

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WEST COVE TOWNHOMES

THIS DECLARATION, made on the date hereinafter set forth by Midland Development Corp., an Iowa corporation, with its principal place of business in Polk County, Iowa, hereinafter referred to as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in West Des Moines, Polk County, Iowa, which is more particularly described as:

Lots 1 through 84, both inclusive, and Lots X, Y and Z in WEST COVE, an Official Plat, West Des Moines, Iowa.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, 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 rights, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to West Cove Townhomes Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504A of the Code of Iowa 1985 as amended.

Section 2. "Association Responsibility Elements" shall mean the following, whether located upon a Lot or upon the Common Area:

(a) The exterior surface of the Buildings upon a Lot, excluding windows, doors, patios and decks.

- (b) The structural portion of the Building upon a Lot.
- (c) The roof, gutters, downspouts, and foundations of the Buildings upon a Lot.
- (d) Any common wall between residential structures upon Lots, except the interior surfaces thereof.
- (e) The yard surrounding the residential structure upon a Lot, except for trees and shrubbery and except that portions of the yard between detached garage and the front of the unit.
- (f) Driveways and sidewalks.
- (g) Conduits, ducts, plumbing, wiring, pipes and other facilities within the attic or basement of a residential structure which are carrying any service to more than one Lot.

Section 3. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 4. "Building" shall mean and refer to any single-family attached or detached dwelling unit that may be constructed on a Lot or a part of more than one Lot and shall include any attached or detached garage building conveyed with the Lot.

Section 5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association is described as:

Lots X, Y and Z in WEST COVE, an Official Plat,
West Des Moines, Polk County, Iowa

Declarant will convey to the Association by deed that portion of the Common Area surrounding a Lot at a subsequent time and before conveyance of the first Lot in such area.

Section 6. "Declarant" shall mean and refer to Midland Development Corp., its successors and assigns.

Section 7. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions to which the Properties are subject.

Section 8. "Federal Mortgage Agencies" shall mean and refer to those federal agencies who have or may come to have an interest in the Properties, or any portion thereof, such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or successors to their interests.

Section 9. "Living Unit" shall mean and refer to any portion of a building situated upon a Lot and designed and intended for use and occupancy as a resident by a single family or individual.

Section 10. "Lot" shall mean and refer to the numbered Lots shown upon any recorded Plat of the Properties with the exception of the Common Area. In the event any part of the Properties is replatted and a subsequent Plat is recorded then "Lot" shall refer to the numbered lots shown on such replatting and such subsequent recorded Plat. With respect to any single-family portion of any Building that may be constructed on a part of more than one of such Lots, "Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit.

Section 11. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 12. "Owner" shall mean 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 Properties, including contract sellers and vendees (deemed Co-owners), but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the property by provision or operation of law.

Section 13. "Properties" shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

PROPERTY RIGHTS IN COMMON AREAS

Section 1. Obligations of the Association. The Association, subject to the rights of the Owners as set forth in the Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners, of the Common Area conveyed to it and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with the standards of sound property management.

No person other than the Owner of a Lot and his invitees shall have the right to enter upon, use or affect an Association Responsibility Element located within a Lot, except that the Association and its designates may enter upon and within a Lot and the Buildings located thereon at reasonable times for the following purposes:

- (a) Installation, repair, removal, replacement or inspection of an Association Responsibility Element.
- (b) Enforcement of any provision of this Declaration or the Articles of Incorporation or the By-Laws of the Association.
- (c) Mowing and maintenance of grass areas.

In the event that the need for maintenance or repair of any portion of the Common Area; the improvements thereon, or of any Association Responsibility Elements is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests or invitees of an Owner; the cost of such maintenance or repair shall be added to and become part of the assessment to which the Owner is subject and a lien upon the Lot and living unit of such Owner and shall become due and payable upon demand.

Section 2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which may be delegated to family members, lessees and guests of every Owner, (subject to any reasonable and nondiscriminatory rules and regulations which may

be enacted by the Association) which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights of the 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; provided, however, that nothing contained in this paragraph shall be deemed to deny an Owner access to and from his Lot.

(b) 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 by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

(c) The right and obligation of the Association to maintain sewer and other underground utilities located within the Properties.

