

DECLARATION OF COVENANTS AND RESTRICTIONS.

FOR

MAINSTREET

THIS DECLARATION, made this 9th day of November 1973, by Irwin-Probst-Cohn, A Georgia Partnership composed of Cohn Communities, Inc. by Jerald Cohn, President, Richard Irwin and William R. Probst and/or Cohn Communities, Inc., hereinafter called Developer.

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described in Exhibit A of this Declaration and desires to create thereon a planned community with permanent parks, playgrounds, open spaces, and other community facilities for the benefit of the said community; and with a planned mix of housing types, and commercial, industrial and public facilities; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the Properties and improvements thereon, and to this end desires to subject the real property described in Exhibit A together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens hereinafter set forth, each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and

welfare of the residents; and

WHEREAS, Developer has incorporated under the laws of the State of Georgia the Mainstreet Community Services Association as a non-profit corporation for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the Developer declares that the real property described in Exhibit A, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions herein set forth in this entire Document, as may from time to time be amended.

Section 2. "Association" shall mean and refer to Mainstreet Community Services Association, its successors and assigns.

Section 3. "Developer" shall mean and refer to Irwin-Probst-Cohn, a Georgia partnership, and/or Cohn Communities, Inc., their successors or assigns, or with any successor or assign to all or substantially all of their interests in the development of said Properties.

Section 4. "General Plan of Development" shall mean that Plan as publicly distributed and as approved by appropriate governmental agencies which shall represent the total general scheme and general uses of land in the Properties, as such may be amended from time to time subject to at least thirty (30) days notice to the Association and approval of the governmental agencies involved.

Section 5. "The Properties" shall mean and refer to all real property which becomes subject to the Declaration, together with such

other real property as may from time to time be annexed thereto under the provisions of Article II hereof.

Section 6. (As added by amendment recorded in Deed Book 3334, Page 468) "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 at the time of the conveyance of the first lot is described as follows:

"ALL THAT tract or parcel lying and being in Land Lots 1, 2, 31 and 32, 16th District, DeKalb County, Georgia which is more particularly described as Tract IV, in Exhibit "A" attached hereto and made a part hereof."

Section 7. "Living Unit" shall mean and refer to any portion of a structure situated upon the Properties designed and intended for use and occupancy as a residence by a single family (includes single family detached units, townhome units, apartment units, condominium units, etc. (As amended by document recorded in Deed Book 3334, Page 468)

Section 8. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of Common Area as heretofore defined. The term shall include a condominium Living Unit if each may occur.

Section 9. "Multifamily Structure" shall mean and refer to a structure with two or more Living Units under one roof, except when such Living Unit is situated upon its own individual Lot as defined herein.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but excluding those having such interests merely as security for the performance of an obligation.

Section 11. "Occupant" shall mean and refer to the occupant of a Living Unit or commercial space who shall be either the Owner of a leasee who holds a written lease having an initial term of at least twelve (12) months.

Section 12. "Parcel" shall mean and refer to all platted subdivisions of one or more Lots which are subject to the same Supplementary Declaration.

Section 13. "Supplementary Declaration" shall mean any declaration of covenants, conditions and restrictions which may be recorded by the Developer, which extends the provisions of this Declaration to a Parcel and contains such complementary provisions for such Parcel as are herein required by this Declaration.

Section 14. "Book of Resolutions" shall mean and refer to the document containing rules and regulations and policies adopted by the Board of Directors as same may be from time to time amended.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in DeKalb County, Georgia and more particularly described in Exhibit "A".

Section 2. Additions to Existing Property. Added properties may become subject to this Declaration in the following manner:

(a) "Additions by the Developer." Additional land as described in Exhibit "B" attached hereto and made a part hereof, or which are contiguous to the land in Exhibit "B" may be brought within the scheme of the Declaration by the Developer, its successors or assigns, without the consent of the Owners, within ten (10) years of the date of this instrument; provided that the Veterans Administration determines that the addition is in accord

with the General Plan of Development heretofore approved by them. For this purpose, contiguous shall mean adjacent to, or both sides of, an area dedicated to public use. Nothing herein shall mean Developer must develop the Properties according to the General Plan of Development."

