

APRIL 06

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DECLARATION OF RESTRICTIONS, COVENANTS,  
AND CONDITIONS OF THE  
WINCHESTER VILLAGE SUB. NO. 1

3/11/82  
THIS DECLARATION is made as of this 12th day of January, 1982, by WINCHESTER GROUP, a Michigan Co-Partnership, consisting of League Housing Foundation, a Michigan Non-Profit Corporation, and Gilbert and Vennettilli, Inc., a Michigan Corporation, Partners, of 15600 Providence Drive, Southfield, Michigan 48075 (hereinafter "Declarant").

W I T N E S S E T H :

WHEREAS, Declarant is purchasing by land contract certain lands located in Section 22 of Avon Township, Oakland County, Michigan, as more particularly described in Exhibit A attached hereto and made a part hereof, and as evidenced by a Memorandum of Land Contract dated November 17, 1981, and recorded in Liber 8110, Page 196, Oakland County Records; and

WHEREAS, League Housing Foundation, the fee owner of the subject premises, has consented to said plat and this Declaration; and

WHEREAS, Declarant has caused a plat for said lands, known as Winchester Village Sub. No. 1, to be executed and recorded in Liber 180, Pages 11 through 14, Oakland County Records; and

WHEREAS, Declarant desires to subject Winchester Village Sub. No. 1 together with any additions thereto (as provided in Article V) to the restrictions, conditions, covenants, easements, charges and liens hereinafter set forth to establish a general plan of uniform restrictions to insure the residential purpose of the land, to preserve the general character of the neighborhood and to provide for the maintenance of the Common Area.

NOW, THEREFORE, DECLARANT HEREBY DECLARES, that the lands located within the Winchester Village Sub. No. 1 and any additions thereto, shall be held, used, sold and conveyed subject to the restrictions, conditions, covenants, easements, charges and liens hereinafter set forth, which shall run with such lands, and be binding on all parties having any right, title or interest in such lands, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

A. "Association" shall mean and refer to the proposed Winchester Village Association, a Michigan Non-Profit Corporation, its successors and assigns.

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DEPARTMENT OF REVENUE

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B. "Common Area" shall mean and refer to any land located within the Subdivision to be set aside for the common use and/or enjoyment of the Owners and so designated on any Plat or other recorded documents. The Common Area located in Winchester Village Sub. No. 1 is designated on the recorded plat as Stonecrest Park (Private Park), Glen Meadow Park (Private Park), and Colony Park (Private Park). In addition, the brick wall located adjacent to Rochester Road, within the easement area as shown on the recorded plat for the Subdivision, shall be part of the Common Area.

C. "Declarant" shall mean and refer to Winchester Group, and its successors and assigns to whom Declarant shall specifically assign any rights, powers or obligations under this Declaration.

D. "Declaration" shall mean and refer to this Declaration of Restrictions, Covenants and Conditions of Winchester Village Sub. No. 1 and any amendments or extensions hereto.

E. "Lot" shall mean and refer to any numbered lot in the Subdivision.

F. "Member" shall be and refer to a member of the Association.

G. "Owner" shall mean and refer to any person or entity, including the Declarant, during the term of the land contract between League Housing Foundation and Declarant, described below, holding the required title interest, whether legal or equitable, to any Lot, as follows:

1. The record owner of fee title.
2. A land contract purchaser (including the Declarant) from the record owner of fee title, except that during that period that any Land Contract is in force between Declarant and any purchaser of a lot from the Declarant who is acquiring a lot or lots for the purpose of constructing a home or homes thereon for sale, then Declarant shall be deemed Owner of such lot or lots for purposes of this Declaration.
3. A person who enters into a land-lease/sale transaction with the record owner of fee title (including the Declarant) whereby said person acquires both the ownership in a residential dwelling unit, and the lessee's interest in the land beneath said dwelling unit; provided, that, in such event the owner of the dwelling unit shall be deemed the Owner for all purposes relating to this Declaration.

H. "Subdivision" shall mean and refer to Winchester Village Sub. No. 1 and any additions thereto, as are subject to this Declaration and any supplemental Declaration made under the provisions of Article V hereof.

## ARTICLE II.

### ASSOCIATION: MEMBERSHIP AND VOTING RIGHTS

THERE SHALL BE ESTABLISHED the Winchester Village Association to be formed on such basis as Declarant may determine.

1. Purpose. The Association shall be organized as a non-profit corporation under the laws of the State of Michigan, to administer the powers and functions hereinafter set forth, its primary responsibility being to maintain and administer the Common Area and to exercise the authority and assume the obligations as set forth in certain agreements between Declarant and the Township of Avon dated the 12th day of January, 1982, and recorded in Liber 8137, Page 118, and in Liber 8137, Page 124, Oakland County Records. The Association shall also have such other powers as are granted to it by this Declaration and as shall be set forth in its Articles of Incorporation and By-Laws.

2. Membership. Every person who is an Owner as defined in Article I, Section G, including the Declarant, shall be a member of the Association, except that any person who holds title merely as security for the performance of an obligation shall not be eligible for membership. Membership shall be appurtenant to and may not be separated from ownership of any lot. Membership shall include all owners of lots in any future subdivision to be brought within this Declaration.

3. Voting Rights. Each member shall be entitled to one vote for each Lot of which it is the owner. When more than one person holds an ownership interest in any Lot, such owners shall be entitled to one vote to be exercised in the manner as the owners may agree upon and designate to the Association in writing.

4. First Annual Meeting of Members. Prior to the first annual meeting of the Members of the Association, the Board of Directors shall be appointed by the Declarant. The first annual meeting may be convened only by Declarant and may be called at any time after fifty (50%) percent of the lots of the Subdivision have been sold and the purchasers thereof qualified as members of the Association, but in no event later than December 31, 1983. Declarant may call meetings of members for informative or other appropriate purposes prior to the first annual meeting of members, and no such meeting shall be construed as the first annual meeting of members. The date, time and place of such meetings shall be set by the Declarant, and at least ten (10) days prior written notice thereof shall be given to each Member. Thereafter, the annual meetings of the members of the Association shall be held in accordance with the By-Laws.

