

**RECORD OF DEDICATORY INSTRUMENTS FOR  
FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION**

STATE OF TEXAS §  
COUNTRY OF HARRIS §

**BEFORE ME**, the undersigned authority, on this day personally appeared Dennis A. McQueen, who, being duly sworn according to law, stated the following under oath:

"My name is Dennis A. McQueen. I am fully competent to make this Affidavit. I have personal knowledge of the facts stated herein, and they are all true and correct.

I am an Attorney for Fountainhead Recreational and Maintenance Corporation, a Texas Non-profit Corporation (the "Association"). I have been authorized by the Association's Board of Directors to sign this Affidavit.

The Association is a "property owners' association" as that term defined in *Title 11 of the Texas Property Code*. The Association's jurisdictions includes, but may not be limited to the tract or parcel of land known as Fountainhead Section One, an addition in Harris County, Texas.

Attached hereto are the originals of, or true and correct copies of, the following dedicatory instruments including known amendments or supplements thereto, governing the Association, which instruments have not previously been recorded.

1. **Architectural Control and Deed Restrictions Guideline**
2. **Minutes of Regular Monthly Meeting – Late Fee Policy – June 14, 2004**
3. **Articles of Amendment to the Articles of Incorporation**
4. **Restated and Amended By-Laws – September 18, 2000**
5. **Amendment to Bylaws – September 15, 2003**
6. **Resolutions of Board of Directors – Nuisance Dogs – February 12, 2007**
7. **Resolution of Board of Directors – Late Fees – February 9, 2009**
8. **Payment Plan Form**

The documents attached hereto are subject to being supplemented, amended or changed by the Association. Any questions regarding the dedicatory instruments of the Association may be directed to the Association at 4714 Fountainhead Drive, Houston, Texas 77066.

**SIGNED** on this 16<sup>th</sup> day of October 2014.

  
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**Dennis A. McQueen, Attorney in Fact**

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NOTICE

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see

RP 093-05-1234

STATE OF TEXAS

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COUNTRY OF HARRIS

On this 16<sup>th</sup> day of October 2014, appeared before me Dennis A. McQueen, the attorney in fact and authorized agent of Fountainhead Recreational and Maintenance Corporation, and acknowledged to me that he executed this Affidavit for the purposes therein expressed.



*Lucia Anna Giurriato*  
Notary Public - State of Texas

After recording, return to:

Dennis McQueen  
Pagel, Davis & Hill, PC  
1415 Louisiana, 22<sup>nd</sup> Floor  
Houston, Texas 77002

RP 093-05-1235

FOUNTAINHEAD RECREATIONAL AND  
MAINTENANCE CORPORATION  
4714 Fountainhead Drive  
Houston, TX 77066  
281-893-4820

**ARCHITECTURAL CONTROL AND  
DEED RESTRICTION GUIDELINE**

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**FOUNTAINHEAD R&M CORPORATION**  
**ARCHITECTURAL CONTROL AND**  
**DEED RESTRICTION GUIDELINES**

(Revised February 2002)

**SECTION 1.0: INTRODUCTION**

These Guidelines set forth the organizational structure of the Architectural Control Committee ("ACC") of Fountainhead Recreational and Maintenance Corporation ("R&M"), and procedural requirements and guidelines for obtaining approval of the ACC regarding the use and appearance of property in the Fountainhead Subdivision. The authority and duty of R&M is to regulate appearance, use, maintenance, repair, replacement and modification in accordance with the Reservations, Deed Restrictions and Covenants for Fountainhead (the "Restrictions"), and Chapter 204 of the Texas Property Code. General references to the Restrictions are provided throughout these Guidelines as points of reference, but are not intended to be exclusive. Various topics are sometimes covered in several places in the Restrictions. Almost any change to be made to the exterior appearance of a residence or a Lot requires prior approval in writing by the ACC. Monitoring compliance with the architectural provisions of the Restrictions and processing Applications for Architectural Approval are the primary functions of the ACC. The ACC periodically surveys the subdivision as to compliance with all provisions of the Restrictions and reports to the R&M Board of Directors and ACC. Your cooperation in following the Restrictions and these Guidelines will be greatly appreciated. It is only through such cooperation that we will be able to maintain the high standards of our community.

**SECTION 2.0:**  
**ARCHITECTURAL CONTROL COMMITTEE**

**2.1: DUTIES:** The duties of the ACC shall be: (i) development and, subject to final approval by the R&M Board of Directors, adoption, modification and deletion of such Guidelines, as it deems appropriate to maintain the architectural, environmental or aesthetic standards of Fountainhead Subdivision and provide for

full accomplishment of the purpose and intent of the Restrictions, Guidelines and decisions of the ACC, and reporting instances of non-compliance as to same along with recommendations to the R&M Board of Directors for obtaining compliance.

**2.2: COMPOSITION:** The ACC shall be composed of at least four (4) Fountainhead residents, one (1) of which shall be a member of the R&M Board of Directors. Members of the ACC shall be appointed annually by the R&M Board of Directors at its first meeting following the annual meeting of members. ACC members shall serve at the discretion of the R&M Board of Directors, and the R&M Board of Directors shall fill any vacancies. No person serving on the ACC shall be entitled to compensation for such service, but with prior approval of the R&M Board of Directors: (i) the ACC may employ consultants to assist in carrying out its duties; and (ii) persons serving on the ACC may receive reimbursement for reasonable expenses. The ACC may conduct meetings in person or by telephone conference. The ACC need not keep records of the meetings. The ACC shall keep records of all of its final decisions and record such decisions in the minutes of monthly board meetings. It shall at all times keep the R&M Board of Directors fully advised as to its activities.

**2.3: ACC APPROVAL REQUIRED:** No "Improvement" as herein defined shall be commenced, constructed, erected, placed, maintained or made upon any Lot unless and until an Application for Architectural Approval has been submitted to and approved in writing by the ACC.

**2.4: REQUIRED FORM:** All requests for ACC approval must be submitted in writing to the ACC using the current form of Application for Architectural Approval. Oral requests will not be considered. The Application must be completed in its entirety and include all information and documentation required by the Application before the Application will be considered to have been submitted. The form of Application for Architectural Approval will be available on request. The Application form sets forth requirements for submission, which must be strictly followed before approval can be obtained. A copy of the current form of

Application is attached to these Guidelines. All provisions of the application are deemed a part of these Guidelines.

**2.5: "IMPROVEMENT" DEFINED:** "Improvement" as used in these Guidelines means and refers to: (i) any work, condition or thing which will alter or change (a) the exterior appearance of any Lot, or the residence (including garage) or other building or structure located on any Lot, or (b) the interior composition or usage of any garage; or (ii) the placement, construction, reconstruction or erection of, or modification, alteration, or addition to, any building, structure, thing or device, and any usage thereof, whether temporary or permanent, which may effect, modify or alter (a) the aesthetics, environment, architectural scheme, appearance or standards, (b) patterns of usage, or (c) grades, drainage patterns or topography generally prevailing in the Subdivision as of the date of establishment of the improvement. The foregoing includes by way of illustration and not of limitation, any building, garage, porch, shed, greenhouse, bathroom, coup, or cage, covered or uncovered patio, swimming pool, clothes lines, radio or television antenna or satellite dish system, fence, wall or other screening device, curbing, paving, walls and major landscaping, fountains, statuary, lighting fixtures, signs or signboard, or any other temporary or permanent modification or alteration.

**2.6: "PREVAILING COMMUNITY STANDARDS"**  
**DEFINED:** "Prevailing Community Standards" means those standards of aesthetics, environment, appearance, architectural design and style, maintenance, conduct and usage generally prevailing in the Subdivision as reasonably determined by the R&M Board of Directors or ACC at any given pertinent time and from time to time, including as to each particular Improvement and each other matter or circumstance considered as of the date of the evaluation (i) prevailing standards as to harmony and compatibility with surrounding aesthetics, appearance and patterns of maintenance and use, harmony and compatibility with surrounding buildings, structures and other improvements, and harmony and compatibility with surrounding grades, topography, finished ground elevations, locations, colors, finishes, styles, workmanship,

type and quality of materials and designs, and (ii) compliance with Restrictions and these Guidelines, and with applicable governmental laws, ordinances and regulations.

**2.7: DECISIONS OF THE ACC:** Within 30 days after receipt by an ACC member of a fully and properly completed Application for Architectural Approval (including all architectural data required to be submitted by the ACC to fully evaluate same), the ACC shall mail or deliver to Applicant its written response within the 30-day period. Applicant shall be deemed to have complied with the requirements of the Restrictions and Guidelines regarding submission of an Application if no response is received within the 30-day period. Except for fraud, misrepresentation, accident, or mistake, ACC approvals shall be final. ACC approvals (whether as a result of failure to respond or by written approval): (i) shall not relieve Applicants from the obligation to fully comply with applicable provisions of the Restrictions or constitute a waiver or estoppels as to same; and (ii) shall not prevent the ACC from subsequently disapproving similar Applications or any features or elements thereof. All approvals shall be subject to all conditions expressly stated therein, and to all implied conditions as set forth in the Application for Architectural Approval whether or not so stated in the approval.

**2.8: APPEAL OF ACC DECISIONS:** An Applicant may appeal any decisions of the ACC to the R&M Board of Directors by giving written notice of the specific decisions being appealed to the ACC and to the R&M Board of Directors. Written notice of appeal as aforesaid must be given within 30 days after the date of the ACC decision(s) to which the appeal applies. Applicant shall be given written notice of the date, time and place of the R&M Board of Directors meeting at which such appeal will be considered and will be provided an opportunity to be heard at such meeting. The R&M Board of Directors shall advise of its decisions regarding the appeal in writing, which decisions shall be final.

**2.9: ENFORCEMENT:** The ACC shall monitor for compliance with all architectural provisions of the Restrictions, Guidelines and

its decisions (including approvals, conditional approvals and denials of approval as to Applications for Architectural Approval) as set forth in this ACC Guideline 2.7

**2.91: COMPLIANCE MONITORING:** The ACC shall periodically survey the Fountainhead Subdivision for compliance, and note all areas of non-compliance.

**2.92: VIOLATION NOTICES:** The ACC shall send violation notices to the residents of any Lot found to be in non-compliance. The notices shall be in writing, shall note the non-compliance and shall request compliance in not less than ten (10) days unless the ACC determines circumstances require a shorter compliance period.

**2.93: NON-COMPLIANCE:** If full compliance with an ACC violation notice or deed restriction violation notice is not obtained as determined by the ACC, then the ACC shall refer the matter to the R&M Board of Directors along with its recommendations for enforcement action to be taken.

**2.94: LIABILITY AS TO UNAPPROVED IMPROVEMENTS:** Owners or residents who commence or complete any Improvement prior to obtaining ACC approval may be required to modify or remove the Improvement, or otherwise restore the property to its former condition, if the ACC does not subsequently approve same, in whole or in part. Any such owner or resident shall be solely responsible for payment of all costs for such modification, removal or restoration. Any such owner or resident shall also be liable for payment of all costs incurred by R&M to obtain compliance, including court costs and attorney's fees.