(b) "Other Additions." Notwithstanding the foregoing, additional lands may be annexed to the existing property pursuant to an affirmative vote of two-thirds (2/3) of the Owners who are voting in person or by proxy at a regular meeting of the Association or at meeting duly called for this purpose. So long as there is a Class C member, such annexation will require the approval of the Veterans Administration." (Added by amendment recorded in Deed Book 3334, Page 468)

The additions authorized under subsection (a) and (b) shall be made by the filing of a record of one or more Supplementary Declarations of covenants and restrictions with respect to the additional property and by filing with the Association a General Plan of Development for the proposed additions.

(c) Mergers. Upon a merger or consolidation of another association with the Association, its Properties, rights and obligations may, as provided in its Articles of Incorporation, by operation of law be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be operation of law be added to the Properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the existing property together with the covenants and restrictions established upon any

other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the existing property, except as hereinafter provided.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of recorded to assessment by the Association shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Every leasee of a Living Unit or of a non-residential space, constructed on any Lot, who holds a written lease having an initial term of at least twelve (12) months shall be a member of the Association. All members of the Mainstreet Community Services Association shall be governed and controlled by the Articles of Incorporation and the By-Laws thereof.

Section 2. (Added by amendment recorded in Deed Book 3334, Page 469) Voting Rights. "The Association shall have three (3) classes of voting membership:

"Class A. Class A members shall be all Owners of Lots and Living Units (as hereto before defined) and shall be entitled to one (1) vote for each Lot or Apartment Living Unit Owned; PROVIDED, however, the aggregate votes of Owners of Apartment Living Units shall not exceed the number of votes cast by all other members of Class A.

"Class B. Class B members shall be Owners of non-residential Lots and shall be entitled to one (1) Vote for each five Hundred (500) square feet of office and professional space they own.

"Class C. The Class C member shall be the Developer, who shall have One (1) vote.

"When more than one (1) person holds interest or interests in any Lot, Living Unit or unit of non-residential space, the vote for such Lot, Living Unit or unit of non-residential space shall be exercised as they among themselves determine.

"The Class C. membership shall cease when seventy-five percent (75%) of all Lots within the Properties have been conveyed to an Owner or on January 1, 1985, whichever occurs earlier. For this purpose, the term "Owner" shall exclude builders, contractors, investors or other persons or entities who purchase a Lot for the purpose of constructing improvements thereon for resale to an Owner."

ARTICLE IV

COMMON AREA

Section 1. Obligations of the Association. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

Section 2. Members' Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and easement of

enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, and every Member shall have a right of enjoyment in the Common Area.

Section 3. Extent of members' Easements. The Members' easements of enjoyment created hereto shall be subject to the following:

(a) the right of the Association to establish reasonable rules and to charge reasonable admission and other fees for the use of the Common Area;

(b) the right of the Association to suspend the right of an Owner to use the facilities for any period during which any assessment against his Lot remains unpaid for more than thirty (30) days after notice; the right of the Association to suspend the right of a Member to use the said facilities for a period not to exceed sixty (60) days for any other infraction of this Declaration of the Book of Resolutions;

(c) the right of the Association to mortgage any or all of the facilities constructed on the Common Area for the purposes of improvements or repair to Association land or Facilities pursuant to approval of the Class C member and of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a regular meeting of the Association or at a meeting duly called for this purpose;

(d) 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 signed by two-thirds (2/3) of the Owners, agreeing to such dedication or transfer, has been

recorded.

(e) The Association may not alienate in any way or form the Common Areas and amentities thereon without the prior approval of all holders of outstanding first mortgages or deeds to secure debt against any and all property or properties that are governed by these Declarations or amendments thereto; provided, however, this provision shall not be applicable for easements for utilities, sewer, storm and sanitary, road right-of-way deeds and any other conveyances for dedication to the public." (Added by amendment recorded in Deed Book 3334, Page 470)

Section 4. Deligation of Use. "Any Owner may deligate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his guests, his tenants, or contract purchasers who reside on the property, subject to such general regulations as may be established from time to time by the Association, and included within the Book of Resolutions." (Added by amendment recorded in Deed Book 3334, Page 470)

Section 5. Title to Common Area. Title to the Common Area in Each Phase or Parcel of the Properties will be conveyed to the Association by the Developer, free and clear of encumbrances, before the first lot in each Phase or Parcel is conveyed to an Owner."

