

**FIFTH AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SHOREWALK I**

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Shorewalk I (the "Original Declaration") was executed on November 17, 1983, and recorded in the Office of the Recorder of Marion County, Indiana (the "Recorder's Office") on November 23, 1983, as Instrument Number 83-86338; and

WHEREAS, the Original Declaration was amended by a certain First Amendment dated October 12, 1987 and recorded in the Recorder's Office on November 16, 1987, as Instrument Number 87-131732 (the "First Amendment"); and

WHEREAS, the Original Declaration was further amended by a certain Second Amendment dated October 15, 1987 and recorded in the Recorder's Office on November 19, 1987 as Instrument Number 87-133726 (the "Second Amendment"); and

WHEREAS, the Original Declaration was further amended by a certain Third Amendment dated January 5, 1988 and recorded in the Recorder's Office on January 19, 1988 as Instrument Number 88-4386 (the "Third Amendment"); and

WHEREAS, the Original Declaration was further amended by a certain Fourth Amendment dated March 21, 1989 and recorded in the Recorder's Office on March 30, 1989 as Instrument Number 89-28453 (the "Fourth Amendment"); and

WHEREAS, the Owners desire to further amend the Original Declaration as amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment (the Original Declaration as thus amended being hereinafter referred to as the "Declaration"); and

WHEREAS, First United Savings Bank, FSB ("First United") has succeeded to all the rights of Declarant under the Declaration; and

WHEREAS, the Board of Directors (the "Board") of Shorewalk Community, Inc. (the "Association") has proposed to the Owners the amendments to the Declaration hereinafter set forth (the "Amendments") pursuant to resolution of the Board duly adopted at a meeting thereof at which a quorum was present and voting throughout; and

WHEREAS, at a meeting of the Owners duly called and held in accordance with the provisions of the Declaration and the Code of By-Laws of the Association, the Amendments were approved by not less than ninety percent (90%) of the Owners; and

WHEREAS, at such meeting the Owners affirmed, ratified and adopted the terms and provisions of the First Amendment, the Second Amendment, the Third Amendment and

the Fourth Amendment and declared the same to be in full force and effect as duly adopted amendments to the Original Declaration.

NOW, THEREFORE, the Owners acting by and through the Association hereby agree and declare that:

1. **Definitions.** All terms used in this Fifth Amendment which are defined in the Original Declaration have the same meaning herein as in the Original Declaration unless otherwise defined herein.

2. **Ratification and Acceptance.** The First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment are hereby affirmed, ratified and adopted as amendments to the Original Declaration as if set forth herein in their entirety.

3. **Amendments.** The Declaration is amended as follows:

(a) Section 1.9 (inclusive of subsections 1.9.1 through 1.9.6 thereof) is deleted and the following is substituted therefor:

1.9 **Recreational Common Area** means the amenities built and maintained for the mutual use and enjoyment of some, but not necessarily all, of the Owners of Shorewalk I and Shorewalk II, including but not limited to the Pool and Pool House, the Tennis Courts, the Jogging Path and the Boat Docks.

(b) The following definitions are added to Article I:

1.26 **Pool and Pool House** means the swimming pool and appurtenant pool building originally constructed by Declarant and intended for the use and enjoyment of the Owners, together with additions or replacements.

1.27 **Tennis Courts** means the tennis courts originally constructed by Declarant and intended for the use and enjoyment of the Owners, together with additions or replacements.

1.28 **Jogging Path** means the improved pathway originally developed by Declarant through portions of Shorewalk and intended for the use and enjoyment of the Owners, as the same may be modified, abandoned or replaced.

1.29 **Boat Docks** means the eighty-six (86) boat docks existing as of December 1, 1994 and, to the extent constructed, not more than thirty-six (36) additional boat docks which may be constructed by Declarant or its designee on Geist Reservoir as authorized by Section 23.3.

1.30 **Boat Dock License** means a license agreement between Declarant and an Owner affording such Owner a license to use a designated Boat Dock upon and subject to the terms and conditions of such license agreement.

1.31 **Annual Boat Dock Fee** means the annual fee assessed by the Association against Owners licensed to use a Boat Dock pursuant to the provisions of Section 23.7.

1.32 **Completed Development** means the completion and sale of thirty-six (36) additional units in Shorewalk to be constructed subsequent to December 1, 1994.

1.33 **Existing Boat Dock Licenses** means Boat Dock Licenses granted by Declarant on or before December 1, 1994.

1.34 **Master License** means the License Agreement between Indianapolis Water Company and Shorewood Corporation dated October 19, 1970 and recorded October 22, 1970 as Instrument No. 707-46985 in the Office of the Recorder of Marion County, Indiana.

1.35 **New Boat Docks** means Boat Docks constructed subsequent to December 1, 1994.

1.36 **Unlicensed Boat Docks** means Boat Docks with respect to which Declarant has not granted a Boat Dock License.

1.37 **Boat Dock Rental Fee** means the periodic fee assessed by the Association against an Owner for the privilege of using an Unlicensed Boat Dock.

(c) Section 8.1 is amended by inserting the parenthetical "(except as otherwise provided in Article XXIII)" after the words "Common Area" in the last sentence of such section.

SHOREWALK COMMUNITY, INC.

ATTEST:

By Paul E. McClellan
President Paul E. McClellan

Mary Jane Nickel
MARY JANE NICKEL

STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for said County and State, personally appeared PAUL E. MCCLELLAN and MARY JANE NICKEL the PRESIDENT and SECRETARY, respectively, of Shorewalk Community, Inc. and who acknowledged the execution of the foregoing Fifth Amendment to the Declaration of Covenants, Condition and Restrictions of Shorewalk I.

My Commission Expires:

1-12-99

Sheryl Tyler Finnerty
Notary Public Residing in MARION County
SHERYL TYLER FINNERTY
(printed signature)

This instrument was prepared by Tom Charles Huston, Attorney at Law, Barnes & Thornburg, 1313 Merchants Bank Building, 11 South Meridian Street, Indianapolis, Indiana 46204.