5. By-Laws. The Association, by the first Board of Directors appointed by the Declarant, shall adopt and maintain By-laws, which By-laws shall be binding upon the Owners in the same manner and to the same extent as this Declaration is binding upon the Owners. The By-laws may be amended from time to time by the affirmative vote of two-thirds (2/3) of the Members at any regular annual meeting or special meeting of the Association called for that purpose after the first annual meeting. No change in the By-laws shall be inconsistent with or contrary to the provisions of this Declaration.



6. Power of Attorney. It is the intent of this Declaration that all Owners be members of the Association. In the event that in Declarant's sole opinion, mergers, affiliations, combinations or consolidations are required between the initial Subdivision and any additions thereto to accomplish such purpose, all Members hereby irrevocably constitute and appoint Declarant, its successors and assigns, as each Member's attorney and agent, in each Member's name, place and stead, to vote as such Member's proxy with all the powers the Member possesses, at any meeting or adjournment thereof, for the purposes of such merger, affiliation, combination or consolidation. Members recognize that such designation of Declarant as his irrevocable proxy is coupled with an interest.

### ARTICLE III.

#### EASEMENTS, RIGHTS AND OBLIGATIONS PERTAINING TO THE COMMON AREA, RETENTION BASIN AND DREXELGATE PARKWAY

Section 1. Right to Use Common Area. Every Member of the Association shall have a right to use and an easement of enjoyment in the Common Area and such right and easement shall be appurtenant to and shall pass with the title to any Lot subject to the following conditions:

- (a) The right of the Association to establish such rules and regulations as it may deem necessary or desirable for the safe, orderly and convenient operation and use of the Common Area and maintenance thereof.
- (b) The rights of the Association to limit the number of guests of a Member to the use of the Common Area.
- (c) The right of the Association to suspend the voting rights of any Member for any period during which any assessment against the Lot occupied by or owned by such Member is delinquent, and for a period not to exceed sixty (60) days for any infraction of any rules or regulations adopted and published by the Association.
- (d) The right of the Association or Declarant to grant easements for public or private utilities (including easements for cable television) or for other public purposes consistent with the intended use of the Common Area.
- (e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to in writing by at least Ninety Percent (90%) of the Members. No such dedication or transfer shall be effective unless agreed to by the Avon Township Board, provided however, that Declarant may make any such dedication or transfer on behalf of the



Association, or the Declarant may grant and/or reserve easements for the installation, repair and maintenance of water mains, drainage courses and other public utilities and easements over or through the Common Area, as it may, in its sole judgment, deem desirable to provide benefits to the Subdivision, without the agreement of any Members, but with the approval of Avon Township, so long as the Declarant is the owner of any portion of the land described on Exhibit B for which a final plat has not been recorded and/or is the owner of ten (10%) percent or more of the lots within any Subdivision for which a plat has been recorded, provided that the installation of any such utilities shall be performed in such manner as to minimize the damage to the natural features of the Common Area.

**Section 2. Delegation of Use.** Any Member may delegate in accordance with such rules and regulations as the Association may establish, the right to use and enjoy the Common Area to those persons actually residing on a Lot owned by such Member.

**Section 3. Conveyance of Common Area; Declarant's Reservation of Easement Rights.** At such time as the Association has been formed and organized and prior to the conveyance of the first Lot in the Subdivision, Declarant shall convey title to the Common Area to the Association. Notwithstanding the foregoing, Declarant reserves the perpetual right to grant and/or reserve easements within the Common Area for the installation, repair and maintenance of water mains, sewers, drainage courses, and other public utilities, and for other public purposes, provided that any such use shall be in a manner to minimize damage to the natural features of the Common Area. The conveyance by the Declarant shall be subject to the following:

easements and restrictions of record, any matters shown on the plat of any subdivision in which the Common Area is located, any matter which would be disclosed by an accurate survey of the land to be conveyed, the rights of Avon Township and the public in any portion of the Common Areas dedicated or granted or to be granted to Avon Township pursuant to any agreement between the Declarant and Avon Township or any requirement or ordinance of Avon Township, the rights of the public in any portion of the land used for street, road or highway purposes and any of the reserved rights of the Declarant under this Declaration or the deed conveying the Common Area to the Association.

**Section 4. Development of Common Area.** Except as provided by Article III, Section 5 below, the Common Area shall be retained as an open area in its natural state, and shall be maintained as such, except where it is necessary to cross over, under, or upon the Common Area to construct,

maintain, repair or replace utility lines, pursuant to rights reserved or granted herein to the Declarant or Association. Declarant shall not be obligated to make any improvements to the Common Area, to provide recreational facilities, or to construct or install any building, structure or other improvements to the land. Declarant retains the sole option, but not the obligation, of installing an ornamental fence no more than three feet in height.

The Association shall provide continuous landscaping and maintenance to the Common Area so as to maintain it in a condition at least equal to that as completed by Declarant. No activities of any kind whatsoever, except maintenance and landscaping shall be permitted within the Common Area.

Section 5. Rochester Road Wall. Declarant has caused the construction of the brick wall located along Rochester Road at the easterly side of the Subdivision. The purpose of the wall is to enhance the privacy and residential character of the Subdivision. The cost of maintenance, repair and/or replacement of the wall shall be borne solely by the Association, which shall maintain the wall in a like condition as existing on the date of this Declaration, with repairs and replacements to be made as necessary to accomplish this purpose.

Section 6. Drexelgate Parkway Island. The Association shall be responsible for the maintenance, repair and/or replacement of the landscaping of the island located on Drexelgate Parkway to the west of the Rochester Road intersection. Maintenance shall occur on a regular schedule so as to maintain the landscaping in a good condition, with a regular program to include planting, seeding and fertilizing. The cost of the foregoing shall be shared equally between the Association and the owner of the lands located to the south of Drexelgate Parkway, as more particularly described in Exhibit "C" hereto, presently League Housing Foundation. Notwithstanding the foregoing, the Association shall consult with League Housing Foundation, its successors or assigns, prior to contracting for any expenses relating to the aforesaid landscaping activities.

