

GREENBRIAR ASSOCIATION

DECLARATION OF COVENANTS AND RESTRICTIONS

EXHIBIT A  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR SKYLARK VILLAGE (GREENBRIAR)

THIS DECLARATION made this 7th day of May A.D. 1970, by U.S. Home & Development Corporation, hereinafter called Developer.

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this declaration and desires to create thereon an adult residential community to be known as Greenbriar, with permanent parks, playgrounds, open spaces, and other Common Properties and Facilities for the benefit of the said community and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playground, open spaces, and other Common Facilities and to this end, desires to subject the real property described in Article II 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 and all of which is and are for the benefit of said property and 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 maintaining and administering the Common Properties and Facilities, providing basic services and maintenance for the exterior of the Living Units and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created and

WHEREAS, Developer has caused to be incorporated under the laws of the State of New Jersey a non-profit corporation, THE GREENBRIAR ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the Developer declares that the real property described in Article II, 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 the "Declaration", and/or Covenants and Restrictions") hereinafter set forth.

THE GREENBRIAR ASSOCIATION severally and jointly with the Developer, shall be the beneficiary of any and all of the covenants and restrictions hereinafter set forth, and shall have the power to enforce the same by any lawful procedure whether in law or equity, or by any other lawful means.

**ARTICLE I**  
**DEFINITIONS**

Section 1. The following words, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit), shall have the following meanings:

- (a) "Association" shall mean and refer to The Greenbriar Association.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration under the provisions of Article II, hereof.
- (c) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties (with the exception of Common Properties as heretofore defined) or shown on the approved Site Development Plan.
- (e) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.
- (f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties but, notwithstanding any applicable theory of mortgages, shall not mean or refer to the mortgage unless and until such mortgage has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (g) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.
- (h) "Developer" shall refer to U.S. Home & Development Corporation, a Corporation of the State of Delaware authorized to do business in the State of New Jersey, or any successor in right, title and interest; as sponsor-builder of the project.
- (i) "Multi-family Structure" shall mean and refer to any building containing two or more living units under one roof, when each such living unit is situated upon its own individual lot.
- (j) "Facilities" shall mean buildings, structures, fixtures, items of personalty, improvements of whatsoever nature, associated with the Common Properties.

## 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 Brick Township, Ocean County, and is more particularly described as follows:

BEING all of the lots and/or Living Units and Common Properties and Facilities shown on each of the maps of Skylark Village as hereinafter set forth, or as may be amended:

(a) "Final Map of Skylark Village - Section 2, Brick Township, Ocean County, New Jersey, Scale 1" = 100', made by Fellows, Read & Weber, Consulting Engineers, Toms River, New Jersey, dated February 6, 1969," and recorded in the Ocean County Clerk's Office on June 13, 1969, as map E-68.

(b) "Final Map of Skylark Village - Section 3, Brick Township, Ocean County, New Jersey, Scale 1" = 100', made by Fellows, Read & Weber, Consulting Engineers, Toms River, New Jersey, dated February 26, 1969," and recorded in the Ocean County Clerk's Office on June 13, 1969, as map F-114.

(c) "Final Map of Skylark Village - Section 4, Brick Township, Ocean County, New Jersey, Scale 1" = 100', made by Fellows, Read & Weber, Consulting Engineers, Toms River, New Jersey, dated March 31, 1969," and recorded in the Ocean County Clerk's Office on June 13, 1969, as map F-119.

(d) "Final Map of Skylark Village - Section 5, Brick Township, Ocean County, New Jersey, Scale 1" = 100', made by Fellows, Read & Weber, Consulting Engineers, Toms River, New Jersey, dated July 1969" and recorded in the Ocean County Clerk's Office on October 27, 1969, as map F-328.

(e) "Final Map of Skylark Village - Section 6 and 7, Brick Township, Ocean County, New Jersey, Scale 1" = 100', made by Fellows, Read & Weber, Consulting Engineer, Toms River, New Jersey, dated October 1969" and recorded in the Ocean County Clerk's Office on January 27, 1970, as map E-125;

All of which real property shall hereinafter be referred to as "Existing Property".

##### Section 2. Additions to Existing Property

Additional lands may become subject to this declaration in the following manner:

(a) Additions in Accordance with a General Plan of Development

The Developer, its heirs and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development.