(d) The right of the Declarant, its successors and assigns to designate, establish, grant, dedicate, install and/or maintain utility and drainage easements within the Common Area;

(e) The right of the Declarant to maintain within any Living Unit a sales office, together with access, ingress, and egress to and from said Living Unit, any number of model Living Units, Common Area, easements, and unsold Lots for Declarant and Declarant's invitees in conjunction with its business operated from said sales office;

(f) The right of Declarant to provide in the Common Area, landscaping, outdoor furniture and recreational equipment, signs, decorative structures and necessary appurtenant utilities;

(g) The Rules and Regulations promulgated and published by the Association's Board of Directors, the Articles of Incorporation and Bylaws, and those accompanying this Declaration; and

(h) The right of the Association to mortgage any or all of the Common Area with the assent of two-thirds (2/3rds) of the votes of each class of members.

Section 3. Title to Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it shall convey to the Association from time to time and as it is subsequently determined, the fee title to all Common Area, free and clear of all mechanic's liens or any liens or encumbrances whatsoever except covenants, easements, conditions and restrictions created by this Declaration, or granted to the City of West Des Moines, Iowa. The transfer of title to a portion of the Common Area surrounding a Lot shall be accomplished on or before the recorded conveyance of the first Lot in such area by Declarant.

Until the construction work on all Living Units within the Properties, and appurtenant improvements incidental to said Living Units, is completed, Declarant or its assignee shall have the right to enter upon the Common Area for the purpose of completing such work and performing under applicable guarantees.

Section 4. Use of the Common Area. The Common Area shall be used strictly in accordance with the provisions of the Declaration. No Owner shall obstruct or interfere whatever with the rights and privileges of other Owners or the Association in the Common Area, and nothing shall be planted, altered, constructed upon, or removed from the Common Area, except by prior written consent of the Association. If an Owner violates this section, the Association shall have the right to restore the Common Area to the prior condition and charge and assess the cost thereof against the Owner who violates this section and such cost shall become a special assessment and a lien upon the Lot and Living Unit of such Owner and shall become due and payable upon demand. The Association shall have the same rights and powers to collect the cost of such restoration as provided in Article IV for the collection of delinquent assessments. If an Owner interferes with the rights and privileges of another Owner in the use of the Common Area, the Association or

the offended Owner may commence an action to enjoin such interference and the prevailing party shall be entitled to recover such reasonable attorneys' fees as the Court may allow together with all necessary costs and disbursements incurred in connection therewith.

Section 5. Additional Common Area Rights and Easements. In addition to the Common Areas described in Article I, Section 4 above, the owners of the properties have the benefit and burdens of a mutual Non-exclusive Cross Easement dated June 27, 1986 and recorded in Book 5591, Page 449, et seq., of the Polk County records. This provides for a cross easement for the benefit of the Properties over driveways located on property lying generally north of the properties which form a part of the common elements of Stoneridge, a Horizontal Property Regime, existing under an Amended and Restated Declaration of Submission of Property to Horizontal Property Regime recorded in Book 5591, Page 398 of the Polk County records. Based on this Easement, ingress and egress to the Properties, particularly Lots 73 through 84, inclusive, shall be by virtue of a driveway located on the Stoneridge property. Further, there exists a pool and clubhouse facility on the Stoneridge property which may be used by the owners of the Lots described in this Declaration. The Owners, through the Association, shall be obligated for payment of approximately two-thirds (2/3) of the operating expenses as provided in the Facilities Use Agreement dated June 27, 1986 recorded June 27, 1986 in Book 5591, Page 453, et seq., of the Polk County records. The use of the clubhouse and pool are subject to reasonable rules and regulations adopted by the Stoneridge Condominium Association.

Section 6. Duration. The Common Area as ultimately described pursuant to Article I, Section 4, shall not be changed and shall continue in perpetuity except by approval of both the Association and the City of West Des Moines.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

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. Ownership of a Lot shall be the sole qualification for membership.

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 or its assigns so long as it is the owner of any lots. The Class B members shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership,
- or
- (b) on January 1, 1992.

Section 3. Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's By-laws. The Board of Directors shall manage the affairs of the Association.

Section 4. Suspension of Voting Rights. The Association shall suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

Section 5. Notice of Member's Meetings. Unless the Articles of Incorporation or the Bylaws otherwise provide, written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the president or secretary, or the officer or persons calling the meetings, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 6. Duration. No dissolution of the Association shall occur without the prior approval and consent of the City of West Des Moines.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, 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: (1) monthly assessments or charges, and (2) special assessments for capital improvements and operating deficits; and special assessments as provided in this Article IV, Article VI and Article VII; such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made senior to all liens except a first mortgage of record and any ad valorem taxes. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the

Owner of such property at the time when the assessment fall due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and the Living Units situated on the Properties for obligations to Stoneridge pursuant to the Facilities Use Agreement and for other purposes specifically provided herein. IN ADDITION, THE MONTHLY ASSESSMENT SHALL INCLUDE REPAYMENT OF SUMS ADVANCED BY THE DEVELOPER ON-BEHALF OF THE ASSOCIATION, INCLUDING BUT NOT LIMITED TO PAYMENTS MADE PURSUANT TO THE FACILITIES USE AGREEMENT DESCRIBED IN ARTICLE II, SECTION 5, ABOVE.

