



**Supplemental Declarations  
of  
Covenants & Restrictions**

The HSO Townhouse Association  
members are also members of the  
HSO Property Owners Association  
and accordingly are governed by the  
HSO Property Owners Association  
Covenants and Restrictions  
in addition to the governing  
documents of the  
HSO Townhouse Association.

## SUPPLEMENTAL DECLARATION

OF

## COVENANTS AND RESTRICTIONS

DeSOTO COURTS

TOWNHOUSE TRACT NO. 1 and TOWNHOUSE TRACT NO. 2

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, John A. Cooper Company, an Arkansas corporation, executed on the 20th day of April, 1970, a Declaration with Protective Covenants attached thereto as EXHIBIT 1 and forming a part of said Declaration, which Declaration was filed for record at 3:07 p.m. on the 20th day of April, 1970, in the office of the Circuit Clerk and Ex-Officio Recorder in and for Garland County, Arkansas, and is there recorded in Book 653, pages 369-426, hereinafter referred to as "Original Declaration;" and

WHEREAS, Hot Springs Village Property Owners Association, a nonprofit corporation organized under the laws of Arkansas, joined in said Original Declaration for the purposes of indicating its agreement to perform the obligations placed upon it by the Original Declaration; and

WHEREAS, Under said Original Declaration John A. Cooper Company is developing Hot Springs Village, a planned community; and

WHEREAS, Village Homes, Inc., an Arkansas corporation has been organized inter alia for the purpose of constructing homes and other Living Units; and

WHEREAS, All parties hereto agree that it is desirable to have included in Hot Springs Village townhouse or garden type living units; and

WHEREAS, Village Homes, Inc., an Arkansas corporation, is now the owner of the lands hereinafter described in ARTICLE II of this Supplemental Declaration and all of which are reflected upon a plat prepared by Chester D. Phillips, Registered Professional Engineer, bearing the date of the 23<sup>rd</sup> day of JULY, 1971, which plat referred to is filed contemporaneously with the filing of this Supplemental Declaration in the office of the Circuit Court Clerk and Ex-Officio Recorder in and for Garland County, Arkansas, and is of record in Plat Book 4, pages 59+60, and which plat is by reference made a part of this Supplemental Declaration and the Original Declaration and likewise this Supplemental Declaration and the Original Declaration are by reference made a part of said plat; and

WHEREAS, It is the desire of Village Homes, Inc., that DeSoto Courts Townhouse Tract No. 1 and Townhouse Tract No. 2 shall be covered as fully by the Original Declaration aforesaid as though said tracts had been included with other property described in the Original Declaration; and

WHEREAS, Village Homes, Inc., will convey the lands described as Townhouse Tract No. 1 and Townhouse Tract No. 2 subject to the Original Declaration and to the covenants, protective and otherwise, conditions, restrictions,

reservations, liens and charges as hereinafter set forth; and

WHEREAS, It is contemplated by all parties hereto that the properties and facilities within the confines of DeSoto Courts Townhouse Tract No. 1 and Townhouse Tract No. 2 and common to owners of Lots and Living Units in those tracts shall be "Limited Common Properties" in accordance with the provisions of ARTICLE VII and ARTICLE I, § 1(d), of the Original Declaration, and owners of Lots or Living Units in Townhouse Tract No. 1 and Townhouse Tract No. 2 are specifically designated as persons entitled to use the Limited Common Properties; but contrary to the intent of John A. Cooper Company as set out in ARTICLE VII aforesaid, it is contemplated that Village Homes, Inc., will, at its expense, construct the original improvements to be located upon the Limited Common Properties; and

WHEREAS, In order to preserve the values and amenities within said DeSoto Courts Townhouse Tract No. 1 and Townhouse Tract No. 2, as well as additions thereto, it is deemed desirable that an agency be created which should be charged with the maintenance and administration of the Limited Common Properties and facilities, construction of capital improvements upon the Limited Common Properties in addition to those improvements constructed by Village Homes, Inc., and which should also be charged with administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, For the reasons aforesaid, the parties hereto, through their management, have encouraged and participated in the organization of Hot Springs Village Townhouse Association, a nonprofit corporation organized and existing under and by virtue of the laws of the state of Arkansas, with its principal office located in Hot Springs Village, Arkansas, for the purpose of exercising the functions aforesaid; and

WHEREAS, The parties hereto agree that a purchase from Village Homes, Inc., creates the same rights, privileges and obligations concerning the Hot Springs Village Property Owners Association as a purchase from John A. Cooper Company; and

