbursed for expenses incurred on the Corporation's behalf.

Section 9.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer and at least one other officer of the Corporation.

Section 9.4. Parliamentary Procedure. The parliamentary rules of procedure contained in the current edition of Roberts Rules of Order shall govern the affairs of the Corporation to the extent they are not inconsistent with these By-Laws, the Articles of Incorporation, the Act, or the Declaration.

## ARTICLE X

### INDEMNIFICATION

Section 10.1. Indemnification of Directors. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

Section 10.2. Indemnification of Officers. To the extent not inconsistent with the laws of the state of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as

hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation to the same and fullest extent that directors are indemnified by the Corporation as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

## ARTICLE XI

### COMMITTEES

Section 11.1. Board's Appointment. The Board of Directors shall be responsible for appointing through a majority vote of the Board, the committees described below and such other committees from time to time which may assist the Board in performing its duties. In the event of any non-functioning committee, the duties and responsibilities revert to the Board of Directors.

Section 11.2. Election Committee. The Election Committee shall function at all membership elections of directors. The Committee shall function in the manner prescribed by the parliamentary authority for secret ballots. The Committee shall be responsible for preparing the written ballot which shall contain the names of the slated candidates and contain sufficient space to write in the name of candidates nominated from the floor for each vacant Director's position.

Section 11.3. Nominating Committee. The Nominating Committee shall function prior to and at all membership elections of Directors. The Committee shall function as prescribed by the parliamentary authority and shall slate at least one candidate for every vacant Director's position.

Section 11.4. Architectural Committee. The Architectural Committee is responsible for overseeing the covenants found in the Declaration. The committee shall be composed of at least three (3) members and no more than seven (7) members. The Committee will review and make recommendations to the Board regarding changes and requests made by Owners described in Section 22 of the Declaration. The Board may, in its discretion, ask the Committee for recommendations regarding maintenance priorities or other appropriate questions that may arise.

Section 11.5. Pool Committee. The Pool Committee shall develop Rules and Regulations governing both the Pool and the Clubhouse, and shall present them to the Board for adoption. The Committee shall be responsible for updating the rules as may be required from time to time.

The committee shall have oversight authority regarding the budget and maintenance of these facilities and shall make recommendations regarding these matters to the Board of Directors.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

Edwin WISEMAN  
Printed

President  
Title

I affirm under the penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE

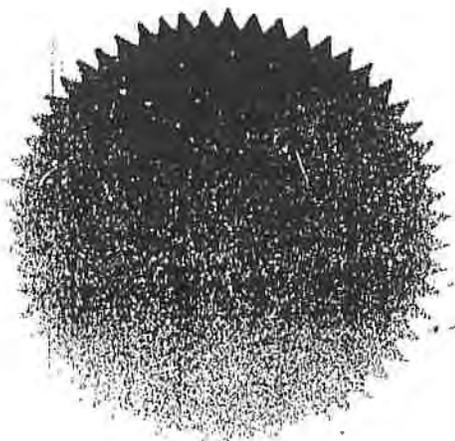
To Whom These Presents Come, Greeting:

CERTIFICATION OF INCORPORATION

CARMELTOWN, INC.

I, LARRY A. CONRAD, Secretary of State of the State of Indiana, hereby certify that Articles of Incorporation of the above not for profit Corporation, in the form prescribed by my office, prepared and signed in duplicate by the incorporator(s) and acknowledged and verified by the same before a Notary Public, have been presented to me at my office accompanied by the fees prescribed by law; that one copy of such Articles has been filed in my office; and that the remaining copy or copies of such Articles bearing the endorsement of my approval and filing has been returned by me to the incorporator or his representatives; all as prescribed by the Indiana Not-For-Profit Corporation Act of 1971.

Wherefore, I hereby issue to such Corporation this Certificate of Incorporation, and further certify that its corporate existence has begun.



In Witness Whereof, I have hereunto set my hand and affixed  
the seal of the State of Indiana, at the City of Indianapolis

this..... 3rd ..... day of  
August ..... 73

LARRY A. CONRAD

Secretary of State,

By.....

.....

ARTICLES OF INCORPORATION  
(Not for Profit)

Prescribed by Larry A. Conrad,  
Secretary of State of Indiana

INSTRUCTIONS:

Use 8 1/2 x 11 Inch Paper for inserts

Present 2 Executed Copies to Secretary of  
State, Room 455, State House, Indianapolis,  
Indiana 46204

FILING FEE is \$13.00

General Requirements "Non-Profit" means  
that the Corporation shall not engage in any  
activities for the pecuniary gain of its  
members.

APPROVED  
AND  
FILED

AUG 3 1973

*[Signature]*  
SECRETARY OF  
STATE OF INDIANA

ARTICLES OF INCORPORATION  
OF

CARMELTOWN, INC.

The undersigned incorporator or incorporators, desiring to form a corporation hereinafter referred to as the "Corporation" pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971, hereinafter referred to as the "Act", executed the following Articles of Incorporation.

ARTICLE I

Name

The name of the Corporation is . . . . CARMELTOWN, INC. . . . .  
(The name shall include the word "Corporation" or "Incorporated", or one of the abbreviations thereof.)

ARTICLE II

Purposes

The purposes for which the Corporation is formed are:

To own and manage at no profit, certain real estate located in Hamilton County, State of Indiana, specifically designated as "The Common Areas" in the Declaration of Carmeltown, Inc., as recorded the 3<sup>rd</sup> day of AUGUST, 1973 in the Office of the Recorder of Hamilton County, Indiana.

**ARTICLE III**  
**Period of Existence**

The period during which the Corporation shall continue is . . . perpetual  
(will either be "Perpetual", or, it to be limited, some definite period of time.)

**ARTICLE IV**  
**Resident Agent and Principal Office**

Section 1. Resident Agent. The name and address of the Resident Agent in charge of the Corporation's principal office is . . . David G. Evans . . . . .  
(Name)

5923 Camelback Court . . . . . Carmel, . . . . . INDIANA . . . 46032 . . .  
(Number and Street or Building) (City) (State) (Zip Code)

Section 2. Principal Office. The post office address of the principal office of the Corporation is . . . . .

5923 Camelback Court . . . . . Carmel . . . . . INDIANA . . . 46032 . . .  
(Number and Street or Building) (City) (State) (Zip Code)

**ARTICLE V**  
**Membership**

(A minimum of three (3) shall have signed the membership list. Directors or Trustees or Incorporators are included in the Membership.)

Section 1. Classes. (If any)

See By-Laws

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes.

See By-Laws

Section 3. Voting Rights of Classes.

*PLEASE NOTE: This Corporation shall confer upon every member a certificate, signed by the President and the Secretary and Assistant Secretaries, stating that he is a member of the Corporation.*

**ARTICLE VI**  
**Directors**

Section 1. Number of Directors. The initial Board of Directors is composed of Three . . . . members. If the exact number of Directors is not stated, the minimum number shall be Three . . . . and the maximum number shall be Nine . . . . Provided, however, that the exact number of directors shall be prescribed from time to time in the By-Laws of the Corporation; AND PROVIDED FURTHER THAT UNDER NO CIRCUMSTANCES SHALL THE MINIMUM NUMBER BE LESS THAN THREE (3).

Section 2. Names and Post Office Addresses of the Directors. The name and post office addresses of the initial Board of Directors are:

Name	Number and Street or Building	City	State	Zip Code
David G. Evans	5923 Camelback Ct.	Carmel,	Indiana	46032
Joseph Dawson	1001 Broad Ripple Ave.,	Indpls.,	Indiana	46220
James J. Nelson	6366 N. Guilford Ave.	Indpls.,	Indiana	46220

**ARTICLE VII**  
**Incorporator(s)**

Section 1. Names and Post Office Addresses. The names and post office address(es) of the incorporator(s) of the Corporation is (are) as follows:

Name	Number and Street or Building	City	State	Zip Code
David G. Evans	5923 Camelback Ct.	Carmel,	Indiana	46032
Joseph Dawson	1001 Broad Ripple Ave.,	Indpls.,	Indiana	46220
James J. Nelson	6366 N. Guilford Ave.	Indpls.,	Indiana	46220

**ARTICLE VIII**  
**Statement of Property (If any)**

A statement of the property and an estimate of the value thereof, to be taken over by this corporation at or upon its incorporation are as follows:

NONE

**ARTICLE IX**  
**Provisions for Regulation and Conduct**  
**Of the Affairs of Corporation**  
**(Can be the "By Laws")**

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of this corporation, and creating, defining, limiting or regulating the powers of this corporation, of the directors or of the members or any class or classes of members are as follows:

See By-Laws

The undersigned, being one or more persons, do hereby adopt these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list or lists of the above named corporation for which a Certificate of Incorporation is hereby applied for, have heretofore been opened in accordance with the law and that at least three (3) persons have signed such membership list.

IN WITNESS WHEREOF, I (we) the undersigned do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 18th day of July, 1973.

*James S. Nelson*  
(Written Signature)

James S. Nelson  
(Printed Signature)

*David G. Evans*  
(Written Signature)

David G. Evans  
(Printed Signature)

*Joseph Dawson*  
(Written Signature)

Joseph Dawson  
(Printed Signature)

NOTARY ACKNOWLEDGEMENT  
(required)

State of Indiana  
SS:  
County of DELAWARE

Before me, Deborah Jean Davis, a Notary Public in and for said county and State, personally appeared the above incorporator(s) and (severally) acknowledged the execution of the foregoing Articles of Incorporation.

Notary Seal  
Required

*Deborah Jean Davis*  
(Written Signature)  
DEBORAH JEAN DAVIS  
(Printed Signature)  
DEBORAH JEAN DAVIS, Notary Public  
(Printed Signature)

My commission expires: February 2, 1977

WITNESS my hand and Notarial  
Seal this 18th day of July, 1973

This instrument was prepared by \_\_\_\_\_ (Name)  
\_\_\_\_\_, \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ Zip Code  
(Number and Street or Building)

STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE

COPY

ARTICLES OF AMENDMENT

To Whom These Presents Come, Greeting:

WHEREAS, there has been presented to me at this office, Articles of Amendment for:

CARMELTOWN INC

and said Articles of Amendment have been prepared and signed in accordance with the provisions of the

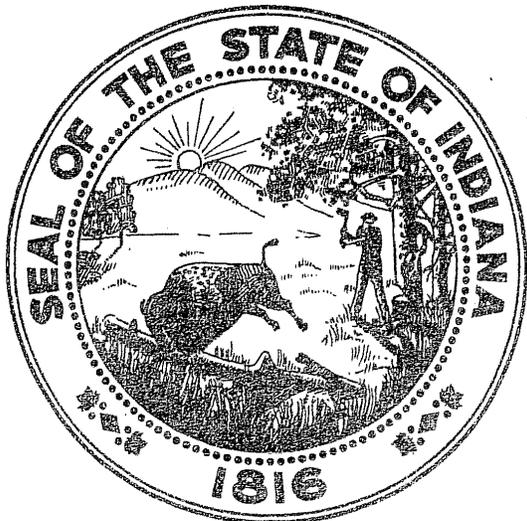
laws of Indiana,

as amended.

NOW, THEREFORE, I, JOSEPH H. HOGSETT, Secretary of State of Indiana, hereby certify that I have this day filed said articles in this office.

The effective date of these Articles of Amendment is April 05, 1993.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Fifth day of April, 1993



Joseph H. Hogsett  
JOSEPH H. HOGSETT, Secretary of State

BY Rosalie V. Buckner  
Deputy

ARTICLES OF  
AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
CARMELTOWN, INC.

The undersigned officer of Carmeltown, Inc., a Corporation existing pursuant to the Indiana Not-For-Profit Corporation Act of 1971, and incorporated under the terms and conditions of the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213 at Book 142, Pages 409 through 426, said Declaration and all amendments thereto hereafter referred to as "Declaration", and having accepted the provisions of and having elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act"), gives notice of the amendment of and executes the following Amended and Restated Articles of Incorporation. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of these Amended and Restated Articles of Incorporation and the Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in these Amended and Restated Articles of Incorporation and the Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

ARTICLE I

NAME

The name of the Corporation is Carmeltown, Inc. (hereafter referred to as "Corporation").

ARTICLE II

TYPE OF CORPORATION

This is a mutual benefit Corporation.

ARTICLE III

PURPOSES AND POWERS

Section 3.1. Purposes.

The purposes for which the Corporation is formed are to provide for the maintenance, repair, upkeep, replacement, administration, operation and management of the Common Areas and for certain exterior portions of the Townhouses as designated in the Declaration, to pay any other necessary expenses and costs in connection with the Common Areas in accordance with the Declaration and to perform such other functions as may be designated to it.

Section 3.2. Powers. Subject to any limitation or restriction imposed by the Act, any other law, the Declaration, or any other provision of these Articles of Incorporation, the Corporation shall have the power:

(a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Corporation as set forth in the Declaration, as the same may be amended from time to time;

(b) To establish, levy, collect and enforce payment by any lawful means of any charges or assessments made against Members or others pursuant to the terms of the Declaration; to pay all expenses in connection with such collection and all office and other expenses incident to the conduct of the business of the Corporation including any license fees, taxes or other governmental charges levied or imposed against the property of the Corporation;

(c) To borrow money and, with the consent of two-thirds (2/3) of the Members, mortgage, pledge, deed in trust or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;

(d) To enter into, make, perform and carry out, or cancel and rescind, contracts for any lawful purposes pertaining to its business;

(e) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for the public use or otherwise dispose of real or personal property which is held in title by this Corporation in connection with the affairs of the Corporation in accordance with the terms of the Declaration;

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

Members, agreeing to such dedication, sale or transfer, except as otherwise provided in the Declaration;

(g) Sue, be sued, complain, and defend in the Corporation's corporate name;

(h) Make and amend By-Laws not inconsistent with the Corporation's Articles of Incorporation, the Act, the Declaration or with Indiana law for managing the affairs of the Corporation;

(i) Elect directors, elect and appoint officers, and appoint employees and agents of the Corporation, and define the duties and fix the compensation of directors, officers, employees and agents.

(j) Purchase and maintain insurance on behalf of any individual who:

(1) is or was a director, an officer, an employee, or an agent of the Corporation; or

(2) is or was serving at the request of the Corporation as a director, an officer, an employee, or an agent of another entity;

against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, an officer, an employee, or an agent, whether or not the Corporation would have power to indemnify the individual against the same liability under this article.

(k) To have, hold, exercise and enjoy in furtherance of the purposes set forth hereinabove and hereinbelow, all of the rights, powers, privileges and immunities granted, and not

expressly denied, by the Act as now or hereafter amended and under the common law as may be necessary, convenient or expedient in order to accomplish the purposes set forth hereinabove and hereinbelow, but subject to any limitation or restriction imposed by the Act, by any other law, by these Articles of Incorporation, or by the Declaration; provided further, however, that if there is any conflict between the powers established in these Articles of Incorporation and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall govern;

(l) To do everything necessary, proper, advisable, or convenient for the accomplishment of any of the purposes, or the attainment of any of the objects of the furtherance of any of the powers herein set forth, and to do every other act and thing incidental thereto or connected therewith, which is not forbidden by the laws of the State of Indiana, or by the provisions of these Articles of Incorporation or the Declaration.

(m) To do all acts and things necessary, convenient or expedient to carry out the purposes for which the Corporation is formed.

**Section 3.3. Limitation of Activities.** The Corporation shall not possess the power of engaging in any activities for the purpose of or resulting in the pecuniary remuneration to its members as such. This provision shall not prohibit fair and reasonable compensation to members for services actually rendered; nor shall it prohibit the Corporation from charging a fee for services rendered; nor shall it prohibit the Corporation

from charging a fee for admission to any presentation it may make or other undertakings so long as any funds so raised do not inure to the profit of its members.

#### ARTICLE IV

##### REGISTERED AGENT, REGISTERED OFFICE, PRINCIPAL OFFICE

Section 4.1 Registered Agent and Registered Office. The name and street address of the Corporation's registered agent for service of process will be the Corporation's Secretary. The address of the Corporation's registered office for service of process will be the address of the Corporation's Secretary.

#### ARTICLE V

##### MEMBERSHIP

Section 5.1. Members. Every person or entity who owns one or more Lots, shall automatically upon becoming an Owner of a Lot be and become a Member of the Corporation.

Section 5.2. Rights, Preferences, Limitations and Restrictions of Classes. All Members shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members. All Members shall abide by the Articles of Incorporation, the Code of By-Laws, the rules and regulations adopted by the Board of Directors, and all covenants, restrictions and other provisions contained in the Declaration.

Section 5.3. Classes of Members and Number of Votes. The Corporation shall have one class of membership, of which all Members shall be a part. Each Member shall be entitled to one

(1) vote for each Lot of which such Member is the owner with respect to each matter submitted to a vote of Members upon which the Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Section 5.4. Voting Rights of Members. Each Member in good standing shall be entitled to voting rights as follows:

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each member shall be entitled to cast one (1) vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided either by the number of Lots then in Carmeltown, as shall have been finally platted from time to time to determine the respective proportions of members who support or oppose such matter, or by the number of Lots the Owners of which are present or represented at such meeting to determine the respective proportions of members present or represented at such meeting who support or oppose such matter.

(b) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the Corporation duly empowered by the board of

directors of such Corporation shall cast the vote to which the Corporation is entitled.

(c) Proxy. A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his attorney-in-fact in writing, delivered to the Corporation prior to the commencement of the meeting.

(d) Quorum. Except where otherwise expressly provided in the Declaration, these Articles, the By-Laws, or the Act, the presence of members or their duly authorized representatives owning fifty percent (50%) of the total number of Lots shall constitute a quorum at all meetings. As used elsewhere in these Articles and in the Code of By-Laws, the term "majority of the Members", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Lots as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting.

(e) Definition of "Owner". The term "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot. Persons or entities owning a single Lot as tenants in common, joint tenants, or tenants by the entireties shall be deemed one Owner.

Section 5.5. Rights, Preferences, Limitations and Restrictions of Members. Any member who fails to comply with the requirements of these Articles, the Declaration, the By-Laws or the rules and regulations made pursuant thereto, including the payment of assessments, shall, if a majority of the Board of Directors by an affirmative vote at a Board of Directors' meeting so determine, forfeit his or its membership rights and interest to use the amenities and to vote on any matter coming before the Members. However, a Member may not be expelled or suspended and a membership may not be suspended except under a procedure adopted by resolution of a majority of the Board of Directors that is fair, reasonable and carried out in good faith. Such a procedure shall fully comply with the Act, as amended.

Section 5.6. Meetings of Members. Meetings of members may be held at any place inside Hamilton County, Indiana, which shall be designated by the Board of Directors of the Corporation, or as the By-Laws may designate.

## ARTICLE VI

### TERM OF EXISTENCE

The period during which the Corporation shall continue as a Corporation is perpetual.

## ARTICLE VII

### DIRECTORS

Section 7.1. Number of Directors. The number of the directors of this Corporation shall be not less than three (3) nor more than nine (9) as prescribed from time to time in the By-Laws of the

Corporation; but in no event shall the minimum number of directors be less than three (3). Whenever the By-Laws do not specify the exact number, the number of directors shall be five (5). The qualification of directors and the election of directors shall be as prescribed from time to time in the By-Laws of the Corporation.

**Section 7.2. Election of Directors.** The Board of Directors shall be elected by ballot at the annual meeting of the Members and each Director shall hold office for a term of three (3) years or until his successor shall have been elected and qualified.

**Section 7.3. Vacancies in the Board of Directors.** Any vacancy occurring on the Board of Directors caused by a death, removal, resignation or otherwise, shall be filled until the next annual meeting through a vote of a majority of the remaining members of the Board, unless specified otherwise in the By-Laws.

**Section 7.4. Removal of Directors.** A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director or Directors elected by the Board may be removed with or without

cause by the vote of a majority of the Directors then in office.

**ARTICLE VIII**

**INCORPORATORS**

The incorporators of the Corporation are as specified in the original Articles of Incorporation of the Corporation.

**ARTICLE IX**

**STATEMENT OF PROPERTY**

All assets and liabilities, real, personal, and otherwise are in no way changed by this Amended and Restated Articles of Incorporation and they stand for and constitute all of the assets and liabilities of the Corporation.

**ARTICLE X**

**PROVISIONS FOR REGULATION OF BUSINESS  
AND CONDUCT OF AFFAIRS OF THE CORPORATION**

Section 10.1. Powers Exercised by Board. Subject to any limitations or restrictions imposed by law, by these amended Articles of Incorporation or by the Declaration, the Board of Directors of the Corporation is hereby authorized to exercise, in furtherance of the purposes of the Corporation, all the powers of the Corporation without prior authorization or subsequent approval of the Members of the Corporation or of any other person or entities.

Section 10.2. Liability of Members. Neither the individual Members of the Corporation nor their individual property shall be subject to any liability for any debts of the Corporation.

Section 10.3. Dissolution. The Corporation may be dissolved only with the written consent of all Members.

Section 10.4. Distribution of Property On the Voluntary or Involuntary Dissolution of the Corporation. Upon the voluntary or involuntary dissolution of the Corporation, the Board of Directors shall, after paying or making provision for payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation by transferring the same to the Corporation's Members.

Section 10.5. Amendment of Articles of Incorporation. Amendment to the Articles of Incorporation shall require the consent of at least a majority of the Members.

Section 10.6. No Private Benefit. No money or property received or held by the Corporation shall ever inure, directly or indirectly, to the private benefit of any Member, Director or Officer of the Corporation or to any other person whomsoever except for reasonable compensation for services actually rendered to the Corporation.

Section 10.7. Indemnification. The Board of Directors of this Corporation may, at its discretion, indemnify any or all directors, officers, employees, or agents or former directors, officers, employees or agents of the Corporation, as shall be prescribed from time to time in the By-Laws of the Corporation.

Whenever the By-Laws of the Corporation shall not specify any indemnification provisions for the benefit of such above-named persons, all such above-named persons shall have all rights of indemnification as are proscribed in the Act.