(b) Other Additions

Upon approval of the Board of Trustees, other properties, either owned by the Developer, or others, may be added to the scheme of this Declaration, the By-laws and Rules & Regulations and become subject to the jurisdiction of the Association. Such additional properties may include properties beyond the present boundaries of the Properties as appears on the "Preliminary and Site Development Plan of Skylark Village" approved by the Brick Township Planning Board and/or any revisions or amendments thereof.

(c) Mergers

Upon a merger or consolidation of the Association with another association as provided in its Articles or Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the property, 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 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.

(d) Rights of Those in Added Properties

It is the intention of the Developer that any person who purchases any Lot or Living Unit in the properties that may be subsequently added, shall have voting rights in the Association, right of enjoyment to all Common Properties and Facilities, and any other benefits equal to the then members of the association.

(e) Benefits for All

The Common Properties and Facilities in any subsequently added or merged property shall be for the benefit and use of all members of the Association.

(f) Excluded Property

The property known as Section 1, as appears on the "Final Map of Skylark Village - Section 1, Brick Township, Ocean County, New Jersey, Scale 1" = 100', made by Fellows, Read & Weber, Consulting Engineers, Toms River, New Jersey, dated February 28, 1968, revised May 8, 1968, and recorded in the Ocean County Clerk's Office on June 13, 1968, as map F-71, is specifically excluded from this Declaration of Covenants and Restrictions, and Developer reserves the right within its sole discretion to determine the future use of Section 1, which use shall be complementary to the

general purpose of the Greenbriar Adult Community and/or which will serve the needs of the Living Units, their owners, residents, occupants, lessees, invitees, and members of the Association.

### **ARTICLE III**

#### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

##### **Section 1. Membership**

Every person or entity who is a record owner of a fee or undivided fee interest, in any Lot or Living Unit which is subject by covenants or record to assessment by the Association shall be a member of the Association provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member, and provided as follows:

- (a) No member of the Association shall be less than the age of 55 years, except a spouse or surviving spouse.
- (b) It is intended that these articles shall in no way limit or deprive any owner member of the Association or prospective member of his or her rights, privileges or immunities as provided under the Constitution of the United States and of New Jersey, and of any written or common law.
- (c) In the event that an owner of a Lot or Living Unit dies testate or intestate leaving as heirs a person or persons who do not qualify as a member of the Association, these restrictions shall in no way restrict ownership of said heir, provided, however, that said heir or heirs shall not occupy said Lot or Living Unit until he or she meets the membership requirements of the Association. This shall in no way preclude the right of the owner to lease the said premises or to grant occupancy as a resident to his invitee, or guest, etc., provided however, that in each instance, such guest, invitee, occupant or lessee must first meet the requirements of the Association. The inability of any owner to become a member, or to occupy the premises for whatsoever reason, shall not in any way serve to exempt him of his obligation to pay the annual or special assessments. In the event a person or persons obtain title to a Lot or Living Unit by the operation of law or court order, these articles shall in no way limit the right of the owner of said Lot or Living Unit, provided however, that said owner shall not occupy said Lot or Living Unit until he or she meets the requirements of the Association.
- (d) The owner or owners of a Lot or Living Unit by acceptance of the Deed conveying ownership from the grantor accepts said instrument subject to the right of the grantor, its successors and assigns and the Association to redeem any tax sale certificate or assignment thereof issued by the municipality and to acquire by reason of such redemption any and all rights

accruing thereby in conformity with provision N.J.S. 54:5-54, any conveyance or alienation by the grantee, his heirs, successors, administrators and assigns to the contrary notwithstanding.

- (e) Membership in the Association shall lapse and terminate when any member shall cease to be the owner of record of a Lot or Living Unit.

## Section 2. Voting Rights

The Association shall have two classes of voting membership:

Class A: Class A members shall be all those owners as defined in Section 1 with the exception of the Developer. Class A members shall be entitled to one vote for each Lot or Living Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Living Unit their vote 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. Where a Living Unit has more than one owner of record, and they are unable to agree on how to cast the one vote they are entitled to, each owner may cast individual votes, except each will be entitled only to the fraction of a vote that is equivalent to their fraction of ownership in the Living Unit.

Class B: Class B member shall be the Developer. The Class B member shall be entitled to four votes for each Lot or Living Unit in which it holds the interests required for membership under Section 1 of this Article. The Class B membership shall cease and become converted to Class A Membership upon whichever event occurs first of either of the following two events:

1. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
2. On December 31, 1980.