Section 7. Retention Basin. The Association shall be responsible for twenty (20%) percent of the cost of maintenance of the retention basin located on the lands described in Exhibit "C" hereto. The rights and duties of the Association with respect to the retention basin are set forth in an agreement between the Association, the Township of Avon, and League Housing Foundation, recorded in Liber \_\_\_\_, Page \_\_\_\_, Oakland County Records.

#### ARTICLE IV.

##### COVENANTS FOR MAINTENANCE, ASSESSMENTS AND LIENS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by accepting a conveyance of such Lot, whether or not such fact shall be so expressed in such conveyance, shall be deemed to covenant and agree for himself, his heirs, personal representatives,

successors and assigns, to pay to the Association (1) an annual assessment to meet regular Association expenses and (2) special assessments to be established and collected as hereinafter set forth. The annual and special assessments, together with interest thereon and costs of collection thereof, including reasonable attorney fees, shall be lien on the Lot against which such assessment is levied.

Section 2. Purpose of Annual Assessments; Levy. The annual assessments levied under this Article shall be used by the Association for the purpose of (a) promoting the general welfare and safety of the residents living within the Subdivision; (b) improving and maintaining the Common Area, including grass cutting and fertilization; (c) maintaining the brick wall along Rochester Road; (d) maintaining the boulevard or island area located at the entrance to the Subdivision at the Drexelgate Parkway and Rochester Road; (e) maintaining the retention basin described in Article III, Section 7 above, and any other property of the Association; (f) providing of services and facilities for the benefit of such residents; (g) maintaining, beautifying and improving the streets, parkways, right of ways and entryways within the Subdivision and maintaining adequate lighting of public streets and snow removal; (h) payment of taxes, assessments and insurance premiums relating to the Common Area, if any; (i) creating an adequate reserve fund for the maintenance, repair and replacement of those elements of the Common Area that must be replaced on a periodic basis, and (j) expenses incident to the examination of plans and the enforcement of these restrictions.

A. Levy of Assessments. The Board shall in each year commencing with the year 1983 levy against each Lot in the Subdivision an assessment to be determined in accordance with the following: The Board of Directors shall determine in advance of each fiscal year all expenses required for the operation, management and maintenance of the Association. The sum so established shall be divided by the total number of Lots for which the annual assessment has commenced pursuant to Article IV, Section 6, and the resulting amounts shall be the assessment for each Lot; provided, however, in no event shall a charge be less than \$30.00 or more than \$75.00 per Lot except by the approval and consent in writing of seventy-five (75%) percent of the Members of the Association who are voting in person or by proxy at a meeting duly called for this purpose, which approval and consent shall make any such additional assessment binding upon all of the Owners.

B. Notice of Assessment. Commencing with a date at least thirty (30) days prior to the levy of the first annual assessment pursuant hereto and each year thereafter, the Board shall send a written statement to each Owner setting forth the amount of the assessment for the ensuing year. Each Owner shall remit payment in full within ninety (90) days after the delivery or mailing of the statement. Assessments not paid within such ninety day period shall be deemed delinquent and interest shall accrue on delinquent assessments at the rate of seven (7%) percent per annum commencing as of the date of the statement.



Section 3. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, extraordinary expenses incurred by the Association for Association business as required or permitted by this Declaration, for which the Annual Assessment is not sufficient, provided, that any such assessment shall have the assent of at least seventy-five (75%) percent of the vote of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than 15 days nor more than 30 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the adjourned meeting.

Section 5. Certificate re Assessments. Upon the written request of any Owner, the Association shall furnish, within a reasonable time, a written certificate regarding the status of any assessments levied against such Owner's property. Further, a financial institution holding a first mortgage on a lot, upon request, shall be entitled to written notification from the Association of any default in the performance by its borrower of any obligation under this Declaration, or any documents or agreements adopted, executed or issued in connection herewith, which is not cured within sixty (60) days. Any such certificate, when properly issued by the Association, shall be conclusive and binding with regard to the status of any assessment or default, as between the Association and any bona fide purchaser of the property described in the certificate and any such lender.

Section 6. Date of Commencement of Assessments. The annual assessments provided for herein shall commence as to each lot the first day of the month following the conveyance of said lot to an Owner other than Declarant. The Declarant shall not be responsible or liable for the payment of assessments for any lots owned by it except as expressly provided for herein. Declarant shall pay a proportionate share of the Association's current maintenance expenses actually incurred, consumed or used by the Association, such as real estate taxes, public liability insurance and landscaping or other maintenance expenses incurred by the Association pursuant hereto, provided that Declarant's obligation hereunder shall not exceed Ten (\$10.00) Dollars per lot. The Declarant's proportionate share of expenses shall be based upon a ratio of lots owned by Declarant in the Subdivision to the total number of lots in such Subdivision. Assessments for a new subdivision developed on the lands to which this Declaration may be extended pursuant to Article V hereof shall be governed by and shall commence as set forth in the supplementary Declaration of Restrictions applicable thereto.

Section 7. Subordination of Liens to Mortgage. The lien for assessments provided for in this Article shall be subordinate to the lien of any purchase money mortgage or mortgages held by any bank, savings and loan association, credit union, insurance company, mortgage company or other similar financial institution. Sale or transfer of a Lot shall not affect the assessment lien or personal obligation of the Owner to pay such assessments; provided, however, the sale or transfer of any Lot subject to assessment pursuant to a judicial or statutory foreclosure or any proceeding in lieu of foreclosure of a first mortgage shall extinguish any lien for assessments as to payments thereof which become due prior to such sale or transfer, and any first mortgagee who obtains title to a Lot in this manner shall not be liable for such unpaid assessments, provided, that, upon title becoming vested in any first mortgagee as aforesaid, said mortgagee, its successors or assigns, shall be obligated for all future assessments, the non-payment of which shall create a lien as hereinbefore set forth.

Section 8. Additional Rights of Mortgagee. In addition to other rights set forth in this Declaration, first mortgagees of Lots located in the Subdivision:

- (a) Shall have the right to examine the books and records of the Association or any entity which owns the Common Area;
- (b) May jointly or singly pay taxes or other charges which are in default and which may, or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area, and a first mortgagee making such payment shall be owed immediate reimbursement therefor from the Association; entitlement to such reimbursement shall be reflected in an agreement in favor of all such first mortgagees duly executed by the Association, a certified copy of which shall be delivered to any such mortgagee upon request.