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deeded to covenant and agree to pay the Association the following: (1) annual general assessments or charges, (2) special assessments for capital improvements, and (3) annual or special parcel assessments or charges, such assessments to be established and collected as hereinafter provided.

All such assessments, together with interests thereon and costs of collection thereof as hereinafter provided, 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 interest thereon and costs of collection thereof, 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 for delinquent assessment shall not pass to his successors in title unless expressly assumed by them."

(Added by amendment recorded in Deed Book 3334, Page 470)

Section 2. General Assessment

(a) Purpose of Assessment. The general assessment levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvements, maintenance and operation of the Common Area and facilities.

(b) Basis for Assessment.

(1) Residential Lots: Each Living Unit which is certified for occupancy and each unimproved lot which has been conveyed to an Owner shall be assessed at a uniform rate. For the purpose of assessment, the term "Owner" shall exclude the Developer, builder, contractor, investor, or other person or entity who purchases a Lot for the purpose of construction improvements thereon for resale to an Owner.

(2) Non-residential Lots: Each five hundred (500) square feet, or major portion thereof, within a non-residential structure which is certified for occupancy and each unimproved Lot which has been conveyed to an Owner who is not the Developer shall be assessed at one hundred per cent (100%) of the residential rate.

(3) Developer-owned Property:

(i) To the extent the Class C Member owns property which has been certified for occupancy, such property shall not be assessed as provided above.

(ii) The Class C Member shall pay an annual assessment on the aggregate of all property subject to these declarations that he owns in the amount equal to five hundred (500) times the Annual General Assessment rate for Residential Lots for that

year, less two-thirds (2/3) of the previous year's accrued General Assessment income from Residential and Non-Residential Lots; provided that the assessment under this section shall not be less than zero nor shall it serve to reduce the assessment levied pursuant to subparagraph (i) above. The first year's assessment shall be prorated according to the number of months remaining in the year.

(c) Method of Assessment. By a vote of two-thirds (2/3) of the directors, the Board shall fix the annual assessment upon the basis provided above, provided, however, that the annual assessments shall be sufficient to meet the obligations imposed by the Declaration. The Board shall set the date(s) such assessments shall become due. The Board may provide for collection of assessments annually or in monthly, quarterly, or semi-annual installments; provided however that upon default in the payment of any one or more installments, the entire balance of said assessment may be accelerated at the option of the Board and be declared due and payable in full.

(d) Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Eighty Dollars (\$180.00) per Lot.

"From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

"From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds of the Owners who are voting in person or by proxy, at a meeting duly called for this purpose." (Added by amendment recorded in Deed Book 3334, Page 471)

Section 3. Parcel Assessments.

(a) Purpose of Assessment. Parcel assessments shall be used for such purposes as are authorized by the Supplementary Declaration for the given Parcel.

(b) Method of Assessment. The assessment shall be levied by the Association against Lots in a Parcel, using the basis set forth in the Supplementary Declaration for the given Parcel and collected and disbursed by the Association. The Class C member shall set the initial Parcel Assessment, with the approval of the Veterans Administration, and thereafter by a vote of two-thirds (2/3) of the directors, the Board shall fix the annual Parcel assessment for each Parcel, and date(s) such assessments become due. The Board may provide for collection of parcel assessments annually or in monthly, quarterly, or semi-annual installments; provided, however, that upon default in the payment of any one or more installments, the entire balance of said assessments may be accelerated at the option of the Board and be declared due and payable in full. (Added by amendment recorded in Deed Book 3334, Page 471)

"(c) Maximum Annual Parcel Assessment. The Supplementary Declaration for each Parcel shall set forth the initial maximum annual assessment for the given Parcel.

"From and after January 1 of the year immediately following the conveyance of the first Lot in a Parcel to an Owner, the maximum annual Parcel assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the Owners of the Lots in that Parcel.

"From and after January 1 of the year immediately following the conveyance of the first Lot in a Parcel to an Owner, the maximum annual Parcel assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of the Parcel Owners who are voting in person or by proxy at a meeting duly called for this

purpose." (Added by amendment recorded in Deed Bood 3334, Page 471)

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year and not more than the next two succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area including fixtures and personal property related thereto, providing that any such assessment shall have the assent of the Class C Member and of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a special meeting duly called for that purpose.

