

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
A TOWNHOUSE SUBDIVISION
THE GROVE

THIS DECLARATION, made on the date hereinafter set forth by THOMPSON S. BAKER, GUY W. BOTTS, ROBERT P. CRISP, JAMES FENTRESS, JOHN A. GILLILAND, W. WILSON MUNNERLYN, J. P. THORNTON, JAMES H. WINSTON and WILLIAM S. WOODS, not individually, but only as Trustees of Barnett Mortgage Trust, an unincorporated business trust organized under the laws of the State of Florida, and their successor trustees and assigns, together with all the rights and powers granted to them in the Declaration of Trust dated March 4, 1970, as amended and restated, a copy of which is on file with the Secretary of State of the State of Florida, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the City of Lakeland, County of Polk, State of Florida, which is more particularly described as:

[long legal description omitted]

WHEREAS, all of the property described above is shown upon the following listed plat: "Plat Of: THE GROVE, A TOWNHOUSE SUBDIVISION, Polk County, Florida," dated May 11, 1977, being made by Charles S. Panter, registered Florida land surveyor number 2196, which said plat is of record in the Clerks' Office of the Circuit Court of Polk County, Florida, in Plat Book 65, Page 29 through inclusive.

NOW THEREFORE, Declarant hereby declares that all of the property described above shall be held sold and conveyed subject to the following assessments, restrictions, covenants and conditions, all of which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the property described above or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

Section 1. Association. "Association" shall mean and refer to The Grove Home Owners Association, Inc. a corporation not for profit, organized and existing under the laws of the state of Florida, its successors and assigns.

Section 2. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including Owners who have contracted to sell, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. Property. "Property" shall mean and refer to the real property described above, and such other real property as may hereafter be brought within the jurisdiction of the Association.

Section 4. Common Area. "Common Area" shall mean all real property and improvements located thereon owned from time to time by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows: Tract "A", The Grove, according to plat thereof and excluding all Blocks and Lots shown thereon) recorded in Plat Book 65, Pages 29, current public records, Polk County, Florida, provided, however, that the Common Area may be decreased in size by Declarant if, subsequent to the conveyance of the first Lot, the Declarant deeds a Lot to an Owner and the Lot is comprised of a

portion of Tract "A." The total amount of Tract "A" in square footage which Declarant may convey to an Owner or Owners in the aggregate shall not exceed 700 square feet.

Section 5. Lot. "Lot" shall mean and refer to the numbered plot of land upon which a Townhouse is actually constructed by Declarant.

Section 6. Townhouse. "Townhouse" shall mean and refer to a single-family dwelling located on a Lot as part of a multi-family building.

Section 7. Member. "Member" shall mean and refer to every person or entity who holds membership in the Association pursuant to the provisions of the instrument, the Article of Incorporation and the Bylaws of the Association.

Section 8. Declarant. [Amended 05/19/1978] "Declarant" shall mean Provcor Properties, Inc., a Pennsylvania corporation authorized to do business in Florida. Notwithstanding the above, Declarant may specifically assign all of its rights under this Declaration at any time in its sole discretion."

Section 9. Class A Lots. "Class A Lots" shall mean and refer to any Lot upon which a Townhouse has been completed and which has been conveyed to an Owner other than the Declarant.

Section 10. Class B Lots. "Class B Lots" shall mean and refer to any Lot upon which a Townhouse has not been completed or which has not been conveyed to an Owner other than the Declarant.

Section 11. Institutional First Mortgagee. "Institutional First Mortgagee" shall mean all banks, savings and loan or building and loan associations, credit unions, life insurance companies, business trusts, or other institutional-type lenders holding first mortgage loans secured by a Lot or Lots within the Property.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner and his respective licensees, guests, invitees, agents, servants and employees shall

have (i) a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot and (ii) a perpetual non-exclusive easement for ingress, egress, access and regress to and from the respective Lots and Townhouses located thereon over all roads, ways and streets within the Common Area, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights of an Owner and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, governmental authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. *[Amended 05/19/1978] No such dedication or transfer shall be effective unless an instrument approved by two-thirds (2/3) of each class of Members agreeing to such dedication or transfer has been recorded;*

(d) the right of the Association to limit the number of guests of Members;

(e) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving, repairing or rebuilding the Common Area and facilities and in aid thereof, with the assent of two-thirds (2/3) of each class of membership, to mortgage the Common Area. The rights of any such mortgagee or mortgagees in the Common Area shall be subordinate to the rights of the Owners hereunder;