**SECTION 3.0: GENERAL GUIDELINES**

**3.1: ARCHITECTURAL REVIEW CRITERIA:** The ACC shall evaluate all Applications for Architectural Approval on the individual merits of each Application and the following criteria, applied in accordance with the aesthetics, environmental and architectural appearance and standards, and with Prevailing Community Standards in the Fountainhead Subdivision as of the

date of submission of the Application: (i) the proposed Improvement shall comply with applicable provisions of the Restrictions and these Guidelines, and with applicable governmental laws, ordinances and regulations; (ii) the Improvement shall relate favorably to its surroundings and the Subdivision in terms of harmony, topography, location, color, size, workmanship, materials, usage, design and related Prevailing Community Standards; and (iii) the ACC shall use reasonable efforts to achieve consistency in approval or disapproval of specific types of Improvements, but the ACC shall not be bound by prior decisions.

**3.2: TEMPORARY STRUCTURES:** Article IX of the Deed Restrictions provide that no house trailer, tent, shed, barn or other temporary building of any nature shall be placed or constructed on any Lot. The prohibition against temporary buildings of any kind also relates to any improvement, which due to type, style, color, materials, or placement does not become a permanent part of existing Improvements. For example, storage sheds must be compatible in terms of style, color, materials, and design to the main residence, and must be constructed on a permanent slab and not on blocks, wood or skids. Storage sheds not complying with the foregoing would be considered temporary (as well as inconsistent with Architectural Review Criteria as discussed under ACC Guideline 3.1). For another example, Article VI, of the Deed Restrictions prohibits placement of buildings outside setback lines or which encroach on any recorded easement.

**3.3: LOCATION OF IMPROVEMENTS:** Improvements must be located in such manner as to be compatible with their surroundings in terms of aesthetics, intended usage and property and easement rights. In addition to other requirements as set forth in the Plats of the Fountainhead Subdivision and the Restrictions, the ACC may deny approval of a proposed Improvement due to location as set forth in this ACC Guideline 3.3.

**3.3.1: SETBACKS:** The Plats of the Subdivision and Article VI of the Deed Restrictions regulate placement of Improvements. Generally no structure is permitted closer

than five feet (5') to any side Lot line, or within any easement areas (including utility easements which extend across the back of most Lots and inward for five feet (5') or more). Setbacks are designed to maintain both uniformity of appearance and minimum spacing between residences and related structures, and a degree of privacy among residences. Therefore, the ACC generally will not approve location of any structures: (i) closer than five feet to any side Lot line; (ii) between a residence and a side Lot line; (iii) extending past the front of residential dwelling; (iv) within an easement area; or (v) that is visible from any street other than an approved addition to a residential dwelling.

**3.3.2: USE OF COMMON AREAS:** Under Articles XXIII of the Deed Restrictions, common areas include unrestrictive reserves A, B, C & D. These areas include the Fountainhead Club property, and the easements, which pass between residential lots from Christopher Place to Geneva. Nothing, including fences, walls or other structures, excavations, personal property, refuse or vegetation shall be placed or permitted to remain in common areas without ACC or R&M Board of Directors approval.

**3.3.3: TRAFFIC SIGHT BARRIERS:** Article XV of the Deed Restrictions provides nothing shall be placed on a Lot within defined triangular sight line areas at elevations between two and six feet above a street. These areas apply to corner Lots where they abut the streets, and to each side of driveways where they enter the street. The sight line areas as defined in the Restrictions can be difficult to exactly define. Consistent maintenance of bushes, trees, etc. in such areas to keep them out of the two - six foot areas can be a problem. Finally, safety is not always maximized even though a sight line barrier may be slightly out of the two (2) - six (6') foot areas. The ACC therefore applies the following criteria for maintenance of minimum sight lines: (i) nothing will be approved which is located closer than fifteen feet (15') to either street curb on a corner Lot; and (ii) nothing will be approved which is located

closer than ten feet (10') from the edge of a driveway and the abutting street curb.

**3.4: COMPLIANCE WITH RESTRICTIONS:** Applicants for ACC approval are solely responsible for complying with applicable provisions of the Restrictions regardless of ACC approval. However, the ACC will include consideration of applicable provisions of the Restrictions in reviewing any Application for Architectural Approval. The ACC may deny approval of any Application, which is inconsistent with the purposes, and intent of the Deed Restrictions, including guidelines in general and the provisions of this ACC Guideline 3.4 in particular.

**3.5: MULTI-FAMILY AND BUSINESS USE PROHIBITED:** Article III of the Deed Restrictions requires Lots be used solely and only for single-family residential purposes. Conversely, Article III strictly prohibits use of any Lot, or any part thereof, or any building or structure thereon, for business, commercial, professional or service activities of any kind, whether or not for profit. Without limitation of the foregoing, the following also applies:

**3.5.1: RESIDENTIAL USE ONLY:** As used in the Restrictions and these Guidelines, the term "residential use" shall be construed to prohibit the use of any Lot or the residence thereon for apartment houses or other type of dwelling designed for multi-family dwelling, or use for or operation of a boarding or rooming house or residence for transients, or the use of any outbuilding as an apartment or residential living quarters.

**3.5.2: SINGLE FAMILY DEFINED:** As used in the Restrictions and these Guidelines, the term "single family" means either: (i) husband and wife, their dependent children and their dependent parents, grandparents, grandchildren, brothers and sisters who are maintaining a common household and who are members of a single family related by blood, marriage or adoption; or (ii) one or more natural persons not so related but who are



maintaining a common household in a single family residence on a nonprofit, noncommercial basis with a common kitchen and dining area; and (iii) the bona fide domestic servants of either. "Dependent children" and "dependent parents, grandparents, grandchildren, brothers and sisters" means such relative who do not maintain a separate residence and are not able to maintain a separate residence. No residence on any Lot may be occupied other than by one single family.

**3.5.3: MAXIMUM OCCUPANCY:** In addition to the limitations above set forth, in no event may a single family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single-family residence multiplied by two. The number of bona fide bedrooms is based on the single family residence as originally constructed, plus any additional bedroom(s) which may thereafter be added which have been specifically approved by the ACC for such use, if any.

**3.5.4: GROUP HOMES; DAY-CARE CENTER; TREATMENT FACILITIES:** To the fullest extent allowed by law, no Lot or any part of the single family residence thereon may be used for the operation of a group home, half-way house, day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters. The foregoing does not include a "community home" established and maintained pursuant to and in strict compliance with Chapter 123 of the Texas Health and Safety Code, and all applicable governmental licensing requirements, rules and regulations.

**3.6: PETS, ANIMALS AND LIVESTOCK:** In accordance with Article XII of the Deed Restrictions, the following Guidelines also apply to animals and pets:

**3.6.1: PERMITTED PETS; LEASING REQUIRED:** No animals, hogs, horses, livestock or poultry of any kind may be raised, bred, kept or maintained on any Lot at any time except "Permitted Pets" which are dogs, cats or other usual household pets. Not more than two Permitted Pets are allowed per Lot unless authorized in writing by the R&M Board of Directors, and no Permitted Pets may be raised, bred, kept or maintained for commercial purposes. Subject to Guideline 3.8 regarding a nuisance, the foregoing limitation on the number of Permitted Pets does not apply to hamsters, small birds, fish or other constantly caged animals which are continuously kept completely within a residence, nor shall it apply to require the removal of any litter born to a Permitted Pet prior to the time that the animals in such litter are three months old. All Permitted Pets must be kept on a leash or otherwise maintained under the control of their owner when not maintained in an enclosed yard from which the Permitted Pet cannot escape. **NO PETS OF ANY KIND ARE PERMITTED UPON OR WITHIN THE POOL OR TENNIS COURT AREA, OR IN THE CLUBHOUSE, OR UPON ANY OTHER COMMUNITY PROPERTIES EXCEPT AS TO LEGITIMATE SEEING-EYE DOGS.**

**3.6.2: REMOVAL:** As to any animals or livestock not permitted by this Guideline, and as to any Permitted Pet which is allowed to roam free, or which in the sole opinion of the R&M Board of Directors endanger health or safety, make objectionable noise, or constitute a nuisance, annoyance or inconvenience to the Owners or occupants of other Lots, the community properties or any property located adjacent to or in the vicinity of the Subdivision, or which is otherwise raised, bred, kept or maintained in violation of the Deed Restrictions or these Guidelines, the R&M Board of Directors may cause any such animal, livestock or Permitted Pet to be removed from the Subdivision and may prohibit the return of any such Permitted Pet to the Subdivision. Removal as aforesaid

will be at the sole expense of the responsible Owner or Owner's tenant and without liability of any kind whatsoever to the Association, including the ACC, their officers, directors, agents or employees, or any Person which the R&M Board of Directors may direct to remove any such animal, livestock or Permitted Pet.

**3.7: VEHICLES; PARKING:** In accordance with Articles IX and X of the Deed Restrictions, the following Guidelines also apply regarding vehicles and parking:

**3.7.1: PROHIBITED VEHICLES:** No boat, mobile home, trailer, boat rigging, truck larger than a three-quarter ton pick-up, recreational vehicle, bus, unused vehicle, inoperable vehicle of any kind (including any vehicle requiring same which does not have both a current and valid license plate and current and valid state inspection sticker), and no unsightly vehicle as determined in the sole opinion of the R&M Board of Directors, may be parked, stored or kept at anytime within the Subdivision, or on any driveway or upon any Lot unless such vehicle is stored completely within a garage.

**3.7.2: PROHIBITED PARKING - GENERAL:** No vehicle of any kind may be parked, stored or otherwise permitted to remain at any time (i) on grass or any other similar portion of any Lot or any other place within the Subdivision not intended customarily for use for parking of vehicles, or (ii) in a slanted or diagonal manner across any driveway or other designated parking space, or in any other manner other than as is customary for the type of parking space being used, or (iii) in such manner as to obstruct or impede sidewalk, driveway or street access or usage, or in such manner that any part of the vehicle extends in to any part of any street or common drive. No Owner or resident is permitted to park or store any vehicle on the Lot of another Owner or resident.

**3.7.3: REPAIR OF VEHICLES:** No work on any vehicle within the Subdivision, including on any street, or on any community properties, or on any Lot, may be

performed at any time other than temporary emergency repairs or other work required in order to promptly removing an inoperable or disabled vehicle from the Subdivision or to and completely within a garage. In accordance with Articles III and X of the Deed Restrictions, repair work, dismantling or assembling, or any similar activities is prohibited as to vehicles and as to any other machinery or equipment other than emergency work as aforesaid.

**3.7.4: VEHICLE DEFINED:** As used in the Restrictions and these Guidelines, "vehicle" means a device in, on, or by which a person or property may be transported, including an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer.

**3.7.5: PRESUMPTIVE VIOLATIONS:** Repairs or other work extended over a period exceeding eight (8) hours is conclusively presumed not to be "temporary". Any vehicle is conclusively presumed to be "unused" or "inoperable" if the vehicle has not been operated outside the Subdivision for seven (7) or more consecutive days or the vehicle has not been operated outside the Subdivision more than twice in any fourteen (14) day period. The provisions hereof do not prejudice the right of R&M to otherwise establish a violation. The foregoing provisions do not apply to any vehicle completely stored within a garage. The R&M Board of Directors may grant reasonable exceptions to the foregoing upon receipt of written request from an Owner or their tenant.