Section 9. Collection of Assessment and Creation of Lien. If any assessment shall not be paid within ninety (90) days after receipt of a statement therefor, then such assessment shall become delinquent and the Association may sue the Owner and obtain a personal judgment for such assessment, interest and the cost of collection thereof as hereinbefore provided, and, in addition, may enforce the lien in the Circuit Court for Oakland County, Michigan, in the same manner and by following similar procedures as in the case of mortgages, by foreclosure or as otherwise permitted by law or equity, and any judgment shall include the allowance of such costs as would be taxable in the foreclosure of a mortgage and actual costs incurred, including reasonable attorney fees permitted by the court. Notice of all delinquent assessments shall be made to the institutional lender, upon request, holding a mortgage on the subject Lot within sixty (60) days after the due date thereof. No Owner may waive or otherwise escape liability for the assessments provided for herein for any reason whatsoever.

ARTICLE V.

EXTENSION TO ADDITIONAL PROPERTIES

In the event Declarant (or its assignee) determines to develop or subdivide all or any portion of that certain land adjacent to the Subdivision as more particularly described in Exhibit B hereto (hereinafter referred to as the "Additional Properties"), Declarant shall have the right to subject such new development or subdivision to restrictions substantially in the form imposed by this Declaration, and Declarant may declare such additional lands and the lands presently subjected to this Declaration to be part of the Subdivision and to be one development for the purpose of interpretation and enforcement of the restrictions, covenants, conditions, easements, charges and liens herein contained. Declarant reserves the right to grant the use of the Common Area located within Winchester Subdivision to the owners and/or residents of such Additional Properties as are brought within the scheme of this Declaration. Further, the Owners located within the initial Subdivision shall have the right to use any Common Area within the Additional Properties and, in either event, all Owners of both the existing and new Subdivision shall be subject to the assessments and liens set forth in this Declaration; and in any supplementary Declaration.

Should the Declarant elect to exercise its option, Declarant shall so provide in a supplementary Declaration of Restrictions applicable to said new development or subdivision. In such event, the Supplementary Declaration shall extend the scheme of the restrictions, covenants, and conditions of this Declaration and thereby subject such Additional Properties or any part thereof to the assessments and lien hereinbefore described. The supplementary Declaration may contain such additions and modifications of the restrictions, covenants, conditions, easements, charges and liens of this Declaration as Declarant may deem necessary or desirable to reflect the different character of the new development or subdivision.

This Declaration and any supplementary Declaration shall be considered to be reciprocal negative easements, thus making the supplementary restrictions applicable to said new lands enforceable by property owners of the Winchester Village Sub. No. 1 and the restrictions contained in this Declaration enforceable by property owners of such new development or subdivision. Owners of the Additional Properties developed by Declarant pursuant to this Article V shall become members of the Association and be subjected to the terms of this Declaration and shall enjoy all of the rights and benefits of membership and shall assume and perform all obligations and liabilities thereof. Similarly, as new lands are subjected to this Declaration, the Association and the rights and liabilities of its members shall be expanded accordingly.

Declarant shall not be obligated to develop or subdivide the Additional Properties, or any portion thereof, and in the event such lands are developed or subdivided, Declarant shall not be obligated to subject such lands to the restrictions contained herein.



RESTRICTIONS UPON USE AND OCCUPANCY  
OF SUBDIVISION LOTS

Section 1. Use of Property.

(a) All Lots in the Subdivision shall be used for residential purposes only and no building or structure of any kind whatsoever shall be erected, re-erected, moved or maintained upon any Lot except for one private single family dwelling unit and a private attached two car garage, for the sole use of the owner, purchaser, or occupant. A dwelling unit, once built, shall not be converted to use as a multiple-family building without the expressed written approval of the Township of Avon.

(b) Notwithstanding anything contained herein to the contrary, the Declarant, its agents or sales representatives may occupy and use any house built in the Subdivision or a temporary building or mobile trailer as an office for sales, leasing, construction and/or administrative purposes until such time as all lots in the Subdivision have been sold.

(c) House trailers, mobile homes, campers, boats or boat trailers, trailers of any kind, or commercial vehicles, including pick-up trucks (except while making normal deliveries) shall not be stored or parked on any Lot except within a private attached garage, except Declarant may park vehicles for the specific purpose of construction in the Subdivision.

(d) No Lot may be divided; provided, however, that Declarant may approve the division of a Lot where a portion of said Lot is to be combined with an adjoining Lot and which thereafter shall be considered to be part of said adjoining Lot for all purposes.

Section 2. Character, Size and/or Locations of  
Buildings and Structures.

(a) No building or other structure, shall be commenced or erected, nor shall any addition to or change or alteration to any structure be made, except interior alterations, until the plans and specifications showing the nature, kind, shape, height, materials, color scheme, location on Lots and approximate cost of such structure and the grading plan of the Lot to be built upon, shall have been submitted to and approved in writing by the Declarant, or its authorized agent and a copy of said plans and specifications as finally approved, lodged permanently with Declarant or the Association.

(b) In approving any additional building or structure, Declarant may require suitable screening with adequate shrubs, landscape materials or other modifications. There shall be no fences within the Subdivision except that patio or privacy screens may be approved provided that said patio screen commences within a distance of not more than one (1) foot from the rear or the side of the main structure, does not exceed six (6) feet in height, and further provided that the location, dimensions and materials to be used shall be subject to the prior written approval of Declarant, in its sole discretion.

(c) There shall be no accessory buildings constructed within the Subdivision.

(d) There shall be no swimming pools constructed within the Subdivision.

(e) There shall be no outside antennae placed upon any dwelling unit, attached garage or on any other location on the lot.

(f) There shall be no laundry or clothes lines within the Subdivision.