From and after the happening of these events, whichever occurs earlier, the Class B member shall thereupon be entitled to one vote for each Lot or Living Unit it owns.

It is the intention of the Developer, in creating the 2 classes of membership and the ratio as described above, that during the early development stages of the Association and of the General Plan of Development, that the Developer have control over each and every transaction of the Association, and that as more lots are sold, the Developer's role will decrease proportionately.

Notwithstanding the foregoing, or any provision to the contrary in the By-laws of The Greenbriar Association, the Developer reserves the right, and shall be entitled to elect a majority of the Board of Trustees of The Greenbriar Association until such time as Developer conveys the Common Properties and Facilities to the Association, as hereinafter set forth.

**ARTICLE IV**  
**RIGHTS IN THE COMMON PROPERTIES**

**Section 1. Members Easements of Enjoyment**

Subject to the provision of Section 3 of this Article and the provisions of the By-laws of the Association, every member shall have a right and easement of enjoyment in and to the Common Properties and Facilities and such easement shall be appurtenant to and shall pass with the title to every Living Unit.

**Section 2. Title to Common Properties and Facilities**

The Developer may retain the legal title to the Common Properties and Facilities until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but notwithstanding any provision herein, the Developer hereby covenants, for itself, its successors and assigns that it shall convey the Common Properties and Facilities to the Association, free and clear of all liens and encumbrances, no sooner than one year after the delivery of title to the last Living Unit in the entire development and the completion of all Common Properties and Facilities, and in any event by December 31, 1980.

**Section 3. Extent of Members' Easements**

The rights and easements created hereby shall be subject to the following:

- (a) The right of the Developer and of the Association in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Properties and Facilities in aid thereof to mortgage said properties.
- (b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure, and
- (c) The right of the Association, as provided in its Articles and By-laws, to suspend the enjoyment rights of any Member or those claiming under him, for any period during which any assessment remains unpaid, and for any further reasonable period for each and any infraction of its published rules and regulations.
- (d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties and Facilities; and
- (e) The right of the Association and/or the Developer to dedicate or transfer all or any part of the Common Properties and Facilities to any public agency, authority or utility company for such purposes as may be deemed necessary by the Trustees in the interests of the Association, and/or by the Developer, provided the same is approved in the manner prescribed in Article II, Section 10 of the By-laws, by a vote of the members at a regular meeting or a special meeting called for that purpose. This right of the Developer shall terminate one year after the delivery of title to the Last Living Unit in the entire development and the completion of all Common Properties and Facilities, but in no event later than December 31, 1980.



- (f) The right of the Developer to convey, dedicate, or transfer the property, in whole or in part, lying south of the Jersey Central Power & Light Company's Right of Way, to any public agency, utility company or authority for utility purposes, or to any other entity and for whatsoever purpose as may be determined by the Developer within its sole discretion.
- (g) The right of further restrictions imposed by the Board of Trustees and/or by the By-laws of the Association.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

#### Section 1. Creation of Lien and Personal Obligation of Assessments

Each Owner of any Living Unit, exception therefrom the Developer, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association (1) annual assessments or charges (payable monthly) (2) special assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and cost 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 such interest thereon and cost of the collection thereof as hereinafter provided shall also be the personal obligation of the persons who were the Owners of such property at the time when the assessment fell due.

#### Section 2. Purpose of Assessments

The assessments levied by the Association shall be used exclusively for the purpose of providing services, promoting the recreation, health, safety and welfare of the residents in the Common Properties and in particular for the improvement and maintenance of Common Properties and Facilities and exteriors of Living Units, its grounds, walks, driveways, etc. and services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and Facilities, including but not limited to the payment of taxes and insurance on the Common Properties and Facilities, and repair, replacement, and additions thereto and for the cost of labor, equipment, material, management, improvements, and supervision thereof. (Includes foregoing costs incurred prior to, as well as after title to the Common Properties and Facilities is conveyed to the Association.)

#### Section 3. Basis of Annual Assessments and Changes in Rate

Until the Board of Trustees determines that a greater assessment basis is needed, the assessment shall be \$35.00 per month per living unit. If the Board of Trustees determines that the existing assessment rate does not meet the demands of operation, and maintaining the Common Properties, Facilities, and exteriors of living

units, their grounds, walks, driveways, etc., a new rate may be set by the Board, and the owners and/or members of the Association shall, upon notice of the same and the reasons therefore, be subject to the payment of the new rate.