**3.7.6: TOWING:** The R&M Board of Directors or its designated representative may cause any vehicle which is parked, stored or maintained in violation of the Restrictions or these Guidelines to be removed from the Subdivision to any vehicle storage facility within Harris County, Texas, at the sole cost and expense of the Person owning such vehicle (whether or not such Person is an Owner) and/or the Owner as to whom such Person is a tenant, visitor, guest, invitee or other related party. Any such removal may be in accordance with any applicable statute or

ordinance, including Chapter 684 of the Texas Transportation Code, as amended.

**3.7.7: LIMITATION OF LIABILITY:** THE ASSOCIATION, THE BOARD, THE ACC, THEIR OFFICERS, DIRECTORS, MEMBERS, AGENTS AND EMPLOYEES, AND ANY PERSON REMOVING ANY VEHICLE AS HEREIN PROVIDED (THE "INDEMNITEES") HAVE NO LIABILITY WHATSOEVER IN CONSEQUENCE OF REMOVAL OF ANY VEHICLE AS HEREIN PROVIDED. THE PERSON OWNING EACH TOWED VEHICLE (WHETHER OR NOT SUCH PERSON IS AN OWNER) AND THE OWNER AND OWNER'S TENANT AS TO WHOM SUCH PERSON IS A VISITOR, GUEST, INVITEE, OR OTHER RELATED PARTY, SHALL HOLD ALL SUCH INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LIABILITIES OR DAMAGES ARISING, DIRECTLY OR INDIRECTLY, AS RESULT OF SUCH REMOVAL. THE PROVISIONS HEREOF ARE CUMULATIVE OF THE PROVISIONS OF GUIDELINE 12.

**3.8: NUISANCE: UNSIGHTLY OR UNKEMPT CONDITIONS:** In accordance with Article X of the Deed Restrictions, the following Guidelines also apply regarding a nuisance, annoyance and related matters:

**3.8.1: GENERAL:** It is the continuing responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No Lot may be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition, or that will be obnoxious to the eye. No hobbies or activities, which will cause disorderly, unsightly, or unkempt conditions, including without limitation the assembly or disassembly of or repair work on motor vehicles or other mechanical devices, may be performed within the

Subdivision. There may not be maintained any plants, animals, devices, thing, use or activities of any sort which in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the residents of the Subdivision.

**3.8.2: NUISANCE OR ANNOYANCE:** No substance, thing, or material may be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive trade or activity may be carried on upon any Lot, nor may anything be done thereon tending to cause embarrassment, discomfort, annoyance, or a nuisance to any residents of the Subdivision or to any Person using any property adjacent to the Lot. No spirituous, vinous, malt, medicated bitters, alcohol, drugs or other intoxicants may be sold or offered for sale on any part of any Lot or any other place within the Subdivision. No Lot or any part thereof may be used for any immoral or illegal purposes..

**3.8.3: POLLUTANTS: HAZARDOUS MATERIALS:** Without limitation of any other provisions hereof, no Owner or tenant, or guest, invitee, agent or employee of either, shall dump grass clippings, leaves or other debris, detergents, petroleum products, fertilizers, or other pollutants or potentially hazardous or toxic substances, in any sewer system, water system, drainage ditch, stream, pond or lake within the Subdivision, or do any thing or maintain or permit any condition in violation of applicable environmental, toxic or hazardous waste or similar laws, rules or regulations. Storage of gasoline, heating or other fuels, or of any hazardous or toxic materials upon any Lot is strictly prohibited (except that up to five (5) gallons of fuel may be stored upon a Lot for emergency purposes and operation of lawn mowers and similar tools or equipment if properly kept and stored in a safe and non-hazardous manner). **THE FOREGOING DOES NOT PLACE UPON THE R&M, THE ACC OR ANY OF THEIR RELATED PARTIES ANY OBLIGATION FOR**

**ENFORCEMENT OF ANY APPLICABLE ENVIRONMENTAL, TOXIC OR HAZARDOUS WASTE OR SIMILAR LAWS, RULES OR REGULATIONS.**

**3.8.4: SOUND DEVICES; EXCESSIVE NOISE:** No exterior speaker, horn, whistle, bell or other sound device shall be located, placed or used upon any Lot or improvement thereon. The foregoing shall not apply to fire or security devices used exclusively for such purpose. No stereo, television, speaker, horn, whistle, bell or other sound device shall be operated within, and no other sound emitting activity (such as practice of a band excessively loud, social gatherings and similar activities) shall be conducted within a residence, garage or other structure which is audible outside the Lot lines of the applicable residence, garage or other structure, or which is otherwise an annoyance or nuisance to any other residents as determined in the sole opinion of the R&M Board of Directors.

**3.8.5: PERMITTED HOURS FOR CONSTRUCTION**

**ACTIVITY:** Except in the case of an emergency, outside construction work or noisy interior construction work is prohibited on any legal holiday or Sunday, and otherwise is permitted only between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays.

**3.8.6: UNOCCUPIED RESIDENCES:** The Owner of a Lot with an unoccupied residence, including any mortgagee in possession and any mortgagee obtaining title to a Lot by foreclosure or by any deed or other arrangement in lieu of foreclosure, is liable for full observance and performance of all terms and conditions of this Declaration and all other Governing Documents, including in particular but without limitation: (i) proper maintenance of the Lot and all improvements thereon; (ii) securing of the unoccupied residence, including fastening of windows and locking of all entry and garage doors, and maintenance of appropriate curtains or other permitted window covers in order to prevent unauthorized entry or use; and (iii) such other

maintenance as required to avoid an appearance of abandonment or other unhealthy, unsafe, unsightly or unkempt appearance, including without limitation, as required by Section 3.8.7.

**3.8.7: HEALTH OR SAFETY HAZARDS:** Owners and occupants of each Lot must take all reasonable steps as necessary to avoid creation of any health or safety hazard on the Lot, or on or within the residence and any other improvement thereon, and to promptly remove any safety or health hazard upon discovery, including maintenance of air conditioning, heating, and other utilities, repair of water leaks and such other maintenance, repair and cleaning on a continuing basis as needed to avoid or remove mold or mildew and avoid hazardous deterioration of a residence or other improvement.

**3.9: DISPOSAL OF TRASH:** No trash, rubbish, garbage, manure, debris or offensive material of any kind may be kept or allowed to remain on any Lot, nor may any Lot be used or maintained as a dumping ground for such materials. No incinerator may be maintained on any portion of the Subdivision, and disposal of any materials by incineration within the Subdivision is strictly prohibited. All trash and similar matter to be disposed of must be placed in cans or similar receptacles with tight fitting lids or plastic bags tied or otherwise tightly secured, and must be placed in an area adequately screened by planting or fencing from public view or within a garage except when placed for regular pickup as herein provided. Equipment used for the temporary storage and/or disposal of such material prior to removal must be kept in a clean and sanitary condition, and must comply with all applicable federal, state, county, municipal or other governmental laws and regulations. All such prohibited matter must be removed from each Lot at regular intervals if not removed or removable by a regular garbage and sanitation service. Trash and garbage for pickup by a regular service must be placed in such area or areas as the R&M Board of Directors may from time to time direct, or as the applicable garbage and sanitation service or provider may require; provided trash and garbage may not be placed for pickup earlier than eight (8) hours prior to a

scheduled pickup day, and all receptacles therefore and any remaining trash and garbage must be removed from the pickup site by midnight of the pickup day.

**3.10: EXTERIOR LIGHTING:** Excepting customary Christmas lighting, any exterior lighting of a residence or Lot must be approved by the ACC. No exterior lighting (including Christmas lighting) may be directed outside property lines of the Lot upon which it is located. All lighting fixtures (except Christmas lighting) must be compatible in style and design to the residence where located. Christmas lighting and related decorations and ornamentation may be displayed between November 15 and January 15, and the ACC may in particular instances or through Guidelines permit other holiday lighting, decorations and ornamentation (all of which for purposes of this Section are referred to as "Christmas lighting"); provided, the ACC is authorized to fully regulate all Christmas lighting in particular instances or by Guidelines to avoid any annoyance, nuisance, safety hazard or unsightly condition or appearance as determined in the sole opinion of the ACC.

**SECTION 4.0: VARIANCE GUIDELINES**

**4.1: REQUESTS:** The ACC shall receive and consider requests for a variance to use or architectural restrictions as set forth in the Restrictions, and shall forward all such requests along with its recommendations thereon to the R&M Board of Directors. Only the R&M Board of Directors may grant a variance. All requests for a variance shall be in writing, and shall state specifically the basis for the request. Any request for a variance and/or any aspect thereof, which is not specifically granted in writing within 30 days after receipt thereof, shall be deemed to be denied. Denial of any request for a variance (whether express or implied) may be appealed as provided in Guideline 2.7.

**4.2: REVIEW CRITERIA:** Requests for a variance shall demonstrate, and the R&M Board of Directors shall not grant a variance unless: (i) the variance is necessary due to unusual circumstances not caused by and which are beyond the reasonable

control of the Applicant, and (ii) granting of the variance will not materially and adversely affect the architectural, aesthetic, or environmental integrity of or scheme of development in the Fountainhead Subdivision.

**4.3: EFFECT OF GRANTING:** Granting of a variance shall apply only to the specific circumstances of the request, and only to the specific written terms upon which granted. The granting of any variance shall not be binding as to any other request - whether or not similar in nature, and shall not constitute a waiver of any provisions of the Restrictions except for the limited purpose and extent of the specific variance expressly granted.

**SECTION 5.0: COLOR SCHEME GUIDELINES**

**5.1: REFERENCE:** Fountainhead Deed Restrictions, Articles IV and XXI.

**5.2: RESTRICTION:** Any color scheme for, and any painting or re-painting or siding replacement as to any residence or other Improvement within the Subdivision must be in compliance with these Color Scheme Guidelines. If work is done without obtaining prior approval, the homeowner may be required to re-paint or reside if color or finish is not approved by the ACC.

**5.3: REVIEW CRITERIA:** In considering color schemes, the ACC shall avoid matters of personal or individualized tastes or preferences, but shall not approve inconsistent or drastically variegated colors or color schemes, and shall seek to maintain conformity with the existing scheme of the neighborhood.

**5.4: COLOR SCHEMES:** Brown, tan, brown hues, reddish brown hues, gray, and earth tones are preferred. Subtle pastels of yellow, green or blues hues may be approved on a case-by-case basis depending on the severity of the color and contrast. Vivid colors such as pure red, orange, pink, violet, solid blue or any color that is stark and vivid and not moderate and of the pastel nature is not allowed.