Section 3. Maximum Monthly Assessment. Until January 1, 1989, the maximum monthly assessment for each Unit Owner shall be _____ Dollars (\$ _____) per Lot.

- (a) From and after January 1, 1989, the maximum monthly assessment may be increased effective January 1 of each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1, 1989, the maximum monthly assessment may be increased above 10% by a vote of a majority 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 shall fix the monthly assessment at an amount not in excess of the maximum.
- (d) A portion of such monthly assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Areas, the building exteriors or of any capital improvement which the Association is required to maintain.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of all classes of members who are voting in person or by proxy at a meeting duly called for this purpose, with regard to class designation.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 5 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of members 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 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessments provided for herein shall commence as to each respective Lot on the first day of the first month following the date of conveyance to an Owner of a Lot with completed Living Unit constructed thereon and for which a certificate of occupancy has been issued. Lots owned by the Declarant which do not have completed Living Units constructed thereon and for which certificates of occupancy have

not been issued, shall be exempt from the assessments described in this Article IV and the assessments described in Article VII. The maintenance responsibilities of the Association as to each Lot shall commence concurrently with the commencement of monthly assessments. The insurance assessment provided for in Article VII shall commence as to each Lot on the first day of the first month following the date of conveyance of said Lot to an Owner. The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 15% per annum or at the highest rate allowed by Iowa Law, whichever is higher. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the petition in such action, including reasonable attorney's fees. 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 Assessments Liens. If any Lot subject to a lien created by any provision in this Declaration shall be subject

to the lien of a first Mortgage of record: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and (ii) the foreclosure of the lien of such Mortgage or the acceptance of a deed in lieu of the foreclosure by the Mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure and have not been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting owner personally.

ARTICLE V

DECLARANT'S RIGHTS

Section 1. Declarant reserves the right to use any of the Lots as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such

Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain models, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of buildings and other improvements.

Section 2. Declarant reserves the right and is hereby vested with the sole control over all common area landscaping, plantings and the like. Declarant shall have the right to change the plantings and other landscaping elements within the common areas from time to time in its sole discretion.

ARTICLE VI

MAINTENANCE

Section 1. Maintenance by Owners. The Owner of each Lot shall furnish and be responsible for, at his own expense, all maintenance, and repairs of his Lot and all structures, improvements and equipment located thereon, except for the Association Responsibility Element but including decorating and replacements within his residence, including the heating and air conditioning systems and any partitions and interior walls. He shall be responsible for the maintenance, repair and replacement of all windows in his Living Unit, the doors leading into the Living Unit, all decks and patios attached to or adjacent to his Living Unit, all windows, doors and interior surfaces of any garage building located on his Lot, and any and all other maintenance, repair, and replacements of the improvements on his Lot unless otherwise provided herein.

Section 2. Maintenance Obligations of Association. In addition to maintenance of the Common Areas and any improvements located thereon, the Association shall provide all maintenance, repair and replacement of the Association Responsibility Elements.

Section 3. Responsibility for Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessments to which such Lot is subject.

Section 4. Snow Removal. The Association shall be responsible for snow removal from the private streets and walkways in the Common Area. Unless and until otherwise determined by the Board of Directors of the Association, the Association shall be responsible for snow removal from all lots and from the driveway servicing each lot, including any portions of the driveways within the common area, serving the lots.

ARTICLE VII

INSURANCE AND INSURANCE ASSESSMENT

Section 1. Insurance and Insurance Assessment. In addition to the annual assessments and the special assessments for capital improvements, the Association may levy assessments for insurance purchased by the Association. The Association shall obtain liability and casualty insurance for the Common Area and for the Association Responsibility Elements. Unless otherwise determined by the Board of Directors of the Association, each Owner shall be responsible for obtaining homeowner's liability insurance and casualty insurance for property which is not part of the Association Responsibility Elements; the Board of Directors may require an Owner's casualty insurance to be obtained from the same insurer as the insurer under the Association's casualty insurance for the Association Responsibility Elements. In the event of casualty loss, the Association shall be responsible for repair and restoration of the Common Area and Association Responsibility Elements, and the Owner shall be responsible for repair and restoration of all other portions of the buildings and improvements upon his Lot, except to the extent that the Board of Directors of the Association has determined to obtain casualty

insurance for such portions which are not part of the Association Responsibility Elements in which case the Association shall apply and insurance proceeds received for such portions to such repair and restoration of such portions.