WHEREAS, John A. Cooper Company, under the provisions of ARTICLE II, § 3, of the Original Declaration, hereby specifically consents to and indicates its willingness and desire in writing to the Association that lands indicated on the plat aforesaid hereinafter described and owned by Village Homes, Inc., may be brought within the terms of the Original Declaration as additional lands; and

WHEREAS, John A. Cooper Company and the Association shall consider the record owner of any Lot or Living Unit in said additional lands as a member of the Association;

NOW, THEREFORE, Village Homes, Inc., subjects the real property herein described to the Original Declaration to the extent that such lands shall be considered as

additional lands under ARTICLE II thereof and shall become a part of the Existing Properties; said real property shall be referred to as DeSoto Courts Townhouse Tract No. 1 and Townhouse Tract No. 2 under and in said Original Declaration and covered by said Original Declaration as fully as though the same had been included in the Original Declaration at the time same was executed; Village Homes, Inc., hereby declares that said real property shall be held, sold and conveyed subject to the provisions of the Original Declaration as well as the easements, restrictions, covenants and conditions herein set out, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof and shall inure to the benefit of each owner thereof.

#### ARTICLE I

##### Definitions

All definitions as provided in the Original Declaration are adopted in this Supplemental Declaration. The following words when used in this Supplemental Declaration or any other Townhouse Supplemental Declaration, or upon the plat aforesaid, or any supplemental plat covered by this Supplemental

Declaration or any Townhouse Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Townhouse Association" shall mean and refer to the Hot Springs Village Townhouse Association.

(b) "The Townhouse Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Supplemental Declaration or any other Townhouse Supplemental Declaration under the provisions of ARTICLE II hereof.

(c) "Townhouse Member" shall mean and refer to all those persons or entities who are members of the Townhouse Association as provided in ARTICLE III, Section 1, hereof.

(d) "Owner," insofar as concerned with this Supplemental Declaration or other Townhouse Supplemental Declarations, shall include Village Homes, Inc., and purchasers therefrom.

## ARTICLE II

### Property Subject to this Supplemental Declaration Additions Thereto

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Supplemental Declaration is located and situated in the county of Garland, state of Arkansas, to-wit:



A part of the Southeast Quarter, Section 4, Township 1 South, Range 19 West, Garland County, Arkansas, more particularly described as follows: Commencing at the Southwest Corner Section 3, Township 1 South, Range 19 West, Garland County, Arkansas; thence North 1540.656 feet; thence West, 573.044 feet to a point on a curve in the westerly right-of-way of DeSoto Boulevard being the Point of Beginning, said curve being a 567.47 foot radius curve to the left having a chord bearing and distance of South 22 degrees 39 minutes 21 seconds West, 185.00 feet; thence along said curve 185.83 feet; thence continuing along said right-of-way South 13 degrees 16 minutes 28 seconds West, 419.55 feet; thence North 76 degrees 43 minutes 32 seconds West, 5.00 feet; thence North 26 degrees 05 minutes 01 second West, 237.97 feet; thence North 20 degrees 39 minutes 32 seconds West, 325.96 feet; thence North 32 degrees 47 minutes 58 seconds West, 267.68 feet; thence North 48 degrees 48 minutes 51 seconds West, 159.45 feet; thence South 83 degrees 49 minutes 47 seconds West, 186.08 feet; thence South 47 degrees 42 minutes 07 seconds West, 190.01 feet; thence North 72 degrees 48 minutes 53 seconds West, 61.30 feet; thence North 60 degrees 13 minutes 37 seconds West, 85.11 feet; thence North 33 degrees 14 minutes 58 seconds West, 82.09 feet; thence North 04 degrees 51 minutes 41 seconds East, 38.93 feet; thence North 48 degrees 43 minutes 27 seconds East, 159.26 feet; thence North 45 degrees 08 minutes 28 seconds East, 247.18 feet; thence North 64 degrees 28 minutes 35 seconds East, 93.37 feet; thence North 47 degrees 41 minutes 43 seconds East, 43.23 feet; thence North 61 degrees 49 minutes 15 seconds East, 132.16 feet; thence North 65 degrees 08 minutes 57 seconds East, 68.87 feet; thence North 58 degrees 52 minutes 09 seconds East, 149.71 feet; thence North 60 degrees 44 minutes 01 seconds East, 91.44 feet; thence North 76 degrees 31 minutes 13 seconds East, 84.72 feet; thence North 55 degrees 52 minutes 25 seconds East, 60.87 feet; thence South 18 degrees 17 minutes 07 seconds East, 49.89 feet; thence South 64 degrees 02 minutes 55 seconds East, 65.00 feet; thence South 00 degrees 30 minutes 28 seconds West, 251.23 feet; thence South 35 degrees 08 minutes 44 seconds East, 152.87 feet; thence South 08 degrees 16 minutes 05 seconds East, 459.60 feet to the Point of Beginning, containing 13.52 acres, more or less, and subject to all rights-of-way, easements, reservations and outstanding mineral rights, if any.