**5.5: PAINT FINISHES:** Only flat finishes and eggshell and semi-gloss are permitted. Gloss finishes are not permitted.

**5.6: SAMPLE REQUIRED:** A paint sample or chip shall be submitted with each request for approval of a paint color. The ACC may require submission of siding, roofing or other appropriate samples when applicable. The ACC may also require painting of a small portion of an improvement if a proposal, color or finish is not consistent with these Color Scheme Guidelines or it cannot be determined what the final outcome will be from paint samples.

#### **SECTION 6.0: ROOFING GUIDELINES**

**6.1: REFERENCE:** Fountainhead Deed Restrictions, Articles IV and XXI.

**6.2: CONDITION:** Roofs must be maintained to prevent unsightly appearance, including repair or replacement of excessively rotted, warped, pitted, worn or damaged shingles, ridge caps, vents, and other roofing features. Roofs must be completely replaced if repairs or partial replacement would result in an unsightly appearance. For example, roofs must be replaced when the shingles are becoming pitted, warped and are coming off of the house. In the case of wood, the material will begin to rot and deteriorate. In the case of composition, they will be peeling back from the edges and deteriorating.

**6.3: MATERIALS:** Article V of the Deed Restrictions notwithstanding, wood shingle roofs are no longer required or permitted. However, composition type, fiberglass backed, four-tab shingles designed to maintain the appearance of wood shingles are required. Minimum 300# per square shingles are required for overlay of existing shingles. Minimum 240# per square shingles are required over new plywood decking when old shingles will be completed removed and replaced.

**6.4 COLOR:** Shingle colors must be close to the natural color of the wood shingles. They should be dark shades of brown, gray

or reddish hues as an example. Shingles that are light in color or not of the earth tone variety are not permitted.

#### **SECTION 7.0: FENCING AND WALL GUIDELINES**

**7.1: REFERENCE:** Fountainhead Deed Restriction, Article XIV.

**7.2: LOCATION:** Fences and walls must not be nearer to adjoining streets than is permitted for the main residence. It is highly recommended by the ACC that fences or walls be set back at least ten (10') feet from the front of the house.

**7.3: MATERIALS:** Fences and walls may be constructed of wood or masonry. The ACC will also consider wrought iron fencing on a case-by-case basis. Wood fencing shall consist of pine or cedar pickets four (4") to eight (8") inches wide, mounted on rails no smaller than two (2") by four (4") inch, supported by posts at least four (4") by four (4") inches. Masonry fencing shall consist of brick at least six (6") inches thick supported by a concrete footing.

**7.4: COLORS AND FINISHES:** Wood may be left unfinished. Other finishes for wood fencing may be approved by the ACC on a case-by-case basis. Masonry must match the brick veneer of the main residence. Wrought iron color and finish must be approved by the ACC on a case-by-case basis.

#### **7.5: CONSTRUCTION:**

**7.5.1: HEIGHT:** No fence or wall may exceed six and one-half (6½') feet above grade except perimeter fences, which must not exceed ten (10') feet above grade. Perimeter fences are those, which adjoin property outside of Fountainhead.

**7.5.2: DESIGN:** Wood pickets must be spaced less than one-half (1/2") inch apart. Wrought iron bars must be spaced more than three (3") inches apart, and must be no more than three-fourths (3/4") inches thick. Top and

bottom edges must be uniform except ornamental tops as approved on a case-by-case basis.

**7.5.3: GATES:** Gates must be of wood or wrought iron as described above.

**7.5.4: FINISHED SIDE FACING:** The finished side of all fencing, which is visible from any street, must face the street. For example, wood pickets must face the street such that support members and posts are not visible from the street.

**7.5.5: FENCE BARRIERS:** When Improvements are required to be blocked from public view (such as swimming pools or machinery, permitted storage, etc.), wrought iron or other fencing incorporating gaps will not be considered a sufficient barrier.

**7.6: CONSISTENCY:** Proposed fences or walls must be compatible with adjoining area fencing and walls, and consistency as to height and design is a primary factor in maintaining compatibility.

#### SECTION 8.0: GARAGE GUIDELINES

**8.1: REFERENCE:** Fountainhead Deed Restrictions, Articles III (a), IV and V.

**8.2: GARAGES REQUIRED:** All residences within the Fountainhead Subdivision were originally constructed with an attached or detached garage. No carports were originally constructed. In conformity with this original scheme of development, all residences are required to maintain an attached or detached garage containing not less than four hundred (400) square feet of interior floor space and a functioning overhead garage door or doors. Except for porte-cocheres, which may be approved on a case-by-case basis, carports will not be approved.

**8.3: ACC APPROVAL OF GARAGE MODIFICATIONS REQUIRED:** No modifications of the exterior or interior of any garage shall be permitted without prior ACC approval unless as to interior modifications only: (i) the interior modifications are

wholly consistent with usage of the garage as a garage in its entirety, and will not impair the ability to park two (2) cars in the garage; and (ii) the interior modifications will not alter the exterior appearance of the garage as originally constructed.

**8.4: PROHIBITED GARAGE MODIFICATIONS:** It is prohibited to, and the ACC shall not approve any request to, modify any garage which would: (i) divert usage of any part of the garage from anything other than parking of vehicles and other generally accepted and customary uses of a garage; or (ii) divert or convert usage of any part of the garage to use as living quarters, a game room or any similar residential purpose.

**8.5: GARAGE DOORS:** Garage doors must be maintained in functioning and fully operational order at all times. Garage doors shall be painted and repaired as needed to maintain a neat and attractive appearance. Checkerboard painting of garage doors is prohibited and will not be approved.

#### SECTION 9.0:

#### OWNER MAINTENANCE RESPONSIBILITIES

**9.1: REFERENCE:** Fountainhead Restrictions, Article XVII and Article XXI.

**9.2: GENERAL; INTERIOR MAINTENANCE:** All maintenance of each Lot and all improvements thereon is the sole responsibility of the Owner thereof. Each Owner must maintain their Lot and all improvements thereon at all times in such manner as to obtain and maintain Prevailing Community Standards on a continuing basis as may be more specifically determined by the Deed Restrictions and these Guidelines. Without limitation of the foregoing, each Owner must maintain, at each Owner's sole cost and expense, the interior of the Owner's residence and garage, including all fixtures, equipment, appliances, things and devices located therein. **MAINTENANCE, WHICH AFFECTS THE EXTERIOR APPEARANCE OF A RESIDENCE OR GARAGE, IS SUBJECT TO APPLICABLE PROVISIONS OF THE DEED RESTRICTIONS AND THESE**

## GUIDELINES REGARDING ARCHITECTURAL CONTROL COMMITTEE APPROVAL.

### 9.3: RESIDENCES AND OTHER IMPROVEMENTS: Each

Owner shall maintain the exterior of each Owner's residence, garage, and all other buildings, structures, fences, walls, recreational equipment and improvements located upon each Owner's Lot, in an attractive, sound and well maintained condition, including proper maintenance and repair as needed of paint, bricks, siding, roofs, rain gutters, downspouts, exterior walls, driveways, parking areas and all other exterior portions of the Owner's residence and garage. Without limitation of the foregoing, each Owner shall provide proper repair and maintenance as and when needed as follows (the term "residence" includes garage, as applicable):

(a) The exterior paint on each Owner's residence must be maintained so that no portion thereof peels, scales or cracks excessively, and all painted portions remain neat and free of mildew and discoloration. **NO CHANGE IN THE EXTERIOR COLOR SCHEME OF A RESIDENCE AS ORIGINALLY CONSTRUCTED IS PERMITTED WITHOUT PRIOR WRITTEN APPROVAL FROM THE ACC.**

(b) The windows must be maintained so that no caulking thereon is chipped or cracked and no windowpanes are cracked or broken.

(c) All exterior doors, including garage doors, must be maintained, repaired, replaced and/or repainted as needed to prevent an unkempt or unsightly appearance and such as to maintain same in proper working condition, including replacement as needed of damaged or dented garage door panels and any cracked or broken glass in any door.

(d) The exterior woodwork on each Owner's residence, and all windowsills, door jams and thresholds, framing, hinges, latches and locks, must be maintained so that it remains whole, sound, neat and fully operational.

(e) The roof on each Owner's residence must be maintained to prevent sagging, to prevent leaks, so that all shingles are properly secured, curled or damaged shingles are replaced and no

worn areas or holes are permitted to remain, and such that the structural integrity and exterior appearance of the roof is maintained. The appearance of the roof shall not be changed by any such maintenance without the express written approval of the ACC.

(f) The rain gutters and downspouts on each Owner's residence, if any, must be maintained so that all are properly painted or treated to prevent rust and corrosion, are properly secured to roof, eaves, gables or exterior walls (as the case may be), are maintained without holes, and are promptly repaired or replaced if dented or otherwise damaged.

(g) All concrete areas on each Owner's Lot, including sidewalks and driveway, must be maintained so that all cracks are appropriately patched or surfaced as they appear, expansion joints are maintained, repaired or replaced, as needed, and oil, grease and other stains are removed as they appear, and all such areas must be kept free of weeds, grass or other vegetation.

(h) All fences or walls erected on each Owner's Lot must be maintained to prevent any listing or leaning, so that all broken or damaged members and all holes and cracks are repaired as they appear and so that no portion thereof is permitted to rot or decay. **PAINTING OR STAINING OF WOODEN FENCES IS PROHIBITED UNLESS APPROVED IN WRITING BY THE ACC.**

(i) Any swimming pool, which may be installed if and only if approved by the Architectural Control Committee, must be properly maintained to prevent drainage or leakage of any kind, algae buildup, deterioration of surfaces and decking and any other unkempt or unsanitary condition, and in accordance with applicable laws, ordinances and codes.

(j) All recreational equipment, which may be installed if and only if approved by the Architectural Control Committee, must be maintained to prevent any unsightly or unkempt condition, including for example but without limitation, proper maintenance of swing sets to prevent rust and corrosion, and proper maintenance of basketball goals to prevent rust and corrosion and by replacement as needed of torn or worn nets.



**9.4: UTILITIES:** The Owner of each Lot must maintain in proper working order, and on a continuing basis, all sanitary sewer lines and facilities, drainage or storm water lines and facilities, water pipelines, water sprinkler system, electrical and gas lines, meters and facilities, air conditioning and heating systems, including as required by Section 3.8.7, telephone and any other telecommunication lines, devices or facilities, and all other facilities, utilities and services which service each Lot (the "Owner Utilities"), regardless of the location of the Owner Utilities, save and except to the extent maintenance of any Owner Utilities is provided and actually performed by any governmental entity or utility company.