(g) An Owner may locate a dog run on its Lot not to exceed eight (8) feet in length, four (4) feet in width and four (4) feet in height; provided, that in the location of, and materials to be used to construct each and every dog run shall be subject to the prior written approval of Declarant, in its sole discretion.

Declarant hereby expressly states its intention to maintain the open character of this residential area, and further expressly states its intention to discourage yard enclosures, unless specifically approved by Declarant for lots which border upon a Common Area or road within the Subdivision. Any permitted rear lot enclosure shall consist of shrubs or landscape materials, but no fence shall be permitted.

(c) Declarant shall have the right to refuse to approve any such plans or specifications or grading plan, which are not suitable or desirable in its opinion for aesthetic or other reasons; and in so passing upon such plans, specifications and grading, it shall have the right to take into consideration the suitability of the proposed building or other structure to be built to the site upon which it is proposed to erect the same, and the harmony as planned in view of the outlook from the adjacent or neighboring properties. It is understood and agreed that the purpose of this Article VI, Section 2 is to cause the Subdivision to be developed into a beautiful harmonious, private residential area, and if a disagreement on the points set forth herein shall arise, the decision of the Declarant shall control.

(d) Declarant will sod, or cause to be sodded, the front lawn of each residential unit within a reasonable time from the date such unit is sold to a retail purchaser. Within nine (9) months from the date of sale, the new owner shall cause the balance of the Lot, including side and back yards, to be sodded, seeded or otherwise landscaped in a manner acceptable to Declarant.

(e) In the event that Declarant shall have failed to approve or disapprove such plans and locations within 30 days after the same shall have been delivered to Declarant, in person or by certified mail, return receipt requested, then such approval will not be required provided the plans and location of the structure conform to, or are in harmony with, existing structures in the Subdivision, this Declaration and/or any zoning law or ordinance applicable thereto.

(f) No dwelling shall be permitted on any Lot in the Subdivision unless it is built in conformity with Section 1702(b) of the Avon Township Zoning Ordinance as to the zoning classification applicable to the Subdivision, which ordinance includes limitation on the height, size in terms of square feet, minimum floor areas building area, and minimum set back and lot line requirements.

**Section 3. Building Lines.** Any building on any Lot shall be erected so as to conform to the Avon Township Zoning Ordinance, Oakland County, Michigan.

**Section 4. Animals.** No chickens, other fowl, horses, or livestock shall be kept or harbored on any Lot; nor shall animals be kept or maintained on any Lot excepting household pets for use by the occupants of the dwelling. In no event shall any animal be kept on the premises for any commercial use. Household pets shall have such care as not to be objectionable or offensive on account of noise, odor or unsanitary conditions. Animals may be declared nuisances by Declarant and must be removed within 30 days if so requested in writing by the Declarant or its authorized representative. Each person who owns or maintains a household pet shall fully observe all applicable ordinances of Avon Township and all dogs must be leashed.

**Section 5. Signs.** Except such signs as Declarant may erect for Subdivision sales of new homes, no sign or billboard shall be placed or maintained on any Lot except one sign advertising the Lot or house and Lot for sale or lease, and having not more than 6 square feet of surface and the top of which shall be 3 feet or less above the ground; provided, however, such other signs may be erected and maintained on lots as are permitted by written consent of the Declarant or as permitted by municipal ordinance.

**Section 6. Maintenance; Refuse.** Each Owner shall keep all buildings and grounds in good repair, neat and well maintained. No refuse pile or other unsightly or objectionable materials shall be allowed on any Lot unless the same shall be properly concealed. Refuse, ashes, building materials, garbage and debris of any kind shall be cared for in such a manner as not to be offensive to neighboring property owners. There shall be no outside storage of materials or equipment except as may be related to authorized construction and repairs.

**Section 7. Nuisances.** No noxious, offensive or unsightly activity shall be carried on or permitted upon any Lot nor shall anything be done thereon which is or may be an annoyance or nuisance to adjacent or other Owners.

**Section 8. Weapons.** No Lot owner or resident shall use, or permit the use of any firearms, air rifles, pellet guns, BB guns, bows, arrows, slingshots, or other similar dangerous weapons, projectiles or devices on his Lot, or anywhere on or about the Subdivision.



ARTICLE VII

GENERAL PROVISIONS

Section 1. Easements: Described on Plat. Easements and rights of way are hereby reserved as shown on the recorded plat. In addition to the above, easements and rights of way are reserved in and over a strip of land as designated in the recorded plat along all rear and side lot lines wherever it may be deemed necessary for the installation or maintenance of telephone or electric poles, lines or conduits or sewer, gas lines or water mains, for drainage purposes, or for the use of any other public utility or for such other purposes incidental to the development of the Subdivision, deemed necessary or advisable by Declarant. The use of all or part of such easements and rights of way must be granted or assigned at any time hereafter by the Declarant to any person, firm, governmental unit or agency or corporation furnishing any such services.

Section 2. Easements: Maintenance, Repair and Drainage Pertaining to Each Lot and Dwelling Unit.

A. There is hereby reserved on and over each Lot ("Servient Tenement") a three (3) foot easement for maintenance and/or repair ("Maintenance Easement") and a four (4) foot easement for drainage ("Drainage Easement") in favor of the Owner of each adjacent Lot ("Dominant Tenement") upon which a dwelling unit has been constructed within approximately three (3) feet from the lot line of the Servient Tenement. Notwithstanding anything in this Declaration to the contrary, the Maintenance Easement and the Drainage Easement shall run with the land and shall not be terminated; the easements shall be appurtenant to each Dominant Tenement and shall burden each Servient Tenement. (Said Maintenance Easement and Drainage Easement are sometimes hereinafter collectively referred to as the "easement area").

B. Each Lot shall be both a Dominant Tenement and a Servient Tenement, having the benefit of the easements on one side of the Lot and the burden of easements on the opposite side.

C. Each easement shall commence on the lot line between the Dominant Tenement and Servient Tenement.

D. The Owner of the Dominant Tenement shall have the right of drainage over, across and upon the Drainage Easement area for water draining from the roof of the dwelling unit and from any eaves or appurtenances thereon.