Section 10.8. Compensation of Employees. In order to carry out the purposes and activities of the Corporation, such individuals as are deemed necessary may be employed, and each such employee may be paid such compensation for services actually rendered in the course of such employment as may be fixed in the manner provided by the Board of Directors of the Corporation.

Section 10.9. By-Laws. The By-Laws of the Corporation may be amended as set forth in the By-Laws. Said By-Laws may contain other provisions consistent with the laws of the State of Indiana, for the regulation and management of the affairs of the Corporation.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Amended and Restated Articles of Incorporation and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

EDWIN WISEMAN  
Printed

President  
Title

I affirm under penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin W. Sherman

form.art

AMENDED AND RESTATED CODE OF BY-LAWS OF  
CARMELTOWN, INC.  
A Nonprofit Corporation

ARTICLE I

NAME

Section 1.1. Name. The name of this Corporation is Carmeltown, Inc. (hereinafter referred to as "Corporation").

ARTICLE II

IDENTIFICATION & APPLICABILITY

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Property and the administration, the welfare, the social activities and conduct of the affairs of the Corporation. These By-Laws shall also constitute the By-Laws of the Corporation.

Section 2.2. Individual Application. Each of the Owners within Carmeltown shall automatically and mandatorily be members in the Corporation and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213, at Book 142, Pages 409 through 426, the Articles of Incorporation, the rules and regulations of the Corporation and of the provisions hereof. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), as all the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Amended and Restated Articles of Incorporation and these Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Amended and Restated Articles of Incorporation and these Amended and Restated Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

## ARTICLE III

### MEETINGS OF CORPORATION

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, receiving and approving the annual budget, and for such other purposes as may be required by the Declaration, these By-Laws, the Articles, or the Act.

Section 3.2. Annual Meeting. The annual meeting for the Members of the Corporation shall be held on the 1st Tuesday of March in each calendar year. At each annual meeting, the Owners shall elect the Board of Directors and approve the annual budget of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Members of the Corporation may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the Lots. The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 3.4. Notice and Place of Meetings. All meetings of the members of the Corporation shall be held at any suitable place in Hamilton County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Corporation to each member entitled to vote there at not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Owners as part of a newsletter or other publication regularly sent to the Owners constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a

representative to attend the meeting. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 3.6. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one vote for each Lot owned on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Lots then in Carmelton, as the same shall have been finally plated from time to time, to determine the respective proportions of Owners supporting or opposing such matter, or by the number of Lots the Owners of which are present or represented at such meeting, to determine the respective proportions of Owners present or represented at such meeting supporting or opposing such matter. In voting for directors, each Owner (or his representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his votes. To the extent provided in the Act, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Corporation, but all of such persons or entities shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of

the Corporation stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Corporation prior to the commencement of the meeting. No such proxy shall remain valid for longer than one (1) year from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles or the Act, the presence of Owners or their duly authorized representatives owning at least fifty percent (50%) of the total Lots shall constitute a quorum at all meetings. As used elsewhere in these By-Laws, the term "majority of Owners", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Owners as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting at which a quorum is present.

Section 3.7. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Corporation. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the members held subsequent thereto, unless such reading is waived by a majority of the vote.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior fiscal year and the proposed budget for the next year which shall commence on April 1st.

(3) Budget. The proposed budget for the following fiscal year shall be presented to the Owners for approval or amendment, if necessary.

(4) Election of Board of Directors. A slate of nominees shall be presented by the Nominating Committee. Further nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations with prior approval of the nominee must be in writing and presented to the Secretary of the Corporation at least ten (10) days prior to the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(6) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) Adjournment. Upon completion of all business before the Corporation, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming fiscal year.

Section 3.8. Conduct of Special Meeting. The President of the Corporation shall act as Chairman of any special meetings of the Corporation if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

## ARTICLE IV

### BOARD OF DIRECTORS

Section 4.1. Board of Directors. The affairs of the Corporation shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of five (5) persons who each own at least one (1) Lot. The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed nine (9). If the number of Directors is ever greater than five (5), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than five (5) nor more than nine (9) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his term. In the event the number of Directors is increased as provided herein, the election of the additional Director or Directors shall be by a vote of the members according to a procedure established by the Board by resolution.

The immediate past President of the Corporation may be appointed to an additional year of service on the Board by a majority vote of the Board. If such past President is so appointed, he or she shall serve only in an advisory capacity and shall be a non-voting member of the Board.

Section 4.2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time. Additionally, if an Owner owns more than one (1) Lot, no such persons having an ownership interest in said Lots or, in the case of a partnership, corporation, trust or other legal entity owning said Lots, no partners, officers or trustees of such entities, shall be eligible to serve on the Board of Directors other than one (1) person from said entities.

Section 4.3. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of three (3) years. One-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Corporation. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with a Board

consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 4.4 of this Article IV. Each Director shall hold office throughout the term of his election until his successor is elected and qualified.

The Directors shall appoint an Election Committee comprised of Members of the Corporation who shall not then be members of the Board. The Election Committee shall conduct the election of the Board of Directors with ballots submitted by the Nominating Committee.

Section 4.4. Removal of Directors. A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. However, a Director or Directors elected by the Board to fill the vacancy of a Director elected by the Owners may be removed without cause by the Owners but not by the Board.

Section 4.5. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Corporation, social activities and welfare of Owners within Carmelton, the maintenance, upkeep and replacement of the Common Areas and the collection and disbursement of the Common Expenses. These duties include, but are not limited to, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Business/Maintenance Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining private streets, parking areas, and sidewalks in Common Areas, to the extent the same are not included within the description of a Lot and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each fiscal year, which accounting shall be delivered to each Owner within three (3) months of the close of the Association's fiscal year;
- (h) The Board shall establish policies and procedures for maintaining the Corporation's business records. These shall include: (1) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property; (2) Specifying and itemizing the Common Expenses; (3) Matters concerning computer software, applications, documentation, logons, operations manuals, and data. A current copy of the Corporation's business records (i.e., contracts), including software applications and manuals, shall be maintained in a fireproof box or bank vault. Updated weekly, all records shall be available for inspection by any Owner provided an appointment is made.
- (i) Appoint a Nominating Committee and Election Committee at least forty-five (45) days prior to the Annual Meeting.
- (j) Appoint an Architectural and Grounds Committee.
- (k) Appoint an auditor with no membership in the corporation, no ownership interests in Carmelton, and no other affiliation of the Corporation or its Members.

Section 4.6. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a reputable Business/Maintenance Agent, a professional managing agent or real estate management company (either being hereinafter referred to as "Business/Maintenance Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods.

(b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and improvements on the Lots and the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners, the Corporation;

(d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business, social activities, welfare and affairs of the Corporation;

(e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas;

(f) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Corporation; and

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the

Property provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.7. Limitations on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Two Thousand Five Hundred Dollars (\$2,500.00), unless the prior approval of a majority of Owners is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as presented to the Owners at the annual meeting and, if necessary, approved by the Owners at such annual meeting.

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

The said \$2,500.00 maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price Deflator or any comparable, successor index.

Section 4.8. Compensation. No Director or Officer shall receive any compensation for his services as such.

Section 4.9. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. All such meetings shall be open to all Members of the Corporation. Members who wish to address the Board or to present matters within the constraints of the agenda may do so. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to

the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a director may conduct or participate in a regular or special meeting of the Board of Directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is considered to be present in person at the meeting.

Section 4.10. Waiver of Notice. Before or after any meeting of the Board, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.11. Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.12. Bond. The Board of Directors may require the Business/Maintenance Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.13. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

## ARTICLE V

### OFFICERS

Section 5.1. Officers of the Corporation. The principal officers of the Corporation shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer

and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Corporation and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Corporation and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Corporation's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Corporation or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately the financial condition of the Corporation and such other duties incident to the office of Treasurer. He shall be legal custodian

of all monies, notes, securities, and other valuables which may from time to time come into possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Corporation. The Treasurer may permit the Business/Maintenance Agent, if any, to handle and account for monies and other assets of the Corporation to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time hire, designate or elect from among the Owners an Assistant Secretary, an Assistant Treasurer or Advisory Officers, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

## ARTICLE VI

### ADDITIONAL RIGHTS AND DUTIES OF BOARD

Section 6.1. Right of Entry. An Owner or occupant of a Lot shall be deemed to have granted the right of entry to his Lot or Townhouse to the Board, the Business/Maintenance Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Lot or Townhouse, the Building located thereon, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Lot or Townhouse for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 6.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation, social activities, and welfare of the Property as the Board may deem desirable, including but not limited to the use of the Common Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

## ARTICLE VII

### AMENDMENT TO BY-LAWS

Section 7.1. Amendment. These By-Laws may be amended by an affirmative vote of sixty-six percent (66%) of those Owners present, in person or by proxy, at a duly constituted meeting called for such purpose at which there is a fifty percent (50%) quorum, except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

## ARTICLE VIII

### NOTICES AND MORTGAGES

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot or Townhouse or the Mortgagee thereof may notify the Secretary of the Corporation and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.2. Notice of Assessments. Upon ten (10) days written notice to the Corporation, the Corporation shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot or Townhouse, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Lot, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Corporation in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.3. Availability of Information. The Corporation shall keep and shall make available to prospective purchasers of

Lots, upon request at reasonable business hours, copies of the Declaration, Articles of Incorporation, By-Laws, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Association.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1. Fiscal Year. The fiscal year of the Corporation shall commence on April 1 and end on March 31 of the following year.

Section 9.2. Personal Interests. Except as provided in Section 5.7 above, no member of the Corporation shall have or receive any earnings from the Corporation, except a member who is an officer, director, employee, or agent of the Corporation may be reimbursed for expenses incurred on the Corporation's behalf.

Section 9.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer and at least one other officer of the Corporation.

Section 9.4. Parliamentary Procedure. The parliamentary rules of procedure contained in the current edition of Roberts Rules of Order shall govern the affairs of the Corporation to the extent they are not inconsistent with these By-Laws, the Articles of Incorporation, the Act, or the Declaration.

## ARTICLE X

### INDEMNIFICATION

Section 10.1. Indemnification of Directors. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

Section 10.2. Indemnification of Officers. To the extent not inconsistent with the laws of the state of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as

hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation to the same and fullest extent that directors are indemnified by the Corporation as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

## ARTICLE XI

### COMMITTEES

Section 11.1. Board's Appointment. The Board of Directors shall be responsible for appointing through a majority vote of the Board, the committees described below and such other committees from time to time which may assist the Board in performing its duties. In the event of any non-functioning committee, the duties and responsibilities revert to the Board of Directors.

Section 11.2. Election Committee. The Election Committee shall function at all membership elections of directors. The Committee shall function in the manner prescribed by the parliamentary authority for secret ballots. The Committee shall be responsible for preparing the written ballot which shall contain the names of the slated candidates and contain sufficient space to write in the name of candidates nominated from the floor for each vacant Director's position.

Section 11.3. Nominating Committee. The Nominating Committee shall function prior to and at all membership elections of Directors. The Committee shall function as prescribed by the parliamentary authority and shall slate at least one candidate for every vacant Director's position.

Section 11.4. Architectural Committee. The Architectural Committee is responsible for overseeing the covenants found in the Declaration. The committee shall be composed of at least three (3) members and no more than seven (7) members. The Committee will review and make recommendations to the Board regarding changes and requests made by Owners described in Section 22 of the Declaration. The Board may, in its discretion, ask the Committee for recommendations regarding maintenance priorities or other appropriate questions that may arise.

Section 11.5. Pool Committee. The Pool Committee shall develop Rules and Regulations governing both the Pool and the Clubhouse, and shall present them to the Board for adoption. The Committee shall be responsible for updating the rules as may be required from time to time.

The committee shall have oversight authority regarding the budget and maintenance of these facilities and shall make recommendations regarding these matters to the Board of Directors.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

Edwin Wiseman  
Printed

President  
Title

I affirm under the penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

Cross-References:     **Instrument No. 5797 at Misc. Book 139, Page 353**  
                          **Instrument No. 4213 at Misc. Book 142, Pages 409-426**  
                          **Instrument No. 9309874**  
                          **Instrument No. 2004-5952**

**AMENDMENT TO DECLARATION OF CARMELTOWN, INC.**  
**PROPERTY OWNERSHIP**

This Amendment to the Declaration of Carmeltown, Inc. Property Ownership is effective as of the date executed below.

WITNESSTH:

WHEREAS, the Carmeltown townhouse community in Carmel, Hamilton County, Indiana was created pursuant to a Plat, and a certain "Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on August 31, 1973, as **Instrument No. 5797 at Misc. Book 139, Page 353** (hereafter, the "Original Declaration"); and

WHEREAS, the Declarant (or developer) subsequently amended said Declaration by an Amended Declaration of Carmeltown, Inc. Property Ownership which was recorded with the Hamilton County Recorder's Office on May 22, 1974, as **Instrument No. 4213 at Misc. Book 142, Pages 409-426** (hereafter, the "Amended Declaration"); and

WHEREAS, the Declarant (the developer) by execution of the Original Declaration and the Amended Declaration assured that all properties which are conveyed which are a part of the land within Carmeltown shall be conveyed subject to the terms and conditions of the Declaration, as amended, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors, and assigns, and shall inure in the benefit of each Owner; and

WHEREAS, the Declaration was subsequently amended by the Lot Owners by the "Amendments to the Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on March 18, 1993, as **Instrument No. 9309874**; and

WHEREAS, Carmeltown, Inc. restated the terms of the Original Declaration, as modified by all subsequent amendments, through an instrument entitled "Restated Declaration of Carmeltown, Inc. Property Ownership" for the ease and convenience of all present and future Owners; and

WHEREAS, the Restated Declaration was recorded with the Hamilton County Recorder's Office on January 28, 2004, as **Instrument No. 2004-5952**, and did nothing more than compile the terms of the Original Declaration together with all subsequent amendments up to that time such that there were no changes or amendments to the Declaration which were made upon the recording of said Restated Declaration; and

WHEREAS, the Owners, being the members of Carmeltown, Inc., and the Board of Directors of Carmeltown, Inc. desired to further amend the Declaration; and

WHEREAS, after notice was duly given, at a meeting of the Owners held on January 11, 2005, and adjourned to February 8, 2005, the Owners of more than seventy-five percent (75%) of all Lot Owners within Carmeltown voted in favor of the amendment below.

NOW, THEREFORE, the Declaration of Carmeltown, Inc. Property Ownership is amended as follows:

1. Paragraph 26 of the Declaration is hereby deleted in its entirety and replaced with the following provisions, including Sections 26.1 through 26.8:

**26. Prohibition on Leasing of Townhouses**

**Section 26.1. Prohibition of Leased Townhouses ("Rental Ban"). In order to insure that the residents within Carmeltown share the same proprietary interest in and respect of the Townhouses and the Common Areas, there shall be no leasing or rental of any of the Townhouses unless otherwise permitted as described below. Residents of a Townhouse can only consist of the Owner(s) thereof or members of their household.**

**Notwithstanding the foregoing, the "rental ban" described above shall not apply to any Townhouse of an Owner in Carmeltown who, as of February 1, 2005, is renting or leasing said Townhouse and provides written proof thereof to the Association's Managing Agent by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented Townhouses shall not be subject to the provisions of this Section 26.1, but shall be subject to the remaining provisions of this Paragraph 26. However, when the legal owners of record of any of the above-described Townhouses sell, transfer or convey such Townhouse(s) to another Owner after February 1, 2005, such Townhouse(s) shall immediately become subject to this Section 26.1.**

**Section 26.2. Hardship Exceptions and Waiver.** Notwithstanding Section 26.1 above, if an Owner wishes to rent or lease his or her Townhouse, the Owner may request the Board of Directors to waive the “rental ban” and approve a proposed lease if the Owner establishes to the Board’s satisfaction that the “rental ban” will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner’s request, the Board of Directors shall permit the Owner to rent or lease said Townhouse, subject to any further conditions or limitations imposed by the Board in the Board’s discretion, but only if the Owner satisfies all other requirements of this Paragraph 26. 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 or marriage 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 Carmelton 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.

**Section 26.3. General Lease Conditions.** All permitted 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 Townhouse other than the entire Townhouse 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 this Declaration, the 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 Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Townhouse. 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.

**Section 26.4. 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

Association 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 Association for payments of assessments or any other charges.

**Section 26.5. Association's Copy of Lease.** A copy of each executed, permitted 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.

**Section 26.6. Violations.** Any lease or attempted lease of a Townhouse in violation of the provisions of this Paragraph 26 shall be voidable at the election of the Association's Board of Directors or any other Carmeltown Owner, except that neither party to such lease may assert this provision of this Paragraph 26 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Carmeltown Owner, shall have the right to exercise any and all available remedies at law or equity.

**Section 26.7. Institutional Mortgagees.** The provisions set forth in this Paragraph 26 shall not apply to any institutional mortgagee of any Townhouse which comes into possession of the Townhouse 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. However, when a Townhouse is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Paragraph 26.

**Section 26.8. Severability Clause.** The invalidity of any covenant, restriction, condition, limitation or other provision of this Paragraph 26 shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Paragraph 26, and each shall be enforced to the greatest extent permitted by law.

\*\*\*\*\*

2. **Acceptance and Ratification.** The acceptance of a deed of conveyance or the act of occupancy of any one Townhouse or Lot shall constitute a ratification of this Amendment, together with the Declaration and all previous amendments thereto, and all such provisions shall be covenants running with the land and shall bind any person having at any time having any interest or estate in a Townhouse or Lot or the Carmeltown subdivision 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.



STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE

COPY

ARTICLES OF AMENDMENT

To Whom These Presents Come, Greeting:

WHEREAS, there has been presented to me at this office, Articles of Amendment for:

CARMELTOWN INC

and said Articles of Amendment have been prepared and signed in accordance with the provisions of the

laws of Indiana,

as amended.

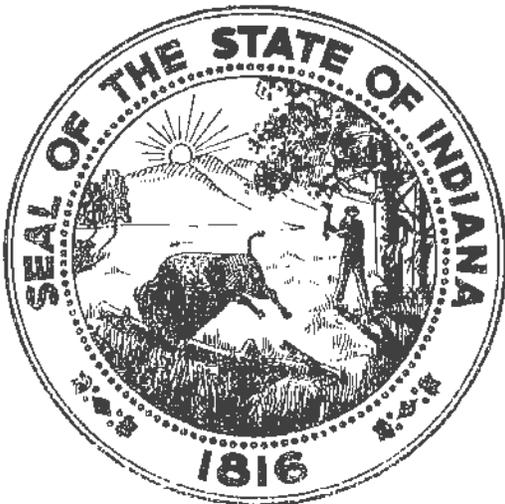
NOW, THEREFORE, I, JOSEPH H. HOGSETT, Secretary of State of Indiana, hereby certify that I have this day filed said articles in this office.

The effective date of these Articles of Amendment is April 05, 1993.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Fifth day of April, 1993

Joseph H. Hogsett  
JOSEPH H. HOGSETT, Secretary of State

BY Rosalie V. Buchner  
Deputy



COPY

ARTICLES OF  
AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
CARMELTOWN, INC.

The undersigned officer of Carmeltown, Inc., a Corporation existing pursuant to the Indiana Not-For-Profit Corporation Act of 1971, and incorporated under the terms and conditions of the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213 at Book 142, Pages 409 through 426, said Declaration and all amendments thereto hereafter referred to as "Declaration", and having accepted the provisions of and having elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act"), gives notice of the amendment of and executes the following Amended and Restated Articles of Incorporation. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of these Amended and Restated Articles of Incorporation and the Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in these Amended and Restated Articles of Incorporation and the Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

**ARTICLE I**

**NAME**

The name of the Corporation is Carmeltown, Inc. (hereafter referred to as "Corporation").

**ARTICLE II**

**TYPE OF CORPORATION**

This is a mutual benefit Corporation.

**ARTICLE III**

**PURPOSES AND POWERS**

**Section 3.1. Purposes.**

The purposes for which the Corporation is formed are to provide for the maintenance, repair, upkeep, replacement, administration, operation and management of the Common Areas and for certain exterior portions of the Townhouses as designated in the Declaration, to pay any other necessary expenses and costs in connection with the Common Areas in accordance with the Declaration and to perform such other functions as may be designated to it.

**Section 3.2. Powers.** Subject to any limitation or restriction imposed by the Act, any other law, the Declaration, or any other provision of these Articles of Incorporation, the Corporation shall have the power:

(a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Corporation as set forth in the Declaration, as the same may be amended from time to time;

(b) To establish, levy, collect and enforce payment by any lawful means of any charges or assessments made against Members or others pursuant to the terms of the Declaration; to pay all expenses in connection with such collection and all office and other expenses incident to the conduct of the business of the Corporation including any license fees, taxes or other governmental charges levied or imposed against the property of the Corporation;

(c) To borrow money and, with the consent of two-thirds (2/3) of the Members, mortgage, pledge, deed in trust or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;

(d) To enter into, make, perform and carry out, or cancel and rescind, contracts for any lawful purposes pertaining to its business;

(e) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for the public use or otherwise dispose of real or personal property which is held in title by this Corporation in connection with the affairs of the Corporation in accordance with the terms of the Declaration;

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

Members, agreeing to such dedication, sale or transfer, except as otherwise provided in the Declaration;

(g) Sue, be sued, complain, and defend in the Corporation's corporate name;

(h) Make and amend By-Laws not inconsistent with the Corporation's Articles of Incorporation, the Act, the Declaration or with Indiana law for managing the affairs of the Corporation;

(i) Elect directors, elect and appoint officers, and appoint employees and agents of the Corporation, and define the duties and fix the compensation of directors, officers, employees and agents.

(j) Purchase and maintain insurance on behalf of any individual who:

(1) is or was a director, an officer, an employee, or an agent of the Corporation; or

(2) is or was serving at the request of the Corporation as a director, an officer, an employee, or an agent of another entity;

against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, an officer, an employee, or an agent, whether or not the Corporation would have power to indemnify the individual against the same liability under this article.