(f) the right of the Association, through its Board of Directors, to determine the time and manner of use of the recreational facilities by the Members.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant which shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership three (3) years after the total votes outstanding in Class A Membership equal or exceed the total votes outstanding in the Class B Membership, or immediately after the Declarant has sold the last Lot owned by it, whichever first occurs, but in no event later than December 31, 1985.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.
[Amended 05/19/1978] The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor,

whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments to defray the costs, liabilities and obligations incurred by the Association to exercise its powers and carry out its duties hereunder including, but not limited to: (a) operating, maintaining, restoring and repairing the Common Area; (b) insuring the Common Area and the Townhouses, as provided in Article IV Section 12 hereof; (c) restoration, repair and maintenance of the exterior of the Townhouses; and (d) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The assessments, together with interest, costs, and reasonable attorney's fees incurred by the Association in the collection of the assessments shall be a continuing lien on each Lot and the Townhouse located thereon against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees shall also be the personal obligation of the Owner of such Lot and Townhouse at the time the assessment is due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purposes of Assessments. [Amended 05/19/1978] The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property, and for maintaining, operating, insuring and improving the Common Area and the improvements located thereon, for maintaining, repairing, restoring, and insuring the Townhouses (except for certain insurance to be maintained by each Lot Owner as provided in Article IV, Section 12 hereof), for cutting, trimming and maintaining the grass and shrubs located on the rear, front and side yards of all Lots except as set forth in Article VIII, Section 1, and or providing water and sewer service to the Lots, all in accordance with this instrument, the Articles of Incorporation and the ByLaws.

Section 3. Proviso. [Amended 05/19/1978] Notwithstanding anything to the contrary contained in Article IV, Section 1 of this instrument or elsewhere, Declarant shall not be obligated to pay annual assessments or charges, insurance assessments, maintenance assessments or special assessments, with respect to completed or uncompleted Townhouses or Lots which have not been conveyed away by Declarant, provided however that Declarant shall be obligated to pay, when required, any deficit existing between the amount of money needed during any fiscal year of the Association to accomplish the purpose of assessments as set forth in Article IV, Section 2, and the amount assessed during such fiscal year against the Owners of all Lots within the property other than Declarant. Declarant's obligations shall cease upon termination of the Class B Membership, unless said Class B Membership should terminate on or before December 31, 1978, in which case Declarant's obligations shall cease December 31, 1978.

Section 4. Maximum Annual Assessment. [Amended 05/19/1978] (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner and for as long thereafter as there is a Class B Member, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the Membership as hereinafter set forth;

(b) The maximum annual assessment may be increased above fifteen percent (15%) by a majority vote of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose;

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum for as long as there is a Class B Member. Upon termination of the Class B Member, the Board of Directors may fix the annual assessment at an amount calculated to meet the obligations of the Association; provided, however, that a majority of the Class A Members may reject any proposed annual assessment at a meeting duly called for this

purpose. Should the proposed annual assessment be rejected, the maximum annual assessment for that year shall be no more than fifteen percent (15%) above the maximum assessment for the previous year.

Section 5. Maintenance Assessments; Special Assessments for Capital Improvements. [Amended 05/19/1978] (a) As set forth in Article IV, Section 1(c) above, the Association shall levy an assessment for the repair and maintenance of the exterior of the Townhouses as provided in Article VIII hereto. Said assessment may be either on a regular annual basis (in order to establish a reserve account for repairs), or on a special assessment basis as necessary to make up deficiencies in such reserve account. To the extent said assessment is on a regular annual basis, the provisions of Section 7 of this Article shall control the due date and method of collection of the assessment and Article XIV shall control the reserve account.

(b) In addition to the annual assessments and maintenance assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Any such assessment shall have the approval of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Notice and Quorum for Any Action Authorized under Section 4 and Section 5, Article IV. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4 of 5 of Article IV shall be sent by mail to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Member or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Membership 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 sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from each Owner one twelfth (1/12) of the annual assessment for his respective Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any installment of an assessment which is not paid when due shall be delinquent. If the installment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of nine percent (9%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot and Townhouse, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Furthermore, if any installment of an assessment remains unpaid thirty (30) days after the same shall become due, the Board of Directors may declare the

entire annual assessment as to that delinquent owner due and payable in full as if the entire amount was originally assessed. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, and its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefits of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same and to subrogate so much of its right to such liens as be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein on any particular Lot shall be subordinate to the lien of any first mortgage held by an Institutional First Mortgagee encumbering that particular Lot. Sale or transfer of an Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding or conveyance in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer and an Institutional First Mortgagee shall have no liability for such prior assessment. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The Common Area shall be exempt from the assessments created herein. However, no Lot or Townhouse shall be exempt from assessment except as provided in Section 3 of this Article IV.