Section 2. Distribution to Mortgagee. In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and his mortgagee jointly.

ARTICLE VIII

EASEMENTS AND ENCROACHMENTS

Section 1. General Easements. Each Lot shall be subject to the following easements in favor of the Association and the other Owners:

(a) Every portion of a structure upon a Lot which contributes to the support of any structure not on the same Lot is burdened with an easement of such support.

(b) Each Lot is burdened with an easement through the Lot and through the attic and basement of any structure thereon for conduits, ducts, plumbing, wiring, pipes and other facilities for the furnishing of utilities and services to other Lots, including the location of utility meters on one Lot for the service to other Lots.

(c) Each Lot is burdened with an easement of ingress and egress for maintenance, repair and replacement of Association Responsibility Elements by the Association.

(d) Each Lot is burdened with an easement for common driveway usage with other designated Lots, if and only if a shared or common driveway is constructed serving more than one lot.

(e) Each Lot is burdened with an easement for surface drainage for the benefit of all other Lots and the Common Area.

(f) Each Lot is burdened with an encroachment easement for minor encroachments of common walls due to settling, shifting or inexact location during construction.

(g) Each Lot is burdened with easements for public utilities and sidewalks as may be shown upon any recorded subdivision plat.

(h) Each Lot is burdened with an easement through the Lot but outside of any structure thereon for purposes of reasonable ingress and egress by other Lot Owners to the front and rear of the other Owner's Lot.

Section 2. Drainage, Utility and Sewer Easements. As noted on the Plat, Declarant has reserved certain areas of the Lots and Common Area for Drainage, Public Utility and Sewer Easements. In doing so, it is the intention of Declarant to provide the needed flexibility to itself, for the benefit of all Lots and Owners, to properly install and allow to be maintained all electrical, telephone, water, gas, sewer and other utility services, (including all lines, pipes, wires, cables, ducts, etc.,) to the Living Units constructed on the various Lots. No other improvements or permanent structures (excluding walkways, driveways and fences) shall be placed within such utility easements and any fences so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair or remove any necessary facilities and the right of Declarant and the Association to provide for and maintain appropriate drainage.

Section 3. Additional Easement Rights. Declarant reserves unto itself, for the benefit of all Lots and Owners, an easement and full right, title and authority to relocate, alter, or otherwise leave the location of any drainage, utility, and sewer easement and to grant such further easements, licenses and rights of way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar

purposes on or within any Lot or Lots or any portion of Common Area. Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, or other easement, license or right-of-way by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Polk County, Iowa and any Owner of any Lot shall take title subject to the right and easements reserved herein; provided, however, the rights reserved in this Section 3 shall not be exercised in a manner which unreasonably and adversely affects any Building or portion thereof located upon any Lot or any Owner's use or enjoyment thereof or which unreasonably restricts the rights of ingress or egress to any Lot. The rights and easements reserved by Declarant in this Section 3 shall run with the land and Declarant's right to further alter or grant easements shall automatically terminate when Declarant shall have conveyed the last Lot within the Properties.

Section 4. Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon the Common Areas and any pedestrian walkways or sidewalks.

Section 5. Easement for Signs. Declarant reserves unto itself for so long as it owns any Lot, the right and easement to erect and maintain such entryway, identification and "For Sale" sign or signs within the Properties as Declarant deems reasonably necessary.

Section 6. Encroachment. If, by reason of the location, construction, settling or shifting of a Building, any part of a Building consisting of single-family residence appurtenant to a Lot (hereinafter in this Article VIII referred to as the "Encroaching Unit") encroaches upon any minor portion of any other adjacent Lot, then in such event, an exclusive easement shall be deemed to exist and run to the Owner of the Encroaching Unit for the maintenance, use and enjoyment of the Encroaching Unit and all appurtenances thereto. Upon the written demand

from the owner of an Encroaching Unit, the owner of the Lot upon which said unit encroaches shall deed to the owner of the Encroaching Unit that portion of the Lot upon which the Encroaching Unit is located. The deed shall be by Quit Claim Deed free and clear of any mortgages and encumbrances. All costs of abstracting, releases of mortgages, recording fees, engineering fees and legal fees shall be paid by the owner of the Encroaching Unit.