**9.5: LANDSCAPING:** All grass, shrubbery, trees, flower beds, vegetation and all other landscaping, either natural or artificial, on each Lot which is not maintained by the Association must be maintained at all times in accordance with the seasons as reasonably necessary to obtain and maintain on a consistent and continuing basis Prevailing Community Standards, including as reasonably necessary to maintain on a consistent and continuing basis a sanitary, healthful and attractive condition and appearance and to eliminate any condition which may create any unsanitary condition or become a harborage for rodents, vermin or other pests including without limitation:

- (a) Regular cutting, mowing and edging of grass such that the grass does not grow to an unsightly height (unsightly height being presumed if growth exceeds six inches (6") in height), or extend over any sidewalk or curb or the driveway; and
- (b) Regular removal of weeds (including rank and uncultivated vegetation of all types) from all lawn areas, flower beds and similar areas customarily intended for vegetation at least every other week during the growing season and in all events such that no weeds grow to an unsightly height (unsightly height being presumed if growth exceeds six inches (6") in height); and
- (c) Regular removal of all vegetation from areas not customarily intended for vegetation (including sidewalk, and street curb and driveway cracks and expansion joints) at least every other week during the growing season and in all events such that no such

vegetation grows to an unsightly height (unsightly height being presumed if growth exceeds four inches (4") in height); and

- (d) Regular trimming and pruning of trees, hedges, bushes and similar vegetation, including as required to maintain unobstructed use of sidewalks, driveways and streets to a height of at least nine feet (9') above the sidewalk, driveway or street; and
- (e) Immediate removal after completion of lawn and yard maintenance of all cuttings and other debris from sidewalks, street curb and gutter areas in the driveway; and
- (f) Appropriate fertilization and watering in accordance with the seasons.

**9.6: ADJACENT OR ADJOINING OWNERS; COMMON**

**FENCES:** No Owner or their tenant will allow any condition to exist or fail or neglect to provide any maintenance which adversely affects any adjoining or adjacent Lot, any community properties, or any improvements on any such Lot or the community properties. All maintenance, repair or replacement of fencing which separates adjoining Lots, or which is otherwise shared in common by two adjoining Lots, is the joint responsibility of, and the adjoining Owners thereof shall share the costs equally.

**SECTION 10:  
ANTENNAS AND SATELLITE DISH SYSTEMS**

**10.1: GENERAL RULE:** A "Conforming Antenna" is a "Permitted Antenna" as defined in Section 10.2, which complies with the location, installation, and other requirements of Sections 10.3 and 10.4. Installation of a Conforming Antenna may start as soon as a notification form has been properly completed and submitted to the ACC as hereafter provided. All other Permitted Antenna and any other type of antenna, "dish", and any other device used for transmission or receipt of video programming, fixed wireless signals as defined by the FCC, or any other signals or data (a "Non-Conforming Antenna") are prohibited as provided in Section 10.7 or may be installed only if the prior written approval of the ACC is obtained in accordance herewith and with Article IV of the Restrictions.

**10.2. PERMITTED ANTENNA:** To the extent required by the Federal Telecommunications Act of 1996, or other applicable statutes, and subject to other applicable provisions of this section and applicable Guidelines and Restrictions as may from time to time be hereafter adopted, the following types of antenna (including mast, cabling, supports, wiring, fasteners and other accessories necessary for proper installation, maintenance and use) are permitted ("Permitted Antenna"):

**10.2.1:** A "dish" antenna that is one meter (39.37") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite services, or to receive or transmit fixed wireless signals via satellite,  
**10.2.2:** An antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via MMDS (wireless cable), or to receive or transmit fixed wireless signals other than via satellite.

**10.2.3:** An antenna that is designed to receive local television broadcast signals (an antenna designed to receive distant over-the-air television signals is not a Permitted Antenna).

**10.3. MANDATORY REQUIREMENTS FOR PERMITTED ANTENNA:** A Permitted Antenna is a Conforming Antenna only if all of the following requirements are met:

**10.3.1:** A PERMITTED ANTENNA SHALL BE NEITHER LARGER NOR INSTALLED HIGHER THAN IS ABSOLUTELY NECESSARY FOR RECEPTION OF AN ACCEPTABLE QUALITY SIGNAL.

**10.3.2:** A Permitted Antenna shall not encroach upon any other Owner's Lot, nor upon any other property outside of the Lot upon which the Permitted Antenna is located.

**10.3.3:** A Permitted Antenna must serve only the particular Lot on which it is located, and may not be located other than upon the Lot so served.

**10.3.4:** No more than one Permitted Antenna providing the same service may be installed per Lot.

**10.3.5: IT IS RECOMMENDED THAT ALL PERMITTED ANTENNAE BE PROFESSIONALLY INSTALLED. CUSTOMER-END PERMITTED ANTENNA DESIGNED TO TRANSMIT FIXED WIRELESS SIGNALS MUST BE INSTALLED BY A QUALIFIED PROFESSIONAL INSTALLER IN ACCORDANCE WITH ALL MANUFACTURER'S INSTRUCTIONS, AND WITH APPLICABLE CODES, ORDINANCES, RULES, AND REGULATIONS TO MEET FCC STANDARDS FOR FREQUENCY EMISSION.**

**10.3.6:** Permitted antenna must be installed and at all times maintained and used in a manner which will not cause any distortion or interference whatsoever with respect to any other electronic device in the Subdivision.

**10.3.7:** To prevent electrical or fire damage or personal injury or property damage, Permitted Antennae (i) must be permanently and effectively grounded, (ii) must not be placed where same may come into contact with electric power lines (above ground or buried), (iii) must be installed and securely attached to withstand wind speeds of at least 70 m.p.h., heavy rain, and similar adverse weather conditions, and (iv) may not be placed closer to any Lot line than the total height of the Permitted Antenna (including any mast).

**10.4. ADDITIONAL LIMITATIONS ON PERMITTED ANTENNA:** The following limitations apply to installation and maintenance of Permitted Antenna except to the extent compliance would (i) unreasonably delay or prevent installation, maintenance or use; (ii) unreasonably increase cost of installation, maintenance, or use; or (iii) preclude reception of an acceptable quality signal. A Permitted Antenna is a Conforming Antenna only if all of the following requirements are met; provided, if installation, maintenance, or use would be impaired as aforesaid by compliance with any of the following limitations, then compliance must be as close as possible. Notwithstanding the foregoing regarding

unreasonable cost increase, R&M Board of Directors shall have the option of removing any such objection by payment of the added cost.

**10.4.1:** Permitted Antenna must be located so as not to be visible from any frontage or side street, and to the extent feasible, so as not to be visible from any other street. In all other respects, Permitted Antenna must be installed in such manner as to minimize the visibility and visual impact of it from adjoining Lots and common areas.

**10.4.2:** If feasible, Permitted Antenna must be installed inside the applicable residence. Otherwise, Permitted Antenna must be attached to the applicable residence, and not mounted freestanding or on any mast. Attachment to the residence shall be on the rear side of the residence, or as close thereto as possible. If mast mounting is required, the mast must be located behind the applicable residence or as close thereto as possible, and the mast may not be higher than is absolutely necessary for reception of an acceptable quality signal.

**10.4.3:** No advertising slogans, logos, banners, signs or any other printing or illustration whatsoever shall be permitted upon or be attached to the Permitted Antenna. The foregoing does not prohibit an inconspicuous manufacturer's logo placed on an antenna as part of the original manufacturing of the antenna.

**10.4.4:** Permitted Antenna shall be a solid color consisting of whichever one of the following colors best conforms with the color scheme of the residence where the Permitted Antenna is located: soft white, cream, brown, gray, or tan. Exterior wiring shall be installed so as to not be visible from any street and otherwise so as to be minimally visible and blend into the material to which attached. The Association may require screening or other camouflaging in order to otherwise minimize visibility of any Permitted Antenna.

## **10.5 OWNERS' MAINTENANCE AND LIABILITY:**

**10.5.1:** Permitted Antenna must be properly maintained at all times in a safe and attractive manner, including repainting or other repair or replacement if the exterior surface of the antenna deteriorates.

**10.5.2:** If a Permitted Antenna detaches, in whole or in part, the user must remove the antenna or fully repair such detachment within 72 hours (or as otherwise provided in the next subsection).

**10.5.3:** Any detachment of a Permitted Antenna, and any other condition arising from the installation, maintenance or use of a Permitted Antenna, which threatens the safety of any persons or property, must be fully and immediately cured or the Antenna fully and immediately removed. In the case of an emergency, the R&M Board of Directors may remove the Permitted Antenna immediately. Otherwise, the R&M Board of Directors only after not less than ten (10) days notice and failure to cure may remove the Permitted Antenna. In either case, the R&M Board of Directors shall not be liable for trespass, conversion or otherwise regarding any such removal.

**10.5.4:** Each Owner is wholly and solely responsible for all costs associated with Permitted Antenna, including installation, maintenance, use, repair and replacement, and all damages, including medical expenses and costs of repair, resulting from such installation, maintenance, use, repair or replacement.

**10.5.5: THE OWNER OF A LOT UPON WHICH ANY CONFORMING ANTENNA OR NON-CONFORMING ANTENNA IS LOCATED AND THE OWNER'S TENANTS, AS APPLICABLE, MUST UNCONDITIONALLY INDEMNIFY AND HOLD THE ACC, THE R&M BOARD OF DIRECTORS, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, MANAGERS, COMMITTEE MEMBERS, SERVANTS, AGENTS AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, EXPENSES AND**

**DAMAGES, INCLUDING ATTORNEYS' FEES, WHICH ANY OF THEM MAY AT ANY TIME SUFFER OR INCUR OR BECOME LIABLE TO PAY BY REASON OF ANY ACCIDENTS, DAMAGES OR INJURIES TO PERSONS OR TO PROPERTY, OR BOTH, IN ANY MANNER ARISING FROM ANY WORK PERFORMED IN CONNECTION WITH, OR THE INSTALLATION, MAINTENANCE, USE, REPAIR OR REPLACEMENT OF, ANY NON-CONFORMING ANTENNA OR NON-CONFORMING ANTENNA.**

**10.6: NOTIFICATION PROCESS, ACC FORMS AND REQUIRED INFORMATION:**

**10.6.1:** Any Owner or their tenant desiring to install a Conforming Antenna (as defined in Section 10.1) must complete a notification form and submit it to the ACC. The installation of the Conforming Antenna may then begin immediately. No Non-Conforming Antenna may be installed unless and until the prior written approval of the R&M Board of Directors is obtained in accordance herewith and with Article IV of the Restrictions. **OWNERS AND TENANTS ARE ENCOURAGED TO OBTAIN PRIOR APPROVAL BEFORE INSTALLING ANY ANTENNA, SATELLITE DISH SYSTEM OR SIMILAR DEVICE AS THE R&M BOARD OF DIRECTORS MAY OTHERWISE REQUIRE REMOVAL OR RELOCATION AT THE EXPENSE OF THE APPLICABLE OWNER OR TENANT IF INSTALLATION IS LATER DETERMINED TO BE NON-CONFORMING.**

**10.6.2:** The R&M Board of Directors may from time to time promulgate forms to be used to notify Owners as to installation of Conforming Antenna and/or to request approval for installation of Non-Conforming Antenna, and may require use of such forms in lieu of any other. At a minimum, a notification of intent to install a Conforming Antenna must describe the size, type and color of the

Conforming Antenna, described in detail the location and manner of installation, and identify the installer by name and telephone number. An Application For Approval to Install a Non-Conforming Antenna must provide the same information as aforesaid, and additionally must state each requirement for a Conforming Antenna, which will not be met, and as to each requirement that will not be met the reasons for non-compliance. Each notification or application submitted must be signed and dated.