Section 11. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that the management agreement may be cancelled, prior to its expiration, by an affirmative vote of sixty percent (60%) of the votes of each and every class of the Members, and by the Declarant, without the consent of the Class A membership, as long as there is a Class B membership, without cause or payment of a termination fee and upon ninety (90) days or less written notice. Any management agreement entered into by the Association while Declarant controls the Association shall provide that the management agreement terminate automatically sixty (60) days after the sale by Declarant of the last Lot owned by Declarant.

Section 12. Insurance Assessments. [Amended 05/19/1978] (a) The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance (with the minimum deductibles available), naming the Association (and any mortgagee of the Common Area if required by the terms of the Mortgage) as insured, for all the buildings owned by the Association against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy insuring the Association, its officers, directors, agents and employees covering all of the Common Area, and all damage or injury caused by the negligence of the Association or any of its agents, or which may be the responsibility of the Association because of its ownership of the Common Area (but excluding liability of individual Lot Owners). Said insurance may

include coverage against vandalism. Premiums for all such insurance shall be common expenses to be deemed assessments. All such insurance coverage shall be written in the name of the Association.

(b) The Board of Directors, or its duly authorized agent, shall also have the authority to and shall obtain insurance (with the minimum deductible available) naming the Association (and any mortgagee of a Townhouse, if required by the terms of the Mortgage) as insured insuring the Townhouses under a master policy or policies of insurance for all or each of the multi-family buildings, and shall insure said buildings against loss or damage by fire or other hazards (but excluding personal property of individual Lot Owners) in an amount sufficient to cover the full replacement cost of any repair or reconstruction work which the Association is obliged to perform hereunder in the event of damage or destruction from any hazard. Premiums for all such insurance shall be common expenses assessable on a regular annual basis as herein provided.

(c) It shall be the individual responsibility of each Owner at his own expense to provide adequate homeowner's liability insurance (including fire and hazard, theft and other insurance), covering damage and loss to such Owner's personal property and any improvements made by such Owner to his Lot. Each Owner shall be responsible for providing his own personal liability insurance as he sees fit.

(d) In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of either the mortgagee holding a mortgage upon the Common Area or the mortgagee holding the mortgage upon the Townhouse, as applicable if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as good condition as formerly. To the extent the proceeds of insurance equal or exceed Twenty Five Thousand Dollars (\$25,000.00), all such

insurance proceeds shall be deposited in a bank or other financial institution having trust powers located in Polk County, Florida, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two-thirds (2/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. Where the proceeds of the insurance are less than Twenty Five Thousand Dollars (\$25,000.00), no such account shall be required and the Board of Directors may manage said funds for the purpose of rebuilding or replacing as it deems proper. In the event of loss or casualty, the Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor. In the event the insurance proceeds are insufficient to pay all the costs of repairing or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Members of the Association, as established by Article IV, Section 5, above, to make up any deficiency for repair or rebuilding.

(e) All costs incurred by the Association to carry out its duties under this Article IV, Section 12 (including, but not limited to funding deductibles and paying the costs of insurance trusts) shall be common expenses assessable against the Owners.

ARTICLE V

CONDEMNATION

In the event all or any part of the Common Area is taken by eminent domain proceedings or conveyed to any governmental body in lieu thereof, the money payable as a result of such taking and any legal action necessary to collect the award shall be placed in the common fund for common expenses. Any award for the taking of all or part of a Lot shall be payable to the Owner or his mortgagee, as their respective interests may appear.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Improvements and Structures. No building, fence, wall or other structure shall be commenced, erected or maintained upon the property, whether located within a Lot or within the Common Area, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color or finish and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structure and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives approved by the Board. In the event the Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after all of the relevant plans and specifications have been submitted to it, approval shall have been deemed granted and this Article will be deemed to have been fully complied with.