(k) To have, hold, exercise and enjoy in furtherance of the purposes set forth hereinabove and hereinbelow, all of the rights, powers, privileges and immunities granted, and not

expressly denied, by the Act as now or hereafter amended and under the common law as may be necessary, convenient or expedient in order to accomplish the purposes set forth hereinabove and hereinbelow, but subject to any limitation or restriction imposed by the Act, by any other law, by these Articles of Incorporation, or by the Declaration; provided further, however, that if there is any conflict between the powers established in these Articles of Incorporation and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall govern;

(l) To do everything necessary, proper, advisable, or convenient for the accomplishment of any of the purposes, or the attainment of any of the objects of the furtherance of any of the powers herein set forth, and to do every other act and thing incidental thereto or connected therewith, which is not forbidden by the laws of the State of Indiana, or by the provisions of these Articles of Incorporation or the Declaration.

(m) To do all acts and things necessary, convenient or expedient to carry out the purposes for which the Corporation is formed.

**Section 3.3. Limitation of Activities.** The Corporation shall not possess the power of engaging in any activities for the purpose of or resulting in the pecuniary remuneration to its members as such. This provision shall not prohibit fair and reasonable compensation to members for services actually rendered; nor shall it prohibit the Corporation from charging a fee for services rendered; nor shall it prohibit the Corporation

from charging a fee for admission to any presentation it may make or other undertakings so long as any funds so raised do not inure to the profit of its members.

#### ARTICLE IV

##### REGISTERED AGENT, REGISTERED OFFICE, PRINCIPAL OFFICE

Section 4.1 Registered Agent and Registered Office. The name and street address of the Corporation's registered agent for service of process will be the Corporation's Secretary. The address of the Corporation's registered office for service of process will be the address of the Corporation's Secretary.

#### ARTICLE V

##### MEMBERSHIP

Section 5.1. Members. Every person or entity who owns one or more Lots, shall automatically upon becoming an Owner of a Lot be and become a Member of the Corporation.

Section 5.2. Rights, Preferences, Limitations and Restrictions of Classes. All Members shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members. All Members shall abide by the Articles of Incorporation, the Code of By-Laws, the rules and regulations adopted by the Board of Directors, and all covenants, restrictions and other provisions contained in the Declaration.

Section 5.3. Classes of Members and Number of Votes. The Corporation shall have one class of membership, of which all Members shall be a part. Each Member shall be entitled to one

(1) vote for each Lot of which such Member is the owner with respect to each matter submitted to a vote of Members upon which the Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

**Section 5.4. Voting Rights of Members.** Each Member in good standing shall be entitled to voting rights as follows:

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each member shall be entitled to cast one (1) vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided either by the number of Lots then in Carmeltown, as shall have been finally platted from time to time to determine the respective proportions of members who support or oppose such matter, or by the number of Lots the Owners of which are present or represented at such meeting to determine the respective proportions of members present or represented at such meeting who support or oppose such matter.

(b) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the Corporation duly empowered by the board of

directors of such Corporation shall cast the vote to which the Corporation is entitled.

(c) Proxy. A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his attorney-in-fact in writing, delivered to the Corporation prior to the commencement of the meeting.

(d) Quorum. Except where otherwise expressly provided in the Declaration, these Articles, the By-Laws, or the Act, the presence of members or their duly authorized representatives owning fifty percent (50%) of the total number of Lots shall constitute a quorum at all meetings. As used elsewhere in these Articles and in the Code of By-Laws, the term "majority of the Members", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Lots as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting.

(e) Definition of "Owner". The term "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot. Persons or entities owning a single Lot as tenants in common, joint tenants, or tenants by the entireties shall be deemed one Owner.

**Section 5.5. Rights, Preferences, Limitations and Restrictions of Members.**

Any member who fails to comply with the requirements of these Articles, the Declaration, the By-Laws or the rules and regulations made pursuant thereto, including the payment of assessments, shall, if a majority of the Board of Directors by an affirmative vote at a Board of Directors' meeting so determine, forfeit his or its membership rights and interest to use the amenities and to vote on any matter coming before the Members. However, a Member may not be expelled or suspended and a membership may not be suspended except under a procedure adopted by resolution of a majority of the Board of Directors that is fair, reasonable and carried out in good faith. Such a procedure shall fully comply with the Act, as amended.

**Section 5.6. Meetings of Members.** Meetings of members may be held at any place inside Hamilton County, Indiana, which shall be designated by the Board of Directors of the Corporation, or as the By-Laws may designate.

**ARTICLE VI**

**TERM OF EXISTENCE**

The period during which the Corporation shall continue as a Corporation is perpetual.

**ARTICLE VII**

**DIRECTORS**

**Section 7.1. Number of Directors.** The number of the directors of this Corporation shall be not less than three (3) nor more than nine (9) as prescribed from time to time in the By-Laws of the

Corporation; but in no event shall the minimum number of directors be less than three (3). Whenever the By-Laws do not specify the exact number, the number of directors shall be five (5). The qualification of directors and the election of directors shall be as prescribed from time to time in the By-Laws of the Corporation.

**Section 7.2. Election of Directors.** The Board of Directors shall be elected by ballot at the annual meeting of the Members and each Director shall hold office for a term of three (3) years or until his successor shall have been elected and qualified.

**Section 7.3. Vacancies in the Board of Directors.** Any vacancy occurring on the Board of Directors caused by a death, removal, resignation or otherwise, shall be filled until the next annual meeting through a vote of a majority of the remaining members of the Board, unless specified otherwise in the By-Laws.

**Section 7.4. Removal of Directors.** A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director or Directors elected by the Board may be removed with or without

cause by the vote of a majority of the Directors then in office.

#### **ARTICLE VIII**

##### **INCORPORATORS**

The incorporators of the Corporation are as specified in the original Articles of Incorporation of the Corporation.

#### **ARTICLE IX**

##### **STATEMENT OF PROPERTY**

All assets and liabilities, real, personal, and otherwise are in no way changed by this Amended and Restated Articles of Incorporation and they stand for and constitute all of the assets and liabilities of the Corporation.

#### **ARTICLE X**

##### **PROVISIONS FOR REGULATION OF BUSINESS AND CONDUCT OF AFFAIRS OF THE CORPORATION**

Section 10.1. Powers Exercised by Board. Subject to any limitations or restrictions imposed by law, by these amended Articles of Incorporation or by the Declaration, the Board of Directors of the Corporation is hereby authorized to exercise, in furtherance of the purposes of the Corporation, all the powers of the Corporation without prior authorization or subsequent approval of the Members of the Corporation or of any other person or entities.

Section 10.2. Liability of Members. Neither the individual Members of the Corporation nor their individual property shall be subject to any liability for any debts of the Corporation.

Section 10.3. Dissolution. The Corporation may be dissolved only with the written consent of all Members.

Section 10.4. Distribution of Property On the Voluntary or Involuntary Dissolution of the Corporation. Upon the voluntary or involuntary dissolution of the Corporation, the Board of Directors shall, after paying or making provision for payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation by transferring the same to the Corporation's Members.

Section 10.5. Amendment of Articles of Incorporation. Amendment to the Articles of Incorporation shall require the consent of at least a majority of the Members.

Section 10.6. No Private Benefit. No money or property received or held by the Corporation shall ever inure, directly or indirectly, to the private benefit of any Member, Director or Officer of the Corporation or to any other person whomsoever except for reasonable compensation for services actually rendered to the Corporation.

Section 10.7. Indemnification. The Board of Directors of this Corporation may, at its discretion, indemnify any or all directors, officers, employees, or agents or former directors, officers, employees or agents of the Corporation, as shall be prescribed from time to time in the By-Laws of the Corporation.

Whenever the By-Laws of the Corporation shall not specify any indemnification provisions for the benefit of such above-named persons, all such above-named persons shall have all rights of indemnification as are proscribed in the Act.

Section 10.8. Compensation of Employees. In order to carry out the purposes and activities of the Corporation, such individuals as are deemed necessary may be employed, and each such employee may be paid such compensation for services actually rendered in the course of such employment as may be fixed in the manner provided by the Board of Directors of the Corporation.

Section 10.9. By-Laws. The By-Laws of the Corporation may be amended as set forth in the By-Laws. Said By-Laws may contain other provisions consistent with the laws of the State of Indiana, for the regulation and management of the affairs of the Corporation.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Amended and Restated Articles of Incorporation and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

EDWIN WISEMAN  
Printed

President  
Title

I affirm under penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

form.art

9309874

AMENDMENTS TO THE DECLARATION OF  
CARMELTOWN, INC. PROPERTY OWNERSHIP

The undersigned officer of Carmeltown, Inc., a corporation existing pursuant to the Indiana Not-For-Corporation Act of 1971, and incorporated under the terms and conditions of a certain Declaration of Carmeltown, Inc., said Declaration being recorded in the Hamilton County Recorder's Office on the 31st day of August, 1973, as Instrument No. 5797 at Misc. Book 139, Page 353, said Declaration hereafter referred to as the "Original Declaration", said Original Declaration being thereafter amended and superseded by a certain "Declaration of Carmeltown, Inc. Property Ownership" being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974 as Instrument No. 4213 at Misc. Book 142, Pages 409-426; (hereafter referred to as the "Amended Declaration") and having accepted the provisions of and having been elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended, (the "Act"), gives notice of the amendment of certain provisions of the Declaration which are set forth below.

WHEREAS, Section 28 of the Amended Declaration states that said document may be amended after a resolution concerning the proposed amendments shall have been adopted by a resolution of the Board of Directors of Carmeltown, Inc. and thereafter approved at a meeting of the members of Carmeltown, Inc. by a vote of not less than seventy-five percent (75%) of all Lot Owners; and

WHEREAS, the Board of Directors of Carmeltown, Inc. passed a resolution at a Board of Directors' meeting held in 1992 wherein the Board of Directors approved the following amendments to the Declaration and approved the following to be presented to the members of Carmeltown, Inc. at a special meeting of the membership; and

WHEREAS, after notice was duly given, a special meeting of the Owners was held on March 1, 1993, whereat the Owners of 90 of the 110 total Lots within Carmeltown were present, either in person or by proxy; and

WHEREAS, at said special meeting, 83 of the Owners present in person or by proxy approved the following amendments to the Declaration; and

WHEREAS, the said Owners of 83 lots voting to approve the following amendments constitute more than seventy-five percent (75%) of all Lot Owners within Carmeltown; and

WHEREAS, said Owners, under the authority of the Declaration, wish to make certain changes and amendments to the Declaration as described below.

NOW, THEREFORE, the undersigned Officer of Carmeltown, Inc. hereby executes the following amendments to the "Declaration of Carmeltown, Inc. Property Ownership":

1. Section 1.a. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

a. "Articles of Incorporation" means the Articles of Incorporation of the Association, together with any amendments and restatements thereto. The Articles of Incorporation are incorporated herein by reference.

2. Section 1.d. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

d. "Carmeltown" means the name by which the Tract shall be known. "Carmelaire" shall have the same meaning as "Carmeltown".

3. Section 1.f. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

f. "By-Laws" shall mean the By-Laws of the Association, together with any amendments and/or restatements thereof. The By-Laws shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.

4. Section 1.g. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

g. "Common Areas" means the ground designated as such upon the recorded Plat of Carmeltown.

5. Section 1.i. of the Amended Declaration is hereby amended by deleting the phrase "CARMELAIRE" and replacing such term with "CARMELTOWN" in lieu thereof.

6. Section 7.b. of the Amended Declaration is hereby amended by adding the following sentence to the end thereof:

Such suspension of a Member's rights shall be pursuant to the provisions and procedures set forth in the Indiana Nonprofit Corporation Act of 1991, as the same may be amended from time to time.

7. Section 7.e. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- e. The right of the Association to adopt such rules and regulations regarding the Common Areas and Lots as it deems necessary.

8. Section 11.a. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- a. All Townhouses shall be used exclusively for residential purposes and occupied by a single family. "Single Family" is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants with a common kitchen and dining area.

9. Section 11.d. of the Amended Declaration is hereby amended by adding the following phrase to the end thereof:

or which would adversely affect the health, safety or welfare of other residents.

10. Section 11.e. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- e. No sign, awning, canopy, television or radio antennae, satellite dish, or any other attachment or thing of any kind shall be affixed to or placed upon the exterior walls, roofs or windows or on any parts of any Building without the prior written consent of the Board of Directors.

11. Section 11.f. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- f. No advertising signs (except one "for sale" sign per parcel of not less than five square feet), unsightly objects or nuisance shall be erected, placed or permitted to remain on any Lot or Common Areas, nor shall any Lot or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof.

12. Section 11.j. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- j. No industry, trade or commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property other than home professional pursuits without employees. No Townhouse or Lot shall be used or rented for transient, motel, or hotel purposes.

13. Section 11.1. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

1. No boats, campers, recreational vehicles, commercial vehicles, trailers of any kind, buses, mobile homes, trucks having more than four (4) tires, mopeds, snow mobiles, dune buggies, motorcycles, mini-bikes, or any other nonconventional vehicles of any description, shall be permitted, parked or stored anywhere within the Property unless the same are stored in a garage and not exposed to view. For conventional vehicles, there must be a minimum of two (2) conventional vehicles stored in the Owner's garage before any other conventional vehicle may be parked on any street within Carmelton. No vehicle of any kind is permitted which is not currently licensed, not in operating condition, or parked without being operated for longer than ten (10) days without prior written Board approval. The Board shall have the power to promulgate such other rules and regulations concerning this provision as it deems appropriate, including provisions on enforcing this provision by towing any unauthorized vehicle at the owner's expense.

14. There shall be added new Sections 11.n., 11.o., and 11.p. to the Amended Declaration as follows:

- n. If any Owner or resident of a Lot shall fail to maintain such Lot in accordance with the terms of this Declaration within thirty (30) days of being so notified in writing by the Board of Directors, the Board of Directors or its designated employees, agents or representatives shall have the right to enter upon said Lot to correct such conditions or violations. Any costs or expenses incurred by the Association shall be the responsibility of the Owner of such Lot in the same manner as assessments.
- o. The Board shall have the right to promulgate rules and regulations concerning those portions of the Common Area which may be designated as "No Parking" areas which may be necessary for police, fire or other emergency vehicles to ensure the health, safety and welfare of all residents within Carmelton.
- p. The Board shall have the right to promulgate rules and regulations establishing posted speed limits

for all streets and roads within Carmelton to ensure the health, safety and welfare of all residents.

15. Section 17 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

17. Right of Board of Directors to Adopt Rules and Regulations. The Board of Directors of the Association may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Lots, Townhouses, Common Areas, Garages, Patios, and any other areas of the Property. Such rules as are adopted may be amended by a vote of the majority of the Board of Directors, and the Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.

16. Section 18 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

18. Management Agreement. The Board of Directors of the Association shall be empowered to employ a reputable Business/Maintenance Agent, a Professional Managing Agent or Real Estate Management Company to assist the Board in performing its duties as provided in the Association's By-Laws.

17. Section 21 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

21. Maintenance, Repairs and Replacements.

a. Owners' Responsibilities. Each Owner shall at his or her expense be responsible for the maintenance, repairs, decoration and replacement within his own Townhouse, except as may be otherwise provided herein. All fixtures and equipment installed within the Townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair in and to his or her Townhouse which, if neglected, might adversely affect any Townhouse, Common Area, or the value of the Property. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, gas lines, appliances, doors,

windows, lamps and all other accessories belonging to the Owner and appurtenant to the Townhouse. Each Owner shall be responsible for certain exterior portions of the owners' Townhouse, including all glass surfaces, storm windows and storm doors, patio door screens, window screens, all light fixtures and bulbs, the air conditioner compressor unit, power attic ventilators, dead bolts, garage door openers, awnings of any kind, any structure or addition which any Owner has added to the Townhouse, (with or without Board approval), and any flower beds or planters or any other structure made to hold flowers or plants. Additionally, the Owner shall be responsible for the repair and replacement of any portion of the exterior of a Townhouse which has been caused by the negligence of the Owner or occupants of the Townhouse or by the Owner's guests or invitees.

- b. The Association's Duties. The maintenance, repair, replacement and upkeep of the Common Areas including but not limited to the clubhouse, shed, pool, pool fence, trees and shrubs, streets, curbs, garage aprons, underground storm/sump pump drainage pipes, perimeter fencing, the concrete sidewalk at the northeast corner of Carmelton, and the main line sanitary sewers, including any portions under any Townhouse as shown by the City of Carmel. In addition to the maintenance of the Common Areas, the Association shall also provide exterior maintenance upon each Lot, Garage and Townhouse for the following: Repair, replacement and care of all roofs, and roof decking, gutters, downspouts, exterior wood or metal building surfaces, electrical boxes which contain the electric meters, garage service and overhead garage doors, exterior surface of Townhouse front doors, brick, and any interior damage within a Townhouse as a result of roof leaks, but only if such roof leak damage qualifies for insurance coverage.
- c. Rules and Regulations. The Board of Directors of the Association is empowered to adopt such other rules and regulations concerning maintenance, repair, and replacement.
- d. Willful or Negligent Acts of the Owner. In the event that the need for any maintenance, repair or replacement results from the willful or negligent act of the Owner, his or her family, guests or invitees, and is not covered or paid for by any

insurance on such Lot, any cost of such maintenance or repair incurred by the Association shall be the Owner's responsibility and shall be added to and become a part of the assessment to which his Lot is subject.

18. Section 22 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

22. Alterations, Additions and Improvements. No exterior additions or alterations to any Townhouse, Lot or any portion of the Common Areas or changes in fences, walls and any other structure shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, materials, exterior color and finish, and location of the same shall have been submitted to and approved in writing as to harmony of external design, color, location in relation to surrounding structures and topography by the Architectural Committee as defined in Article XI of the By-Laws or by the Board of Directors. In the event the Board or the Committee fail to approve or disapprove such request within ninety (90) days after said plans and specifications have been submitted to it, approval will not be required and this section will be deemed to have been fully complied with.

The Board or the Committee may inspect work performed or being performed to assure compliance with this section. Any request for any exterior addition or alteration will be considered on an individual basis; the prior approval by the Board or the Committee for other Townhouses does not constitute approval of any addition or alteration for any other Townhouses in Carmelton. These rules shall not apply to any additions or alterations constructed prior to the date of the recording of these Amendments to the Declaration. However, if any such prior additions or alterations need to be replaced or substantially repaired after the recording of these Amendments to the Declaration, these rules shall apply.

19. Section 23 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

20. Party Walls.

- a. General Rules of Law to Apply. Each wall which is built as part of the original

construction of the Townhouses upon the Property and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

- b. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- c. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, subject, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- d. Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- e. Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.
- f. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the binding decision shall be by a majority of all the arbitrators.

21. Section 26 of the Amended Declaration is hereby amended by deleting the phrase "Carmelaire" and replacing in lieu thereof

with the phrase "Carmeltown". Furthermore, the caption or title of said Section 26 is hereby amended to read "LEASE OF LOT BY OWNER".

22. Section 26.b of the Amended Declaration is hereby deleted in its entirety.

23. Section 33 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

33. Assessments. Assessments and payments of assessments shall be as follows:

a. Creation of the Lien and Personal Obligation of Assessments. Each purchaser of any Lot within the Property by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

- (1) Regular Assessments; and
- (2) Special Assessments for capital improvements or unexpected expenditures;

such assessments to be fixed, established and collected from time to time as hereinafter provided. The Regular and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them, but such delinquent accounts shall remain a lien upon the Lot subject to foreclosure.

b. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in Carmeltown and, in particular, for the improvement and maintenance of the

Property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Common Area and of the Lots situated upon the Property as more fully set forth in this Declaration. The assessment shall also be for the purpose of providing such municipal services including, but not limited to, trash and garbage pick-up which are not provided by the local municipal authorities and for such items of repair, maintenance and alteration of the Property as the Board of Directors may, by appropriate action, from time to time authorize through the promulgation of rules and regulations.

- c. Accounting. Every four (4) years and/or at change of Business/Maintenance Managers, the Board of Directors shall cause to be prepared and furnished to each member a financial statement prepared by a certified public accountant then serving the Association. The financial statement (also known as the Annual Report) should show all receipts and expenses received, incurred or paid each of the fiscal years.
- d. Proposed Annual Budget. Annually, prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnishing a copy of such proposed budget to each Member at least two (2) weeks prior to the annual meeting together with the notice of the annual meeting. Such proposed budget shall be based upon generally accepted accounting principles. If the annual budget is not approved at the annual meeting for any reason, the Board of Directors reserves the right to proceed with a budget that does not exceed the previous budget by five percent (5%).

After the annual meeting at which the budget is presented and approved (if needed), the regular assessments shall commence as to each Lot as of April 1st. The failure of the Board to prepare an annual budget and to furnish a copy thereof to the Owners shall

not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined.

- e. Uniform Rate of Assessments. Both Regular and Special Assessments shall be fixed at a uniform rate for all Lots.
  
- f. Regular Assessments. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his or her Lot (herein called the "Regular Assessment"). The Regular Assessment against each Lot shall be paid in advance in equal monthly installments, commencing on the first day of April of such calendar year and on the first day of each month thereafter through and including the following March 1st. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or an officer of the Association as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments quarter or semi-annually, in advance. Monthly installments of Regular Assessments shall be due and payable automatically on their respective due dates without further notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statement to Owners for the same. The Regular Assessment for the year shall become a lien on each separate Lot as of April 1st of each calendar year, even though the final determination of the amount of the Regular Assessment may not have been made by that date.

In addition to meeting the estimated cash requirement for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Area and those portions of the Lots and/or Townhouses for which the Association is responsible to provide maintenance, repair and replacement, which replacement reserve fund shall be used only

for those purposes and not for the usual and ordinary repair expenses of the Association.

g. Special Assessments for Capital Improvements.

In addition to the Regular Assessments authorized above, the Association may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Property, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-third (2/3) of those members voting, in person or by proxy, at a meeting duly called for this purpose at which a quorum is present, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

h. Failure of Owner to Pay Assessments.