Section 2. Additions to Existing Property. Additional lands of Village Homes, Inc., may become subject to this Supplemental Declaration in the following manner:

(a) Additions to The Townhouse Properties. Village Homes, Inc., its successors and assigns, shall have in future stages of the Living Unit Development the right but not the obligation to bring within the plan of this Supplemental Declaration additional properties, regardless of whether or not said properties are presently owned by Village Homes, Inc.; provided such proposed additions, if made, will become subject to assessment for their just share of Townhouse Association expenses. UNDER NO CIRCUMSTANCES shall this Supplemental Declaration or any other Townhouse Supplemental Declaration bind Village Homes, Inc., its successors and assigns, to make the proposed additions. However, any land which Village Homes, Inc., seeks to add hereunder must be:

- (1) In the general area of Hot Springs Village, Arkansas;
- (2) Subject to a residential restriction which limits structures to townhouses and garden or other type apartments.

(b) The additions authorized hereunder shall be made by filing of record a Supplemental Declaration with respect to the additional property; the Supplemental Declaration shall extend the plan of the covenants and restrictions of this Supplemental Declaration to such property, and the Owners of Lots or Living Units in such additions including Village Homes, Inc., shall immediately be entitled to all

privileges herein provided. The first of said Supplemental Declarations shall have the designation of \_\_\_\_\_ Townhouse Tract No. 3 with the understanding that the subdivision numbering shall be accomplished by use of consecutive numbers, that is, the first addition to The Townhouse Properties shall be designated "\_\_\_\_\_ Townhouse Tract No. 3," the next addition designated "\_\_\_\_\_ Townhouse Tract No. 4," and so on.

(c) The Supplemental Declarations referred to in subsection (b) above may contain such complementary additions and modifications of the covenants and restrictions contained in this Supplemental Declaration as may be necessary to reflect the different character, if any, of the added properties as are not inconsistent with the plan of this Supplemental Declaration. In no event, however, shall such Supplemental Declarations revoke, modify and add to the covenants established by this Supplemental Declaration within the existing Townhouse Properties.

**Section 3. Additions Limited to Village Homes, Inc.**

Except as set out in Article XIII hereof, no one other than Village Homes, Inc., its successors and assigns, shall have the right to subject additional lands to the covenants and restrictions contained in this Supplemental Declaration, unless Village Homes, Inc., its successors and assigns, shall indicate in writing to the Townhouse Association that such additional lands may be included hereunder.

## ARTICLE III

Townhouse Membership and Voting Rights in the  
Townhouse Association

Section 1. Townhouse Membership. Village Homes, Inc., its successors and assigns, shall be a townhouse member of the Townhouse Association so long as it shall be the record owner of a fee interest or an undivided fee interest in any Lot or Living Unit; and Village Homes, Inc., shall be a townhouse member until it is paid in full for every such Lot or Living Unit which it shall sell. Every other person or entity who is a record owner of a fee interest, or undivided fee interest in any Lot or Living Unit which is subject by covenants of record to assessment by the Townhouse Association shall be a townhouse member of the Townhouse Association, provided that any such person or entity (except Village Homes, Inc.) who holds such interest merely as security for the performance of an obligation shall not be a townhouse member.

Section 2. Voting Rights. The Townhouse Association shall have two classes of voting townhouse membership:

Class A. Class A townhouse members shall be all those Owners as defined in Section 1, with the exception of Village Homes, Inc. Class A members shall be entitled to one vote for each Lot or Living Unit in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in

in any Lot or Living Unit, the vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

Class B. The Class B townhouse member shall be its successors or assigns. Village Homes, Inc.,/The Class B member shall be entitled to ten (10) votes for each Lot or Living Unit of which it is the record owner until it shall have ceased to be the record owner of the Lot or Living Unit. Village Homes, Inc., shall continue to have the right to cast votes as aforesaid (ten (10) votes for each Lot or Living Unit), even though it may have contracted to sell the Lot or Living Unit or may have placed same under a mortgage or deed of trust.