Section 2. Drainage and Water Channels. No obstruction, diversion, bridging or confining of existing channels upon, under or across any portion of the Property through which water in time of storms or otherwise naturally flows or through which water has been caused to flow artificially by Declarant in the development of the Property or by others for damage easements shall be made by any person in such manner as to cause damage to any property. The Architectural Committee may determine that a new channel or a diverted, bridged or reconstructed existing channel is adequate to carry the amount of storm and other water liable to flow therein, and may approve the same; provided, however, that the right is hereby expressly reserved to Declarant, as an incident to the development of the entire Property, to change existing channels for the natural flow of water and also create channels and means of artificial drainage and water flow and, further, to cause reasonable increases or

decreases in the amount of water which would in a state of nature flow into and through any such natural or artificial water channels or means of drainage.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhouses upon the Property and placed on the dividing line between the Lots shall constitute a party wall; and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it; and, if the other Owners thereafter make use of the wall, they shall contributed to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written

request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VIII

MAINTENANCE

Section 1. Owner's Responsibility. [Amended 05/19/1978] The Owner of any Lot shall maintain, repair and restore at his cost that portion of any Lot owned by him, except for the exterior or structural part of any building or any other improvement erected on such Lot, but including Patio areas, screen and screen doors, exterior door and window fixtures and utility facilities within the exterior walls of his Townhouse. In the event that an Owner erects a fence, shrubbery or other barrier separating the front, side or rear yard of his Lot from the Common Area, or causes to be placed three or more objects upon his yard, such as but not limited to chaises, picnic tables, barbecues, shrubs or trees, such Owner shall in addition maintain at his cost the front, side and rear yard of any Lot owned by him, including the obligation to cut, trim and maintain his front, side and rear yard lawn and shrub or other plantings thereon. It shall be the responsibility of each Owner, resident or lessee to keep sidewalks and passageways located on his respective Lot free from litter and debris and same shall be removed as soon as practicable. In the event such owner shall fail to discharge his aforesaid obligations in a manner satisfactory to the Board of Directors of the Association, the Association, after: (1) notice to such owner; (2) giving such Owner an opportunity to be heard; and (3) approval by two-thirds (2/3) vote of its Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and maintain, repair and restore such portion of said Lot, including the right to cut, trim and maintain said front, side and rear yard lawn, shrub or other planting thereon. The cost of same when performed by the Association shall be added to and become a part of the assessment to which such Lot is subject. Each Owner specifically consents and agrees to this provision, recognizing that

proper maintenance of all Lots is important to protect the value of other Lots within the Property.

Section 2. Association's Obligations. [Amended 05/19/1978] The Association shall maintain, repair and restore the exterior and structural portions (including utility facilities outside the exterior walls) of any building or improvement erected on each Lot, shall maintain, repair and restore all of the Common Area and shall cut, trim and maintain the grass and shrubs located on the rear, front and side yards of all Lots except as set forth in Article VIII, Section 1, above. The Association shall also maintain, repair and restore any structure or facilities on the Common Area for the common use and benefits of its members, including all recreational facilities, sidewalks, paved automobile parking areas and paved streets and driveways within the Common Area, and including the obligation to cut, trim and maintain all lawns, shrubs and other plantings within the Common Area. The Association shall also maintain all vehicular parking designations within the Common Area. The cost of same shall be paid by the Association from the aforesaid assessments and charges referred to in Article IV hereof.

ARTICLE IX

USE RESTRICTIONS

Section 1. Residential Use. The Property is hereby restricted to residential dwellings for residential use except for such portion of the Common Area which shall be set aside for the construction and use of recreational facilities. No professional, business or commercial activity of any sort shall be conducted on any Lot, including without limitation legal or medical services, hair dressing and related beauty parlor service, music or dancing lessons and child care centers. This provision shall not, however, prevent Declarant from using any Lot for model or display purposes, or as a construction or sales office.

Section 2. Construction. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property and no subsequent buildings or structures other than a Townhouse shall be constructed; provided, however, that the Association may construct buildings on the Common Area. No structures of a temporary character, trailer, van, motor home, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of the Property at any time as a residence either temporarily or permanently.

Section 3. Compliance with Laws. No use shall be made of any Lot or Townhouse which violates any laws, ordinances or regulations of any governmental body having jurisdiction or which constitutes a fire or health hazard.