Section 5. Special Parcel Assessment for Capital Improvement. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment against the Lots of the Parcel for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Parcel, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Owners of Lots in the Parcel who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence with respect to assessable units within a Parcel on the day of conveyance of the first Lot in the Parcel to an Owner who is not the Developer. The initial monthly assessment on any assessable unit shall be collected at the time of permanent loan closing. In the event permanent loan closing takes place on or before the fifteenth (15th) day of the month, a full month's assessment shall be collected. In the event permanent loan closing takes place after the fifteenth (15th) day of the month, one-half (1/2) of the monthly assessment shall be

collected.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

"Any assessment not paid within thirty (30) days after the due date may upon resolution of the Board bear interest from the due date at a percentage rate no greater than six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. 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. (Changed by amendment recorded in Deed Book 3334, Page 472)

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed or security deed representing a first lien on said property. Sale of transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

"All holders of first mortgages on Lots in the Properties may, upon written request to the Association: (a) receive timely written notice of meetings of the Association; (b) inspect the financial records and similar documents at reasonable intervals during the normal business hours; (c) receive written notice of any form of condemnation, termination, abandonment, or any material amendment to the Declaration, By-Laws, or Articles of Incorporation; and (d) receive timely written notice of any substantial damage or destruction to the Common Area and/or amenities."

Section 9. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge

and lien created herein: (1) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (2) all Common Areas; (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

Section 10. Annual Budget. By a two-thirds (2/3) vote of the directors, the Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration and all Supplementary Declarations will be met.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. "The Architectural Review Board. An Architectural Review Board consisting of three (3) or more persons shall be appointed by the Board of Directors." (Changed by amendment recorded in Deed Book 3334, Page 472)

Section 2. Purpose. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Properties and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. "Nothing herein shall give the Architectural Review Board authority to regulate, control or determine external design, appearance, use or location of Parcels under development, or to be developed or dwellings under construction, or to be constructed or marketed or sold by the Developer, his successors or assigns, PROVIDED said design use and location have been approved by the Veterans Administration or the Federal National Mortgage Association or appropriate departments of DeKalb County." (Added by amendment recorded in Deed Book 3334, Page 472)

Section 3. Conditions. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any property or the improvements located thereon from its natural or improved state existing on the date such property was first conveyed in fee by the Developer to an Owner shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, or other structure shall be commenced, erected, maintained, or improved, altered, made or done without the prior written approval of the Architectural Review Board.

Section 4. Procedures. In the event the Board fails to approve, modify or disapprove in writing an application within thirty (30) days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse Architectural Review Board decision to the Board of Directors who may reverse or modify such decisions by a two-thirds (2/3) vote of the directors.

ARTICLE VII

USE OF PROPERTY

Section 1. Protective Covenants.

(a) Residential Use. All property designated for residential use shall be used, improved and devoted exclusively to residential use. "Nothing herein shall be deemed to prevent the Owner from leasing a Living Unit to a single family, provided the lease agreement is in writing and subject in all respects to the provisions of the Declaration, By-Laws and Articles of Incorporation." (Changed by amendment recorded in Deed Book 3334, Page 472)

(b) Nuisances. No nuisance shall be permitted to exist or operate upon any property so as to be detrimental to any other property in the vicinity thereof or to its occupants.

(c) Restriction on Further Subdivision. No Lot upon which a Living Unit has been constructed shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest herein, shall be conveyed or transferred by an Owner, provided that this shall not prohibit deeds of correction, deeds to resolve boundary disputes, and similar corrective instruments.

(d) Other Restrictions. Upon conveyance of the first Lot to an Owner, the Architectural Review Board shall adopt general rules to implement the purposes set forth in Article V, Section 2 and interpret the covenants in this section, including but not limited to rules to regulate animals, antennas, signs, storage and use of recreational vehicles, storage and use of machinery, use of outdoor drying lines, trash containers, planting, maintenance and removal of vegetation on the Properties. Upon or before conveyance of the first Lot in any Parcel added to the Properties, the Architectural Review Board shall adopt general rules appropriate to that Parcel. Such general rules may be amended by a two-thirds (2/3) vote of the Architectural Review Board, following a public hearing for which due notice has been provided, and pursuant to an affirmative vote of two-thirds (2/3) of the Board of Directors. All such general rules and any subsequent amendments thereto shall be placed in the Book of Resolutions and recorded in the public land records.