For purposes of determining the votes allowed under this section, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

#### ARTICLE IV

##### Utility Easements

Reservations of Utility Easements. The provisions contained in ARTICLE IV of the Original Declaration shall apply as fully to the Limited Common Property covered by this Supplemental Declaration and any additions thereto as if the Limited Common Property had been specifically included in ARTICLE IV of the Original Declaration.

ARTICLE V

Reserved Properties

Section 1. Reserved Properties. All real property designated as "Reserved Properties" are reserved from the Supplemental Declaration and the plats; and neither this Supplemental Declaration or any other Townhouse Supplemental Declaration or the plats in connection with same shall in anywise apply to such "Reserved Properties" unless at a later time same shall be included under the provisions of this Supplemental Declaration or any other Townhouse Supplemental Declaration as provided in ARTICLE II hereof.

ARTICLE VI

Plan for Construction and Maintenance of  
Limited Common Properties

Section 1. Village Homes, Inc., shall, at its expense, construct the original improvements to be located upon The Townhouse Properties; however, if the additional lands are brought within The Townhouse Properties by a person or entity other than Village Homes, Inc., any original improvements which are located upon those additional lands shall not be the responsibility of Village Homes, Inc. As to the original improvements for which Village Homes, Inc., shall be responsible, Village Homes, Inc., shall be the sole judge as to what improvements will be made and as to where the same will be located.

Section 2. Capital improvements, other than those constructed by Village Homes, Inc., as herein provided, and the cost of maintenance, operation, taxes and other expenses incident to the Limited Common Properties shall be the obligation of the Townhouse Association and shall be paid from assessments against each Lot or Living Unit as herein provided.

#### ARTICLE VII

##### Property Rights of the Limited Common Properties

Section 1. Townhouse Members' Easement of Enjoyment. Subject to the provisions of ARTICLE IV hereof and Section 3 of this ARTICLE VII, every townhouse member shall have a right and easement of enjoyment in and to the Limited Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit in the Townhouse Properties.

Section 2. Title to Limited Common Properties. Village Homes, Inc., shall convey the Limited Common Properties to the Association after the construction of same is completed or at an earlier time.

Section 3. Extent of Townhouse Members' Easements. The right and easements of enjoyment created hereby shall be subject to the following:

(a) The right of Village Homes, Inc., and/or the Townhouse Association to borrow money for the purpose of

constructing, improving and maintaining the Limited Common Properties and in aid thereof to mortgage said properties or execute a deed of trust or other trust instrument covering said properties; and

(b) The right of the Townhouse Association to take such steps as are reasonably necessary to protect the Limited Common Properties against foreclosure; and

(c) The right of the Townhouse Association to make rules and regulations governing the use of the Limited Common Properties and facilities; and

(d) The right of the Townhouse Association to suspend the enjoyment rights of any townhouse member for any period during which any assessment, service or use charge remains unpaid and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(e) The right of the Townhouse Association to charge reasonable service or use charges, admission and other fees for the use, service and enjoyment of the Limited Common Properties; and

(f) Except as to Village Homes, Inc., only one household shall be entitled to the benefit of the easement of enjoyment as to the Limited Common Properties by reason of ownership of a Lot or Living Unit; the Townhouse Association may enlarge the limitation aforesaid by a vote of majority of its Board of Directors; and



(g) The right of Village Homes, Inc., until all Lots or Living Units located within The Townhouse Properties shall have been sold to make use of the Limited Common Properties to encourage sales; and

(h) The right of the Townhouse Association to dedicate or transfer all or any part of the Limited Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided that, no such dedication, transfer or determination as to the purposes or as to the conditions thereof shall be effective unless such action shall be approved by a vote of 51% of the votes of each class of townhouse membership and unless written notice of the proposed agreement and action thereunder is sent to every townhouse member at least thirty (30) days in advance of any action taken; and

(i) The right of the individual townhouse members to the exclusive use of parking spaces as provided in this ARTICLE VII.

Section 4. Delegation and Guests. Any townhouse member may delegate his right of enjoyment to the Limited Common Properties and facilities and may allow a guest to use the Limited Common Properties and facilities, subject, however, to the fact that the conduct of all persons receiving privileges or granting privileges shall be governed by the provisions of this ARTICLE VII.