Section 7. Driveways and Access. An easement is hereby reserved and granted to each Lot for driveway and access purposes over the Common Area wherein the private streets and the driveway serving such Lot is located. This easement shall extend from the Lot to the dedicated public street. Further, an easement is hereby reserved and granted for the use of all Lots served by one common driveway. To the extent that a driveway or a portion of a driveway serving a Lot is located partially or wholly on another Lot or Lots, the Lot Owners served by such driveway shall have the benefit of an easement over that portion of the other Lot or Lots covered by the driveway. This driveway easement shall be for ingress and egress purposes and no Lot Owner shall park or allowed to be parked any vehicle or other obstruction within the driveway area, so as to prevent access to the other Lot or Lots which such driveway serves. Further, there is hereby reserved and granted an easement for the benefit of each Lot served by a sidewalk and pedestrian walkway located partially or wholly on the common area or another Lot or Lots. This latter easement is for the purpose of allowing pedestrian access from the public street to the Lot served by such sidewalk or pedestrian walkway. No Owner shall obstruct or allow obstructions on any sidewalk or pedestrian walkway which would impair the use or access by the Lot Owner which such sidewalk or pedestrian walkway serves.

ARTICLE IX

PARKING RIGHTS

Subject to the provisions of Article VIII, Section 7, above, the paved driveway in front of each Owner's garage shall be for the

exclusive benefit of such Owner and his guests. No one shall use these parking spaces for parking or storing of boats, snowmobiles, trailers, camping vehicles, or other recreational vehicles, or for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pickup and deliveries to neighboring Lots. No bicycles, toys or other private property shall be allowed to obstruct any driveway; nor shall the same be stored in the open alongside building walls or other locations of public view. No vehicles shall be parked so as to impede access from or to any Lot or public street. No fence, barrier or other obstruction of any kind shall ever be placed or constructed so as to impede access from or to any Lot or public street. The Association shall have the right to adopt rules and regulations concerning parking on the private street located in the Common Area, including rules prohibiting all parking on such private street.

ARTICLE X

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing lines between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration and the rights of the Association, 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 costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

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 contribute to the cost of restoration thereof in proportion to such use 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. Right of Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE XI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure, except as originally constructed by or on behalf of Declarant or Original Builder, shall be commenced, erected, altered or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein, other than by the Board of Directors, be made until the plans and specifications showing the nature, kind, shape, height, materials, 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 structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided. This Article shall not apply to any construction, improvements or alterations made by Declarant, including the construction of fences on the Common Areas.

ARTICLE XII

SIGNS AND HOME OCCUPATIONS

Section 1. Signs. So long as Declarant is a member of the Association, no advertising signs of any kind including sale or "for

sale" signs or rental or "for rent" signs (other than interior window signs) shall be displayed on any Lot without the prior written approval of Declarant. Further, no signs of any nature, kind or description shall be erected, placed or maintained on any Lot which identify, advertise or in any way describe the existence or conduct of a home occupation. Nothing in this Article shall affect the rights of Declarant provided in Article VIII, Section 5.

Section 2. Home Occupations. No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Lot and which is generally or regularly conducted in another location away from such Lot, provided the same is permitted under the ordinances of the City of West Des Moines. Nothing contained herein shall be construed or interpreted to affect the activities of Declarant in the sale of Lots or single-family dwellings as a part of the development of the Properties.

ARTICLE XIII

COVENANTS WITH CITY

Section 1. Right of Public Access. Officers, employees or contracted agents of the City of West Des Moines shall have the right and authority to enter upon the common area of the subject property for the administration of general public services including Fire Protection, Law Enforcement and administration of the Water Works Rules and Regulations and any applicable agreements for providing water service. Furthermore, this Article shall grant to the City the right to enter upon the common area for the enforcement of the City's Animal Protection and Control Ordinance, Title III, Chapter 2 of the City Code, wherein, it shall be considered unlawful for any person to allow cats, dogs, cattle, horses, swine, fowl, or other animals being harbored by any unit owner or occupant to run at large outside the premises of the living unit or

garage under the exclusive occupation by an individual unit occupant or Owner. This Declaration shall not be amended so as to affect the provisions of this Article without the prior approval of the City of West Des Moines.