**10.6.3:** The initial forms of notice of intent to install a Conforming Antenna and request for approval for installation of a Non-Conforming Antenna must be used in lieu of any others unless and until replaced by the R&M Board of Directors.

**10.7: PROHIBITED ANTENNA:** In no event shall any antenna, "dish" or other device be used for transmitting electronic signals of any kind except Permitted Antenna as defined in Sections 10.2.1 and 10.2.2. Antenna and similar devices of any type used for citizen band ("CB") radio, amateur ("HAM") radio, AM/FM radio, or Digital Audio Radio Service ("DARS"), are prohibited and shall not be erected, placed or permitted to remain on any Lot, on any improvement located on any Lot, or elsewhere in the Subdivision. Without limitation as to the authority of the R&M Board of Directors, they may grant variances as to prohibited antenna and the R&M Board of Directors may condition granting of any such variance upon placement of the antenna in the attic of a residence.

**SECTION 11: SIGNS**

**11.1: GENERAL:** No signs, billboards, posters, banners, pennants or advertising devices of any kind, including without limitation business, professional, promotional or institutional signs, are permitted on any Lot, or upon any residence, or within any residence if visible from the exterior of the residence, or within the Subdivision without the prior written consent of the ACC except as otherwise provided herein. The R&M Board of Directors or ACC may remove or cause to be removed any sign, billboard, poster, banner, pennant or advertising device of any kind which is not

approved as aforesaid or is otherwise prohibited under these Guidelines and may dispose of same as debris without liability for trespass, conversion or otherwise.

**11.2: PROHIBITED SIGNS:** No sign is permitted which is vulgar, obscene or otherwise patently offensive to persons of ordinary sensibilities. Permitted signs must be professionally printed and prepared, and must be properly installed and maintained, to avoid unsightly appearance. The good faith determination of the R&M Board of Directors or ACC as to any of the foregoing is final. No sign is permitted to be larger than four (4') square feet. No sign may be illuminated. No sign may be placed on any Lot closer than ten (10') feet from any street or any side or back Lot line, or within any traffic sight line area as defined in Guideline 3.3.3. No Owner, Owner's tenant or their guests, invitees, family members, agents or employees, is permitted to place any sign on another Owner's Lot or upon any community properties. Distressed, foreclosures and bankruptcy references are specifically prohibited.

**11.3: PERMITTED SIGNS:** To the extent required by law or in any event upon prior approval of the ACC, but subject to applicable provisions of Guideline 11.2, each Owner is permitted to place upon (and only upon) such Owner's Lot (i) one (1) sign advertising the particular Lot on which the sign is located for sale or for rent, but only during periods of time when the Lot is in fact for sale or for rent, and (ii) "political signs" whereby such Owner is promoting a political candidate, party or issue. Except as otherwise approved by the ACC, no more than two (2) political signs are permitted per Lot, and political signs regarding any election or vote may not be placed on any Lot more than forty-five (45) days before the election or vote and must be removed within five (5) days after the election or vote. The ACC may also reasonably regulate the period(s) of time political signs which do not pertain to an election or vote may be permitted. Declarant or the ACC may (but are not obligated to) allow builders within the Subdivision to construct and maintain such signs, billboards, banners, pennants, and advertising devices as are customary in

connection with the sale of newly constructed residential dwellings.

## SECTION 12

### LIMITATION OF LIABILITY; INDEMNIFICATION

**12.1: GENERAL:** Except for intentional and willful misconduct, knowing violation of the law, or as otherwise required by the Texas Non-Profit Corporation Act (including Article 1396-2.22A thereof, as amended), R&M Board of Directors, committee members, agents, attorneys, representatives and employees (its "Related Parties") are not liable to any Member, for monetary damages or otherwise for: (i) any act or omission of an officer or director within their official capacity; or (ii) any act or omission by or on behalf of R&M within the scope of its purposes. The R&M shall indemnify and keep indemnified, and hold harmless, any current or former officer or director to the fullest extent necessary to accomplishment of the foregoing and to the fullest extent otherwise allowed by law, and hold any such officer or director harmless from and against all claims, demands, suits, judgments, court costs, attorney's fees attachments and all other legal action as contemplated thereby. All provisions of this Section 12 also apply to all R&M committees and members thereof (current or former), including the Architectural Control Committee.

**12.2: SECURITY SERVICES:** The R&M Board of Directors may from time to time engage in activities or provide devices or services intended to or which may have the effect of enhancing safety or security, including activities, devices or services limiting or controlling Subdivision access, or providing of patrol services or otherwise monitor activities within the Subdivision including within the pool or tennis court area, within the clubhouse, or within any similar common areas (the "Community Properties"), and may from time to time provide information through newsletters or otherwise regarding same (all such matters and all activities, services or devices of a similar nature or incident thereto herein referred to as, "Security Services"). Without limitation of Section 12, each Owner and their tenants covenant and agree with respect

to any and all Security Services provided directly or indirectly by the R&M Board of Directors as follows:

(a) **SECURITY IS THE SOLE RESPONSIBILITY OF LOCAL LAW ENFORCEMENT AGENCIES AND INDIVIDUAL OWNERS AND THEIR TENANTS, AND THEIR RESPECTIVE GUESTS, INVITEES, FAMILY MEMBERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (THEIR RESPECTIVE "RELATED PARTIES")**. Security Services may be provided at the sole discretion of the R&M Board of Directors. The providing of any Security Services at any time will in no way prevent the R&M Board of Directors from thereafter discontinuing, or from temporarily or permanently modifying, terminating or removing, any Security Services, in whole or in part.

(b) Any third party providers of Security Services are independent contractors, the acts or omissions of which are not imputable to the R&M or its Related Parties.

© Providing of any Security Services may never be construed as (i) an undertaking by the R&M or its Related Parties to provide personal security as to any Owner, tenant or their Related Parties, or as to any other Person, or (ii) a representation or undertaking that any Security Services will be continued, or (iii) a representation, guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause. **WITHOUT LIMITATION OF THE FOREGOING, THE R&M AND ITS RELATED PARTIES SHALL NOT HAVE ANY DUTY WHATSOEVER TO WARN, ADVISE OR INFORM ANY OWNER, TENANT OR THEIR RELATED PARTIES AS TO CRIMINAL CONDUCT OF ANY KIND OR AS TO ANY OTHER MATTERS REGARDING OR RELATING TO SECURITY SERVICES, PAST OR PRESENT.**

(d) The R&M and its Related Parties are not liable for, and each Owner, their tenants, and their respective Related Parties, must indemnify, keep indemnified and hold the R&M and its Related Parties harmless at all times from, any injury, loss or damages whatsoever, including without limitation any injury or

damages caused by theft, burglary, trespass, assault, vandalism or any other crime, to any Person or property arising, directly or indirectly, from the providing or failure to provide any Security Services, or the discontinuation, modification, disruption, defect, malfunction, operation, repair, replacement or use of any Security Services.

(e) **THE R&M AND ITS RELATED PARTIES, HAVE NO DUTY, OBLIGATION OR RESPONSIBILITY OF ANY KIND WHATSOEVER TO WARN, ADVISE OR IN ANY OTHER MANNER INFORM ANY OWNERS, TENANTS, OR THEIR RELATED PARTIES, OR ANY OTHER RESIDENTS OR OCCUPANTS OF ANY LOT OR COMMUNITY PROPERTIES, OR ANY LAW ENFORCEMENT AGENCY, OR ANY OTHER PERSON AS TO ANY ALLEGED, SUSPECTED OR KNOWN CRIMINAL ACTIVITIES OF ANY KIND, CRIMINAL HISTORY OR BACKGROUND OF ANY PERSON, OR CRIMINAL INVESTIGATIONS BY LAW ENFORCEMENT AGENCIES OR BY ANY OTHER PERSON (ALL SUCH MATTERS, ACTIVITIES AND INVESTIGATIONS HEREIN REFERRED TO AS "CRIMINAL MATTERS")**, regardless of whether the Criminal Matters involve the Subdivision, other areas in the vicinity or any other place or lands. The R&M may (but has no obligation to) from time to time disclose and/or transmit information concerning Criminal Matters to Owners, tenants, and any other occupants of Lots and/or any Community Properties, to any law enforcement agencies, and to any other Person which the R&M's officers, directors, agents, employees and other Related Parties in their sole discretion deem advisable. Each Owner and tenant by acceptance of any right, title or interest in any Lot, and every Owner, tenant and occupant of a Lot or any Community Properties by virtue of such occupancy, hereby consents, on their behalf and on behalf of their respective Related Parties, and on behalf of all other Persons coming upon a Lot or any Community Properties at their invitation, or with their consent or permission, to any such disclosure and/or transmittal of information. Any such disclosure and/or transmittal of information shall in no way be deemed an undertaking to do so in the future, either as to the Criminal Matters then involved or as to any other current or future

Criminal Matters. All other provisions of this Section apply to any disclosure and/or transmittal of information, and to any failure to disclose and/or transmit information, concerning Criminal Matters, including in particular but without limitation, the provisions of Guideline 12.2(d) regarding the indemnity obligations of Owners, their tenants and their respective Related Parties.

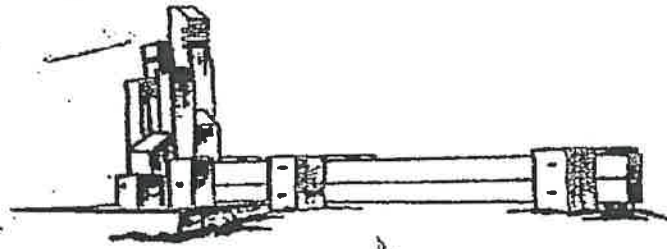
**12.3 LIABILITY ARISING FROM CONDUCT OF OWNERS:** Each Owner, their tenants, and their respective Related parties must indemnify and keep indemnified, and hold harmless, the R&M and its Related Parties from and against all claims, damages, suits, judgments, court costs, attorney's fees, attachments and all other legal actions caused through the willful or negligent act or omission of an Owner, the Owner's tenants, or their respective Related Parties.

**12.4: SUBSEQUENT STATUTORY AUTHORITY:** If the Texas Non-Profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, state or federal, is construed or amended to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this Section 12, then liability will be eliminated or limited and right to indemnification will be expanded to the fullest extent permitted by such construction or amendment.

**12.5: NO IMPAIRMENT:** Any repeal, amendment or modification of this Section 12 may not adversely affect any rights or protection existing at the time of the amendment.