Section 5. Parking Rights. Ownership of each Lot or Living Unit subject to this Supplemental Declaration shall entitle the Owner or Owners to the use of not less than two automobile parking spaces; and if same are not located upon the Lot, the parking space or spaces necessary to comply with this parking space requirement shall be as near and convenient to the Lot which it or they serve as is reasonably possible, together with the right of ingress and egress in and upon said parking areas. The Townhouse Association shall have the responsibility for assignment of the parking space or parking spaces as provided in this section of ARTICLE VII.

#### ARTICLE VIII

##### Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the Living Units upon The Townhouse Properties and placed on the dividing lines between 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 of liability for property damage due to negligent 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 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 to any of such Owners' rights to call for a larger contribution from other Owners 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 to 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.

Section 6. 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 of a majority of all the arbitrators shall be final and conclusive of the question involved.

## ARTICLE IX

Roof or Structural Overhang and Chimney  
Encroachment Easements

Section 1. Roof or Structural Overhang Easements. In any case where as part of the original construction of a Living Unit upon the Lots subject to this Supplemental Declaration or any other Townhouse Supplemental Declaration, the roof or structural overhang of a particular structure shall extend entirely upon or upon and over a particular party wall or over the adjoining Lot or over any portion of the Limited Common Property or over any Reserve Properties (notwithstanding provisions to the contrary, Village Homes, Inc., or John A. Cooper Company, whichever owns the encroached upon Reserve Properties, specifically agrees to this particular easement), the Owner of the Living Unit or the Owner of the Lot whereupon such Living Unit is constructed, his heirs or assigns, or its successors and assigns, as the case may be, shall have the continuing easement as to the entire particular party wall, the particular adjoining Lot or the particular portion of the Limited Common Property or the particular portion of the Reserved Properties for the support (as to the party wall), permissive use, maintenance and replacement of such roof and roof or structural overhang; provided that, under no circumstances shall such roof or structural overhang extend over the adjoining Lot, adjoining Limited Common Properties or adjoining Reserve Properties more than five (5) feet

beyond the particular Owner's Lot or Living Unit or more than five (5) feet beyond the party wall in the event the particular roof and roof or structural overhang shall rest on or be supported by a party wall.

Section 2. Chimney Encroachment Easement. In any case where as part of the original construction of a Living Unit upon the Lots subject to this Supplemental Declaration or any other Townhouse Supplemental Declaration the chimney of a particular Living Unit shall encroach upon a party wall, an adjoining Lot, adjoining Limited Common Properties or adjoining Reserve Properties, the Owner of the Living Unit or the Lot whereon such Living Unit is constructed, his heirs or assigns, or its successors and assigns, as the case may be, shall have a continuing easement as to the entire particular party wall, the particular adjoining Lot, the particular portion of the adjoining Limited Common Properties or particular portion of the adjoining Reserve Properties for the support, permissive use, maintenance and replacement of such chimney, provided that under no circumstances shall such chimney extend beyond the party wall into the adjoining Lot, adjoining Limited Common Properties or adjoining Reserve Properties over five (5) feet beyond the party wall.

#### ARTICLE X

##### Covenant for Maintenance Assessments

Section 1. Creation of Lien. With the exception of

Village Homes, Inc., each Owner of any Lot or Living Unit located in The Townhouse Properties by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, or other instrument, shall be deemed to covenant and agree to pay to the Townhouse Association: (1) Annual assessments or charges; (2) Special assessments for capital improvements. Such annual and special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, including 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. Each such assessment together with such interest thereon and cost of collection thereof as hereinafter provided, including 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 fell due. The personal obligation of an Owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied hereunder by the Townhouse Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners in The Townhouse Properties and in particular for the improvement and

maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Limited Common Properties and improvements situated upon The Townhouse Properties, including, but not limited to, the payment of taxes and insurance thereon, and construction, repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments.

Until the year beginning January, 1972, the annual assessment shall be Two Hundred Forty Dollars (\$240.00) per Lot or Living Unit. From and after January 1, 1972, the annual assessment may be increased by vote of the townhouse members, as hereinafter provided, for the next succeeding three years and at the end of each such period of three years for each succeeding period of three years. Unless the annual assessment shall be increased as aforesaid, it shall remain at Two Hundred Forty Dollars (\$240.00) per Lot or Living Unit.