- (i) No Owner may exempt himself from paying Regular and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such Assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments, within ten (10) days after such are due, the Board, in its discretion may (1) impose a late charge of up to twenty-five percent (25%) of the amount in default, (2) eliminate

such Owner's right to use the recreational facilities and any other part of the Common Areas as provided in the Indiana Nonprofit Corporation Act of 1991 ("Act"), and (3) eliminate such Owner's right to vote as provided in the Act. In addition, if any Regular or Special Assessment is not paid within thirty (30) days after the due date, such assessment, together with any applicable late charges, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Lot.

- (b) Notwithstanding anything contained in this Section or elsewhere in this Declaration and the By-Laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such

installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).

- i. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment. Sale or transfer of any Lot shall not affect the assessment lien.
  
- j. Notice of Unpaid Assessments. The Association shall furnish to a mortgagee or purchaser a statement setting forth the amount of the unpaid Regular or Special Assessments against the Lot, which statement shall be binding upon the Association and the members and any mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for the unpaid assessments in excess of the amount set forth in such statement.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Amendment to the Declaration of Carmeltown, Inc. Property Ownership and certify the truth of the facts herein stated, this day of March 15, 1993.

Edwin Wiseman  
Signature  
EDWIN WISEMAN  
Printed  
V. President  
Title

STATE OF INDIANA )  
COUNTY OF Hamilton )

Before me a Notary Public in and for said County and State, personally appeared Edwin Wiseman, the \_\_\_\_\_ of Carmeltown, Inc. Property Ownership, who acknowledged execution of the foregoing Amendments to the Declaration of Carmeltown, Inc. Property Ownership for and on behalf of said association and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 15 day of March, 1993.

Victoria Stern  
Notary Public Victoria Stern

My Commission Expires:  
6/19/95

Residence County: Hamilton

THIS INSTRMENT PREPARED BY AND SHOULD BE RETURNED TO P. THOMAS MURRAY, LEWIS & KAPPES, 1210 ONE AMERICAN SQUARE, INDIANAPOLIS, INDIANA 46282.

carstwna.doc

03 MAR 19 04:17  
15

AMENDED AND RESTATED CODE OF BY-LAWS OF  
CARMELTOWN, INC.  
A Nonprofit Corporation

ARTICLE I

NAME

Section 1.1. Name. The name of this Corporation is Carmeltown, Inc. (hereinafter referred to as "Corporation").

ARTICLE II

IDENTIFICATION & APPLICABILITY

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Property and the administration, the welfare, the social activities and conduct of the affairs of the Corporation. These By-Laws shall also constitute the By-Laws of the Corporation.

Section 2.2. Individual Application. Each of the Owners within Carmeltown shall automatically and mandatorily be members in the Corporation and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213, at Book 142, Pages 409 through 426, the Articles of Incorporation, the rules and regulations of the Corporation and of the provisions hereof. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), as all the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Amended and Restated Articles of Incorporation and these Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Amended and Restated Articles of Incorporation and these Amended and Restated Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

## ARTICLE III

### MEETINGS OF CORPORATION

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, receiving and approving the annual budget, and for such other purposes as may be required by the Declaration, these By-Laws, the Articles, or the Act.

Section 3.2. Annual Meeting. The annual meeting for the Members of the Corporation shall be held on the 1st Tuesday of March in each calendar year. At each annual meeting, the Owners shall elect the Board of Directors and approve the annual budget of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Members of the Corporation may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the Lots. The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 3.4. Notice and Place of Meetings. All meetings of the members of the Corporation shall be held at any suitable place in Hamilton County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Corporation to each member entitled to vote there at not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Owners as part of a newsletter or other publication regularly sent to the Owners constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a

representative to attend the meeting. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 3.6. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one vote for each Lot owned on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Lots then in Carmeltown, as the same shall have been finally plated from time to time, to determine the respective proportions of Owners supporting or opposing such matter, or by the number of Lots the Owners of which are present or represented at such meeting, to determine the respective proportions of Owners present or represented at such meeting supporting or opposing such matter. In voting for directors, each Owner (or his representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his votes. To the extent provided in the Act, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Corporation, but all of such persons or entities shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of

the Corporation stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Corporation prior to the commencement of the meeting. No such proxy shall remain valid for longer than one (1) year from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles or the Act, the presence of Owners or their duly authorized representatives owning at least fifty percent (50%) of the total Lots shall constitute a quorum at all meetings. As used elsewhere in these By-Laws, the term "majority of Owners", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Owners as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting at which a quorum is present.

Section 3.7. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Corporation. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the members held subsequent thereto, unless such reading is waived by a majority of the vote.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior fiscal year and the proposed budget for the next year which shall commence on April 1st.

(3) Budget. The proposed budget for the following fiscal year shall be presented to the Owners for approval or amendment, if necessary.

(4) Election of Board of Directors. A slate of nominees shall be presented by the Nominating Committee. Further nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations with prior approval of the nominee must be in writing and presented to the Secretary of the Corporation at least ten (10) days prior to the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(6) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) Adjournment. Upon completion of all business before the Corporation, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming fiscal year.

Section 3.8. Conduct of Special Meeting. The President of the Corporation shall act as Chairman of any special meetings of the Corporation if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

## ARTICLE IV

### BOARD OF DIRECTORS

Section 4.1. Board of Directors. The affairs of the Corporation shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of five (5) persons who each own at least one (1) Lot. The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed nine (9). If the number of Directors is ever greater than five (5), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than five (5) nor more than nine (9) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his term. In the event the number of Directors is increased as provided herein, the election of the additional Director or Directors shall be by a vote of the members according to a procedure established by the Board by resolution.

The immediate past President of the Corporation may be appointed to an additional year of service on the Board by a majority vote of the Board. If such past President is so appointed, he or she shall serve only in an advisory capacity and shall be a non-voting member of the Board.

Section 4.2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time. Additionally, if an Owner owns more than one (1) Lot, no such persons having an ownership interest in said Lots or, in the case of a partnership, corporation, trust or other legal entity owning said Lots, no partners, officers or trustees of such entities, shall be eligible to serve on the Board of Directors other than one (1) person from said entities.

Section 4.3. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of three (3) years. One-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Corporation. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with a Board

consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 4.4 of this Article IV. Each Director shall hold office throughout the term of his election until his successor is elected and qualified.

The Directors shall appoint an Election Committee comprised of Members of the Corporation who shall not then be members of the Board. The Election Committee shall conduct the election of the Board of Directors with ballots submitted by the Nominating Committee.

Section 4.4. Removal of Directors. A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. However, a Director or Directors elected by the Board to fill the vacancy of a Director elected by the Owners may be removed without cause by the Owners but not by the Board.

Section 4.5. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Corporation, social activities and welfare of Owners within Carmelton, the maintenance, upkeep and replacement of the Common Areas and the collection and disbursement of the Common Expenses. These duties include, but are not limited to, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Business/Maintenance Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining private streets, parking areas, and sidewalks in Common Areas, to the extent the same are not included within the description of a Lot and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each fiscal year, which accounting shall be delivered to each Owner within three (3) months of the close of the Association's fiscal year;
- (h) The Board shall establish policies and procedures for maintaining the Corporation's business records. These shall include: (1) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property; (2) Specifying and itemizing the Common Expenses; (3) Matters concerning computer software, applications, documentation, logons, operations manuals, and data. A current copy of the Corporation's business records (i.e., contracts), including software applications and manuals, shall be maintained in a fireproof box or bank vault. Updated weekly, all records shall be available for inspection by any Owner provided an appointment is made.
- (i) Appoint a Nominating Committee and Election Committee at least forty-five (45) days prior to the Annual Meeting.
- (j) Appoint an Architectural and Grounds Committee.
- (k) Appoint an auditor with no membership in the corporation, no ownership interests in Carmelton, and no other affiliation of the Corporation or its Members.

Section 4.6. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a reputable Business/Maintenance Agent, a professional managing agent or real estate management company (either being hereinafter referred to as "Business/Maintenance Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods.

(b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and improvements on the Lots and the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners, the Corporation;

(d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business, social activities, welfare and affairs of the Corporation;

(e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas;

(f) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Corporation; and

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the

Property provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.7. Limitations on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Two Thousand Five Hundred Dollars (\$2,500.00), unless the prior approval of a majority of Owners is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as presented to the Owners at the annual meeting and, if necessary, approved by the Owners at such annual meeting.

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

The said \$2,500.00 maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price Deflator or any comparable, successor index.

Section 4.8. Compensation. No Director or Officer shall receive any compensation for his services as such.

Section 4.9. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. All such meetings shall be open to all Members of the Corporation. Members who wish to address the Board or to present matters within the constraints of the agenda may do so. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to

the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a director may conduct or participate in a regular or special meeting of the Board of Directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is considered to be present in person at the meeting.

Section 4.10. Waiver of Notice. Before or after any meeting of the Board, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.11. Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.12. Bond. The Board of Directors may require the Business/Maintenance Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.13. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

## ARTICLE V

### OFFICERS

Section 5.1. Officers of the Corporation. The principal officers of the Corporation shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer

and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Corporation and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Corporation and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Corporation's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Corporation or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately the financial condition of the Corporation and such other duties incident to the office of Treasurer. He shall be legal custodian

of all monies, notes, securities, and other valuables which may from time to time come into possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Corporation. The Treasurer may permit the Business/Maintenance Agent, if any, to handle and account for monies and other assets of the Corporation to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time hire, designate or elect from among the Owners an Assistant Secretary, an Assistant Treasurer or Advisory Officers, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

## ARTICLE VI

### ADDITIONAL RIGHTS AND DUTIES OF BOARD

Section 6.1. Right of Entry. An Owner or occupant of a Lot shall be deemed to have granted the right of entry to his Lot or Townhouse to the Board, the Business/Maintenance Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Lot or Townhouse, the Building located thereon, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Lot or Townhouse for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 6.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation, social activities, and welfare of the Property as the Board may deem desirable, including but not limited to the use of the Common Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

## ARTICLE VII

### AMENDMENT TO BY-LAWS

Section 7.1. Amendment. These By-Laws may be amended by an affirmative vote of sixty-six percent (66%) of those Owners present, in person or by proxy, at a duly constituted meeting called for such purpose at which there is a fifty percent (50%) quorum, except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

## ARTICLE VIII

### NOTICES AND MORTGAGES

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot or Townhouse or the Mortgagee thereof may notify the Secretary of the Corporation and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.2. Notice of Assessments. Upon ten (10) days written notice to the Corporation, the Corporation shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot or Townhouse, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Lot, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Corporation in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.3. Availability of Information. The Corporation shall keep and shall make available to prospective purchasers of

Lots, upon request at reasonable business hours, copies of the Declaration, Articles of Incorporation, By-Laws, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Association.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1. Fiscal Year. The fiscal year of the Corporation shall commence on April 1 and end on March 31 of the following year.

Section 9.2. Personal Interests. Except as provided in Section 5.7 above, no member of the Corporation shall have or receive any earnings from the Corporation, except a member who is an officer, director, employee, or agent of the Corporation may be reimbursed for expenses incurred on the Corporation's behalf.

Section 9.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer and at least one other officer of the Corporation.

Section 9.4. Parliamentary Procedure. The parliamentary rules of procedure contained in the current edition of Roberts Rules of Order shall govern the affairs of the Corporation to the extent they are not inconsistent with these By-Laws, the Articles of Incorporation, the Act, or the Declaration.

## ARTICLE X

### INDEMNIFICATION

Section 10.1. Indemnification of Directors. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

Section 10.2. Indemnification of Officers. To the extent not inconsistent with the laws of the state of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as

hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation to the same and fullest extent that directors are indemnified by the Corporation as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

## ARTICLE XI

### COMMITTEES

Section 11.1. Board's Appointment. The Board of Directors shall be responsible for appointing through a majority vote of the Board, the committees described below and such other committees from time to time which may assist the Board in performing its duties. In the event of any non-functioning committee, the duties and responsibilities revert to the Board of Directors.

Section 11.2. Election Committee. The Election Committee shall function at all membership elections of directors. The Committee shall function in the manner prescribed by the parliamentary authority for secret ballots. The Committee shall be responsible for preparing the written ballot which shall contain the names of the slated candidates and contain sufficient space to write in the name of candidates nominated from the floor for each vacant Director's position.

Section 11.3. Nominating Committee. The Nominating Committee shall function prior to and at all membership elections of Directors. The Committee shall function as prescribed by the parliamentary authority and shall slate at least one candidate for every vacant Director's position.

Section 11.4. Architectural Committee. The Architectural Committee is responsible for overseeing the covenants found in the Declaration. The committee shall be composed of at least three (3) members and no more than seven (7) members. The Committee will review and make recommendations to the Board regarding changes and requests made by Owners described in Section 22 of the Declaration. The Board may, in its discretion, ask the Committee for recommendations regarding maintenance priorities or other appropriate questions that may arise.

Section 11.5. Pool Committee. The Pool Committee shall develop Rules and Regulations governing both the Pool and the Clubhouse, and shall present them to the Board for adoption. The Committee shall be responsible for updating the rules as may be required from time to time.

The committee shall have oversight authority regarding the budget and maintenance of these facilities and shall make recommendations regarding these matters to the Board of Directors.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

Edwin Wiseman  
Printed

President  
Title

I affirm under the penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE

To Whom These Presents Come, Greeting:

CERTIFICATION OF INCORPORATION

CARMELTOWN, INC.

I, LARRY A. CONRAD, Secretary of State of the State of Indiana, hereby certify that Articles of Incorporation of the above not for profit Corporation, in the form prescribed by my office, prepared and signed in duplicate by the incorporator(s) and acknowledged and verified by the same before a Notary Public, have been presented to me at my office accompanied by the fees prescribed by law; that one copy of such Articles has been filed in my office; and that the remaining copy or copies of such Articles bearing the endorsement of my approval and filing has been returned by me to the incorporator or his representatives, all as prescribed by the Indiana Not-For-Profit Corporation Act of 1971.

Wherefore, I hereby issue to such Corporation this Certificate of Incorporation, and further certify that its corporate existence has begun.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis

this 31<sup>st</sup> day of

August 1973

LARRY A. CONRAD

Secretary of State

By:

Deputy

ARTICLES OF INCORPORATION  
(Not for Profit)

Prescribed by Larry A. Conrad,  
Secretary of State of Indiana

INSTRUCTIONS:

Use 8 1/2 x 11 Inch Paper for Inserts

Present 2 Executed Copies to Secretary of  
State, Room 155, State House, Indianapolis,  
Indiana 46204

FILED FEE is \$13.00

General Requirements "Non-Profit" means  
that the Corporation shall not engage in any  
activities for the pecuniary gain of its  
members.

APPROVED  
AND  
FILED  
AUG 3 1973  
*[Signature]*  
SECRETARY OF  
STATE OF INDIANA

ARTICLES OF INCORPORATION  
OF

..... CARMELTOWN, INC. ....

The undersigned incorporator or incorporators, desiring to form a corporation hereinafter referred to as the "Corporation" pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971, (hereinafter referred to as the "Act"), executed the following Articles of Incorporation.

ARTICLE I

Name

The name of the Corporation is . . . CARMELTOWN, INC. . . . .  
(The name shall include the word "Corporation" or "Incorporated", or one of the abbreviations thereof.)

ARTICLE II

Purposes

The purposes for which the Corporation is formed are:

To own and manage at no profit, certain real estate located in Hamilton County, State of Indiana, specifically designated as "The Common Areas" in the Declaration of Carmeltown, Inc., as recorded the ~~30th~~ day of AUGUST, 1973 in the Office of the Recorder of Hamilton County, Indiana.

**ARTICLE III**  
**Period of Existence**

The period during which the Corporation shall continue is . . . perpetual . . .  
(will either be "Perpetual", or, it to be limited, some definite period of time.)

**ARTICLE IV**  
**Resident Agent and Principal Office**

Section 1. Resident Agent. The name and address of the Resident Agent in charge of the Corporation's  
principal office is . . . David G. Evans . . . . .  
(Name)

5923 Camelback Court . . . . . Carmel, . . . . . INDIANA . . . . . 46032 . . . . .  
(Number and Street or Building) (City) (State) (Zip Code)

Section 2. Principal Office. The post office address of the principal office of the Corporation is . . . . .

5923 Camelback Court . . . . . Carmel, . . . . . INDIANA . . . . . 46032 . . . . .  
(Number and Street or Building) (City) (State) (Zip Code)

**ARTICLE V**  
**Membership**

(A minimum of three (3) shall have signed the membership list. Directors or Trustees or Incorporators  
are included in the Membership.)

Section 1. Classes. (If any)

See By-Laws

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes

See By-Laws

Section 3. Voting Rights of Classes.

*PLEASE NOTE: This Corporation shall confer upon every member a certificate signed by the President (or  
the Presidents and Secretaries (or Assistant Secretaries), stating that he is a member of the Corporation.*

**ARTICLE VI**  
**Directors**

Section 1. Number of Directors. The initial Board of Directors is composed of Three members. If the exact number of Directors is not stated, the minimum number shall be Three and the maximum number shall be Nine. Provided, however, that the exact number of directors shall be prescribed from time to time in the By-Laws of the Corporation: AND PROVIDED FURTHER THAT UNDER NO CIRCUMSTANCES SHALL THE MINIMUM NUMBER BE LESS THAN THREE (3).

Section 2. Names and Post Office Addresses of the Directors. The name and post office addresses of the initial Board of Directors are:

Name	Number and Street or Building	City	State	Zip Code
David G. Evans	5923 Camelback Ct.	Carmel,	Indiana	46032
Joseph Dawson	1001 Broad Ripple Ave.,	Indpls.,	Indiana	46220
James J. Nelson	6366 N. Guilford Ave.	Indpls.,	Indiana	46220

**ARTICLE VII**  
**Incorporator(s)**

Section 1. Names and Post Office Addresses. The names and post office address(es) of the incorporator(s) of the Corporation is (are) as follows:

Name	Number and Street or Building	City	State	Zip Code
David G. Evans	5923 Camelback Ct.	Carmel,	Indiana	46032
Joseph Dawson	1001 Broad Ripple Ave.,	Indpls.,	Indiana	46220
James J. Nelson	6366 N. Guilford Ave.	Indpls.,	Indiana	46220

**ARTICLE VIII**  
**Statement of Property (If any)**

A statement of the property and an estimate of the value thereof, to be taken over by this corporation at or upon its incorporation are as follows:

NONE

**ARTICLE IX**  
**Provisions for Regulation and Conduct**  
**Of the Affairs of Corporation**  
**(Can be the "By Laws")**

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of this corporation, and creating, defining, limiting or regulating the powers of this corporation, of the directors or of the members or any class or classes of members are as follows:

See By-Laws

The undersigned, being one or more persons, do hereby adopt these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list, or lists of the above named corporation for which a Certificate of Incorporation is hereby applied for, have heretofore been opened in accordance with the law and that at least three (3) persons have signed such membership list.

IN WITNESS WHEREOF, I (we) the undersigned do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 18th day of July, 1973.

*James G. Nelson*  
(Written Signature)

James G. Nelson  
(Printed Signature)

*David G. Evans*  
(Written Signature)

David G. Evans  
(Printed Signature)

*Joseph Dawson*  
(Written Signature)

Joseph Dawson  
(Printed Signature)

NOTARY ACKNOWLEDGEMENT  
(required)

State of Indiana

SS:

County of DELAWARE

Before me, Deborah Jean Davis, a Notary Public in and for said county and State, personally appeared the above incorporator(s) and (severally) acknowledged the execution of the foregoing Articles of Incorporation.

Notary Seal  
Required

*Deborah Jean Davis*  
(Written Signature)

Deborah Jean Davis  
(Printed Signature)  
Deborah Jean Davis, Notary Public

My commission expires February 2, 1977

WITNESS my hand and Notarial  
Seal this 18th day of July, 1973

This instrument was prepared by [Name]

(Name) (Address) (City) (State) (Zip Code)

4213

BOOK 142 PAGE 409

DECLARATION OF CARMELTOWN, INC.  
PROPERTY OWNERSHIP

This Instrument Recorded May 23, 1927  
JUNE M. HEDGES, RECORDER, HAMILTON COUNTY, IND.

DECLARATION OF CARMELTOWN, INC.  
PROPERTY OWNERSHIP

BOOK 142 PAGE 410

TABLE OF CONTENTS

	Page
1. Definitions	
2. Declaration	
3. Description of CARMELTOWN	
4. Description of Townhouses	
5. Lots and Easements	
6. Common Area	
7. Ownership of Common Areas	
8. Delegation of Use of the Common Areas	
9. Encroachments and Easements in Common Areas	
10. Carports	
11. Covenants and Restrictions	
12. Costs and Attorneys' Fees	
13. Waiver	
14. Severability Clause	
15. Plat	
16. Easements for Utilities and Public and Quasi Public Vehicles	
17. Right of Board of Directors to Adopt Rules and Regulations	
18. Management Agreement	
19. Real Estate Taxes	
20. Utilities	
21.- Maintenance, Repairs and Replacements	
22. Alterations, Additions and Improvements	
23. Party Walls	
24. Insurance	
25. Casualty and Restoration	
26. Sale and Lease of Lot by Owners	
27. Notice to Association of Mortgage	
28. Amendment of Declaration	
29. Acceptance and Ratification	
30. Negligence	
31. Insurance (Waiver)	
32. Association and Assessments	

DECLARATION OF CARMELTOWN, INC.  
PROPERTY OWNERSHIP

BOOK 142 PAGE 111

Carmel, Indiana

THIS AMENDED DECLARATION of Carmeltown, Inc., made this 22nd day of May, 1974, by Joseph S. Dawson, for himself, his successors, grantees and assigns,

WITNESSETH:

This declaration amends and supersedes in their entirety the following:

Declaration of Carmeltown, Inc., recorded the 31st day of August, 1973, in the Office of the Recorder of Hamilton County, Indiana, in ~~Plat~~ Book 139, Pages 353 through and including Page 366 as Instrument No. 5797.