E. The Owner of the Dominant Tenement or persons employed by or performing work for the benefit of the Owner, shall have the right, at all reasonable times, during daylight hours (except in the event of emergency) to enter upon the Maintenance Easement, in order to perform maintenance, repair and/or replacement to the dwelling unit or appurtenant structure located upon the Dominant Tenement and, subject to Section H, below, may use a ladder or other similar devices to perform the necessary work.

F. No structure or improvement of any kind or nature shall be constructed or placed upon an easement area on a Lot upon which a two story dwelling unit is constructed. Subject to Section G below, the Owner of a Lot upon which a one story dwelling unit is constructed may place an elevated wooden deck, over the easement area, provided, that any such deck shall be made of materials approved by Declarant in its sole discretion; there shall be no land fill or concrete used within the easement area.

G. The Owner of the Servient Tenement may landscape the easement area, and if permitted by Section F above, place a wooden deck thereon, but in no event shall the Owner interfere with or disturb the natural grade or drainage path of the easement area as originally completed by Declarant or its successors.

H. In exercising the right of entry upon the easement area, the Owner, or the Owner's agent, shall use reasonable care not to damage any landscaping or other items existing in the easement area; provided, however, the Owner of the Dominant Tenement shall not be responsible for damage to landscaping or other items to the extent that such damage could not be reasonably avoided in connection with such entry upon the easement area for authorized purposes.

I. In the event of a dispute arising concerning the rights and obligations created hereby, the matter shall be submitted to the Board of Directors of the Association for arbitration, and the decision of a majority of the directors shall be binding; provided, that any aggrieved party may appeal such decision to a court of competent jurisdiction.

Section 3. Enforcement. Each Owner shall be deemed to have vested in the Association the right and power in its own name to take and prosecute all suits, legal, equitable or otherwise, which may, in the opinion of the Association, be necessary or advisable for the collection of any assessment provided for in this Declaration. The Association and/or its Declarant shall have the right to enforce by any proceeding in law or in equity all of the provisions of this Declaration and any matters related to the Common Areas. Any settlement in connection therewith shall be binding upon all persons who may now or hereafter have any interest in the land which is the subject of this Declaration. Failure by either or both to enforce any condition, provision, covenant, responsibility, lien or charge herein contained shall in no event be deemed a waiver of the right to do so hereafter. No Owner other than the Declarant shall have any of the rights granted to the Association and/or the Declarant under the provisions of this paragraph.

Section 4. Assignment of Rights, Powers and Duties.

- (a) Declarant may assign all of the rights, powers and duties granted to it by this Declaration, including the right to develop or subdivide the Additional Properties and to subject said lands to this Declaration pursuant to Article V hereof.

- (b) All of the rights, powers and duties granted Declarant by Article VI hereof, may be assigned to the Association by Declarant at any time after the sale by Declarant of 90% of the Lots in the Subdivision. Declarant may, at its option, elect to make such assignment at any earlier date. The assigning when made shall be accomplished by the recordation of an instrument so stating, in the Office of the Oakland County Register of Deeds and the Association shall thereafter have and exercise all rights reserved to Declarant and Declarant shall be fully released and discharged from further obligations and responsibilities in connection therewith.

Section 5. Severability. Each provision of this Declaration is intended to be severable from the others and in the event that any one provision is held invalid or void by any court of competent jurisdiction, it shall not affect the validity or enforceability of any other provision herein contained.

Section 6. Notices. Any notice required to be sent pursuant to the provisions of this Declaration shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the addressee as appears on the records of the Association at the time of mailing.

Section 7. Amendment, Termination and Release of Lands.

A. The provisions of this Declaration shall run with and bind each Lot and common area within the Subdivision, and shall be enforceable by the Declarant and by any Owner, their heirs, successors and assigns, for a term of thirty (30) years from the date hereof and thereafter such provisions shall be renewed and extended automatically for additional periods of ten (10) years each unless an instrument agreeing to terminate this Declaration and signed by members entitled to cast eighty-five (85%) percent of the total votes as provided in Article II above has been recorded in the office of the Oakland County Register of Deeds.

B. The provisions hereof may be amended in whole or in part at any time: 1. By Declarant, without the consent of any Owner, or other person or entity whatsoever, whether or not any such person or entity shall now or hereafter have any interest in any Lot, as may be necessary or required to comply with the requirements of any Federal, State, county or local statute, ordinance, rule, regulation or formal requirement relating to the land; to extend the Avon Hills Village Subdivision pursuant to Article V hereof; to assign certain of the powers and duties to the Association pursuant to Article VII, Section 3 hereof; and to change any other provisions of the Declaration it deems necessary except that no amendment either by the Owners or the Declarant shall relieve the Owners of their obligations and responsibilities to maintain the Common Area unless: (a) the Common Area has been dedicated or transferred to Avon Township, or (b) the Township of Avon has given its written consent thereto; or 2. By the Members of the Association, by an instrument signed by members entitled to cast Ninety (90%) percent of



the total votes as provided in Article II above, which has been recorded in the office of the Oakland County Register of Deeds; provided however, that no such amendment shall be effective unless signed by Declarant during such time as Declarant remains the Owner of any lot in the Subdivision, or of any portion of the Additional Properties referred to in Article V above; provided, further, no such amendment shall relieve the Owners of their obligations and responsibilities to maintain the Common Area unless: (a) the Common Area has been dedicated or transferred to Avon Township, or (b) the Township of Avon has given its written consent thereto. Notwithstanding anything herein to the contrary, unless at least Ninety (90%) percent of the Owners other than Declarant have given their prior written approval, the Association shall not be entitled to:

- (1) By act or omission seek to abandon, partition, encumber, sell or transfer the Common Area or other common property owned directly or indirectly, by the Association;
- (2) Change, waive or abandon the scheme of regulation herein set forth, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, or the maintenance of the Common Area;
- (3) Amend, modify or discontinue the easements created and reserved herein.