Section 2. Alterations or Improvements for Public Roads or Other Public Purposes. In addition to common expenses authorized herein, the Board of Directors shall levy in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any special assessment obligation for public roads, public utilities or other public purposes which the City of West Des Moines may assess on any project even though the assessment boundaries may only cover a portion of the property falling within this Declaration. Any such special assessment shall be spread against the Association and/or all the Lot Owners each for their proportionate share. The Association may enter into a contract and waiver with the City of West Des Moines, Iowa, concerning any project involving a special assessment. If contract and waiver is used and adopted, the Association, on behalf of all Lot Owners and members of the Association, shall execute all documents required in connection with said contract and waiver in the form generally required by the City of West Des Moines, Iowa. The Board of Directors may execute such documents only after securing a vote of a majority of members in person or by proxy at a meeting duly called for this purpose. If the Declarant, for each Lot Owner within the property, the Owner of any Lot, and the Association and its successors and assigns enter into a contract and waiver agreement with the City of West Des Moines, they hereby waive, in connection with said assessment, all legal formalities of whatever kind and character required by the laws of the State of Iowa to be observed by municipalities in the construction of like improvements where expenses of said improvements are to be assessed against a project, district or area. All questions of jurisdiction, the amount of the assessment, and all other legal requirements, are hereby waived in favor of the City of West Des Moines, Iowa. The method of

collection of any assessment made pursuant to the provisions of this paragraph shall be the same as provided in Article IV for the collection of common expenses from unit owners. This Declaration shall not be amended so as to affect the provisions of this Article without the prior approval of the City of West Des Moines.

Section 3. Detention Area and Drainageway Maintenance. It shall be the obligation of the Association to preserve and maintain the private storm water drainageway and detention area easements within the subject property as identified as part of WEST COVE, an Official Plat. The Association agrees not to interfere with or impede the free passage of water in the drainageway or place earth fill, objects or structures within the detention area which will lessen the detention capabilities of the area, and further agrees at the Association's expense and in a manner acceptable to the City, keep the drainageway and detention area free of weeds, debris, obstructions, or objects or conditions which interferes with their performance. It is also agreed the Association is responsible at the Association's cost for the reconstruction or replacement in a manner acceptable to the City any failed storm sewer or structure which lies within the project and which is directly related to the performance of the drainageway and detention area.

Section 4. Architectural Control. Development within the subject property shall be in accordance with the site plan as approved by the City of West Des Moines and City Ordinance No. _____, including the installation of the storm water detention areas within WEST COVE, an Official Plat, upon initial development within the project and the construction of all accessory structures including utilities, parking lots, driveways and garages associated with each Living Unit built. From and after completion of construction and conveyance by Declarant of each Living Unit, no building, fence, wall, awning, canopy, or other structure shall be commenced, erected or maintained upon such lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape,

material and location of the same is in conformity to applicable Building Codes, Ordinance No. _____ and any other applicable ordinances of the City of West Des Moines, Iowa.

Section 5. Indemnification of City of West Des Moines, Iowa. The Association, its successors or assigns, agree to defend, indemnify, protect and save harmless the City of West Des Moines, Iowa, and its political subdivisions, including any of its officers, employees or agents, from and against any judgments, awards, claims or expenses or other things whatsoever, including attorney fees, costs or disbursements, arising out of or in connection with any act or act of negligence, causes omissions, fault, misconduct, claims, damages, suits or other actions developed, brought or asserted by any person, firm, corporation, entity or estate, or to any property of any person, against the said City by reason of, in connection with, related to or growing out of directly or indirectly the duties and responsibilities which are imposed upon the Owners or the Association, its successors and assigns, with respect to the obligations under this Declaration or with respect to their acts and duties imposed under this Declaration or the final development plan as approved by the City Council or related to or growing out of directly or indirectly the maintaining, cleaning out, grading, repairing, construction or reconstruction of any public drainageway, swale or storm sewer located over, on, or across the storm drainage and detention easements located within the land which is the subject matter of this Declaration. This Declaration shall not be amended so as to affect the provisions of this Article without the prior approval of the City of West Des Moines.

ARTICLE XIV

USE RESTRICTIONS

Section 1. Subjection of the Property of Certain Provisions. The ownership, use, occupation and enjoyment of each Lot and the Common Area shall be subject to the provisions of the By-Laws and Articles of

Incorporation of the Association, and this Declaration, all of which provisions irrespective of where set forth or classified shall have equal status and shall be enforceable and binding as a covenant, condition, restriction or requirement running with the land and shall be binding on and enforceable against each and all Lots and the Owners thereof and their respective assigns, lessees, tenants, occupants and successors in interest.

Section 2. No Lot shall be used for any purpose other than for single-family residential purposes, except for rights of Declarant as provided in Articles II, Section 2(e) hereof.