#### Section 4. Special Assessments

In addition to the annual assessment outlined in Section 3 hereof, the Association may levy in any assessment year a special assessment applicable to that year, only for the construction, reconstruction, unexpected repairs or replacement of a described capital improvement upon the Common Properties and Facilities including the necessary fixtures and personal property related thereto, and/or for the exteriors of the living units, their grounds, walks, driveways, etc., provided that the Board of Trustees in its discretion determines that there is a need for the same and it shall thereupon notify the owners and/or members of the Association by written notice of said need and shall describe to them why said construction, reconstruction, or repairs is necessary and the cost of said improvement, and the amount of such special assessment.

#### Section 5. Date of Commencement of Annual Assessments

The annual assessments provided herein shall be payable monthly and will commence and be payable in advance on the first day of each month.

#### Section 6. Default

In the event one or more of the monthly payments of the annual or special assessment are not paid within 30 days from the date the same shall become due and payable, then the entire assessment shall become delinquent and shall, together with such interest thereon and cost of collection therefore as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, its successors in title and assigns. The personal obligation of the then Owner or Owners to pay such assessment, however, shall remain his personal obligation for the statutory period. The acquirer of title to a Living Unit shall be jointly and severally liable with his predecessor in title thereto for the amounts owing by the latter to the Association up to the time of the transfer of title, without prejudice to the acquirer's right to recover from his predecessor in title the amount paid by him as such joint debtor. The Association shall provide for the issuance and issue to every acquirer, upon his request, a statement of such amounts due and the acquirer's liability under this covenant shall be limited to the amount as set forth in said statement. Liability for the payment of said amounts due to the Association shall attach to the purchaser of the Living Unit following a mortgage foreclosure sale of any Living Unit.

If the assessment payment is not paid within thirty (30) days after the same has become due and payable, the assessment shall bear interest from the date of delinquency at the then maximum legal rate per annum, and the Association may bring action at law against the Owner personally obligated to pay the same, or to foreclose the lien against the property; and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action. 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 courts, together with the cost of the action.

The lien of the assessment provided herein shall not be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment. Such lien shall apply only to the assessments which have become due and payable prior to a sale, transfer or mortgage of such property. Such sale, mortgage 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 7. Exempt Properties

The following subject to this DECLARATION shall be exempted from the assessments, charge and lien created herein; (a) 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; (b) all Common Properties as defined in Article 1, Section 1 hereof; (c) all properties exempted from taxation by the Laws of the State of New Jersey upon the terms and to the extent of such legal exemption; and (d) commercial and neighborhood business areas; and all properties owned by Developer.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use except as may be owned by Developer, shall be exempt from said assessments, charges or liens.

### ARTICLE VI

#### Section 1. Subsequent Transfer: Definitions

(a) Members of the Association as used and referred to herein shall be any person being granted title to a Lot or Living Unit within the Properties described herein, by deed from Developer, and the Developer so long as it retains title to one or more Lots or Living Units. (b) Membership as used and referred to herein shall be construed as being the same as ownership of any Lot or Living Unit subject to the exceptions explicitly stated in the Restrictive Covenants and By-laws.

#### Section 2. Rights, Duties and Obligations of Owners, Members, Residents, Guests, Invitees, Occupants, Lessees, etc.

The vesting of ownership by transfer of title into any Owner of a Lot or Living Unit shall vest in said Owner, all of the rights described herein toward the use and enjoyment of the Common Properties and Facilities and shall make said owner a beneficiary of each of the Restrictive Covenants and By-laws of the Association. The vesting of title unto the owner, and as part of the consideration given by the Owner therefore, shall create a duty and obligation on said owner to comply with each and every Covenant and Restriction, By-law, and any and all Rules and Regulations promulgated by the

Association. The inability of an owner to qualify as a member, shall not serve to exempt him of the obligations and duties aforesaid.

The right of enjoyment of all Common Properties and Facilities shall extend to and include all guests, occupants, residents, invitees, lessees, etc., and such right of enjoyment shall carry with it a corresponding obligation to abide by and comply with all of the provisions of the Declaration of Covenants and Restrictions, the By-laws and Rules and Regulations of the Association.