The Board of Directors of the Townhouse Association may, after consideration of current maintenance costs and future needs of the Townhouse Association fix the actual assessment for any year at a lesser amount. Likewise, the Board of Directors of the Townhouse Association may, after consideration of the lack of improvements as to Lots in a certain area, fix the actual assessment for any year as to those particular Lots at a lesser amount.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized by Section 3 hereof, the Townhouse 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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the Limited Common Properties, and ways of access, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of 51% of the votes of each class of townhouse members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all townhouse members at least thirty (30) days in advance and shall set forth the purpose of the meeting. The Board of Directors of the Townhouse Association may, after consideration of lack of improvements as to Lots in a certain area, fix the actual assessment for any year as to those particular Lots at a lesser amount.

Section 5. Change in Basis of Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Townhouse Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period; provided that, any such change shall have the assent of 51% of the votes of each class of townhouse members who are



voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all townhouse members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Quorum for any Action Authorized under Sections 4 and 5. The quorum of any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called as provided in Section 4 and 5 hereof, the presence of the meeting of townhouse members, or of proxies, entitled to cast 50% of all votes of each class of townhouse membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than ninety (90) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence on the date fixed by the Board of Directors of the Townhouse Association to be the date of commencement; however, no particular Lot or Living Unit shall be subject to assessment during such time as Village Homes, Inc., shall be the record owner of that particular Lot or Living Unit.

The first annual assessment shall be for the balance of the calendar year and shall be apportioned over the remaining months of such calendar year; and payments shall be payable on the first day, or such other day as may be fixed by the Board of Directors of the Townhouse Association, of each month for the remainder of the calendar year. The assessments for any year, after the first year, shall become due and payable on the first day, or such other day as fixed by the Board of Directors of the Townhouse Association, of January of said year, and shall be apportioned over twelve months; and the first payment shall be payable on such day of January as fixed aforesaid and the remaining payments payable on the same day of each month thereafter for the remainder of the year. In the event of default as to a monthly payment and if the default is not remedied within thirty (30) days, the Townhouse Association shall have the option of declaring the assessment for the entire year due and payable.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which

is hereafter added to The Townhouse Properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment, and it shall also be payable monthly with the same option on the part of the Townhouse Association in the event of default.

Section 8. Duties of the Board of Directors. When practicable, the Board of Directors of the Townhouse Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Townhouse Association and shall be open to inspection by any Owner.

Written notice of the assessment may thereupon be sent to every Owner subject thereto.

The Townhouse Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Townhouse Association setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Delegation of Collection of Assessment.

The Townhouse Association may delegate the collection of the assessments herein provided to Village Homes, Inc., its successors and assigns, or to any other responsible agency.

Section 10. Effect of Nonpayment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Townhouse Association. If the assessments are not paid on the date when due (being the date specified in Section 7 hereof), then such assessment shall become delinquent as provided in Section 7 hereof and shall become, upon the election of the Townhouse Association to declare the entire assessment for the remainder of the year due and payable together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. Nothing herein contained shall be construed as releasing the lien against the Lot or Living Unit by reason of subsequent assessments as same become due and payable. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid as provided in Section 7 and the Townhouse Association shall declare the entire assessment for the remainder of the year due and payable, the

assessment shall bear interest from date of delinquency at the rate of 6% per annum; and the Townhouse Association may bring an action at law against the Owner personally obligated to pay same or to foreclose the lien against said property. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action. Both actions shall be cumulative and neither shall preclude the other.

Section 11. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon or any portion of The Townhouse Properties subject to assessment. The ordinary sale or transfer of a portion of The Townhouse Properties subject to assessment shall not affect the assessment lien. However, the sale or transfer of any of The Townhouse Properties pursuant to a decree of foreclosure under a first mortgage or deed of trust or any proceeding in lieu of foreclosure shall extinguish the lien of such assessments as to payments thereof which became due and payable prior to such sale or transfer. Such sale or transfer shall not relieve such property from liability for any assessments

thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 12. Exempt Property. The following property subject to this Supplemental Declaration shall be exempted from the assessments, charges and liens created herein:

- (A) All properties dedicated to and accepted by local public authority;
- (B) Limited Common Properties;
- (C) Utilities;
- (D) Utility easements and all other easements; and
- (E) Reserved Properties.