Section 3. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs and cats weighing less than 25 pounds at full growth may be kept, provided that they are not kept, bred or maintained for any commercial purposes. The Association may, by rules and regulations, prohibit or further limit the raising, breeding or keeping on any Lot, frontlot, or rearlot of any pet. Any person owning or keeping a pet dog or cat shall be responsible for and shall at all times clean up any waste or excrement from such pet(s) on the common areas. Failure to do so in a prompt or responsible manner shall result in a fine or special assessment by the Association against such unit.

Section 4. No noxious or offensive activities not involving the maintenance of Lots or Common Area shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood; nor shall any Lot be used for any unlawful purpose. Nor shall any Owner cause, or suffer or harbor the source of, any noise or activity which disturbs the peace, comfort and quiet enjoyment of other Owners or those claiming under or through other Owners.

Section 5. The Owner of each Lot shall keep the same free of weeds and debris.

Section 6. All trash receptacles and garbage cans shall be stored in the garages on each Lot. This restriction shall not preclude the placement of waste containers outside of such area on a temporary basis if so required by governmental regulation or terms of contract with a commercial waste collector.

Section 7. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any Lot or the Common Area at any time as a residence, either temporarily or permanently.

Section 8. No Tower or antennae shall be placed upon any Lot or upon the roof of any Living Unit.

Section 9. No personal property shall be stored or left upon a Lot except within the residential structure or garage located upon the Lot. Garage doors shall be kept closed except during times of access to the garage.

Section 10. Nothing shall be altered in, constructed in, or removed from the Common Area, except upon written consent of the Board of Directors of the Association, which may be given through regulations of the Associations.

Section 11. No boat, snowmobile, recreational vehicle, trailer or other vehicle other than automobiles shall be stored or parked in any driveway or street. The Association may, by regulation or rule, limit or prohibit the parking of automobiles on any driveway. In the event of violation of this provision, the Association may, after reasonable notice, remove such boat, snowmobile, recreational vehicle, trailer or other vehicle.

Section 12. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.

Section 14. Nothing shall be done or kept in any Lot or in the Common Area which will increase the rate of insurance on the Common Area or the Association Responsibility Elements, without the proper written

consent of the Board of Directors of the Association. No Owner shall permit anything to be done or kept in his Lot or in the Common Area which will result in the cancellation of insurance on any Lot or any part of the Common Area or the Association Responsibility Elements, which would be in violation of any law, or which may be or become a nuisance or annoyance to the other Owners.

Section 15. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance modification or repair of property shall be the same as the responsibility for the maintenance and repaired of the property concerned.

Section 16. The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Lots, the Common Area and the Association Responsibility Elements and such rules shall be observed and obeyed by the Owners, their guest, lessees, assigns and licensees.

Section 17. Agents of or contractors hired by the Board of Directors of the Association may enter any Lot when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the Owners as practicable.

Section 18. Neither the Owners nor the Association nor the use of the Common Area shall interfere with the completion of the contemplated improvements and the sale of the Lots by the Declarant. The Declarant may make such use of the unsold Lots and the Common Area as may facilitate such completion and sale, including, but not limited to, the maintenance of a sales office, model home, the showing of the property and the display of signs.

Section 19. No Waiver. Failure of the Association or any Owner to enforce any covenant, condition or restriction, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the rules

and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

ARTICLE XV

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the persons in ownership from time to time of the Lots and all parties claiming under them, and the City of West Des Moines (if it so elects by approval of its City Council) shall have the right to enforce the covenants, conditions and restrictions contained herein; and pursue any and all remedies, at law or in equity, available under applicable Iowa law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 2. Amendment. This Declaration may be amended or changed at any time within ten (10) years following the date of recordation by an instrument recorded in the Office of the Recorder of Polk County, Iowa, signed or approved in writing by a majority of the then Owners; provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Declaration may also be amended by Declarant, if it then has any ownership interest in the Properties, at any time within five (5) years after the recordation hereof in order to satisfy the requirements of any of the Federal Mortgage Agencies or to correct or modify any of the provisions of this Declaration. Any such amendments shall be recorded and shall be subject to the prior written approval of any of the Federal Mortgage Agencies having an interest in the Properties or any portion thereof. Notwithstanding anything else herein to

the contrary, no amended affecting the provisions of Article XIII shall be effective without the prior approval of the City of West Des Moines.

Section 3. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty-one (21) years from the date of recordation in the Office of the Recorder of Polk County, Iowa, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 4. Notice to Mortgagees. The Association, upon request, shall provide written notification to any lender holding a first mortgage upon any Lot specifying the defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents which default has not been cured within sixty (60) days.