### Section 3. Transfer of Ownership

No owner shall sell, give, devise, lease, assign, or transfer title, interest or leasehold to his or her living unit prior to making full disclosure to the Association of its intent to make said transfer, and until said Owner receives written assurance from the Association that the prospective transferee has met all of the qualifications incident to membership in the Association. If leased, the lease must provide that its terms are subject to the Covenants, Restrictions, By-laws and Rules and Regulations of the Association. This provision is not intended in any way to deprive any member or prospective transferee of his or her rights, privileges and immunities under the Constitutions of the United States and the State of New Jersey, and under the laws of said jurisdictions. The intention of the Developer is to strictly maintain a Community providing for and meeting the needs of those people 55 years of age and older.

### Section 4. Purchase

No member of the Association as defined in Section 1 of Article III shall be less than the age of 55 years; provided, however, that in the event a Lot or Living Unit is owned by Husband and Wife as tenants in the entirety only one of said spouse must meet the requirements of this article. No transfer as described in Section 3 of this Article shall be made to any prospective purchaser or to any person less than the age of 55 years, subject to the exceptions herein.

### Section 5. Children

No sale, gift, devise, lease, assignment, pledge or transfer shall be made by an owner-member of a Lot or Living Unit to any prospective transferee who has or shall intend to have residing in the Living Unit a child or children under the age of 18 years, as member of a family order or any other relationship other than a temporary visit specifically provided for herein.

### Section 6. Passage of Title by Operation of Law

In the event that an owner-member of a Lot or Living Unit departs this life testate or intestate, leaving as heirs one or more persons who do not qualify as a member of the Association, or in the event title is passed from an owner-member by operation of law other than by method as provided in Section 3, these restrictive covenants shall in no way operate in violation of the law to restrict ownership by said heirs of said Lot or Living Unit provided, however, that said heir or heirs shall not occupy said Lot or Living

Unit until he or she meet the qualifications of the Association, except that such owner shall, at all times, be subject to the Covenants and Restrictions, the By-laws and Rules and Regulations of the Association.

## ARTICLE VII

### PARTY WALLS

#### Section 1. General Rules of Law to Apply

Each wall which is built as part of the original construction of the homes upon The Properties and placed on the dividing line between the lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding the 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, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding the liability for negligent or willful acts or omissions.

#### Section 4. Weatherproofing

Notwithstanding any provisions of this Article, an Owner 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 VIII  
AREAS OF MAINTENANCE

Section 1. Areas of Maintenance

In addition to maintenance upon the Common properties and Facilities, the Association may provide exterior maintenance upon each Lot and Living Unit, its grounds, walks, driveways, etc., (on standard improvements only as originally provided by Developer) which is subject to assessment under Article V hereof. The nature and extent of such maintenance shall at all times be determined by the Board of Trustees.

Section 2. Assessment of Cost

The cost of such exterior maintenance shall be assessed against each Living Unit and shall be part of the annual maintenance assessment or charge to which such Living Unit is subject under Article V hereof and, as part of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article V hereof. The election of any owner not to avail himself of any or all of the services and maintenance provided by the Association, shall not exempt him from the obligation to pay the assessments.

Section 3. Access at Reasonable Hours

For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees shall have the right, to enter upon any lot or exterior of any Living Unit at reasonable hours on any day. Developer retains an easement of ingress and egress over all the "Properties" for so long as it owns any part of the land described herein, and during the time the Developer will be constructing homes.

ARTICLE IX  
CONTROL COMMITTEE

Section 1. The "Control Committee" is hereby established to be composed of three members, said members to be appointed, initially by the Developer to serve until title to the last Living Unit in the project has been delivered and completion of all Common Properties and Facilities, but in no event later than December 31, 1980. A majority of the Committee may designate a member to act for the Committee. In the event of the death, resignation, or inability to serve of any member of the Control Committee, the remaining members shall have full authority to appoint a substitute member who shall serve until as aforesaid. The members of the Committee shall not be entitled to compensation for services performed as Committee Members.



a) Architecture and Construction

No building, fence, wall, walkways, excavation or grading operation, or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Control Committee.

b) Modification of Provisions of the Declaration

The "Control Committee" may amend, modify, delete, supplement, alter or grant relief from the provisions of this Declaration or from any provisions as may hereinafter be added to the Declaration, provided it is determined by the Committee in its sole discretion that the same is in furtherance of the objectives of the Greenbriar development. This right shall extend to each and every particular of each and every item contained in this Declaration and/or as may be subsequently added, including but not limited to Article X herein, and including but not limited to any lands previously conveyed or improved by the construction of buildings thereon or otherwise.