A. Declarant is the sole owner in fee simple title to the following described real estate located in Hamilton County, Indiana, to-wit:

SEE SCHEDULE "A"

B. Declarant by execution of this Declaration assures that all properties which are conveyed which are a part of the land shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof; their heirs, successors, and assigns, and shall inure in the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. **DEFINITIONS.** The following terms as used in this Declaration unless the context clearly requires otherwise, shall mean the following:
  - a. "Articles of Incorporation" means the Articles of Incorporation of the Association. The Articles of Incorporation are incorporated herein by reference.
  - b. "Association" means CARMELTOWN, INC., its successors and assigns, a not-for-profit corporation, organized and existing under the laws of the State of Indiana, whose Membership shall be composed of the Owners of Lots.
  - c. "Board of Directors" means the Board of Directors of the Association.
  - d. CARMELAIRE means the name by which the Tract shall be known.
  - e. "Building" means any separated structure(s) which has two or more Townhouses.
  - f. "By-Laws" shall mean the By-Laws of the Association. The By-Laws shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.
  - g. "Common Areas" means the ground designated as such upon the recorded Plat of CARMELAIRE.

- h. "Common Expenses" means expenses for administration of the Association, for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums assessed against the Owners by the Association.
- i. "Lot" means any plot of ground designated as such upon the recorded Plat of CARMELAIRE, and upon which one (1) Townhouse is constructed or is to be constructed. "Lot" shall be deemed to include the Townhouse, if located thereon.
- j. "Member" means a member of the Association.
- k. "Mortgagee" means the holder of a first mortgage lien on a Lot.
- l. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple absolute title to a Lot.
- m. "Plat" means the survey of the Tract, including therein the Lots and Common Areas prepared by Allen H. Weihe, certified by Allen H. Weihe, a registered land surveyor, under date of 6/7/72, and recorded in Plat Book 4, Page 97, in the Office of the Recorder of Hamilton County, Indiana, which is incorporated herein by reference.
- n. "Property" means the Tract and appurtenant easements, the Lots, Townhouses, Buildings, other improvements on and all property of every kind and nature whatsoever, real, personal, or mixed located upon the Tract, and used in connection with the operation, use and enjoyment of CARMELTOWN, INC.
- o. "Townhouse" means the living unit located upon a Lot.
- p. "Tract" means the real estate described in Paragraph "A" above.
2. DECLARATION. Declarant hereby expressly declares that all properties which are conveyed which are a part of the land shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors and assigns, and shall inure in the benefit of each Owner.
3. DESCRIPTION OF CARMELAIRE. CARMELAIRE consists of 110 lots numbered 1 through 110, inclusive, together with the Common Areas as set forth on the Plat. The size of Lots and Common Areas are as designated on the Plat. The legal description for each Lot in CARMELAIRE shall be as follows:
- Lot \_\_\_\_\_ in CARMELAIRE, a subdivision recorded in Plat Book 4, Page 97, in the Office of the Recorder of Hamilton County, Indiana.
4. DESCRIPTION OF TOWNHOUSES. Each Townhouse shall consist of that portion of the Building situated on a Lot

including but not limited to all fixtures, utilities, equipment, appliances and structural components designed and intended for the exclusive enjoyment, use and benefit of the Townhouse wherein the same are located, or to which they are attached. Townhouse shall not include the above which are intended for the use, benefit, support, safety and enjoyment of any other Townhouse, or which may be necessary for the safety, support, maintenance, use and operation of any of the Buildings, or which are normally designed for common use. All fixtures, equipment, and appliances designed or intended for the exclusive enjoyment, use and benefit of a Townhouse shall constitute a part of such Townhouse whether or not the same are located within or partly within the boundaries of such Townhouse.

5. Lots and Easements. The boundaries of each Lot in CARMEL-AIRE shall be as shown on the Plat, provided, however, in the event the vertical boundary line of any Townhouse does not coincide with the actual Lot line for whatever reason, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, in accordance with the existing construction, and shall extend to the intersection of the perpendicular lot lines. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in and to such base line outside the actual boundary line of the Lot.
6. COMMON AREAS. The definition of Common Areas include all areas not designated as a lot on the recorded Plat of CARMELAIRE:
7. OWNERSHIP OF COMMON AREAS. The Common Areas shall be owned by the Association, CARMELTOWN, INC., and shall be conveyed to CARMELTOWN, INC., by the Declarant on or before the date the first lot is transferred to an owner. The Association shall hold the Common Area for the use and enjoyment of the Members of the Association. The Membership rights to the Common Areas shall be subject to the provisions of this Declaration including but not limited to the following:
  - a. The right of the Association to charge reasonable admission and other fees for use of any recreational facility.
  - b. The right of the Association to suspend any Member from the right to use any Common Area for any period during which any assessment against such Member's lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Board's published rules and regulations.
  - c. The right of the Association upon approval by a written instrument signed by two-thirds of the Members 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 by the Association.
  - d. The right of the Association or its Board of Directors

to determine the time and manner of use of the recreational facilities by the Members.

- e. The right of the Association to adopt such rules and regulations regarding the Common Areas as it deems necessary.
8. DELEGATION OF USE OF THE COMMON AREAS. Any member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Association, his right of enjoyment, and use of the Common Areas and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.
9. ENCROACHMENTS AND EASEMENTS IN COMMON AREAS. The Declarant hereby grants an easement for ingress and egress over the Common Areas in favor of any or all owner(s). If for any reason, a Common area encroaches upon any lot, an easement shall be deemed to exist in favor of the Association.

Each Owner shall have an easement of use in common with Owner(s) to all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in or on the Townhouse(s) or in the Common Area and serving his Townhouse.

10. GARAGES. The usage of the garages shall be subject to such rules and regulations as the Board of Directors may from time to time adopt.
11. COVENANTS AND RESTRICTIONS. The following covenants and restrictions on the use and enjoyment of the Lots, Common Areas and Property are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner or by the Association. The Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from such violation:
  - a. All Townhouses shall be used exclusively for residential purposes and occupied by a family.
  - b. All buildings or structures erected upon the Lots shall be of new construction and shall be Townhouses joined together by a common exterior roof and foundation.
  - c. No additional buildings shall be erected or located on the Property other than on the Lots or as otherwise shown on the Plat or approved in writing by the Board of Directors.
  - d. Nothing shall be done or kept in any Townhouse or in the Common Area which will cause an increase in the rate of insurance on any building or the contents thereof, which would result in the cancellation of insurance on any building or the contents thereof.
  - e. No sign, awning, canopy, television antennae, or other attachment or thing shall be affixed to or placed upon the exterior walls, roofs or windows or on any parts

of any Building without the prior consent of the Board of Directors.

- f. No advertising signs (except one "for sale" or one "for rent" sign per parcel of not more than five square feet), unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot or Common Area, nor shall any Lot or Common Areas be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. The Declarant or the Builder of the Townhouses may maintain on the Lot, Common Area, or other property during the period of construction and sale of the Townhouses such facilities as Declarant or the Builder deems necessary to the construction and sale of the Lots and Townhouses including but not limited to a business office, storage area, construction yards, signs, model units and sales office.
- g. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Townhouse or in the Common Area, except that dogs, cats or customary household pets may be kept provided they are not kept, bred or maintained for any commercial purposes, and do not create a nuisance, and further provided that the Board may adopt from time to time such rules and regulations regarding pets as it may deem necessary and any Owner having such pet shall be fully liable for any damage to the Common Area caused by his pet.
- h. Nothing shall be done or permitted in any Townhouse which will impair the structural integrity of any Building or Townhouse or impair any easement. No Owner shall do any act or allow any condition to exist which would adversely affect the other Townhouses or their Owners.
- i. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed from any Townhouse or any Lot including but not limited to the Patio where such would be viewable from any part of the Common Area, nor shall any such items be hung out or exposed on any part of the Common Area. All Lots and the Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.
- j. No industry, trade or any commercial or religious activity, educational or otherwise designed for profit, altruism, or otherwise, shall be conducted, practiced or permitted on the Property, provided, however, that this shall not apply to the business activities, if any, of Declarant, his agents or assigns during the construction and sale period, or of CARMELTOWN, INC., its successors and assigns, acting in furtherance of its powers and purposes.
- k. All Owners and members of their families, guests or invitees, and all occupants of any Townhouse or any other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of

1. No boats, campers, trailers of any kind, buses, mobile homes, trucks or any other unconventional vehicles of any description shall be permitted parked, or stored, anywhere within the Property.
- m. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas except with express written permission from the Board of Directors.
12. COSTS AND ATTORNEYS' FEES. In any proceeding arising because of an alleged failure of an Owner to comply with any provision of the Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.
13. WAIVER. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot.
14. SEVERABILITY CLAUSE. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of any or all of the remaining provisions of this Declaration.
15. PLAT. The Plat setting forth the layout, locations and dimensions of each lot, and of the Common Areas in CARMELAIRE, is incorporated into this Declaration by reference and has been filed in the Office of the Recorder of Hamilton County, Indiana, as of the 28th day of July, 1972, as Instrument No. 6337.
16. EASEMENT FOR UTILITIES AND PUBLIC AND QUASI PUBLIC VEHICLES. All public and quasi public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles and privately owned delivery vehicles shall have the right to enter upon the streets and Common Areas in the performance of their duties. All utilities and their agents shall also have the right to enter upon the streets and common areas in the performance of their duties, provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed and approved by Declarant on the Plat or as thereafter approved by the Board of Directors. All such installations shall be underground. The electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the property and to affix and maintain electrical telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Townhouses. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant or the Board of Directors shall have the right to grant such easement on such Common Areas without conflict with the terms of this paragraph. The easements granted herein shall

in no way affect or impair any other easement of record on the Property.

17. RIGHT OF BOARD OF DIRECTORS TO ADOPT RULES AND REGULATIONS. The Board of Directors may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas, Garages, Patios, and other areas not covered by the Townhouse(s). Such rules as are adopted may be amended by vote of a majority of the Board, and the Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.

Declarant shall have the right to approve or disapprove the promulgation of rules and regulations regarding the operation of the property including but not limited to the use of the Common Areas, Garages, Patios and other areas not covered by Townhouses so long as Declarant owns five lots.

18. MANAGEMENT AGREEMENT. The Board of Directors shall enter into a management agreement with Joseph S. Dawson for the management of CARMELTOWN, INC., for a period of three (3) years following the sale of first Lot. Joseph S. Dawson shall be permitted to assign and transfer the duties and responsibilities to be provided by said Company under the above mentioned management agreement.
19. REAL ESTATE TAXES. Real Estate Taxes are to be separately assessed and taxed to each Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Association and treated as a Common Expense.
20. UTILITIES. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expense unless otherwise determined by the Association.
21. MAINTENANCE, REPAIRS AND REPLACEMENTS. Each Owner shall at his expense be responsible for the maintenance, repairs decoration and replacement within his own Townhouse, except as may otherwise be provided herein. All fixtures and equipment installed within the Townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse, shall be maintained and kept in repair by the owner thereof. Each Owner shall promptly perform all maintenance and repair in his Townhouse, which if neglected, might adversely affect any Townhouse, Common Area or the value of the Property. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances, doors, windows, lamps and all other accessories belonging to the Owner and appurtenant to the Townhouse. Maintenance, repairs, replacements and upkeep of the Common Areas shall be furnished by the Association, as a part of the Common Expenses, the responsibility for which may be assigned by the Association.

In addition to the maintenance of the Common Areas, the Association shall provide exterior maintenance upon each Lot, Garage and Townhouse for the following: paint, repair, replacement and care of all exterior doors, roofs, gutters, downspouts, exterior building

surfaces and other exterior improvements excluding, however, any glass surfaces, screens, window fixtures, light bulbs, other hardware and patios, which shall be the sole responsibility of the Owner. The Association shall also maintain any trees, shrubs, grass or walks which the Declarant originally platted or installed.

The Board of Directors shall adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary.

In the event that the need for maintenance and repair results from the willful or negligent act of the Owner, his family, guests or invitees, and is not covered or paid for by any insurance on such Lot, the costs of such maintenance or repair shall be borne by the Owner, and shall be added to and become a part of the assessment to which his Lot is subject.

The Board of Directors, or their designated agents, shall have the right at reasonable times, and upon reasonable notice (except in cases of emergency in which case no notice will be required) to enter into each individual Townhouse for purposes of inspection of the Common Areas appurtenant thereto, and replacement, repair and maintenance of the same.

Declarant shall have the right to approve or disapprove any additions, alterations, modifications to and the maintenance and repairs of, the Common Areas, each Lot and Townhouse, so long as Declarant owns five lots.

22. ALTERATIONS, ADDITIONS AND IMPROVEMENTS. No Owner, except Declarant shall make any alterations or additions to his Townhouse, Lot or to the Common Areas without the prior written approval of the Board of Directors of the Association, which approval shall not be unreasonably withheld.
23. PARTY WALLS. Each wall which connects two Townhouses shall constitute a party wall and to the extent not inconsistent with any of the provisions of this Declaration, the general rules of law regarding party walls and the liability for property damage thereto shall be applicable. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall proportionately to such use. If any party wall is exposed to the elements because of the negligent or willful act of any party, the Board of Directors shall see that the necessary protection against the elements is provided and shall recover the cost thereof, to the extent not covered by insurance, from the responsible party.
24. INSURANCE. The Association acting through its Board of Directors shall obtain fire and extended coverage insurance, insuring the Property including all Townhouses, Garages and Common Area buildings, in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount determined and the insurance renewed annually. Such insurance coverage shall be written in the name of the Association, as Trustee for the benefit of each Owner, and, if applicable, the Owner's mortgagee, as its interests may appear. The proceeds of any insurance shall be payable to the Association or the Board of Directors who shall hold such proceeds as Trustee for the individual Owners and mortgagees. The premiums for all

such insurance shall be paid by the Association as part of Common Expense, except premiums for Townhouse and Garages, to be paid to Association by Owners as an individual Owner's expense.

The Association shall also obtain comprehensive public liability insurance in such limits as the Board of Directors shall deem appropriate together with workmen's compensation insurance and other liability insurance if deemed necessary and appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors and any managing agent or company acting on behalf of the Association. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase at his own expense, any additional insurance he may deem necessary, and each Owner shall be solely responsible for home owners' liability insurance and for the insurance on the contents of his Townhouse, including but not limited to all floor and wall coverings, fixtures and betterments installed by the Owner and his personal property stored elsewhere on the Property.

25. CASUALTY AND RESTORATION. In the event of damage or destruction of the Property by fire or other casualty, the Association shall cause the Property to be promptly repaired and restored. The proceeds of insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are inadequate to cover the cost of reconstruction, or in the event there are no proceeds, the cost for restoring the damage shall be paid by the Owners of the Townhouses directly affected by the damage in such proportion as the Board of Directors shall deem fair and equitable in light of the damages sustained by such Townhouses, provided, however, if the damages are to any improvements which are a part of the Common Area and not a part of a Townhouse, the deficiency, if any, shall be assessed against all Owners. If any Owner refuses or fails to make the required payments, the Association shall complete the restoration and pay the costs thereof, and the cost attributable to the Owner or Owners who refuse or fail to make such payment at the time required by the Board of Directors shall become a lien on such defaulting Owner's Lot, and may be foreclosed in the same manner as provided for a lien for Common Expenses. In the event the insurance proceeds exceed the cost of reconstruction, such excess shall be paid over to the Owners or their respective mortgagee in such proportion as the Board of Directors deem fair and equitable in light of the damage sustained by such Townhouses.

The restoration referred to in this paragraph shall mean construction or rebuilding of the Townhouses in the same condition as they existed immediately prior to the destruction, and with the same type of architecture.

26. SALE OR LEASE OF LOT BY OWNER. For the purpose of maintaining the congenial and residential character of CARMEL-AIRE and for the protection of the Owners with regard to financially responsible residents, sale or lease of a Lot by an Owner other than Declarant shall be subject to the following conditions and restrictions:

a. LEASE. It is in the best interest of all the Owners that all persons residing in Townhouses have similar proprietary

interests in their Lots and be Owners. Accordingly, no Owner shall lease his Lot or enter into any other rental or letting arrangement for his Lot without the prior written consent of the Board of Directors. Such consent shall not be unreasonably withheld. Any Owner desiring to enter into a lease for his Lot shall make written application to the Board of Directors, which application shall state the reasons why the applicant wishes to lease the Lot, the name of the proposed tenant, and financial references of the proposed tenant. Within ten (10) days following the receipt of the application, the Board of Directors shall issue its written approval or disapproval to the Owner. In the event the Board of Directors fails to issue written approval or disapproval within such period, the application shall for all purposes be deemed approved.

b. SALE. The Association shall have the right of first refusal to purchase any Lot which an Owner wishes to sell. Any Owner wishing to sell who receives a bona fide offer to purchase shall promptly give written notice to the Board of Directors of his desire to sell together with the name and address of the intended purchaser, and the terms and conditions of such offer. Within seven (7) days after the receipt of such notice, the Board of Directors shall determine if it should recommend exercise of the right to purchase or waive the right to purchase. In the event the Board of Directors elects to waive the right to purchase, a certificate in recordable form, executed by the President or Secretary of the Association, certifying that the Association, through its Board of Directors, has waived its right to purchase, shall be delivered to the Owner, who may then proceed to sell and convey his Lot to that person and upon the same terms and conditions as set forth in the Owner's notice to the Board of Directors. In the event the sale is not completed within ninety (90) days following the date of such certificate, then the Lot shall again become subject to the Association's right of first refusal as herein provided.

In the event that the Board of Directors deems it advisable to exercise the Association's right to purchase the Lot, then it shall give written notice thereof to the Owner and shall, within fourteen (14) days following the receipt of such notice from the Owner wishing to sell, call a meeting of all the Members for the purpose of voting upon the proposed purchase. If the recommendation of the Board of Directors to purchase such Lot is approved by no less than seventy-five per cent (75%) of the votes cast, the Association shall proceed to purchase the offered Lot from the offering Owner upon the same terms and conditions contained in the offer. The purchase price for the Lot shall be considered to be a Common Expense and borne by the remaining Owners, provided, however, that the Owner who has made the offer to sell his Lot shall not be assessed for or required to pay his share of the expense incurred in the purchase of the Lot.

Legal title to the Lot shall be conveyed to the Association as an entity or to those persons then serving as Board of Directors, as trustees for the benefit of the Owners, whichever the Board of Directors, in their sole discretion, deems appropriate.

In the event that the proposed purchase is not approved by the required votes of the Members as set out above, then the Board of Directors, through the President and Secretary of the Association,

shall promptly deliver a certificate in recordable form to the offering Owner who may proceed to sell his Lot under the same terms and conditions as if the Board of Directors had not elected to recommend the exercise of the right of the Association to purchase.

If, for any reason, either the Board of Directors or the Members shall fail to act on the Association's right of first refusal within the time periods herein provided, the Association's right of first refusal shall be deemed to have been effectively waived.

If the Association shall purchase a Lot in accordance with this paragraph, the Board of Directors shall have the authority at any time thereafter to sell or lease the Lot upon the terms and conditions as the Board of Directors shall, in their sole discretion, deem desirable, without application to or approval of the Owners. The proceeds of any such sale shall be returned to the Owners in equal proportion to their contribution. In the event the Board of Directors elects to lease such Lot, then the lease rental payments shall be applied against the Common Expenses.

The above provisions with respect to the Association's right to approve a lease of a Lot or the right to purchase a Lot shall remain in full force and effect until the expiration of twenty (20) years from the date of this Declaration.

Any sale or attempted sale, or any lease or attempted lease by an Owner of his Lot, except in accordance with the provisions of this Paragraph 26, shall be void; provided, however that any certificate waiving the Association's right to purchase executed by the Association and delivered to an Owner as provided by this paragraph may be relied upon by any purchaser or mortgagee and shall, with respect to such purchaser or mortgagee, be absolutely binding upon the Association and the Owners unless such purchaser or mortgagee has actual knowledge that the certificate was procured fraudulently or by reason of a misrepresentation of a material fact.

(i) The provisions of sub-paragraph (b) shall not be applicable to a conveyance of a Lot to such Mortgagee as a result of a foreclosure of its mortgage or a conveyance in lieu thereof or to the conveyance of a Lot to any person at a public sale in the manner provided by law with respect to mortgage foreclosures. The provisions of sub-paragraph (b) shall be applicable to and binding upon such Mortgagee or other person so obtaining title to a Lot with respect to any subsequent transfer or conveyance of the Lot.

(ii) The provisions of sub-paragraph (a) shall not be applicable to such Mortgagee if such Mortgagee acquires possession of a Lot during the period which a foreclosure proceeding is pending or to such Mortgagee who obtains title to a Lot as a result of foreclosure of its mortgage or a conveyance in lieu thereof. The provisions of sub-paragraph (a) shall be binding upon any other person obtaining title to the Lot from such Mortgagee or at any foreclosure or other judicial sale.

The provisions of this sub-paragraph (c) may not be amended without the consent of all of such Mortgagees.

27. NOTICE TO ASSOCIATION OF MORTGAGEE. ~~By~~ Owner who places

a first mortgage lien upon his Lot or the Mortgagee shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgagee and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or proxy granted to such Mortgagee in connection with the mortgage.

28. AMENDMENT OF DECLARATION. Amendments to this Declaration shall be proposed and adopted in the following manner:

a. NOTICE. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

b. RESOLUTION. A resolution to adopt a proposed amendments may be proposed by the Board of Directors or by a majority of the votes cast by the Members.

c. MEETING. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

d. ADOPTION. Any proposed amendment to this Declaration must be approved by not less than seventy-five per cent (75%) of the votes cast and approved by Declarant as long as Declarant owns five (5) Lots.

In the event any Lot is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed Amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the Declaration.

e. SPECIAL AMENDMENTS. No amendment to this Declaration shall be adopted which changes the provisions of Paragraph 25 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

f. RECORDING. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.