Prepared by Fountainhead R&M Corporation with material provided by:  
Lou W. Burton, Managing Attorney, Community Association Division  
Williams, Bimberg & Andersen, LLP, Attorneys At Law

**Fountainhead Recreational and  
Maintenance Corporation**  
4714 Fountainhead Drive  
Houston, TX 77066  
281-893-4820



*Amendment  
to By-Laws*

**Minutes of Regular Monthly Meeting  
Fountainhead R & M Corp. Board  
Fountainhead Clubhouse  
June 14, 2004**

**Members in attendance:**

- Tami Hill, President
- Mike Kasapis, Vice President, Clubhouse
- Claude Hand, Secretary
- Kyle Sadler, Treasurer
- Ed Haley, Pool, Absent but left proxy with Tami Hill (see attached)
- Glenn Williams, ACC
- Harry Hayes, Grounds, Absent

**Non-Board members in attendance:**

None

**Meeting was called to order by Tami Hill at 7:05 PM**

**Minutes of last regular meeting May 10, 2004 were read and approved**

**Reports by Officers**

**President**

Presented a fee schedule from Pagel, Hill Davis and Hill (see attached) Tami also said that Neighborhood Night Out will be August 3 and Malcolm Perdue will be in charge. Annual Meeting will be September 20 2004

**Vice President**

No report

**Secretary**

No report

**Treasurer**

Report was approved (see attached)

**Committee Reports**

**Pool**

Tami reported that last Sunday pool was not opened until 1:00 PM because of tardy lifeguards

**Clubhouse**

Mike Kasapis reported that the sidewalk in front of clubhouse needs repair to prevent standing water. He will check to see what needs to be done to repair

**Security**

No report

**ACC**

Glenn Williams reported that 10 letters of violations were mailed out last month (see attached)

**Grounds**

Send a letter to Bammel Strip Center about repairing fence

**Tennis**

No report

RP 093-05-1257

578  
270

7/14  
2004  
5



**Unfinished Business**

Kyle Sadler made a motion that the late fee for assessments be \$25.00 per month from February 1<sup>st</sup> thru June and be assessed on the first day of each month.  
Motion seconded and approved 6 for and 0 against

**New Business**

Glenn Williams made a motion to switch our Internet provider to Everyone's Internet.  
Motion was seconded and approved 6 for 0 against  
Tami reported that she would do something to show the board's appreciation to Jo Ann Williams for her help with our Spanish language translations

**Meeting Adjourned at 8:45 PM**

Approved CM Approved with corrections \_\_\_\_\_

RP 093-05-1258

FILED  
In the Office of the  
Secretary of State of Texas

SEP 12 1989

Corporations Section

ARTICLES OF AMENDMENT  
TO THE ARTICLES OF INCORPORATION

OF

FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION

Pursuant to the provisions of Article 1396-4.03 of the Texas Non-Profit Corporation Act, FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION, a Texas Non-Profit Corporation Act, adopts the hereinafter stated Articles of Amendment to its Articles of Incorporation, which will provide that the affairs of the corporation shall be managed by a Board of Directors of not less than three (3) Directors but which number of Directors shall otherwise be fixed by the By-Laws of the corporation.

ARTICLE I

NAME

The name of the corporation is FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION.

ARTICLE II

SPECIFICATION OF AMENDMENT

The following amendment to the Articles of Incorporation was adopted by the corporation on September 26, 1988.

Article Seven of the Articles of Incorporation (as amended by Articles of Amendment to the Articles of Incorporation filed in the office of the Texas Secretary of State on September 12, 1980) is hereby amended to read as follows:

ARTICLE VII

DIRECTORS

The affairs of the corporation shall be managed by a Board of Directors. The number of Directors shall be not less than three (3), but otherwise shall be fixed by the By-Laws of the corporation.

ARTICLE III

HOW ADOPTED

The amendment was adopted in the following manner:

RP 093-05-1259



STATE OF TEXAS  
COUNTY OF HARRIS

§  
§  
§

I, JEANNE B. ATKINSON, a Notary Public, do hereby certify that on this 5<sup>th</sup> day of January 5, ~~1988~~, 1989 personally appeared before me VEENA KSHETRAPAL, who, being duly sworn, declared that she is the Secretary of the corporation executing the foregoing document in the capacity therein set forth, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

Jeanne B. Atkinson  
NOTARY PUBLIC in and for the  
S T A T E O F T E X A S  
Name: JEANNE B. ATKINSON  
My Commission Expires: June 30, 1992

RP 093-05-1261

9/18/2000

RESTATED AND AMENDED BY-LAWS  
OF  
FOUNTAINHEAD RECREATIONAL AND MAINTENANCE  
CORPORATION  
A TEXAS NON-PROFIT CORPORATION

ARTICLE 1

1.1 Name. The name of the corporation is FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION, (HEREINAFTER REFERRED TO AS "the Association").

1.2 Principal Office. The principal office of the Association shall be 4714 Fountainhead Drive, Houston, Texas 77066. The address of the principal office may be changed from time to time as shall be directed by resolution of the Board of Directors effective immediately upon the giving of notice of such change of address to all owners. The Association may also have offices at such other places as the Board of Directors may from time to time designate or as its business may require.

1.3 Registered Office and Registered Agent. The Association shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be identical with the principal office of the Association in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE 11

Definitions

2.1 "Association" shall mean and refer to FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION, its successors and assigns.

2.2 "Subdivision" shall mean and refer to that certain property described in the Declaration, and such other area duly annexed thereto and brought within the jurisdiction of the Association.

2.3 "Common Area" shall mean all property owned by the Association for the common use and enjoyment of its members.

RP 093-05-1262

2.4 "Lot" shall mean and refer to any lot in the subdivision as shown upon the recorded plat or map of the subdivision.

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

2.6 "Declaration" shall mean and refer to: i) that certain instrument entitled "Reservations, Restrictions and Covenants \_ Fountainhead, Section One" duly recorded under Clerk's File Number E132227, Real Property Records of Harris county, Texas; (ii) those certain properties described in each of those certain instruments entitled "Annexation of Residential Area for Purposes of Reservation, Restrictions and Covenants" duly recorded under Clerk's File Number E530523, Clerk's File Number E893190 and Clerk's File Number F161202, Real Property Records of Harris County, Texas (more commonly known as Fountainhead Section Two, Three and Four, respectively); and (iii) all valid additions, amendments or modifications to any of the foregoing.

2.7 "Developer" shall mean and refer to Fountain Properties, Inc., an Ohio corporation authorized to conduct business in the State of Texas.

2.8 "Member" shall mean and refer to those persons entitled to membership as provided in the Articles of Incorporation of the Association.

## ARTICLE 111

### Meeting of Members

3.1. Annual Meeting. The regular annual meeting of the members of the Association shall be held during the month of September of each year, commencing between the hours of 6:30 to 8:00 o'clock p.m. as determined by the Board of Directors, and at the Association's recreational center if available, or if unavailable then at such place within Harris County, Texas as determined by the Board of Directors.

3.2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors or by not less than one-fourth (1/4) of the Class A membership.

3.3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage paid, not less than ten (10) nor more than fifty (50) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place,

day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

3.4. Quorum. The presence of the meeting of members entitled to cast, or of proxies entitled to cast, one-fifth (1/5) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

3.5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

## ARTICLE 1V

### Board of Directors

4.1. Board of Directors. The affairs of the Association shall be managed by a Board of nine (9) Directors, all of whom shall be members of the Association. The number of Directors may be increased or decreased from time to time by amendment of the By-Laws in accordance with Article X1, provided the Board shall have not less than three (3) Directors.

4.2. Term of Office of Directors. At the 2000 annual meeting of Members four (4) Directors shall be elected, one (1) Director to serve for a term of one (1) year, and three (3) Directors to serve for a term of three (3) years. The five (5) Directors elected prior to the 2000 election shall serve the balance of their respective terms, three (3) Directors having two (2) years remaining on their term and two (2) Directors having one (1) year remaining on their term. At each annual meeting thereafter, the Members shall elect three (3) Directors for a term of three (3) years. No Director may serve more than six consecutive years.

4.3. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors who is not then running for re-election, and two (2) or more Members of the Association who may or may not be members of the Board of Directors but whom shall not be running for election or re-election to the Board of Directors. The Nominating Committee shall be appointed by the Board of Directors at least thirty (30) days prior to each annual meeting of the Members to serve until the close of the annual meeting next following appointment. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. The

Nominating Committee shall include in the notice of each annual meeting of Members a listing of all persons nominated.

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

4.5. Vacancies on Board of Directors.

A. Resignation, Death or Incapacity: In the case of resignation, death or incapacity to serve of any Director, the vacancy shall be filled by the affirmative vote of a majority of the remaining Directors then in office though less than a quorum of the entire Board, and the Directors so elected shall hold office until the next annual election occurring after their respective terms of office expire and until their successors are elected and have qualified.

B. Removal. Any Director may be removed either for or without cause, at any special meeting of Members by affirmative vote of a majority of the Members. The notice calling such meeting shall give notice of the intention to act upon such matter. If the notice so provides, the vacancy caused by such removal may be filled at such meeting by a majority vote of the Members. For cause, a Director may be removed at any special meeting of Directors by the affirmative vote of a majority of the remaining Directors. Any Director who is absent from three (3) consecutive meetings of the Board shall be automatically removed without necessity for the holding of any meeting; and any Director who is absent from three (3) meetings of the Board during any one (1) year may be removed by the affirmative vote of a majority of the remaining Directors. Unless otherwise provided in the notice of the meeting to remove a Director, vacancies caused by removal shall be filled as provided in Article 4.5 (A).

4.6. Compensation. No trustee shall receive compensation for any service he may render to the Association provided, however, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

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



## ARTICLE V

### Meetings of Directors

5.1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly with notice of the time and place of the meeting published in the monthly subdivision newsletter. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same hour on the next succeeding business day.

5.2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President or the Association or by a Director after not less than three (3) days notice to each Director, which such notice may be waived at or prior to such meeting.

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

## ARTICLE VI

### Powers and Duties of the Board of Directors

6.1. Powers. The Board of Directors shall have power to:

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

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

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

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

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties and the terms of employment or services.

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

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

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

(c) to fix the amount of the annual assessment against properties subject to the jurisdiction of the Association and to take such actions as it deems appropriate to collect such assessments and to enforce the liens given to secure payment thereof.

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

(e) procure and maintain such liability and hazard insurance as it may deem appropriate on any property or facilities owned by the Association;

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

(g) cause the Common Areas to be maintained.

## ARTICLE V11

### Officers and their Duties

7.1. Enumeration of Officers. The officers of this Association shall be a President, who shall be at all times a member of the Board of Directors; a Vice President; a Secretary; and a Treasurer, and such other officers as the Board may from time to time by resolution create.

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

RP 093-05-1268

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

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

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

7.6. Multiple Offices. Any two or more offices may be held by the same person, except the offices of president and secretary.

7.7. Duties. The duties of the officers of the Association are as follows:

President

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

Vice President

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

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; give notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; and keep accurate books and records of the fiscal affairs of the Association and to make the same available for inspection by members of the Association during normal business hours.

## ARTICLE VI11

### COMMITTEES

The Association shall appoint a Nominating Committee, as provide in these By-Laws. The Board of Directors shall appoint other committees as deemed appropriate in carrying out the purposes.