#### ARTICLE XI

##### Protective Covenants

Section 1. Permissive Use. The Hot Springs Village Property Owners Association shall have the right to use the Limited Common Properties for the purpose of fulfilling its obligations under the aforesaid Original Declaration for accomplishing its purposes as set forth in its Articles of Incorporation and its ByLaws and for the exercising any contractual duty which exists by reason of a contract between the Hot Springs Village Property Owners Association and the Owners of Lots or Living Units on the land herein described, their successors or assigns, any representative designated by them, or the Townhouse Association.

For the purposes solely of performing the aforesaid obligations and purposes, the Hot Springs Village Property

Owners Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours except Sunday.

Section 2. Fences. No fence or wall shall be erected upon the premises without prior approval in writing from the Architectural Control Committee.

Section 3. General Appearance. The general appearance shall be maintained as follows:

(a) No clothes line or rack for garbage pails or free standing garbage pails shall be erected, placed or maintained on any Lot or Living Unit without prior approval in writing from the Architectural Control Committee, nor in any case unless screened from the view of the general public and of the adjoining Lots and Living Units and such screen is approved as to design and appearance by the Architectural Control Committee. No trash or junk shall be placed or maintained on any Lot or Living Unit.

(b) The use of any garage, carport, driveway or parking area, which may be in front of, adjacent to or part of any Lot or Living Unit covered by this Supplemental Declaration of Covenants and Restrictions as a habitual parking place for a commercial vehicle is prohibited. The use of any driveway, parking area, carport or garage without doors which may be in front of, adjacent to or part of any Lot or Living Unit as a habitual parking space for boats

and trailers is prohibited. All garage doors shall be closed except as required to be opened for the purpose of ingress and egress.

ARTICLE XII

General Provisions

Section 1. Duration. The covenants and restrictions of this Supplemental Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Townhouse Association, or the Owner of the land subject to this Supplemental Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty-six (26) years from the date this Supplemental Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. For purposes of meeting the two-thirds requirement, when Living Units are counted, the Lots upon which Living Units are situated shall not be counted.



Section 2. Notices. Any notice given or required to be sent to any townhouse member or Owner under the provisions of this Supplemental Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as townhouse member or Owner on the records of the Townhouse Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity to restrain violation or to recover damages against any person or persons violating or attempting to violate any covenant or restriction and by a proceeding against the land to enforce any lien created by these covenants. Failure by the Townhouse Association or 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 4. Assignment, Transfer or Conveyance by Village Homes, Inc. Village Homes, Inc., reserves and shall have the right to assign, transfer or convey any reservations, rights or obligations of Village Homes, Inc., hereunder; and upon such assignment, transfer or conveyance, Village Homes, Inc., shall immediately be released and discharged as to any and all liability incident to such reservation, right or obligation.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order

shall in nowise affect any other provisions which shall remain in full force and effect.

Section 6. Architectural Control Committee. The provisions in ARTICLE XI of the Original Declaration shall apply as fully hereto as if the same had been made a part of this Supplemental Declaration.

#### ARTICLE XIII

##### John A. Cooper Company - Additional Lands

Any statement herein to the contrary notwithstanding, John A. Cooper Company, its successors and assigns, shall have the right to submit additional lands to the covenants and restrictions of this Supplemental Declaration, and it is specifically declared that John A. Cooper Company's right shall not be dependent upon any writing by Village Homes, Inc., its successors or assigns.

In the event John A. Cooper Company subjects additional lands to this Supplemental Declaration as herein provided, John A. Cooper Company, its successors or assigns, in so far as the additional lands are concerned, can be considered as having the same rights, duties and obligations as Village Homes, Inc., which have been created by this Supplemental Declaration; that is, the name Village Homes, Inc., can be read as John A. Cooper Company in all Articles of this Supplemental Declaration and can also be read as John A. Cooper Company in all clauses of the premises hereto

which must be changed according to the substitution of obligations, rights and duties as aforesaid.

IN WITNESS WHEREOF, JOHN A. COOPER COMPANY, joined by VILLAGE HOMES, INC., HOT SPRINGS VILLAGE PROPERTY OWNERS ASSOCIATION and HOT SPRINGS VILLAGE TOWNHOUSE ASSOCIATION for the purposes of indicating their agreement to perform the obligations placed upon them by this instrument, have caused this Supplemental Declaration to be executed by their respective corporate officers, who are duly authorized to so execute same, in multiple counterparts, any one of which shall be deemed an original, this 28<sup>th</sup> day of JULY, 1971.