Section 5. Restriction on Rental. In order to protect the integrity of this development and to insure that those persons residing therein have similar proprietary interests in their Lots and Living Units, no Lot and the Living Unit located thereon shall be leased or rented to any person not having an ownership interest therein, unless and until the unit has been occupied for a period of one year by the Owner or Owners thereof. Thereafter, no Lot and Living Unit located thereon shall be leased or rented for a period of time of less than one year, and no lease or rental agreement to any such tenants or lessees shall be extended or renewed for a shorter period of time. The restrictions contained herein shall not apply to the Declarant or Living Units owned by it.

BYLAWS OF
WEST COVE TOWNHOMES ASSOCIATION

ARTICLE I

NAME AND LOCATION: The name of the corporation is WEST COVE TOWNHOMES ASSOCIATION, hereinafter referred to as the "Association". The principal office of the corporation shall be located in West Des Moines, Polk County, Iowa but meetings of members and directors may be held at such places within the State of Iowa, County of Polk, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1: "Association" shall mean and refer to West Cove Townhomes Association, its successors and assigns.

Section 2: "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions for West Cove Townhomes, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3: "Common Area" shall mean all real property owned by the Association for the Common use and enjoyment of the Owners.

Section 4: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6: "Declarant" shall mean and refer to Midland Development Corp., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7: "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Polk County Recorder.

Section 8: "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1: Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 6 o'clock, P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2: Special Meeting. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (¼) of all of the votes.

Section 3: Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 7 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member of the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4: Quorum: The presence at the meeting of members entitled to cast, or of proxies entitled to cast one-half (½) of the votes or each class of membership, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5: Proxies. At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE

Section 1: Number. The affairs of this Association shall be managed by an initial Board of one (1) member and thereafter by a Board of not less than three (3) nor more than five (5) directors who need not be members of the Association.

Section 2: Term of Office. Board members shall be elected until the next ensuing annual meeting or until their successors have been duly elected and qualified.

Section 3: Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4: Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5: Actions Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1: Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2: Election. Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1: Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2: Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the

Association, or by any two directors, upon twenty-four (24) hours' notice to each director.

Section 3: Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1: Powers. The Board of Directors shall have power to:

- A. Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- B. Suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- C. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;
- D. Declare the office of a member of the board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- E. Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribed their duties.

Section 2: Duties. It shall be the duty of the Board of Directors to:

- A. Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- B. Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

- C. As more fully provided in the Declaration, to:
 - 1. fix the amount of the monthly assessment against each Lot at least thirty (30) days in advance of each monthly assessment period;
 - 2. send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each monthly assessment period; and
 - 3. foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- D. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- E. Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- F. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- G. Cause the Common Area to be maintained.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1: Enumeration of Offices. The officers of this Association shall be a president and vice present, who shall, at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may, from time to time, by resolution create. Any two (2) or more offices may be held by the same person, except that the duties of the president and secretary shall not be performed by the same person.

Section 2: Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3: Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4: Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom

shall hold office for such period, having such authority, and perform such duties as the Board may, from time to time, determine.

Section 5: Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6: Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7: Multiple Offices. The offices, of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8: Duties. The duties of the officers are as follows:

President

- A. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolution of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice President

- B. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

- C. The secretary shall record the votes and keep the minutes of all meetings and proceeds of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

- D. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual

audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare and annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX

COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

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

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 15 percent per annum, or the maximum rate allowed by Iowa law, whichever is higher, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any action shall be added to the amount of such assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE XII

CORPORATE SEAL

The Association shall not have a corporate seal.

ARTICLE XIII

AMENDMENTS

Section 1: These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2: In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIV

MISCELLANEOUS

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

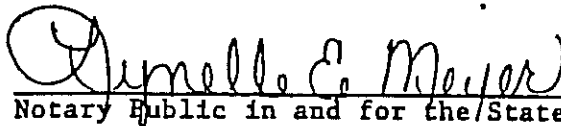
IN WITNESS WHEREOF, I, as the sole director of the West Cove Townhomes Association, have hereunto set my hand this 17 day of June, 1988.



Ted Grob

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 17 day of June, 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared Ted Grob, who being duly sworn, did say that he is the sole Director of West Cove Townhomes Association, the corporation executing the within and foregoing instrument, that said instrument was signed on behalf of the corporation by authority of its Board of Directors and that said instrument was voluntary executed.


Notary Public in and for the State of Iowa