29. ACCEPTANCE AND RATIFICATION. All present and future Owners, Mortgagees, tenants and Occupants of the Lots shall be subject to and shall comply with the provisions of this

Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and rules and regulations, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Lot or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Property in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

30. NEGLIGENCE. Each Owner shall be liable for the expense of any maintenance repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or licensees to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Lot or its appurtenances or of the Common Areas.
31. INSURANCE (WAIVER). The Association and Owners agree that each shall be relieved of responsibilities and covenants to the extent that injuries or losses to the premises are covered by insurance.
32. ASSOCIATION. The Association shall be a not-for-profit corporation, whose Membership shall be composed of and limited to the Owners of Lots and which shall be known as CARMELTOWN, INC. The Association shall have one class of Membership.

Each Owner of a Lot shall be entitled to one vote on all matters requiring membership approval, for each Lot owned by said Owner. The membership of said Owner shall terminate whenever said Owner ceases to be an owner of a Lot as defined herein, and said certificate of member shall be immediately transferred to the successor in ownership.

The Board of Directors shall be the governing body of the Association and shall be responsible for the functions and duties of the Association, including but not limited to the management, maintenance, repair, replacement and upkeep of the Common Areas. All of the Common Areas shall be owned, operated and managed by the Association.

33. ASSESSMENTS. Assessments and payment of assessments shall be as follows:
  - a. ANNUAL ACCOUNTING. Annually after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared and furnished each Member a financial statement prepared by a

certified public accountant firm then serving the Association, which statement shall show all receipts and expenses received, incurred or paid during the preceding calendar year.

b. PROPOSED ANNUAL BUDGET. The first annual meeting of the Association to pass on the annual budget shall be held during the month of January following the sale of fifty per cent (50%) or more of the lots in CARMELAINE. Prior to the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year and furnishing a copy of such proposed budget to each Member at least two weeks prior to the annual meeting. The annual budget shall be submitted to the Members at the annual meeting of the Association for adoption, and if so adopted shall be the basis for the regular assessments (hereinafter defined) for the ensuing year. At the annual meeting of the Members, the budget shall be approved in whole or in part or may be amended in whole or in part by a majority of the votes cast, provided, however, in no event shall the annual meeting be adjourned without or until the annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended.

c. REGULAR ASSESSMENTS. The annual budget as adopted shall, based on the estimated cash requirements for the Common Expenses in the ensuing year, as set forth in said budget, contain the proposed assessment against each Lot which shall be the same for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his Lot (herein called the "Regular Assessment"). The Regular Assessment against each Lot shall be paid in equal monthly installments, commencing on the first day of February of such calendar year and on the first day of each calendar month thereafter through and including the following January 1. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or as otherwise directed by the Board of Directors. The Regular Assessment for the year shall become a lien on each separate lot as of February 1, of each calendar year.

Prior to the first annual meeting of the Association, an assessment shall be levied against each lot, said assessment shall not be less than \$35.00 nor more than \$37.00. The monthly assessment shall become due and owing on the first day of the calendar month following the sale of the Lot. The Declarant shall not be responsible for a regular assessment, whether determined by the Board of Directors or the Association, in excess of \$35.00.

d. SPECIAL ASSESSMENTS. From time to time Common Expenses of an unusual extraordinary nature and not otherwise anticipated may be deemed necessary by the Board of Directors. In such event the Board of Directors shall be authorized to adopt a resolution to make such expenditures and shall have the full right, power and authority to make a special assessment of equal amount upon each lot which shall become a lien on such lot, upon approval of such resolution by two-thirds of the votes of Members at a special meeting of Members duly called in accordance with the By-Laws for the purpose of approving or rejecting such resolution (herein called "Special Assessment"). The Lots owned by Declarant shall not be subject to the special

assessment provisions of this Declaration.

e. FAILURE OF OWNER TO PAY ASSESSMENTS. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such person shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessment when due, such Regular or Special Assessment shall bear interest from the date at the rate of eight per cent (8%) per annum, and the lien for such Assessment on the Owner's Lot may be filed and foreclosed by the Board for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. In any action to foreclose the lien for Assessments, the Owner and occupant shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board of Directors shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefor for the benefit of the Association to be applied to the unpaid Regular or Special Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Lot.

f. SUBORDINATION OF ASSESSMENT LIEN TO MORTGAGE AND TAXES. The lien of Assessments shall be prior to all other liens except (1) tax liens on the Lot in favor of any assessing unit or district and (2) all sums unpaid on a first mortgage of record. Sale or transfer of any Lot shall not affect the Assessment lien.

g. NOTICE OF UNPAID ASSESSMENTS. The Association shall, upon request of a mortgagee, a proposed mortgagee or purchaser who has a contractual right to purchase a Lot, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Regular or Special Assessments against the Lot, which statement shall be binding upon the Association and the Members and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

*Joseph S. Dawson*  
Joseph S. Dawson

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF HAMILTON)

Before me a Notary Public in and for said County and State personally appeared Joseph S. Dawson who acknowledged the execution of the above and foregoing Declaration of CARMELTOWN, INC. Property Ownership, for and on behalf of said Corporation.

WITNESS my hand and Notarial Seal this 23rd day of \_\_\_\_\_  
May, 1974.

MY COMMISSION EXPIRES:  
March 30, 1978

*Virginia A. Pyle*  
Notary Public  
Virginia A. Pyle

This instrument was prepared by Joseph S. Dawson.

Printed

A part of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 4 East, in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning 522.50 feet Deed (523.85' Measured) North 00 degrees 03 minutes East of the Southeast corner of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 4 East, and on the East line thereof; thence North 89 degrees 57.5 minutes West 687.33 feet Deed (690.35 feet Measured); thence North 76.0 feet; thence North 89 degrees 51 minutes West 165.0 feet; thence North 247.50 feet; thence North 90 degrees 00 minutes East 92.67 feet; thence North 75.00 feet; thence North 90 degrees 00 minutes East 127.33 feet; thence North 204.43 feet; thence North 89 degrees 51 minutes West 55.00 feet; thence North 50.00 feet; thence South 89 degrees 51 minutes East 690.90 feet to the East line of said West Half; thence South 00 degrees 03 minutes West on and along aforesaid East line 653.50 feet Deed (652.15 feet Measured) to the place of beginning, containing 11.15 acres, more or less. Subject to all legal easements and rights of way.

This subdivision consists of 110 lots numbered from 1 to 110, both inclusive, with streets and common property as shown within the plat. All dimensions are shown in feet and decimal parts thereof.

This Instrument Recorded May 22, 19 74  
JUNE M. HEDGES, RECORDER, HAMILTON COUNTY, IND.

RECEIVED FOR RECORD  
AT 2:00 O'CLOCK P. M.

MAY 22 1974

BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
*June M. Hedges*  
RECORDER HAMILTON COUNTY, INDIANA

Cross-References:     **Instrument No. 5797 at Misc. Book 139, Page 353**  
                          **Instrument No. 4213 at Misc. Book 142, Pages 409-426**  
                          **Instrument No. 9309874**  
                          **Instrument No. 2004-5952**

**AMENDMENT TO DECLARATION OF CARMELTOWN, INC.**  
**PROPERTY OWNERSHIP**

This Amendment to the Declaration of Carmeltown, Inc. Property Ownership is effective as of the date executed below.

WITNESSTH:

WHEREAS, the Carmeltown townhouse community in Carmel, Hamilton County, Indiana was created pursuant to a Plat, and a certain "Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on August 31, 1973, as **Instrument No. 5797 at Misc. Book 139, Page 353** (hereafter, the "Original Declaration"); and

WHEREAS, the Declarant (or developer) subsequently amended said Declaration by an Amended Declaration of Carmeltown, Inc. Property Ownership which was recorded with the Hamilton County Recorder's Office on May 22, 1974, as **Instrument No. 4213 at Misc. Book 142, Pages 409-426** (hereafter, the "Amended Declaration"); and

WHEREAS, the Declarant (the developer) by execution of the Original Declaration and the Amended Declaration assured that all properties which are conveyed which are a part of the land within Carmeltown shall be conveyed subject to the terms and conditions of the Declaration, as amended, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors, and assigns, and shall inure in the benefit of each Owner; and

WHEREAS, the Declaration was subsequently amended by the Lot Owners by the "Amendments to the Declaration of Carmeltown, Inc. Property Ownership" which was recorded with the Hamilton County Recorder's Office on March 18, 1993, as **Instrument No. 9309874**; and

WHEREAS, Carmeltown, Inc. restated the terms of the Original Declaration, as modified by all subsequent amendments, through an instrument entitled "Restated Declaration of Carmeltown, Inc. Property Ownership" for the ease and convenience of all present and future Owners; and

WHEREAS, the Restated Declaration was recorded with the Hamilton County Recorder's Office on January 28, 2004, as **Instrument No. 2004-5952**, and did nothing more than compile the terms of the Original Declaration together with all subsequent amendments up to that time such that there were no changes or amendments to the Declaration which were made upon the recording of said Restated Declaration; and

WHEREAS, the Owners, being the members of Carmeltown, Inc., and the Board of Directors of Carmeltown, Inc. desired to further amend the Declaration; and

WHEREAS, after notice was duly given, at a meeting of the Owners held on January 11, 2005, and adjourned to February 8, 2005, the Owners of more than seventy-five percent (75%) of all Lot Owners within Carmeltown voted in favor of the amendment below.

NOW, THEREFORE, the Declaration of Carmeltown, Inc. Property Ownership is amended as follows:

1. Paragraph 26 of the Declaration is hereby deleted in its entirety and replaced with the following provisions, including Sections 26.1 through 26.8:

**26. Prohibition on Leasing of Townhouses**

**Section 26.1. Prohibition of Leased Townhouses ("Rental Ban"). In order to insure that the residents within Carmeltown share the same proprietary interest in and respect of the Townhouses and the Common Areas, there shall be no leasing or rental of any of the Townhouses unless otherwise permitted as described below. Residents of a Townhouse can only consist of the Owner(s) thereof or members of their household.**

Notwithstanding the foregoing, the "rental ban" described above shall not apply to any Townhouse of an Owner in Carmeltown who, as of February 1, 2005, is renting or leasing said Townhouse and provides written proof thereof to the Association's Managing Agent by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented Townhouses shall not be subject to the provisions of this Section 26.1, but shall be subject to the remaining provisions of this Paragraph 26. However, when the legal owners of record of any of the above-described Townhouses sell, transfer or convey such Townhouse(s) to another Owner after February 1, 2005, such Townhouse(s) shall immediately become subject to this Section 26.1.

**Section 26.2. Hardship Exceptions and Waiver.** Notwithstanding Section 26.1 above, if an Owner wishes to rent or lease his or her Townhouse, the Owner may request the Board of Directors to waive the “rental ban” and approve a proposed lease if the Owner establishes to the Board’s satisfaction that the “rental ban” will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner’s request, the Board of Directors shall permit the Owner to rent or lease said Townhouse, subject to any further conditions or limitations imposed by the Board in the Board’s discretion, but only if the Owner satisfies all other requirements of this Paragraph 26. 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 or marriage 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 Carmelton 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.

**Section 26.3. General Lease Conditions.** All permitted 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 Townhouse other than the entire Townhouse 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 this Declaration, the 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 Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Townhouse. 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.

**Section 26.4. 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

Association 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 Association for payments of assessments or any other charges.

**Section 26.5. Association's Copy of Lease.** A copy of each executed, permitted 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.

**Section 26.6. Violations.** Any lease or attempted lease of a Townhouse in violation of the provisions of this Paragraph 26 shall be voidable at the election of the Association's Board of Directors or any other Carmelton Owner, except that neither party to such lease may assert this provision of this Paragraph 26 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Carmelton Owner, shall have the right to exercise any and all available remedies at law or equity.

**Section 26.7. Institutional Mortgagees.** The provisions set forth in this Paragraph 26 shall not apply to any institutional mortgagee of any Townhouse which comes into possession of the Townhouse 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. However, when a Townhouse is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Paragraph 26.

**Section 26.8. Severability Clause.** The invalidity of any covenant, restriction, condition, limitation or other provision of this Paragraph 26 shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Paragraph 26, and each shall be enforced to the greatest extent permitted by law.

\*\*\*\*\*

2. **Acceptance and Ratification.** The acceptance of a deed of conveyance or the act of occupancy of any one Townhouse or Lot shall constitute a ratification of this Amendment, together with the Declaration and all previous amendments thereto, and all such provisions shall be covenants running with the land and shall bind any person having at any time having any interest or estate in a Townhouse or Lot or the Carmelton subdivision 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.



STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE

COPY

ARTICLES OF AMENDMENT

To Whom These Presents Come, Greeting:

WHEREAS, there has been presented to me at this office, Articles of Amendment for:

CARMELTOWN INC

and said Articles of Amendment have been prepared and signed in accordance with the provisions of the

laws of Indiana,

as amended.

NOW, THEREFORE, I, JOSEPH H. HOGSETT, Secretary of State of Indiana, hereby certify that I have this day filed said articles in this office.

The effective date of these Articles of Amendment is April 05, 1993.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Fifth day of April, 1993

Joseph H. Hogsett  
JOSEPH H. HOGSETT, Secretary of State

BY Rosalie V. Buckner  
Deputy



**ARTICLES OF  
AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
CARMELTOWN, INC.**

The undersigned officer of Carmeltown, Inc., a Corporation existing pursuant to the Indiana Not-For-Profit Corporation Act of 1971, and incorporated under the terms and conditions of the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213 at Book 142, Pages 409 through 426, said Declaration and all amendments thereto hereafter referred to as "Declaration", and having accepted the provisions of and having elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act"), gives notice of the amendment of and executes the following Amended and Restated Articles of Incorporation. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of these Amended and Restated Articles of Incorporation and the Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in these Amended and Restated Articles of Incorporation and the Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

**ARTICLE I**

**NAME**

The name of the Corporation is Carmeltown, Inc. (hereafter referred to as "Corporation").

**ARTICLE II**

**TYPE OF CORPORATION**

This is a mutual benefit Corporation.

**ARTICLE III**

**PURPOSES AND POWERS**

**Section 3.1. Purposes.**

The purposes for which the Corporation is formed are to provide for the maintenance, repair, upkeep, replacement, administration, operation and management of the Common Areas and for certain exterior portions of the Townhouses as designated in the Declaration, to pay any other necessary expenses and costs in connection with the Common Areas in accordance with the Declaration and to perform such other functions as may be designated to it.

**Section 3.2. Powers.** Subject to any limitation or restriction imposed by the Act, any other law, the Declaration, or any other provision of these Articles of Incorporation, the Corporation shall have the power:

(a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Corporation as set forth in the Declaration, as the same may be amended from time to time;

(b) To establish, levy, collect and enforce payment by any lawful means of any charges or assessments made against Members or others pursuant to the terms of the Declaration; to pay all expenses in connection with such collection and all office and other expenses incident to the conduct of the business of the Corporation including any license fees, taxes or other governmental charges levied or imposed against the property of the Corporation;

(c) To borrow money and, with the consent of two-thirds (2/3) of the Members, mortgage, pledge, deed in trust or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;

(d) To enter into, make, perform and carry out, or cancel and rescind, contracts for any lawful purposes pertaining to its business;

(e) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for the public use or otherwise dispose of real or personal property which is held in title by this Corporation in connection with the affairs of the Corporation in accordance with the terms of the Declaration;

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

Members, agreeing to such dedication, sale or transfer, except as otherwise provided in the Declaration;

(g) Sue, be sued, complain, and defend in the Corporation's corporate name;

(h) Make and amend By-Laws not inconsistent with the Corporation's Articles of Incorporation, the Act, the Declaration or with Indiana law for managing the affairs of the Corporation;

(i) Elect directors, elect and appoint officers, and appoint employees and agents of the Corporation, and define the duties and fix the compensation of directors, officers, employees and agents.

(j) Purchase and maintain insurance on behalf of any individual who:

(1) is or was a director, an officer, an employee, or an agent of the Corporation; or

(2) is or was serving at the request of the Corporation as a director, an officer, an employee, or an agent of another entity;

against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, an officer, an employee, or an agent, whether or not the Corporation would have power to indemnify the individual against the same liability under this article.

(k) To have, hold, exercise and enjoy in furtherance of the purposes set forth hereinabove and hereinbelow, all of the rights, powers, privileges and immunities granted, and not

expressly denied, by the Act as now or hereafter amended and under the common law as may be necessary, convenient or expedient in order to accomplish the purposes set forth hereinabove and hereinbelow, but subject to any limitation or restriction imposed by the Act, by any other law, by these Articles of Incorporation, or by the Declaration; provided further, however, that if there is any conflict between the powers established in these Articles of Incorporation and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall govern;

(l) To do everything necessary, proper, advisable, or convenient for the accomplishment of any of the purposes, or the attainment of any of the objects of the furtherance of any of the powers herein set forth, and to do every other act and thing incidental thereto or connected therewith, which is not forbidden by the laws of the State of Indiana, or by the provisions of these Articles of Incorporation or the Declaration.

(m) To do all acts and things necessary, convenient or expedient to carry out the purposes for which the Corporation is formed.

**Section 3.3. Limitation of Activities.** The Corporation shall not possess the power of engaging in any activities for the purpose of or resulting in the pecuniary remuneration to its members as such. This provision shall not prohibit fair and reasonable compensation to members for services actually rendered; nor shall it prohibit the Corporation from charging a fee for services rendered; nor shall it prohibit the Corporation

from charging a fee for admission to any presentation it may make or other undertakings so long as any funds so raised do not inure to the profit of its members.

#### ARTICLE IV

##### REGISTERED AGENT, REGISTERED OFFICE, PRINCIPAL OFFICE

Section 4.1 Registered Agent and Registered Office. The name and street address of the Corporation's registered agent for service of process will be the Corporation's Secretary. The address of the Corporation's registered office for service of process will be the address of the Corporation's Secretary.

#### ARTICLE V

##### MEMBERSHIP

Section 5.1. Members. Every person or entity who owns one or more Lots, shall automatically upon becoming an Owner of a Lot be and become a Member of the Corporation.

Section 5.2. Rights, Preferences, Limitations and Restrictions of Classes. All Members shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members. All Members shall abide by the Articles of Incorporation, the Code of By-Laws, the rules and regulations adopted by the Board of Directors, and all covenants, restrictions and other provisions contained in the Declaration.

Section 5.3. Classes of Members and Number of Votes. The Corporation shall have one class of membership, of which all Members shall be a part. Each Member shall be entitled to one

(1) vote for each Lot of which such Member is the owner with respect to each matter submitted to a vote of Members upon which the Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

**Section 5.4. Voting Rights of Members.** Each Member in good standing shall be entitled to voting rights as follows:

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each member shall be entitled to cast one (1) vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided either by the number of Lots then in Carmeltown, as shall have been finally platted from time to time to determine the respective proportions of members who support or oppose such matter, or by the number of Lots the Owners of which are present or represented at such meeting to determine the respective proportions of members present or represented at such meeting who support or oppose such matter.

(b) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the Corporation duly empowered by the board of

directors of such Corporation shall cast the vote to which the Corporation is entitled.

(c) Proxy. A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his attorney-in-fact in writing, delivered to the Corporation prior to the commencement of the meeting.

(d) Quorum. Except where otherwise expressly provided in the Declaration, these Articles, the By-Laws, or the Act, the presence of members or their duly authorized representatives owning fifty percent (50%) of the total number of Lots shall constitute a quorum at all meetings. As used elsewhere in these Articles and in the Code of By-Laws, the term "majority of the Members", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Lots as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting.

(e) Definition of "Owner". The term "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot. Persons or entities owning a single Lot as tenants in common, joint tenants, or tenants by the entireties shall be deemed one Owner.

**Section 5.5. Rights, Preferences, Limitations and Restrictions of Members.**

Any member who fails to comply with the requirements of these Articles, the Declaration, the By-Laws or the rules and regulations made pursuant thereto, including the payment of assessments, shall, if a majority of the Board of Directors by an affirmative vote at a Board of Directors' meeting so determine, forfeit his or its membership rights and interest to use the amenities and to vote on any matter coming before the Members.

However, a Member may not be expelled or suspended and a membership may not be suspended except under a procedure adopted by resolution of a majority of the Board of Directors that is fair, reasonable and carried out in good faith. Such a procedure shall fully comply with the Act, as amended.

**Section 5.6. Meetings of Members.** Meetings of members may be held at any place inside Hamilton County, Indiana, which shall be designated by the Board of Directors of the Corporation, or as the By-Laws may designate.

**ARTICLE VI**

**TERM OF EXISTENCE**

The period during which the Corporation shall continue as a Corporation is perpetual.

**ARTICLE VII**

**DIRECTORS**

**Section 7.1. Number of Directors.** The number of the directors of this Corporation shall be not less than three (3) nor more than nine (9) as prescribed from time to time in the By-Laws of the

Corporation; but in no event shall the minimum number of directors be less than three (3). Whenever the By-Laws do not specify the exact number, the number of directors shall be five (5). The qualification of directors and the election of directors shall be as prescribed from time to time in the By-Laws of the Corporation.

**Section 7.2. Election of Directors.** The Board of Directors shall be elected by ballot at the annual meeting of the Members and each Director shall hold office for a term of three (3) years or until his successor shall have been elected and qualified.

**Section 7.3. Vacancies in the Board of Directors.** Any vacancy occurring on the Board of Directors caused by a death, removal, resignation or otherwise, shall be filled until the next annual meeting through a vote of a majority of the remaining members of the Board, unless specified otherwise in the By-Laws.

**Section 7.4. Removal of Directors.** A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director or Directors elected by the Board may be removed with or without

cause by the vote of a majority of the Directors then in office.

**ARTICLE VIII**

**INCORPORATORS**

The incorporators of the Corporation are as specified in the original Articles of Incorporation of the Corporation.

**ARTICLE IX**

**STATEMENT OF PROPERTY**

All assets and liabilities, real, personal, and otherwise are in no way changed by this Amended and Restated Articles of Incorporation and they stand for and constitute all of the assets and liabilities of the Corporation.

**ARTICLE X**

**PROVISIONS FOR REGULATION OF BUSINESS  
AND CONDUCT OF AFFAIRS OF THE CORPORATION**

Section 10.1. Powers Exercised by Board. Subject to any limitations or restrictions imposed by law, by these amended Articles of Incorporation or by the Declaration, the Board of Directors of the Corporation is hereby authorized to exercise, in furtherance of the purposes of the Corporation, all the powers of the Corporation without prior authorization or subsequent approval of the Members of the Corporation or of any other person or entities.