JOHN A. COOPER COMPANY

ATTEST:

[Signature]  
Asst Secretary

By [Signature]  
President

VILLAGE HOMES, INC.

ATTEST:

[Signature]  
Secretary

By [Signature]  
President

HOT SPRINGS VILLAGE PROPERTY OWNERS ASSOCIATION

ATTEST:

[Signature]  
Secretary

By [Signature]  
President

HOT SPRINGS VILLAGE TOWNHOUSE ASSOCIATION

ATTEST:

[Signature]  
Secretary

By [Signature]  
President

ACKNOWLEDGMENT

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STATE OF ARKANSAS

COUNTY OF BENTON

On this day before me, the undersigned Notary Public, duly commissioned, qualified and acting within and for the said county and state, appeared in person the within named JOHN A. COOPER, JR and W.E. SHENEMAN, to me personally well known, who stated that they are the President and ASST. Secretary of JOHN A. COOPER COMPANY, an Arkansas corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28<sup>TH</sup> day of JULY, 1971.

Linda M. Brackley  
Notary Public

My Commission Expires:

May 26, 1975

ACKNOWLEDGMENT

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STATE OF ARKANSAS

COUNTY OF BENTON

On this day before me, the undersigned Notary Public, duly commissioned, qualified and acting within and for the said county and state, appeared in person the within named D. GENE BLASI and J. A. WOLFE, to me personally well known, who stated that they are the \_\_\_\_\_ President and \_\_\_\_\_ Secretary of VILLAGE HOMES, INC., an Arkansas corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28<sup>TH</sup> day of JULY, 1971.

Linda M. Burkley  
Notary Public

My Commission Expires:

May 24, 1975

ACKNOWLEDGMENT

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STATE OF ARKANSAS

COUNTY OF BENTON

On this day before me, the undersigned Notary Public, duly commissioned, qualified and acting within and for the said county and state, appeared in person the within named W. E. SHENEMAN and HAROLD S. BEMIS, to me personally well known, who stated that they are the \_\_\_\_\_ President and \_\_\_\_\_ Secretary of HOT SPRINGS VILLAGE PROPERTY OWNERS ASSOCIATION, an Arkansas corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28<sup>th</sup> day of JULY, 1971.

Linda M. Buckley  
Notary Public

My Commission Expires:

Nov. 26, 1975

STATE OF ARKANSAS

COUNTY OF BENTON

On this day before me, the undersigned Notary Public, duly commissioned, qualified and acting within and for the said county and state, appeared in person the within named JOHN WHELAN and J. A. WOLFE, to me personally well known, who stated that they are the President and Secretary of HOT SPRINGS VILLAGE TOWNHOUSE ASSOCIATION, an Arkansas corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28<sup>TH</sup> day of JULY, 1971.

Rinda M. Beckley  
Notary Public

CERTIFICATE OF RECORD

State of Arkansas } ss.  
County of Garland }

I, Sherlon Hilliard, Clerk of the Circuit Court and Ex-Officio Recorder, for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was Filed for Record in my office on the 27 day of August, 1971, at 2:00 o'clock P.M., and the same is now duly recorded, with the acknowledgement and certificate thereon, in Record Book, Vol. 679 Page 09.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court this 31 day of August A. D., 1971

SHERLON HILLIARD

\_\_\_\_\_, Clerk  
By Joann Newkirk, Deputy Clerk

CERTIFICATE OF FINAL APPROVAL

PURSUANT TO THE SALINE COUNTY RULES AND REGULATIONS, THIS DOCUMENT WAS GIVEN APPROVAL BY THE SALINE COUNTY PLANNING BOARD OR ITS REPRESENTATIVE, ALL THE CONDITIONS OF APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED AND THIS CERTIFICATE IS EXECUTED UNDER AUTHORITY OF SAID RULES AND REGULATIONS.

7-25-78  
Date of Execution

BY [Signature]  
Title Sec.  
Saline County Planning Board

CERTIFICATE OF RECORD

STATE OF ARKANSAS, }  
COUNTY OF SALINE, } ss.

I, the undersigned, Circuit Clerk and Ex-Officio Recorder for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 27TH day of JULY A. D. 197 8, at 2:35 o'clock P M., and the same is now duly recorded, with the acknowledgments and certificates thereon, in DEED Book 212 Page 72J

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 27TH day of JULY 197 8

By [Signature] D. C.

JIMMY SEALS  
Circuit Clerk and Ex-Officio Recorder.

BOOK 212 PAGE 757