## ARTICLE X

### RESTRICTIONS

All lot and/or living unit owners, as well as all members, guests, residents, occupants, lessees, etc., in addition to any other obligation, duty, right and limitation imposed upon them by this Declaration, the Articles of Incorporation, By-laws of the Association, and Rules and Regulations that may be promulgated by the Association shall be subject to and agree to abide by the following restrictive covenants which shall be applicable to all lot and/or living unit owners, occupants, guests, invitees, tenants, residents, and lessees, etc., to wit:

Section 1. No Living Unit shall be sued for any purpose than as and for a single family residence or dwelling.

Section 2. No exterior radio, television or electronic antenna or aerial shall be erected, maintained or operated upon any of the lots or buildings or structures located thereon, and the erection, maintenance or operation of any of the same is prohibited except as required by the master Antenna Television System.

Section 3. Signs.....No signs of any nature whatsoever shall be erected or displayed upon any of the property, except when express prior written approval of the size, shape, content, and location thereof has been obtained from the Association. Excepted from this provision, are signs used by the Developer during the construction and sales period.

- Section 4. No clothing, bedding, or other similar items, shall be dried or aired in any outdoor area.
- Section 5. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. There shall be no more than 2 dogs or 2 cats in any Living Unit.
- Section 6. Water Supply. No individual water supply system shall be permitted on any lot except as may be required by the Developer and/or the Association.
- Section 7. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved. The Developer hereby reserves an easement in, over, under and across all streets, public areas, and community property areas as may be shown on any filed map of the property for the purpose of maintaining utility services thereon, together with the right to transfer their right in such easements to any third party or corporation who may provide such utilities and services, and to maintain the same, and over the front and rear 10 feet of each lot and 5 feet along each side line. In the case of duplex units, an additional easement ten feet along the rear of each unit across the lot from side line to side line; or as may be required for the underground lines of the master antenna television system, and the underground lawn sprinkler system.
- Section 8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as residence either temporarily or permanently.
- Section 9. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.
- Section 10. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash garbage or other waste shall not be kept except in sanitary containers.
- Section 11. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood



- Section 12. Sewage Disposal. No individual sewage disposal system shall be permitted on any lot.
- Section 13. No fences or hedges shall be permitted on the grounds of any living unit except as approved in writing by the Committee.
- Section 14. No lot owner, member, guest, lessee, resident, occupant, invitee, etc., shall commence any digging or earth moving or regrading operations of any nature whatsoever without first obtaining permission of the architectural committee. This section is intended as a protection against inadvertent disruption of underground services and creation of a nuisance to adjoining property owners.
- Section 15. No one bedroom unit shall be permanently occupied by more than two (2) individuals, and no two bedroom unit shall be permanently occupied at any time by more than four (4) individuals except as otherwise provided herein.
- Section 16. Owners, members, guests, lessees, residents, occupants, invitees, etc., shall only be permitted to have visitor occupants of any age for up to four weeks during any six month period commencing on January 1, or July 1 of any year, or a maximum of six weeks in any twelve months period, provided that at no time shall any one bedroom unit be occupied by more than five individuals nor any two bedroom unit by more than six individuals. No person under the age of 18 may be a permanent resident.
- Section 17. The parking or storage of automobiles except upon paved areas is prohibited. The overnight parking or storage of trucks or commercial vehicles is prohibited. The parking or storage of camping vehicles, boats and boat trailers upon any of the foregoing described lands is prohibited.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. All property owners shall automatically be members of the Association provided they qualify under Article III, Section 1 of this document, and shall thereupon be subject to its By-laws and Rules and Regulations. Ownership of a Living Unit, and/or membership in the Association shall give the benefits and privileges as well as the duties and obligations as defined in other provisions of this Declaration. No property owner shall have the right to terminate his membership in the Association, except by sale or transfer of the living unit or by written consent of the Association. Membership in the Association is non-transferable, and any attempt to transfer shall be null and void.

## Section 2. Duration

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for the term of ten (10) years from the date this 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 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 thirty days (30) in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least thirty (30) days in advance of any action taken.

## Section 3. Notices

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

## Section 4. Enforcement

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the 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 5. Severability

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