**Section 10.2. Liability of Members.** Neither the individual Members of the Corporation nor their individual property shall be subject to any liability for any debts of the Corporation.

**Section 10.3. Dissolution.** The Corporation may be dissolved only with the written consent of all Members.

**Section 10.4. Distribution of Property On the Voluntary or Involuntary Dissolution of the Corporation.** Upon the voluntary or involuntary dissolution of the Corporation, the Board of Directors shall, after paying or making provision for payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation by transferring the same to the Corporation's Members.

**Section 10.5. Amendment of Articles of Incorporation.** Amendment to the Articles of Incorporation shall require the consent of at least a majority of the Members.

**Section 10.6. No Private Benefit.** No money or property received or held by the Corporation shall ever inure, directly or indirectly, to the private benefit of any Member, Director or Officer of the Corporation or to any other person whomsoever except for reasonable compensation for services actually rendered to the Corporation.

**Section 10.7. Indemnification.** The Board of Directors of this Corporation may, at its discretion, indemnify any or all directors, officers, employees, or agents or former directors, officers, employees or agents of the Corporation, as shall be prescribed from time to time in the By-Laws of the Corporation.

Whenever the By-Laws of the Corporation shall not specify any indemnification provisions for the benefit of such above-named persons, all such above-named persons shall have all rights of indemnification as are proscribed in the Act.

Section 10.8. Compensation of Employees. In order to carry out the purposes and activities of the Corporation, such individuals as are deemed necessary may be employed, and each such employee may be paid such compensation for services actually rendered in the course of such employment as may be fixed in the manner provided by the Board of Directors of the Corporation.

Section 10.9. By-Laws. The By-Laws of the Corporation may be amended as set forth in the By-Laws. Said By-Laws may contain other provisions consistent with the laws of the State of Indiana, for the regulation and management of the affairs of the Corporation.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Amended and Restated Articles of Incorporation and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

EDWIN WISEMAN  
Printed

President  
Title

I affirm under penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

form.art

9309874

AMENDMENTS TO THE DECLARATION OF  
CARMELTOWN, INC. PROPERTY OWNERSHIP

The undersigned officer of Carmeltown, Inc., a corporation existing pursuant to the Indiana Not-For-Corporation Act of 1971, and incorporated under the terms and conditions of a certain Declaration of Carmeltown, Inc., said Declaration being recorded in the Hamilton County Recorder's Office on the 31st day of August, 1973, as Instrument No. 5797 at Misc. Book 139, Page 353, said Declaration hereafter referred to as the "Original Declaration", said Original Declaration being thereafter amended and superseded by a certain "Declaration of Carmeltown, Inc. Property Ownership" being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974 as Instrument No. 4213 at Misc. Book 142, Pages 409-426; (hereafter referred to as the "Amended Declaration") and having accepted the provisions of and having been elected to be governed by the Indiana Nonprofit Corporation Act of 1991, as amended, (the "Act"), gives notice of the amendment of certain provisions of the Declaration which are set forth below.

WHEREAS, Section 28 of the Amended Declaration states that said document may be amended after a resolution concerning the proposed amendments shall have been adopted by a resolution of the Board of Directors of Carmeltown, Inc. and thereafter approved at a meeting of the members of Carmeltown, Inc. by a vote of not less than seventy-five percent (75%) of all Lot Owners; and

WHEREAS, the Board of Directors of Carmeltown, Inc. passed a resolution at a Board of Directors' meeting held in 1992 wherein the Board of Directors approved the following amendments to the Declaration and approved the following to be presented to the members of Carmeltown, Inc. at a special meeting of the membership; and

WHEREAS, after notice was duly given, a special meeting of the Owners was held on March 1, 1993, whereat the Owners of 90 of the 110 total Lots within Carmeltown were present, either in person or by proxy; and

WHEREAS, at said special meeting, 83 of the Owners present in person or by proxy approved the following amendments to the Declaration; and

WHEREAS, the said Owners of 83 lots voting to approve the following amendments constitute more than seventy-five percent (75%) of all Lot Owners within Carmeltown; and

WHEREAS, said Owners, under the authority of the Declaration, wish to make certain changes and amendments to the Declaration as described below.

NOW, THEREFORE, the undersigned Officer of Carmeltown, Inc. hereby executes the following amendments to the "Declaration of Carmeltown, Inc. Property Ownership":

1. Section 1.a. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

a. "Articles of Incorporation" means the Articles of Incorporation of the Association, together with any amendments and restatements thereto. The Articles of Incorporation are incorporated herein by reference.

2. Section 1.d. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

d. "Carmeltown" means the name by which the Tract shall be known. "Carmelaire" shall have the same meaning as "Carmeltown".

3. Section 1.f. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

f. "By-Laws" shall mean the By-Laws of the Association, together with any amendments and/or restatements thereof. The By-Laws shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.

4. Section 1.g. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

g. "Common Areas" means the ground designated as such upon the recorded Plat of Carmeltown.

5. Section 1.i. of the Amended Declaration is hereby amended by deleting the phrase "CARMELAIRE" and replacing such term with "CARMELTOWN" in lieu thereof.

6. Section 7.b. of the Amended Declaration is hereby amended by adding the following sentence to the end thereof:

Such suspension of a Member's rights shall be pursuant to the provisions and procedures set forth in the Indiana Nonprofit Corporation Act of 1991, as the same may be amended from time to time.

7. Section 7.e. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- e. The right of the Association to adopt such rules and regulations regarding the Common Areas and Lots as it deems necessary.

8. Section 11.a. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- a. All Townhouses shall be used exclusively for residential purposes and occupied by a single family. "Single Family" is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants with a common kitchen and dining area.

9. Section 11.d. of the Amended Declaration is hereby amended by adding the following phrase to the end thereof:

or which would adversely affect the health, safety or welfare of other residents.

10. Section 11.e. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- e. No sign, awning, canopy, television or radio antennae, satellite dish, or any other attachment or thing of any kind shall be affixed to or placed upon the exterior walls, roofs or windows or on any parts of any Building without the prior written consent of the Board of Directors.

11. Section 11.f. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- f. No advertising signs (except one "for sale" sign per parcel of not less than five square feet), unsightly objects or nuisance shall be erected, placed or permitted to remain on any Lot or Common Areas, nor shall any Lot or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof.

12. Section 11.j. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

- j. No industry, trade or commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property other than home professional pursuits without employees. No Townhouse or Lot shall be used or rented for transient, motel, or hotel purposes.

13. Section 11.1. of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

1. No boats, campers, recreational vehicles, commercial vehicles, trailers of any kind, buses, mobile homes, trucks having more than four (4) tires, mopeds, snow mobiles, dune buggies, motorcycles, mini-bikes, or any other nonconventional vehicles of any description, shall be permitted, parked or stored anywhere within the Property unless the same are stored in a garage and not exposed to view. For conventional vehicles, there must be a minimum of two (2) conventional vehicles stored in the Owner's garage before any other conventional vehicle may be parked on any street within Carmelton. No vehicle of any kind is permitted which is not currently licensed, not in operating condition, or parked without being operated for longer than ten (10) days without prior written Board approval. The Board shall have the power to promulgate such other rules and regulations concerning this provision as it deems appropriate, including provisions on enforcing this provision by towing any unauthorized vehicle at the owner's expense.

14. There shall be added new Sections 11.n., 11.o., and 11.p. to the Amended Declaration as follows:

- n. If any Owner or resident of a Lot shall fail to maintain such Lot in accordance with the terms of this Declaration within thirty (30) days of being so notified in writing by the Board of Directors, the Board of Directors or its designated employees, agents or representatives shall have the right to enter upon said Lot to correct such conditions or violations. Any costs or expenses incurred by the Association shall be the responsibility of the Owner of such Lot in the same manner as assessments.
- o. The Board shall have the right to promulgate rules and regulations concerning those portions of the Common Area which may be designated as "No Parking" areas which may be necessary for police, fire or other emergency vehicles to ensure the health, safety and welfare of all residents within Carmelton.
- p. The Board shall have the right to promulgate rules and regulations establishing posted speed limits

for all streets and roads within Carmelton to ensure the health, safety and welfare of all residents.

15. Section 17 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

17. Right of Board of Directors to Adopt Rules and Regulations. The Board of Directors of the Association may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Lots, Townhouses, Common Areas, Garages, Patios, and any other areas of the Property. Such rules as are adopted may be amended by a vote of the majority of the Board of Directors, and the Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.

16. Section 18 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

18. Management Agreement. The Board of Directors of the Association shall be empowered to employ a reputable Business/Maintenance Agent, a Professional Managing Agent or Real Estate Management Company to assist the Board in performing its duties as provided in the Association's By-Laws.

17. Section 21 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

21. Maintenance, Repairs and Replacements.

a. Owners' Responsibilities. Each Owner shall at his or her expense be responsible for the maintenance, repairs, decoration and replacement within his own Townhouse, except as may be otherwise provided herein. All fixtures and equipment installed within the Townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair in and to his or her Townhouse which, if neglected, might adversely affect any Townhouse, Common Area, or the value of the Property. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, gas lines, appliances, doors,

windows, lamps and all other accessories belonging to the Owner and appurtenant to the Townhouse. Each Owner shall be responsible for certain exterior portions of the owners' Townhouse, including all glass surfaces, storm windows and storm doors, patio door screens, window screens, all light fixtures and bulbs, the air conditioner compressor unit, power attic ventilators, dead bolts, garage door openers, awnings of any kind, any structure or addition which any Owner has added to the Townhouse, (with or without Board approval), and any flower beds or planters or any other structure made to hold flowers or plants. Additionally, the Owner shall be responsible for the repair and replacement of any portion of the exterior of a Townhouse which has been caused by the negligence of the Owner or occupants of the Townhouse or by the Owner's guests or invitees.

- b. The Association's Duties. The maintenance, repair, replacement and upkeep of the Common Areas including but not limited to the clubhouse, shed, pool, pool fence, trees and shrubs, streets, curbs, garage aprons, underground storm/sump pump drainage pipes, perimeter fencing, the concrete sidewalk at the northeast corner of Carmelton, and the main line sanitary sewers, including any portions under any Townhouse as shown by the City of Carmel. In addition to the maintenance of the Common Areas, the Association shall also provide exterior maintenance upon each Lot, Garage and Townhouse for the following: Repair, replacement and care of all roofs, and roof decking, gutters, downspouts, exterior wood or metal building surfaces, electrical boxes which contain the electric meters, garage service and overhead garage doors, exterior surface of Townhouse front doors, brick, and any interior damage within a Townhouse as a result of roof leaks, but only if such roof leak damage qualifies for insurance coverage.
- c. Rules and Regulations. The Board of Directors of the Association is empowered to adopt such other rules and regulations concerning maintenance, repair, and replacement.
- d. Willful or Negligent Acts of the Owner. In the event that the need for any maintenance, repair or replacement results from the willful or negligent act of the Owner, his or her family, guests or invitees, and is not covered or paid for by any

insurance on such Lot, any cost of such maintenance or repair incurred by the Association shall be the Owner's responsibility and shall be added to and become a part of the assessment to which his Lot is subject.

18. Section 22 of the Amended Declaration is hereby deleted in its entirety and replaced with the following:

22. Alterations, Additions and Improvements. No exterior additions or alterations to any Townhouse, Lot or any portion of the Common Areas or changes in fences, walls and any other structure shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, materials, exterior color and finish, and location of the same shall have been submitted to and approved in writing as to harmony of external design, color, location in relation to surrounding structures and topography by the Architectural Committee as defined in Article XI of the By-Laws or by the Board of Directors. In the event the Board or the Committee fail to approve or disapprove such request within ninety (90) days after said plans and specifications have been submitted to it, approval will not be required and this section will be deemed to have been fully complied with.

The Board or the Committee may inspect work performed or being performed to assure compliance with this section. Any request for any exterior addition or alteration will be considered on an individual basis; the prior approval by the Board or the Committee for other Townhouses does not constitute approval of any addition or alteration for any other Townhouses in Carmelton. These rules shall not apply to any additions or alterations constructed prior to the date of the recording of these Amendments to the Declaration. However, if any such prior additions or alterations need to be replaced or substantially repaired after the recording of these Amendments to the Declaration, these rules shall apply.

19. Section 23 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

20. Party Walls.

a. General Rules of Law to Apply. Each wall which is built as part of the original

construction of the Townhouses upon the Property and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

- b. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- c. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, subject, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- d. Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- e. Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.
- f. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the binding decision shall be by a majority of all the arbitrators.

21. Section 26 of the Amended Declaration is hereby amended by deleting the phrase "Carmelaire" and replacing in lieu thereof

with the phrase "Carmeltown". Furthermore, the caption or title of said Section 26 is hereby amended to read "LEASE OF LOT BY OWNER".

22. Section 26.b of the Amended Declaration is hereby deleted in its entirety.

23. Section 33 of the Amended Declaration is hereby deleted in its entirety and replaced as follows:

33. Assessments. Assessments and payments of assessments shall be as follows:

a. Creation of the Lien and Personal Obligation of Assessments. Each purchaser of any Lot within the Property by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

- (1) Regular Assessments; and
- (2) Special Assessments for capital improvements or unexpected expenditures;

such assessments to be fixed, established and collected from time to time as hereinafter provided. The Regular and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them, but such delinquent accounts shall remain a lien upon the Lot subject to foreclosure.

b. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in Carmeltown and, in particular, for the improvement and maintenance of the

Property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Common Area and of the Lots situated upon the Property as more fully set forth in this Declaration. The assessment shall also be for the purpose of providing such municipal services including, but not limited to, trash and garbage pick-up which are not provided by the local municipal authorities and for such items of repair, maintenance and alteration of the Property as the Board of Directors may, by appropriate action, from time to time authorize through the promulgation of rules and regulations.

- c. Accounting. Every four (4) years and/or at change of Business/Maintenance Managers, the Board of Directors shall cause to be prepared and furnished to each member a financial statement prepared by a certified public accountant then serving the Association. The financial statement (also known as the Annual Report) should show all receipts and expenses received, incurred or paid each of the fiscal years.
- d. Proposed Annual Budget. Annually, prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnishing a copy of such proposed budget to each Member at least two (2) weeks prior to the annual meeting together with the notice of the annual meeting. Such proposed budget shall be based upon generally accepted accounting principles. If the annual budget is not approved at the annual meeting for any reason, the Board of Directors reserves the right to proceed with a budget that does not exceed the previous budget by five percent (5%).

After the annual meeting at which the budget is presented and approved (if needed), the regular assessments shall commence as to each Lot as of April 1st. The failure of the Board to prepare an annual budget and to furnish a copy thereof to the Owners shall

not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined.

- e. Uniform Rate of Assessments. Both Regular and Special Assessments shall be fixed at a uniform rate for all Lots.
- f. Regular Assessments. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his or her Lot (herein called the "Regular Assessment"). The Regular Assessment against each Lot shall be paid in advance in equal monthly installments, commencing on the first day of April of such calendar year and on the first day of each month thereafter through and including the following March 1st. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or an officer of the Association as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments quarter or semi-annually, in advance. Monthly installments of Regular Assessments shall be due and payable automatically on their respective due dates without further notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statement to Owners for the same. The Regular Assessment for the year shall become a lien on each separate Lot as of April 1st of each calendar year, even though the final determination of the amount of the Regular Assessment may not have been made by that date.

In addition to meeting the estimated cash requirement for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Area and those portions of the Lots and/or Townhouses for which the Association is responsible to provide maintenance, repair and replacement, which replacement reserve fund shall be used only

for those purposes and not for the usual and ordinary repair expenses of the Association.

g. Special Assessments for Capital Improvements.

In addition to the Regular Assessments authorized above, the Association may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Property, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-third (2/3) of those members voting, in person or by proxy, at a meeting duly called for this purpose at which a quorum is present, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

h. Failure of Owner to Pay Assessments.

- (i) No Owner may exempt himself from paying Regular and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such Assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments, within ten (10) days after such are due, the Board, in its discretion may (1) impose a late charge of up to twenty-five percent (25%) of the amount in default, (2) eliminate

such Owner's right to use the recreational facilities and any other part of the Common Areas as provided in the Indiana Nonprofit Corporation Act of 1991 ("Act"), and (3) eliminate such Owner's right to vote as provided in the Act. In addition, if any Regular or Special Assessment is not paid within thirty (30) days after the due date, such assessment, together with any applicable late charges, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Lot.

- (b) Notwithstanding anything contained in this Section or elsewhere in this Declaration and the By-Laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such

installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).

- i. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment. Sale or transfer of any Lot shall not affect the assessment lien.
- j. Notice of Unpaid Assessments. The Association shall furnish to a mortgagee or purchaser a statement setting forth the amount of the unpaid Regular or Special Assessments against the Lot, which statement shall be binding upon the Association and the members and any mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for the unpaid assessments in excess of the amount set forth in such statement.



AMENDED AND RESTATED CODE OF BY-LAWS OF  
CARMELTOWN, INC.  
A Nonprofit Corporation

ARTICLE I

NAME

Section 1.1. Name. The name of this Corporation is Carmeltown, Inc. (hereinafter referred to as "Corporation").

ARTICLE II

IDENTIFICATION & APPLICABILITY

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Property and the administration, the welfare, the social activities and conduct of the affairs of the Corporation. These By-Laws shall also constitute the By-Laws of the Corporation.

Section 2.2. Individual Application. Each of the Owners within Carmeltown shall automatically and mandatorily be members in the Corporation and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Declaration of Carmeltown, Inc. Property Ownership", said Declaration being recorded in the Hamilton County Recorder's Office on the 22nd day of May, 1974, as Instrument No. 4213, at Book 142, Pages 409 through 426, the Articles of Incorporation, the rules and regulations of the Corporation and of the provisions hereof. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), as all the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Amended and Restated Articles of Incorporation and these Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Amended and Restated Articles of Incorporation and these Amended and Restated Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms.

## ARTICLE III

### MEETINGS OF CORPORATION

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, receiving and approving the annual budget, and for such other purposes as may be required by the Declaration, these By-Laws, the Articles, or the Act.

Section 3.2. Annual Meeting. The annual meeting for the Members of the Corporation shall be held on the 1st Tuesday of March in each calendar year. At each annual meeting, the Owners shall elect the Board of Directors and approve the annual budget of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Members of the Corporation may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the Lots. The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 3.4. Notice and Place of Meetings. All meetings of the members of the Corporation shall be held at any suitable place in Hamilton County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Corporation to each member entitled to vote there at not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Owners as part of a newsletter or other publication regularly sent to the Owners constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a

representative to attend the meeting. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 3.6. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one vote for each Lot owned on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Lots then in Carmelton, as the same shall have been finally plated from time to time, to determine the respective proportions of Owners supporting or opposing such matter, or by the number of Lots the Owners of which are present or represented at such meeting, to determine the respective proportions of Owners present or represented at such meeting supporting or opposing such matter. In voting for directors, each Owner (or his representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his votes. To the extent provided in the Act, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Corporation, but all of such persons or entities shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of

the Corporation stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Corporation prior to the commencement of the meeting. No such proxy shall remain valid for longer than one (1) year from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles or the Act, the presence of Owners or their duly authorized representatives owning at least fifty percent (50%) of the total Lots shall constitute a quorum at all meetings. As used elsewhere in these By-Laws, the term "majority of Owners", shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Owners as determined by the applicable provisions set forth in the Declaration, and the term "majority of the vote" shall mean a majority of the Owners or votes present or represented at such meeting at which a quorum is present.

Section 3.7. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Corporation. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the members held subsequent thereto, unless such reading is waived by a majority of the vote.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior fiscal year and the proposed budget for the next year which shall commence on April 1st.

(3) Budget. The proposed budget for the following fiscal year shall be presented to the Owners for approval or amendment, if necessary.

(4) Election of Board of Directors. A slate of nominees shall be presented by the Nominating Committee. Further nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations with prior approval of the nominee must be in writing and presented to the Secretary of the Corporation at least ten (10) days prior to the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(6) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) Adjournment. Upon completion of all business before the Corporation, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming fiscal year.

Section 3.8. Conduct of Special Meeting. The President of the Corporation shall act as Chairman of any special meetings of the Corporation if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

## ARTICLE IV

### BOARD OF DIRECTORS

Section 4.1. Board of Directors. The affairs of the Corporation shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of five (5) persons who each own at least one (1) Lot. The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed nine (9). If the number of Directors is ever greater than five (5), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than five (5) nor more than nine (9) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his term. In the event the number of Directors is increased as provided herein, the election of the additional Director or Directors shall be by a vote of the members according to a procedure established by the Board by resolution.

The immediate past President of the Corporation may be appointed to an additional year of service on the Board by a majority vote of the Board. If such past President is so appointed, he or she shall serve only in an advisory capacity and shall be a non-voting member of the Board.

Section 4.2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time. Additionally, if an Owner owns more than one (1) Lot, no such persons having an ownership interest in said Lots or, in the case of a partnership, corporation, trust or other legal entity owning said Lots, no partners, officers or trustees of such entities, shall be eligible to serve on the Board of Directors other than one (1) person from said entities.

Section 4.3. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of three (3) years. One-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Corporation. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with a Board

consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 4.4 of this Article IV. Each Director shall hold office throughout the term of his election until his successor is elected and qualified.

The Directors shall appoint an Election Committee comprised of Members of the Corporation who shall not then be members of the Board. The Election Committee shall conduct the election of the Board of Directors with ballots submitted by the Nominating Committee.

Section 4.4. Removal of Directors. A Director or Directors elected by the Owners may be removed with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors elected by the Owners may be removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting. However, a Director or Directors elected by the Board to fill the vacancy of a Director elected by the Owners may be removed without cause by the Owners but not by the Board.