In the Presence of:

WINCHESTER GROUP,  
a Michigan Co-Partnership

By: LEAGUE HOUSING FOUNDATION  
a Michigan Non-Profit  
Corporation  
Its: Partner

Oliver Cataldo  
By: Oliver Cataldo  
F. PATHERIN LEECH

By: Charles O. Hughes  
CHARLES O. HUGHES  
Its: VICE PRESIDENT

By: GILBERT & VENNETTILLI, INC.  
a Michigan Corporation  
Its: Partner

By: William G. Gilbert  
WILLIAM G. GILBERT  
Its: PRESIDENT

STATE OF MICHIGAN)  
ss)  
COUNTY OF OAKLAND)

On this 7th day of JANUARY, 1982, before me a Notary Public for the above State and County appeared CHARLES O. HUGHES the VICE PRESIDENT of LEAGUE HOUSING FOUNDATION, a Michigan Non-Profit Corporation, and WILLIAM G. GILBERT the PRESIDENT of GILBERT & VENNETTILLI, INC., a Michigan Corporation, which Corporations are Partners of WINCHESTER

SEPT 13 85

*Supplement*

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LIBER 9106 PAGE 777

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SUPPLEMENTARY DECLARATION OF RESTRICTIONS, COVENANTS AND  
CONDITIONS FOR WINCHESTER SUBDIVISIONS NOS. 1, 2 AND 3

*3-11/22*  
This Declaration is made this 23<sup>rd</sup> day of July, 1985  
by Winchester Group, a Michigan co-partnership consisting of  
League Housing Corporation (formerly League Housing Founda-  
tion), a Michigan corporation, and Gilbert and Vennettilli,  
Inc., a Michigan corporation, partners, of 15600 Providence  
Drive, Southfield, Michigan 48075 (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant developed a certain single family  
residential subdivision in the City of Rochester Hills  
(formerly Avon Township), Oakland County, Michigan known as  
Winchester Village Subdivision No. 1, according to the plat  
thereof recorded in Liber 180, pages 11 et seq., Oakland County  
Records (the "Original Subdivision").

*(2)*  
*14-5*  
WHEREAS, Declarant is purchasing the Original Subdivi-  
sion from League Housing Corporation, the fee owner thereof, as  
evidenced by a Memorandum of Land Contract dated November 17,  
1981 and recorded in Liber 8110, page 196, Oakland County  
Records. From time to time Declarant has released from the  
operation of such land contract lots in the Original Subdivi-  
sion, and in connection therewith has received deeds with  
respect to such lots.

WHEREAS, in connection with the recording of the final  
plat for the Original Subdivision, Declarant executed and  
caused to be recorded with respect to the Original Subdivision  
a Declaration of Restrictions, Covenants and Conditions of the

*23.00*

27: 8-21-85 98.

RECORDED  
DAVID AND EDWARD  
RECORDS

*Am*



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Winchester Village Subdivision No. 1, which instrument was recorded in Liber 8165, pages 731 et seq., Oakland County Records (the "Original Declaration"). The Original Declaration created and imposed certain restrictions, covenants and conditions applicable to the Original Subdivision.

WHEREAS, Declarant or one of the partners thereof is in the process of developing and recording plats with respect to single family subdivisions to be known as Winchester Village Subdivision No. 2 and Winchester Village Subdivision No. 3, respectively, (together the "New Subdivisions"). The New Subdivisions are located adjacent to or in close proximity the Original Subdivision in the City of Rochester Hills, Oakland County, Michigan, and are more particularly described in attached Exhibits A and B, respectively.

WHEREAS, the Original Declaration contemplated the possibility that Declarant or one of its successors or assigns may develop the New Subdivisions and extend the Original Declaration so as to cover and apply to the New Subdivisions and each and every lot therein.

WHEREAS, Declarant desires to subject the New Subdivisions to the restrictions, conditions, covenants, easements, charges and liens set forth in the Original Declaration, as qualified, extended or modified by this Declaration, so as to establish a general plan of uniform restrictions to ensure the residential purpose and character of the land, to preserve the general character of the neighborhood, to provide for the maintenance of the Common Area (as defined in the Original Declaration and as amended hereby) and to expand the membership of the Association (as defined in the Original Declaration).



SEPT 13 85

BOOK 9106 PAGE 779

NOW THEREFORE, Declarant hereby declares as follows:

1. The Original Declaration is hereby incorporated herein by reference and made a part hereof.

2. Except as provided below, the Original Declaration is hereby extended and made applicable to the New Subdivisions, and any lands located therein shall be held, used, sold and conveyed subject to the restrictions, conditions, covenants, easements, charges and liens therein set forth, except as provided below. The provisions thereof and hereof shall run with such lands and be binding on all parties having any right, title or interest in lands within the Original Subdivision or the New Subdivisions, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner of lands within the Original Subdivision or the New Subdivisions. Without limitation, the extension provided for hereby shall include the following:

(a) The owners of lots in the Original Subdivisions and the New Subdivisions shall be entitled to the use and benefit of the Common Area (as defined in the Original Declaration and as amended hereby) as provided in the Original Declaration;

(b) The owners of lots in the New Subdivisions shall be entitled and obligated to be members of the Association, and to enjoy all the rights and benefits of membership therein and to assume and perform all obligations and liabilities thereof (including the obligation to pay assessments and levies pursuant to the terms of the Original Declaration). Notwithstanding anything herein to the contrary, the limitations on Declarant's obligations to pay assessments to the



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LIBER 9106 PAGE 780

Association which are set forth in Section 6 of Article IV of the Original Declaration shall also apply to lots owned by Declarant, either of the partners in Declarant or its successors in the New Subdivisions; and

(c) The restrictions and other limitations set forth in the Original Declaration shall apply with full force and effect to land within the New Subdivisions.

3. The definition of "Common Area" as set forth in Article I, paragraph B of the Original Declaration and as applicable therein and herein, is hereby amended to include any areas designated as a "private park" on the plats for either of the New Subdivisions.