Section 4. Insurance. [Amended 05/19/1978] No use shall be made of any Lot or Townhouse, or any objects kept therein, which shall increase the premium rates for insurance maintained by the Association upon all Common Areas as hereinabove provided for, or of any other insurance maintained by either the Association or any Lot Owner.

Section 5. Conveyances of Lots. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 6. Certain Rights of Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of the Townhouses to maintain during the period of construction and sale of the Townhouses, upon such portion of the Property as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of the Townhouses, including, but not limited to, a business office storage area, construction yards, signs, model units and sales office.

Section 7. Loud Noises Prohibited. No loud or objectionable noises or obnoxious odors shall emanate from any Townhouse or Lot which may be a nuisance or annoyance to other Owners or occupants.

Section 8. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of the Lots, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, subject to regulation by the ByLaws of the Association as they may exist from time to time.

Section 9. Signs. No advertising signs (including without limitation "for rent" or "for sale" signs), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Property nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of the Property; provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings if any, of Declarant, its agents and assigns, and of the Association, its successors and assigns, in furtherance of its powers and purposes as set forth in its Articles of Incorporation, Bylaws and this Declaration. No Owner may place any sign or offensive object within his Townhouse that is visible through any windows or glass doors of any Townhouse from the exterior.

Section 10. Storage. All equipment, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Owners and streets. All rubbish, trash or garbage shall be regularly removed from the Lots and Common Areas and shall not be allowed to accumulate thereon. No clotheslines shall be allowed either in the patio areas or upon any other portion of the Property.

Section 11. Planting. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done. No fences, hedges or walls shall be erected or maintained upon the Lots and Common Area except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's board of Directors or their designated representative. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of The Grove, and is necessary for the protection of the Owners.

Section 12. Maintenance of Townhouses. *[Deleted by Amendment 05/19/1978]*

Section 13. Duty to Maintain Utilities. All fixtures and equipment installed within a Townhouse, commencing at a point where the utility lines, pipes, wire, conduits or systems enter the exterior walls of a Townhouse shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Townhouse or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Townhouses or their Owners.

Section 14. Duty to Rebuild After Casualty. Unless 50% or more of the Townhouses are rendered uninhabitable for a period of more than sixty (60) days by a common casualty, each Lot Owner shall have the duty to put his Townhouse into as good repair as before any casualty that may have occurred, subject to Article VI. This obligation is absolute and is for the benefit of every other Lot Owner.

Section 15. Antennas. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon any structure situated upon the Property other than an aerial for a master antenna system

approved by the Association, should any such master system or systems be utilized and require any such exterior antenna.

Section 16. No Transient Rentals. The respective Lots shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the Owners of the respective Lots shall have the absolute right to lease same provided that said lease is made subject to the covenants and restrictions contained in this Declaration and further subject to the ByLaws and such rules and regulations as may be issued and amended from time to time by the Board of Directors.

Section 17. Use of Vehicles. Motor vehicles shall not be allowed on bicycle or pedestrian trails. Motor vehicles using private streets and parking areas must be properly licensed and inspected by the state and drivers must have valid operators licenses. Horses shall not be permitted on bicycle or pedestrian trails unless written permission is given by the Association, which permission may be revoked without notice. Boats, mobile homes, trailers, trucks, campers and like vehicles shall be parked or stored only in parking areas specially designated by the Association. The Association may prohibit any go-cart, motorcycle, or motorized bicycle from using the Common Area if in the opinion of the Board of Directors of the Association such prohibition shall be in the best interests of the Community.

Section 18. Inoperative Vehicles. Inoperative or unlicensed cars, trucks, or other vehicles shall not be parked or stored on streets or parking areas. Such vehicles will be towed away and stored at the owner's expense.

Section 19. No Advertisements. No person shall post any advertisements or posters of any kind in or on the Property except as authorized by the Association.

Section 20. Rights of Others. Each occupant of a Townhouse shall use the Common Areas in such a manner as shall not abridge the equal rights of the other Owners and occupants to the use and enjoyment thereof.

ARTICLE X

ABATING AND ENJOINING VIOLATIONS BY MEMBERS,

RESIDENTS OR LESSEES

The violation of any of the Use Restrictions above or of any Rule or Regulation adopted by the Board of Directors, or the breach of any provision of the ByLaws or this Declaration, shall give the Board the right, in addition to any other rights set forth elsewhere: (a) to enter the property in which or as to which such violation or breach exists and to summarily abate and remove at the expense of the member, resident, or lessee at fault, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of such breach.