Section 4.5. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Corporation, social activities and welfare of Owners within Carmelton, the maintenance, upkeep and replacement of the Common Areas and the collection and disbursement of the Common Expenses. These duties include, but are not limited to, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Business/Maintenance Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining private streets, parking areas, and sidewalks in Common Areas, to the extent the same are not included within the description of a Lot and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each fiscal year, which accounting shall be delivered to each Owner within three (3) months of the close of the Association's fiscal year;
- (h) The Board shall establish policies and procedures for maintaining the Corporation's business records. These shall include: (1) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property; (2) Specifying and itemizing the Common Expenses; (3) Matters concerning computer software, applications, documentation, logons, operations manuals, and data. A current copy of the Corporation's business records (i.e., contracts), including software applications and manuals, shall be maintained in a fireproof box or bank vault. Updated weekly, all records shall be available for inspection by any Owner provided an appointment is made.
- (i) Appoint a Nominating Committee and Election Committee at least forty-five (45) days prior to the Annual Meeting.
- (j) Appoint an Architectural and Grounds Committee.
- (k) Appoint an auditor with no membership in the corporation, no ownership interests in Carmelton, and no other affiliation of the Corporation or its Members.

Section 4.6. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a reputable Business/Maintenance Agent, a professional managing agent or real estate management company (either being hereinafter referred to as "Business/Maintenance Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods.

(b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and improvements on the Lots and the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners, the Corporation;

(d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business, social activities, welfare and affairs of the Corporation;

(e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas;

(f) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Corporation; and

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the

Property provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.7. Limitations on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Two Thousand Five Hundred Dollars (\$2,500.00), unless the prior approval of a majority of Owners is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as presented to the Owners at the annual meeting and, if necessary, approved by the Owners at such annual meeting.

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

The said \$2,500.00 maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price Deflator or any comparable, successor index.

Section 4.8. Compensation. No Director or Officer shall receive any compensation for his services as such.

Section 4.9. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. All such meetings shall be open to all Members of the Corporation. Members who wish to address the Board or to present matters within the constraints of the agenda may do so. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to

the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a director may conduct or participate in a regular or special meeting of the Board of Directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is considered to be present in person at the meeting.

Section 4.10. Waiver of Notice. Before or after any meeting of the Board, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.11. Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.12. Bond. The Board of Directors may require the Business/Maintenance Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.13. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

## ARTICLE V

### OFFICERS

Section 5.1. Officers of the Corporation. The principal officers of the Corporation shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer

and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Corporation and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Corporation and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Corporation's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Corporation or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately the financial condition of the Corporation and such other duties incident to the office of Treasurer. He shall be legal custodian

of all monies, notes, securities, and other valuables which may from time to time come into possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Corporation. The Treasurer may permit the Business/Maintenance Agent, if any, to handle and account for monies and other assets of the Corporation to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time hire, designate or elect from among the Owners an Assistant Secretary, an Assistant Treasurer or Advisory Officers, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

## ARTICLE VI

### ADDITIONAL RIGHTS AND DUTIES OF BOARD

Section 6.1. Right of Entry. An Owner or occupant of a Lot shall be deemed to have granted the right of entry to his Lot or Townhouse to the Board, the Business/Maintenance Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Lot or Townhouse, the Building located thereon, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Lot or Townhouse for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 6.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation, social activities, and welfare of the Property as the Board may deem desirable, including but not limited to the use of the Common Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

## ARTICLE VII

### AMENDMENT TO BY-LAWS

Section 7.1. Amendment. These By-Laws may be amended by an affirmative vote of sixty-six percent (66%) of those Owners present, in person or by proxy, at a duly constituted meeting called for such purpose at which there is a fifty percent (50%) quorum, except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

## ARTICLE VIII

### NOTICES AND MORTGAGES

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot or Townhouse or the Mortgagee thereof may notify the Secretary of the Corporation and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.2. Notice of Assessments. Upon ten (10) days written notice to the Corporation, the Corporation shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot or Townhouse, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Lot, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Corporation in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.3. Availability of Information. The Corporation shall keep and shall make available to prospective purchasers of

Lots, upon request at reasonable business hours, copies of the Declaration, Articles of Incorporation, By-Laws, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Association.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1. Fiscal Year. The fiscal year of the Corporation shall commence on April 1 and end on March 31 of the following year.

Section 9.2. Personal Interests. Except as provided in Section 5.7 above, no member of the Corporation shall have or receive any earnings from the Corporation, except a member who is an officer, director, employee, or agent of the Corporation may be reimbursed for expenses incurred on the Corporation's behalf.

Section 9.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer and at least one other officer of the Corporation.

Section 9.4. Parliamentary Procedure. The parliamentary rules of procedure contained in the current edition of Roberts Rules of Order shall govern the affairs of the Corporation to the extent they are not inconsistent with these By-Laws, the Articles of Incorporation, the Act, or the Declaration.

## ARTICLE X

### INDEMNIFICATION

Section 10.1. Indemnification of Directors. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

Section 10.2. Indemnification of Officers. To the extent not inconsistent with the laws of the state of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as

hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation to the same and fullest extent that directors are indemnified by the Corporation as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

## ARTICLE XI

### COMMITTEES

Section 11.1. Board's Appointment. The Board of Directors shall be responsible for appointing through a majority vote of the Board, the committees described below and such other committees from time to time which may assist the Board in performing its duties. In the event of any non-functioning committee, the duties and responsibilities revert to the Board of Directors.

Section 11.2. Election Committee. The Election Committee shall function at all membership elections of directors. The Committee shall function in the manner prescribed by the parliamentary authority for secret ballots. The Committee shall be responsible for preparing the written ballot which shall contain the names of the slated candidates and contain sufficient space to write in the name of candidates nominated from the floor for each vacant Director's position.

Section 11.3. Nominating Committee. The Nominating Committee shall function prior to and at all membership elections of Directors. The Committee shall function as prescribed by the parliamentary authority and shall slate at least one candidate for every vacant Director's position.

Section 11.4. Architectural Committee. The Architectural Committee is responsible for overseeing the covenants found in the Declaration. The committee shall be composed of at least three (3) members and no more than seven (7) members. The Committee will review and make recommendations to the Board regarding changes and requests made by Owners described in Section 22 of the Declaration. The Board may, in its discretion, ask the Committee for recommendations regarding maintenance priorities or other appropriate questions that may arise.

Section 11.5. Pool Committee. The Pool Committee shall develop Rules and Regulations governing both the Pool and the Clubhouse, and shall present them to the Board for adoption. The Committee shall be responsible for updating the rules as may be required from time to time.

The committee shall have oversight authority regarding the budget and maintenance of these facilities and shall make recommendations regarding these matters to the Board of Directors.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 15 day of March, 1993.

Edwin Wiseman  
Signature

Edwin Wiseman  
Printed

President  
Title

I affirm under the penalties for perjury that the above statements are true and correct to the best of my knowledge and belief.

Edwin Wiseman

STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE

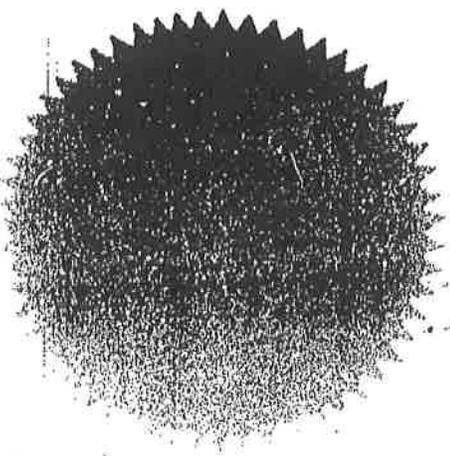
To Whom These Presents Come, Greeting:

CERTIFICATION OF INCORPORATION

CARMELTOWN, INC.

I, LARRY A. CONRAD, Secretary of State of the State of Indiana, hereby certify that Articles of Incorporation of the above not for profit Corporation, in the form prescribed by my office, prepared and signed in duplicate by the incorporator(s) and acknowledged and verified by the same before a Notary Public, have been presented to me at my office accompanied by the fees prescribed by law; that one copy of such Articles has been filed in my office; and that the remaining copy or copies of such Articles bearing the endorsement of my approval and filing has been returned by me to the incorporator or his representatives; all as prescribed by the Indiana Not-For-Profit Corporation Act of 1971.

Wherefore, I hereby issue to such Corporation this Certificate of Incorporation, and further certify that its corporate existence has begun.



In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis

this 3rd day of August 1973

LARRY A. CONRAD

Secretary of State

By \_\_\_\_\_

Deputy

ARTICLES OF INCORPORATION  
(Not for Profit)

Prescribed by Larry A. Conrad,  
Secretary of State of Indiana

INSTRUCTIONS:

Use 8 1/2 x 11 Inch Paper for Inserts

Present 2 Executed Copies to Secretary of  
State, Room 155, State House, Indianapolis,  
Indiana 46204

FILING FEE is \$13.00

General Requirements "Non-Profit" means  
that the Corporation shall not engage in any  
activities for the pecuniary gain of its  
members.

APPROVED  
AND  
FILED

AUG 3 1973

*[Signature]*  
SECRETARY OF  
STATE OF INDIANA

ARTICLES OF INCORPORATION  
OF

..... CARMELTOWN, INC. ....

The undersigned incorporator or incorporators, desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971, (hereinafter referred to as the "Act"), executed the following Articles of Incorporation.

ARTICLE I

Name

The name of the Corporation is . . . CARMELTOWN, INC. . . . .  
(The name shall include the word "Corporation" or "Incorporated", or one of the abbreviations thereof.)

ARTICLE II

Purposes

The purposes for which the Corporation is formed are:

To own and manage at no profit, certain real estate located in Hamilton County, State of Indiana, specifically designated as "The Common Areas" in the Declaration of Carmeltown, Inc., as recorded the 30th day of AUGUST, 1973 in the Office of the Recorder of Hamilton County, Indiana.

**ARTICLE III**  
**Period of Existence**

The period during which the Corporation shall continue is . . . perpetual . . .  
(will either be "Perpetual", or, it to be limited, some definite period of time.)

**ARTICLE IV**  
**Resident Agent and Principal Office**

Section 1. Resident Agent. The name and address of the Resident Agent in charge of the Corporation's principal office is . . . . . David G. Evans . . . . .  
(Name)

5923 Camelback Court . . . . . Carmel, . . . . . INDIANA . . . 46032 . . .  
(Number and Street or Building) (City) (State) (Zip Code)

Section 2. Principal Office. The post office address of the principal office of the Corporation is . . . . .

5923 Camelback Court . . . . . Carmel, . . . . . INDIANA . . . 46032 . . .  
(Number and Street or Building) (City) (State) (Zip Code)

**ARTICLE V**  
**Membership**

(A minimum of three (3) shall have signed the membership list. Directors or Trustees or Incorporators are included in the Membership.)

Section 1. Classes. (If any)

See By-Laws

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes.

See By-Laws

Section 3. Voting Rights of Classes.

*PLEASE NOTE: The Corporation shall admit upon entry into membership only those persons who are recommended by the President and Secretary (or Assistant Secretary), stating that he is a member of the Corporation.*

**ARTICLE VI**  
**Directors**

Section 1. Number of Directors. The initial Board of Directors is composed of Three . . . . . members. If the exact number of Directors is not stated, the minimum number shall be Three . . . . . and the maximum number shall be Nine . . . . . Provided, however, that the exact number of directors shall be prescribed from time to time in the By-Laws of the Corporation: AND PROVIDED FURTHER THAT UNDER NO CIRCUMSTANCES SHALL THE MINIMUM NUMBER BE LESS THAN THREE (3).

Section 2. Names and Post Office Addresses of the Directors. The name and post office addresses of the initial Board of Directors are:

Name	Number and Street or Building	City	State	Zip Code
David G. Evans	5923 Camelback Ct.	Carmel,	Indiana	46032
Joseph Dawson	1001 Broad Ripple Ave.,	Indpls.,	Indiana	46220
James J. Nelson	6366 N. Guilford Ave.	Indpls.,	Indiana	46220

**ARTICLE VII**  
**Incorporator(s)**

Section 1. Names and Post Office Addresses. The names and post office address(es) of the incorporator(s) of the Corporation is (are) as follows:

Name	Number and Street or Building	City	State	Zip Code
David G. Evans	5923 Camelback Ct.	Carmel,	Indiana	46032
Joseph Dawson	1001 Broad Ripple Ave.,	Indpls.,	Indiana	46220
James J. Nelson	6366 N. Guilford Ave.	Indpls.,	Indiana	46220

**ARTICLE VIII**  
**Statement of Property (If any)**

A statement of the property and an estimate of the value thereof, to be taken over by this corporation at or upon its incorporation are as follows:

NONE

**ARTICLE IX**  
**Provisions for Regulation and Conduct**  
**Of the Affairs of Corporation**  
**(Can be the "By Laws")**

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of this corporation, and creating, defining, limiting or regulating the powers of this corporation, of the directors or of the members or any class or classes of members are as follows:

See By-Laws

The undersigned, being one or more persons, do hereby adopt these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list or lists of the above named corporation for which a Certificate of Incorporation is hereby applied for, have heretofore been opened in accordance with the law and that at least three (3) persons have signed such membership list.

IN WITNESS WHEREOF, I (we) the undersigned do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 18th day of July, 1973.

*James J. Nelson*  
(Written Signature)

James J. Nelson  
(Printed Signature)

*David G. Evans*  
(Written Signature)

David G. Evans  
(Printed Signature)

*Joseph Dawson*  
(Written Signature)

Joseph Dawson  
(Printed Signature)

NOTARY ACKNOWLEDGEMENT  
(required)

State of Indiana

SS:

County of DELAWARE

Before me, Deborah Jean Davis, a Notary Public in and for said county and State, personally appeared the above incorporator(s) and (severally) acknowledged the execution of the foregoing Articles of Incorporation.

Notary Seal  
Required

*Deborah Jean Davis*  
(Written Signature)  
DEBORAH JEAN DAVIS  
(Printed Signature)  
DEBORAH JEAN DAVIS, Notary Public  
(Printed Signature)

My commission expires: February 2, 1977

WITNESS my hand and Notarial  
Seal this 18th day of July, 1973

This instrument was prepared by \_\_\_\_\_ (Name)  
\_\_\_\_\_, \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code)  
(Number and Street or Building)















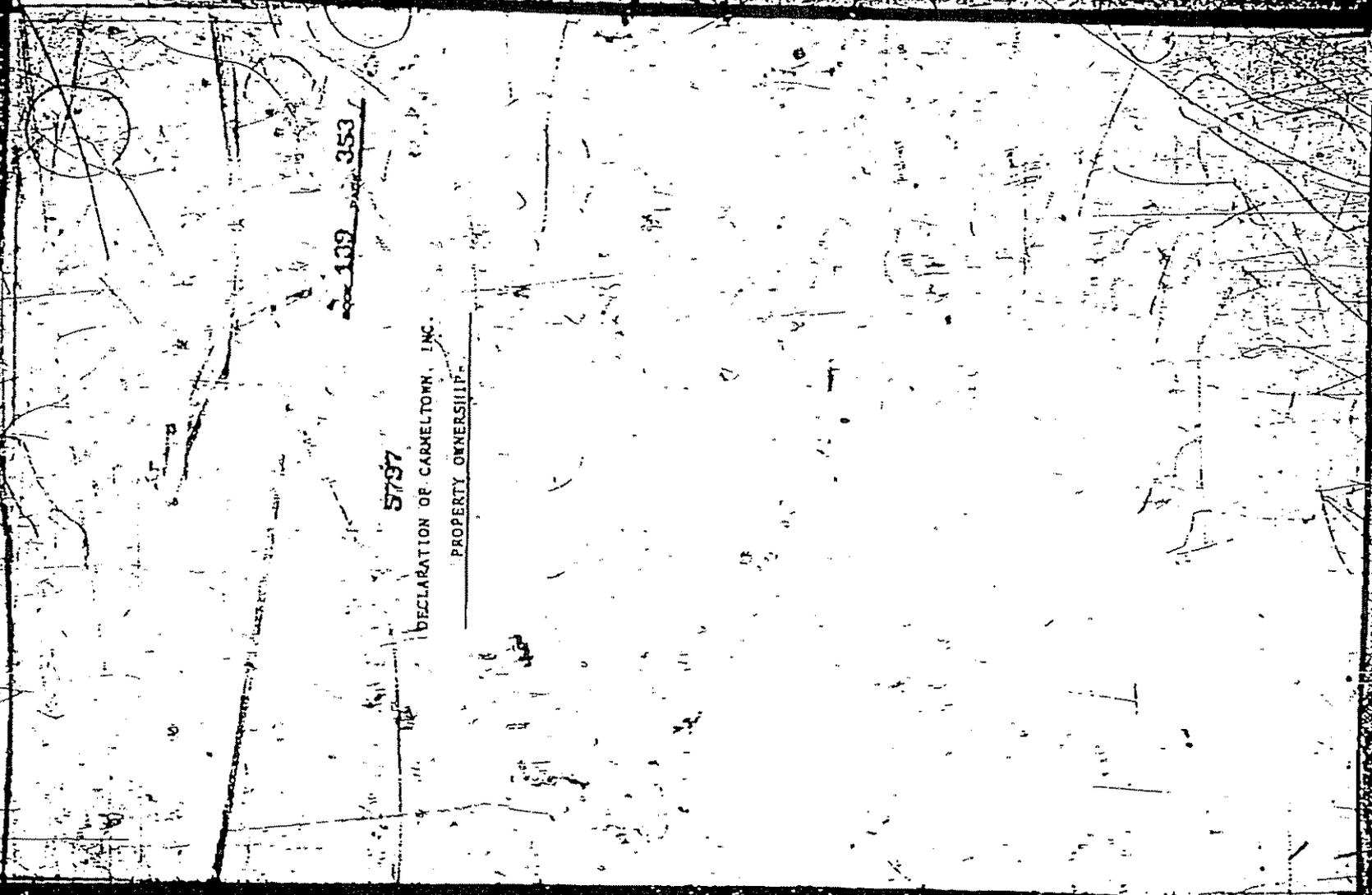


**Summary of Owner / HOA Responsibilities (not inclusive)**  
**CARMELTOWN**

<b>HOA responsibilities</b>	<b>HOA</b>	<b>Owner</b>
Clubhouse	X	
Shed	X	
Pool	X	
Pool fence	X	
Trees and shrubs (located in the common areas)	X	
Streets (listed in Covenants), surfacing, paving, and maintaining of private streets, parking areas, and sidewalks in Common Area (By-laws)	X	
Curbs	X	
Underground storm / sump pump drainage pipes	X	
Unit Fencing: Between units and rear, which were installed by the association	X	
Perimeter Fencing	X	
Fencing installed by the Association	X	
Procuring utilities to the Common Area	X	
Trash Removal (if not provided by the municipality)	X	
Snow Removal from Common Area	X	
Landscaping, painting, decorating, and furnishing of Common Areas	X	
Exterior Maintenance (Repair, replacement, and care of...)	X	
Roof	X	
Roof decking	X	
Gutters	X	
Downspouts	X	
Exterior wood building surface	X	
Exterior metal building surface	X	
Electrical boxes of electrical meter	X	
Garage overhead door and garage service, including painting of the exterior of the door (but only during routine paint cycles) and replacement of the garage door	X	
Garage aprons	X	
Brick	X	
Mailboxes	X	
Light fixtures with numbers above each garage		
Exterior Surface of Townhome front doors	X	
Any interior damage to Townhome as result of roof leaks, but only if roof leak damage qualifies for insurance coverage	X	

Owner responsibilities - CARMELTOWN	HOA	Owner
All interior maintenance repairs, decorations, including but not limited to:		X
Internal water lines, plumbing, electrical lines, gas lines, appliances, etc		X
Door		X
Windows		X
Lamps		X
All other accessories appertenunt to the unit		X
Exterior (Repairs must conform to Architechural Consent Repair Form / ACR)		X
Glass surfaces		X
Storm windows and storm doors		X
Patio door screens and window screens		X
Light fixtures		X
Bulbs		X
A/C compressor unit		X
Power attic ventilator		X
Deadbolts		X
Garage door openers		X
Awnings of any kind		X
Any structure or addition which any owner has added to the unit		X
Any flowerbeds or planters, or any other structure made to hold flowers or plants, shrubs or trees planted immediately adjacent to the unit (current owner or prior owner)		X
Any damage of exterior caused by negligence of the owners, occupants or guests		X
Skylights including any related leaks to the roof that have been modified		X
Foundation for garages and units (unless caused by a roof leak, and only if that roof leak damage qualifies for insurance coverage)		X
Unit sidewalks and walkways (as long as not considered a Common Area)		X
Surfacing, paving, and maintaining of private streets, parking areas, and sidewalks included within description of Lot		X

**DISCLAIMER:** The responsibilities of the Owner are not limited to the list here. If there are any questions about responsibility, please contact the HOA board.



109 353

5797

DECLARATION OF CARMELTON, INC.

PROPERTY OWNERSHIP



DECLARATION OF CONVEYANCE, INC.  
—MORTGAGE DOCUMENT—

TABLE OF CONTENTS

No.	Description	Page
1.	Restrictions	1
2.	Description of CONVEYANCE, INC.	1
3.	Description of CONVEYANCE, INC.	1
4.	Description of Documents	1
5.	Legal and Financial	1
6.	Company Name	1
7.	Operation of Company After	1
8.	Declaration of Use of the Company Area	1
9.	Discussions and Hearings in Above Area	1
10.	Corporate	1
11.	Corporate and Restrictions	1
12.	Corporate and Restrictive Uses	1
13.	"Not in"	1
14.	Reverability Clause	1
15.	Plan	1
16.	Agreement for Utilized and Public and Other	1
17.	Right of Access, Easements, and Restrictions	1
18.	Management Agreement	1
19.	Real Estate Taxes	1
20.	Utilities	1
21.	Insurance, Repairs and Replacements	1
22.	Party Lists	1
23.	Insurance	1
24.	Liability and Disposition	1
25.	Right and Level of Use by Owners	1
26.	Notice to Association of Mortgage	1
27.	Assignment of Decision	1
28.	Insurance Specifications	1
29.	Insurance	1
30.	Association and Mortgage	1