4. Declarant is a party to an Agreement for Maintenance of Retention Pond dated January 12, 1982 and recorded in Liber 8137, Pages 124 et seq., Oakland County Records (the "Retention Agreement"). The Retention Agreement allocated among several subdivisions, including the Original Subdivision and part or all of the New Subdivisions, the cost of maintaining, repairing or replacing a certain retention pond and basin. In recognition of this fact, Section 7 of Article III of the Original Declaration required the Association to be responsible for twenty (20) percent of such maintenance costs. In light of the fact that the Association is being expanded to include the owners of Lots in the New Subdivisions, and in order to ensure that the Association, as expanded, bears the aggregate percentage (forty percent) of the costs allocated to the Original Subdivision and the New Subdivisions under the Retention Agreement, the Original Declaration is hereby amended so as to delete Section 7 of Article III thereof and to place in its stead the following provision:



SEPT 13 1985

USE 9106 PAGE 781

Section 7 - Retention Basin. The Association shall be responsible for forty (40%) percent of the cost of maintenance for the retention pond and basin located on the lands described in Exhibit "C" hereto. The rights and duties of the Association with respect to the retention pond and basin are set forth in an agreement between the Association, the Township of Avon (now the City of Rochester Hills) and League Housing Foundation (now League Housing Corporation) recorded in Liber 8137, pages 124 et seq., Oakland County Records.

5. This Supplementary Declaration shall remain in full force and effect whether the New Subdivisions are developed and/or sold by Declarant or by either or both of the partners in Declarant. The partners in Declarant are executing this Supplementary Declaration to confirm such fact. This Supplementary Declaration shall remain in force and effect so long as the Original Declaration remains in force and effect. If the Original Declaration terminates or expires pursuant to Section 7 of Article VII thereof or otherwise, this Supplementary Declaration shall be of no further force or effect.

6. First of America Bank - Detroit, a national banking association (formerly City National Bank of Detroit), and League Housing Corporation are joining in this Supplementary Declaration solely for the purpose of declaring and confirming that any interest they may have in any lot or other property within the Original Subdivision or the New Subdivisions, whether fee title, mortgage or security interest, is



SEPT 13 85

USE 9106 Rev. 782

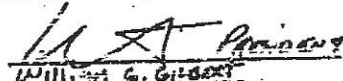
subordinate and subject to the terms and conditions of the Original Declaration, as modified or extended by the terms and conditions of this Supplementary Declaration.

In the presence of:

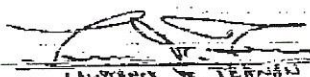
WINCHESTER GROUP,  
a Michigan Co-Partnership

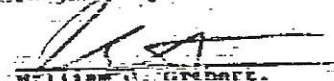
By: LEAGUE HOUSING CORPORATION,  
a Michigan Corporation

  
LAWRENCE R. TERMAN  
Doris J. Keyton

By:   
William G. Gilbert  
As a Partner and for the  
Purposes of Paragraph 5  
above

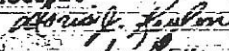
By: GILBERT & VINNITILLI, INC.  
A Michigan Corporation

  
LAWRENCE R. TERMAN  
Doris J. Keyton

By:   
William G. Gilbert,  
President  
As a Partner and for the  
Purposes of Paragraph 5  
above

STATE OF MICHIGAN )  
COUNTY OF OAKLAND ) ss.

On this 20 day of September, 1985, before me a Notary Public for the above State and County appeared William G. Gilbert, the President of LEAGUE HOUSING CORPORATION, a Michigan Corporation, and William G. Gilbert, the President of GILBERT & VINNITILLI, INC., a Michigan Corporation, which Corporations are Partners of WINCHESTER GROUP, a Michigan Co-Partnership, who executed the within Declaration on behalf of the said Corporations with full authority and approval of their Board of Directors.

  
Doris J. Keyton  
Notary Public State of Michigan

My Commission Expires: 07/13/88




SEPT 13 1935

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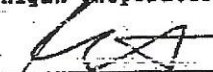
League Housing Corporation, a Michigan corporation, being the holder of a seller's interest in certain of the lots in the Original Subdivision and being the fee owner of the land described in Exhibits "A" and "B" hereto, does hereby consent to this Declaration and agrees that its rights and interest in and to said lands shall be subordinate and subject to the terms and conditions hereinabove set forth.

In the presence of

LEAGUE HOUSING CORPORATION,  
a Michigan Corporation

  
Lawrence E. Korman  
Louis J. Korman  
Notary Public

By:

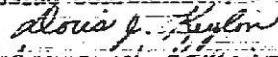
  
William G. Gilson

Its:

PRESIDENT

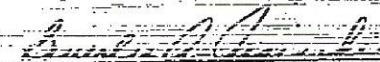
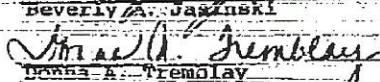
STATE OF MICHIGAN )  
COUNTY OF OAKLAND ) ss.

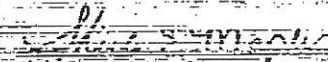
The foregoing instrument was acknowledged before me this 25th day of July, 1935, before me by William G. Gilson, the PRESIDENT, of LEAGUE HOUSING CORPORATION, a Michigan Corporation.

  
Louis J. Korman  
Notary Public  
My commission expires July 1, 1938

In the presence of:

FIRST OF AMERICA BANK - DETROIT  
a National Banking Association

  
Beverly A. Jazinski  
  
Howard A. Tremblay

  
Shelia R. Maples  
Its: Assistant Vice President  
For the purposes set forth in  
Paragraph 6 above



SEPT 13 85

LIBER 9106 PAGE 784

STATE OF MICHIGAN )  
COUNTY OF OAKLAND ) SS.

The foregoing instrument was acknowledged before me  
this 25th day of July, 1985, before me by  
Sheila E. Napier, the Asst. Vice Pres., of FIRST  
AMERICA BANK - DETROIT, a national banking association.

*Beverly A. Jasinski*  
Notary Public  
Beverly A. Jasinski

BEVERLY A. JASINSKI  
Notary Public, Oakland County, Michigan  
My Comm. Expires Nov. 13, 1992

Drafted by:

Cameron H. Piggott, Esq.  
Eaton, Cossett, Spencer,  
Goodnow & Trigg  
37th Floor  
400 Renaissance Center  
Detroit, Michigan 48243

When recorded return to:

Clerk  
City of Rochester Hills  
1275 W. Avon Road  
Rochester, Michigan 48063