## ARTICLE IX

### Books and Records

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

## ARTICLE X

### Obligation of Members

10.1. Obligation for Assessments. As more fully provided in the Declaration, each Member is obligated to pay to the Association certain annual and special assessments or charges which are secured by a continuing lien upon the property against which the assessment is made. Any assessments, which are not paid when due, shall be delinquent. The Assessment shall bear interest from the date of delinquency at the rate provided for in the Declaration, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the property as provided for in the Declaration. Interests, costs and reasonable attorney's fees of any action taken by the Association to collect such assessment shall be added to the amount of such assessments. No Owner may waive or otherwise escape liability for payment of assessments or other charges by non-use of any of the facilities or services provided by the Association or by abandonment of his property, whether owned or leased.

10.2. Special Handling Charges. In order of defray additional administrative and other costs resulting from late payment of assessments and the return of checks and drafts delivered in payment of any monetary obligations due to nonsufficient funds, the closing of an account or any other reason resulting in dishonor, the following special handling charges are hereby imposed:

A. As to assessments, a late charge equal to FORTY DOLLARS (\$40.00) if not paid in full by March 1 of each year, and an additional late charge equal to FORTY DOLLARS (\$40.00) if not paid in full by June 1 of each year; and

B. TWENTY-FIVE DOLLARS (\$25.00) as to each and every check, draft or similar instrument delivered to the Association in payment of any monetary obligation to the Association which is subsequently dishonored for any reason without necessity for demand, notice of any kind or presentment for payment.

The special handling charges hereby imposed shall be due and payable immediately upon the occurrence of either of the above events, and shall be deemed a debt to the Association secured by and enforceable in the same manner as provided for in the Declaration regarding payment of annual assessments or charges. Upon written request, the Board of Directors may waive imposition of any special handling charge hereby imposed if in the sole opinion of the Board the waiver is due to unusual circumstances reasonably beyond the control of the applicant for waiver.

10.3. Application of Payments. All payments made by or on behalf of an owner in payment of any monetary obligation owed to the Association, including payments received in consequence of judicial or non-judicial proceedings. Shall be applied first to payment of late charges, then to interest, then to payment of all costs, attorney's fees and other charges due to the Association, then to payment of delinquent regular annual assessments in order of incurrence of the obligation to pay the regular assessments, and finally to payment of delinquent special assessments in order of incurrence of the obligation to pay the special assessments.

10.4. Duty to Notify Association of Change of Ownership or of Tenancy. Each Owner shall be obligated to deliver written notice to the Association, by delivery or mailing in the manner set forth in Article X111 hereof, as to (i) the sale or transfer of any Lot within the Subdivision or any interest in any Lot within the Subdivision, including in such notice the name(s) of all persons or entities purchasing at such sale or beneficiaries of such transfer, and (ii) the leasing or subletting of any Lot within the Subdivision, any interest therein and/or the residence located thereon, including the name(s) of all lessees under such tenancy and the term of such tenancy, and the forwarding address of such Owner/Lessor for purposes of notice under the Declaration and these By-Laws.

## ARTICLE X1

### Amendments

11.1. Amendment. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

11.2. Conflict. In the case of any conflict between the Articles of Incorporation and these By-laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

## ARTICLE X11

### Miscellaneous

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

## ARTICLE X111

### Notices


All notices or other communications permitted or required under the Declaration, Articles of Incorporation or these By-Laws shall be in writing and shall be deemed properly given if but only if given in accordance with the appropriate subsection of this Article X111;

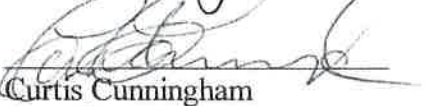
A. Notices to Association. All notices or other communications to the Association shall be given (i) by personal delivery, with receipt acknowledged in writing, to any member of the Board of Directors, or to the principal office or registered office of the Association, or (ii) in lieu of personal delivery, by deposit in the United States mail, postpaid and properly addressed, to the principal office or registered office of the Association, such notice or other communications to be deemed given upon receipt of same by the Association.


B. Notice to Owners or Members. All notices or other communications to any Owner or Member shall be deemed given when properly addressed to (i) the street address of the Owner's or Member's Lot located within the Subdivision, or (ii) in the case of leasing or subletting of a Lot, to the most current forwarding address provided in accordance with Article 10.4 of these By-Laws. Where more than one Owner or Member is reflected on the mailing of any notices or other communications as aforesaid to any such Owner or Member shall constitute notice given to all such Owners or Members.

Effective Date. These Restated and Amended By-Laws of Fountainhead Recreational and Maintenance Corporation, a Texas Non-Profit Corporation, shall be effective from and after September 18, 2000.

Executed this 18<sup>th</sup> day of September, 2000 by all of the current Directors of Fountainhead Recreational and Maintenance Corporation.

  
Shirley Fanagan

  
Curtis Cunningham

  
Sue Bell

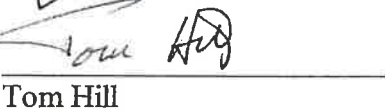
  
Dolores Morse

  
Sharon Hubbard

  
Suzanne Scott

  
Claude Hand

  
Joe Birchill

  
Tom Hill

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION, a Texas non-profit corporation, and

That the foregoing Restated and Amended By-laws of Fountainhead Recreational and Maintenance Corporation, A Texas Non-Profit Corporation, is a complete, true and correct statement of the By-laws of Fountainhead Recreational and Maintenance Corporation as amended by that certain First Amendment to Articles of Incorporation and By-laws of Fountainhead Recreational and Maintenance Corporation duly adopted at a meeting of the Members of the Association held on the 18<sup>th</sup> day of September, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18<sup>th</sup>  
day of Sept., 2000.

Sue Bell  
Sue Bell



ANNUAL MEETING OF FOUNTAINHEAD R&M CORP.  
SEPTEMBER 15, 2003

**PROPOSED AMENDMENT TO THE BY-LAWS**

**Current:** The affairs of the Association shall be managed by a Board of nine (9) Directors, all of whom shall be Members of the Association. The number of Directors may be increased or decreased from time to time by amendment of the By-Laws in accordance with Article XI, provided the Board shall no have less than three (3) Directors

**Proposed:** Change the number nine (9) to seven (7).

Proposed amendment passed by voting majority of homeowners.

Tami Hill- President *Tami Hill*

Claude Hand- Secretary *Claude Hand*

RP 093-05-1274

**RESOLUTIONS OF THE BOARD OF DIRECTORS  
OF FOUNTAINHEAD RECREATIONAL & MAINTENANCE CORPORATION**

At a duly called meeting of the Board of Directors of Fountainhead Recreational & Maintenance Corporation ("FRMC"), the following resolutions were presented and approved by a majority of the members of FRMC's Board of Directors.

WHEREAS, incidents involving dogs outside of their yards within the Fountainhead subdivision ("the subdivision") have resulted in people being bitten and other person's pets being injured and/or killed, and have further resulted in people, including small children, being physically threatened by such dogs;

WHEREAS, the Deed Restrictions applicable to the subdivision grant to FRMC the right and authority to limit the number and variety of household pets (including dogs) within the subdivision; and

WHEREAS, the Board has elected to exercise the right and authority granted to FRMC by the Deed Restrictions, regarding dogs within subdivision.

IT IS THEREFORE:

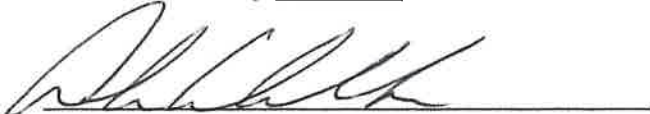
RESOLVED, that any dog which causes injury to a person or injury to any person's pets, which occurs outside of the fenced yard of the dog owner's property, shall be permanently removed from the subdivision.

RESOLVED, that any dog found to be running free unleashed outside of the fenced yard of the dog owner's property, which acts in a threatening manner towards any person or any person's pets within the subdivision, shall be subject to a permanent removal from the subdivision, unless such dog is thereafter permanently kept within the fenced yard of the dog owner's property.

RESOLVED, that the Board shall have the right, but no obligation, to seek legal recourse through FRMC's attorney to enforce the Deed Restrictions applicable to dogs in the subdivision, which may include sending demand letters and/or filing of a lawsuit seeking the permanent removal of the dog or dogs from the subdivision.

The foregoing Resolutions were approved by a majority of the Board of Directors of Fountainhead Recreational & Maintenance Corporation on:

February 12, 2007

  
Secretary

*Conner*  
*5-0-1*

RP 093-05-1275

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
FOUNTAINHEAD RECREATIONAL AND MAINTENANCE CORPORATION**

Whereas, the Fountainhead Recreational and Maintenance Corporation ("the Corporation") is the governing body of Fountainhead Subdivision ("the Subdivision"), and membership of the Corporation is comprised of all owners of property within the Subdivision;

Whereas, all properties within the Subdivision are subject to annual maintenance assessments, as set out in the Reservations, Restrictions and Covenants filed of record;

Whereas, the Board has previously implemented monthly late charges upon the accounts of property owners who fail to pay their annual maintenance assessments in a timely manner;

Whereas, property owners have expressed a lack of understanding and/or confusion over the late charge policy; and

Whereas, the Board now desires to clarify the late charge policy to avoid misunderstanding and confusion in the future.


It is therefore RESOLVED, that all property owners who fail to pay their annual assessments in full by February 1<sup>st</sup> of each year shall be subject to a monthly late charge in the amount of \$25.00, and such monthly late charges shall continue to accrue until such time as the entire balance of annual maintenance assessments and late charges have been paid in full. All payments shall first be applied towards outstanding late charges, with the balance applied towards the outstanding maintenance assessments.

This Resolution was approved by the majority of the Board of Directors of the Corporation at a duly called meeting on the date shown below.

Date: February 09, 2009.

Attest:

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary

RP 093-05-1276

**Fountainhead R & M Corp**  
**4714 Fountainhead Drive**  
**Houston, TX 77066**  
**281-893-4820**

**PAYMENT PLAN FORM**

Name/Resident \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_

You have agreed to pay a minimum of \_\_\_\_\_ each month on your  
outstanding balance of \_\_\_\_\_.

Payment (1) \_\_\_\_\_ due on or before \_\_\_\_\_.

Payment (2) \_\_\_\_\_ due on or before \_\_\_\_\_.

Payment (3) \_\_\_\_\_ due on or before \_\_\_\_\_.

All payments payable to Fountainhead R & M Corp. and  
Placed in the brick mailbox at 4714 Fountainhead Drive  
or mailed to: Fountainhead R & M Corp.  
4714 Fountainhead Dr.  
Houston, TX 77066

Fountainhead R & M Corp.

**RECORDER'S MEMORANDUM:**  
At the time of recordation, this instrument was  
found to be inadequate for the best photographic  
reproduction because of illegibility, carbon or  
photo copy, discolored paper, etc. All blockouts,  
additions and changes were present at the time  
the instrument was filed and recorded.

RP 093-05-1277

RP 093-05-1278

**FILED FOR RECORD  
8:00 AM**

**OCT 21 2014**

*Stan Stewart*  
**County Clerk, Harris County, Texas**

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
**THE STATE OF TEXAS  
COUNTY OF HARRIS**

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.

**OCT 21 2014**



*Stan Stewart*  
**COUNTY CLERK  
HARRIS COUNTY, TEXAS**