ARTICLE XI

EASEMENTS

Section 1. Easements for Encroachments. Each Townhouse and the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as originally designed or constructed. A valid easement for the encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the Owners of the Townhouses so affected agree that minor encroachments of parts of the adjacent Townhouses or Common Areas due to construction shall be permitted and that a valid easement for the encroachment and the maintenance thereof shall exist.

Section 2. Utility and Service Easements. There is hereby created a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the electrical and telephone company to erect and maintain the necessary poles and other necessary equipment on the Property and to affix and maintain electrical and telephone wires circuits and conduits on, above, across and under the roofs and exterior walls of the Townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant until such time as the Common Area is conveyed to the Association, and thereafter the Board of Directors of the Association, shall have the right to grant such easement on the Property without conflicting with the terms hereof. Declarant will convey the Common Area to the Association within thirty (30) days after the date of recording of this Declaration. The easements provided for in this Article XII shall in no way affect any other recorded easement on the Property.

The Association accepts the obligation at its expense to install, replace, repair and maintain all utilities on the Property including, but not limited to water, sewer, gas, telephone, electricity and master television antenna systems, and to repair any damage to pavement, patios, grass, flowers, shrubbery, trees or other improvements damaged in connection with the

installation, replacement, repair or maintenance of such utilities. The Declarant and, unless otherwise agreed in writing, any utility company or public utility agency, shall not be liable for any such damage caused by either of them or their successors, assigns, agents, employees or servants.

Section 3. Easement Over Streets and Rights of Way For Declarant. There is hereby created a blanket easement upon, across and over all of the streets and rights of way in favor of Declarant, its agents, contractors, subcontractors, materialmen, and successors and **and [sic]** assigns, including without limitation tenants, prospective purchasers, purchasers, and contract purchasers, for ingress and egress from any property owned by Declarant or in which Declarant has an interest to and from the public streets. This easement may be used for purposes of constructing improvements upon property owned by Declarant and for ingress and egress by the successors and assigns of Declarant.

ARTICLE XII

COMMON TAXES

In the event that any taxing authority having jurisdiction over the Property shall levy or assess any tax or special assessment against the Common Areas, then such tax or special assessment shall be separately levied and collected as a special assessment by the Association against all of the Owners of all Lots. Such special assessment by the Association shall be separately identified by the Association and when so designated and identified shall be and constitute a lien prior to all mortgages, deeds of trust and **encumbrances [sic]** upon any Lot, regardless of the date of the attachment or recording of such mortgage, deed of trust, or other encumbrance, to the same extent as though such tax or special assessment had been separately levied by the taxing authority upon each Lot.

ARTICLE XIII

ROAD AND PARKING AREAS

Section 1. Plot Plan. Attached hereto and made a part hereof as Exhibit A is a plot plan of the Lots and Common Areas (herein the "Plot Plan"), being the same lands described in plat of The Grove according to plat thereof recorded in Plat Book 65, pages 29 of the current public records of Polk County, Florida. The Plot Plan has shown thereon the Blocks and the planned interior road system for the Property.

Section 2. Owner's Easements of Enjoyment and Use. Every Owner and his respective licensees, guests, invitees, agents, servants, and employees shall have (i) a right and non-exclusive easement of enjoyment over, upon and across the interior road system as shown on the Plot Plan which shall be appurtenant to and shall pass with title to every Lot and (ii) a perpetual non-exclusive easement for ingress, egress, access and regress to and from the respective Lots and Townhouses located thereon over the interior road system shown on the Plot Plan and within the Common Area. All vehicular traffic, except as hereinafter provided, shall be limited only to such interior road system, and not to other areas of the Common Area. Nothing herein contained shall be deemed to prohibit emergency, repair and maintenance vehicles from using and driving upon any other parts of the Common Area when such use is needed for emergency, maintenance and repair purposes. Nothing herein shall be construed to be in derogation of Declarant's Easement as set forth in Article XI, Section 3.