(e) Exceptions. The Architectural Review Board may issue temporary permits to except any prohibitions expressed or implied by this section, provided the Board can show good cause and acts in accordance with adopted guidelines and procedures.

Section 2. Maintenance of Property. To the extent that exterior maintenance is not provided for in a Supplementary Declaration, each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair and free of debris

including, but not limited to the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon, as provided herein, the Association, after notice to the Owner as provided in the By-Laws and approval by two-thirds (2/3) vote of the Board of Directors, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. All costs related to such correction, repair or restoration shall become a Special Assessment upon such Lot.

Section 3. Utility Easements. "There is hereby created an easement upon, across, over, through and under the above described premises for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to water, sewer, gas, telephones, electricity, television, cable, or communication lines and system for those utilities initially installed by the Developer as shown on development drawings as approved by the Veteran Administration and/or the Federal National Mortgage Association." (Changed by amendment recorded in Deed Book 3334, Page 473)

Section 4. Developer's Easement to Correct Drainage. For a period of five (5) years from the date of conveyance of the first Lot in a Parcel, the Developer reserves a blanket easement and right on, over and under the ground within that Parcel to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar

action reasonably necessary, following which the Developer shall restore the affected property to its original condition as near as practicable. The Developer shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Developer an emergency exists which precludes such notice.

Section 5. In the event any portion of the Common Area (as herein defined) encroaches upon any Living Unit (as herein defined) or any Living Unit encroaches on the Common Area as result of construction, reconstruction, or repair, shifting, settlement or movement of any portion of the Properties (as herein defined), a valid easement for the encroachment and for the maintenance of same shall exist so long as the encroachment exists."

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with the bind and land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 2. Amendment. This Declaration may be amended at any time by an instrument signed by the Class C Member and by not less than seventy-five percent (75%) of the Owners. Any amendment must be recorded. "So long as there is a Class C member, the following actions will require the prior approval of FHA or VA: Annexation of additional properties, dedication of common area and amendment of the Declaration of Covenants, Conditions and Restrictions."

(Added by to by amendment recorded in Deed Book 3334, Page 473)

Section 3. Enforcement. The Association, any Owner of the Developer shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservation, liens and charges now or hereafter imposed by the provisions

of this Declaration and of Supplementary Declaration. Failure 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. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Irwin-Probst-Cohn and/or Cohn Communities, Inc. has caused this declaration to be executed in its name by its officer duly authorized with the corporate seal affixed on the day and year first above written.

IRWIN-PROBST-COHN

Betty Bates
Witness
Rebecca W. Crosby
Notary
Notary Public, Georgia State at Large
My Commission Expires April 30, 1977

By *[Signature]*

Betty Bates
Witness
Rebecca W. Crosby
Notary
Notary Public, Georgia State at Large
My Commission Expires April 30, 1977

By *[Signature]*

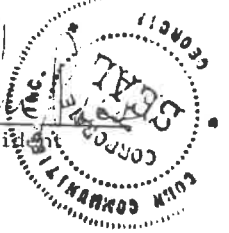
Betty Bates
Witness
Rebecca W. Crosby
Notary
Notary Public, Georgia State at Large
My Commission Expires April 30, 1977

By *[Signature]*

COHN COMMUNITIES, INC.

Betty Bates
Witness
Rebecca W. Crosby
Notary
Notary Public, Georgia State at Large
My Commission Expires April 30, 1977

By *[Signature]*
Gerald Cohn, President
R. W. DENICKE, JR.



Betty Bates
Witness
Rebecca W. Crosby
Notary
Notary Public, Georgia State at Large
My Commission Expires April 30, 1977

[Signature]
R. W. Denicke, Jr.

HERBERT KOHN

Betty Bates
Witness
Rebecca W. Crosby
Notary
Notary Public, Georgia State at Large
My Commission Expires April 30, 1977

[Signature]
Herbert Kohn