ARTICLE XIV

REPAIR AND REPLACEMENT RESERVE

[Amended 05/19/1978] The Board of Directors of the Association may, but are not required, to obtain from members contributions to capital on a regular basis, which contributions, if any, will be used to establish a replacement and repair reserve. Such contributions to capital, if assessed by the Board of Directors, shall be conclusively deemed to be a common expense. Such fund shall be deposited in a special account with a lending institution the accounts of which are insured by an agency of the United States of America or may, in the

discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The replacement reserve may be expended only for the purpose as set forth in Article IV, Section 5 hereto as designated by the Board of Directors using prescribed corporate accounting procedures. The amounts required to be allocated to the replacement reserve may be reduced, by appropriate resolution of the Board of Directors, upon the accumulation in such replacement reserve of a sum equal to the full replacement value of the items required for repair and replacement. Full replacement value shall be annually determined by the Board of Directors for casualty insurance purposes. Under no circumstances may the replacement reserve be commingled with any other funds or used for any purpose other than that for which it was established. The replacement reserve shall be specifically allocated to the specific capital improvements and a separate sub-reserve shall be established in the manner provided above for such improvements, including by way of illustration, paved roads, paved sidewalks, re-roofing the recreation building, and re-surfacing the tennis court.

ARTICLE XV

RIGHTS OF INSTITUTIONAL FIRST MORTGAGEES

Section 1. Prior Written Approval. Regardless of any provision to the contrary contained in this Declaration, unless at least 75% of the Institutional First Mortgagees (based upon one vote for each loan secured by a first mortgage of individual Lots in the Property) have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer real estate or improvements thereon owned directly or indirectly by the Association. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Property shall not be deemed a **tranger [sic]** within the meaning of this clause;

(b) change the method of determining the obligations, assessments, dues or other charges which may be assessed against any Lot;

(c) by act or omission change, waive or abandon the regulations or enforcement thereof contained in this Declaration pertaining to the architectural design or the exterior appearance of units, the maintenance of party walls or common fences and driveways, or the upkeep of walls and planting on the properties;

(d) *[Amended 05/19/1978]* fail to maintain fire and extended coverage insurance on insurable Common Area improvements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost and less any deductible);

(e) use hazard insurance proceeds for losses to any Common Area improvement for other than repair, replacement of or construction of such improvements.

Section 2. Notice of Default. An Institutional First Mortgagee shall at his request be entitled to written notification from the Association of any default by the Owner of any Lot subject to a first mortgage in the performance of such Owner's obligations under this Declaration which is not cured within thirty (30) days.

Section 3. Examine Books and Records. Institutional First Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during ordinary working hours.

Section 4. Taxes and Other Charges. In the event the Association fails to pay, when due, taxes assessed against the Common Area or premiums of insurance covering the improvements on the Common Area, then any one or more of said Institutional First Mortgagees may pay such taxes or insurance premiums, and the Association shall be obligated to reimburse such Institutional First Mortgagee or mortgagees for such payments, and until paid, the same shall constitute a lien upon the Common Area in favor of the party or parties, entity

or entities, paying same, which said lien may be enforced in a court of competent jurisdiction of the State of Florida in the same manner as a judgment lien may be enforced.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. [Amended 05/19/1978] The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date of [sic] this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument approved by the Owners of not less than sixty-six and two-Thirds percent (66 2/3%) of the Lots. Notwithstanding anything contained herein to the contrary, this Declaration may be amended at the sole discretion of Declarant as long as there is a Class B Membership, and so long as such amendments are reasonable in light of the residential nature and character of the Lots. Declarant's right to amend this Declaration shall include, without limitation, the right to make amendments required or requested by any court, government agency, title insurance company having an interest in insuring title to any Lot, or permanent lender or purchaser of mortgages upon any of the Lots. Any amendment must be recorded to be effective.

Section 4. Special Rights of Declarant. Declarant, or its successor or successors in title to the aforesaid real estate, hereby reserve the right, either by recorded instrument in writing or the recordation of amended plat, or both, to modify the lot lines of all of the Lots, at any time hereafter, provided, at the time of such modification, no such Lots to be modified have been sold or alienated by the said Declarant.

Section 5. Annexation of Additional Property. Annexation of additional real property by Members shall require the assent of two-thirds (2/3) of each class of Members at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of the Members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Membership are not present in person or by proxy, Members not present may give their written consent to the action taken thereat.

Section 6. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 7. No Partition. The Common Area shall remain undivided and no Lot Owner nor any other person shall bring any action for partition or division thereof without the written consent of all Class A Members and of the Class B

Members, and of all holders of a mortgage or mortgages encumbering any Lot or the Common Area.

[Paragraph deleted by Amendment 05/19/1978]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument as of May 16, 1977.

[signatures, seals, and notarization omitted]