

WESTLAKE TOWNHOME OWNERS ASSOCIATION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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THIS DECLARATION, made this 12th day of October,  
A.D., 1970, by HOFFMAN ROSNER CORPORATION, a Delaware corporation, herein-  
after called Developer.

WITNESSETH:

WHEREAS, Developer is the owner or has an interest in the real property described in Article II of this Declaration and desires to create on portions thereof from time to time a residential community of townhomes with permanent parks, open spaces, playgrounds, community building, swimming pools, and other common facilities for the benefit of 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, open spaces, playgrounds, community building, swimming pools, and other common facilities; and to this end, desires to subject, from time to time, portions of the real property described in Article II together with such additions of other real property as may hereafter be made thereto (as provided in Article II), to the covenants, restrictions, easements, charges and liens, hereinafter set forth, when and if the Developer specifically declares from time to time such portions of said real property described in Article II to be included in these covenants and restrictions by recording a duly executed written instrument specifically declaring and describing such portions to be included in these covenants, restrictions, easements, charges and liens, each and all of which is and are for the benefit of said portions of property and each owner thereof, and shall attach to and constitute covenants running with the land as to such portions of property at the time of such specific declaration and not before; 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 community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

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WHEREAS, Developer has caused to be incorporated under the laws of the State of Illinois, as a not for profit corporation, WESTLAKE TOWNHOME OWNERS ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW THEREFORE, Developer declares that when it makes specific declarations, in the manner aforesaid and referring expressly to this Instrument, regarding portions of the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, such portions of real property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth;

#### 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:

Association: WESTLAKE TOWNHOME OWNERS ASSOCIATION, an Illinois not for profit corporation, its successors and assigns.

Common Areas: A. those portions of the subdivisions except the Units on which Townhomes are constructed and except streets dedicated to the public.

Building: A structure consisting of a series of attached Townhomes built or to be built within the subdivisions, or a structure used as a community building or for other ancillary and accessory uses.

Developer: HOFFMAN ROSNER CORPORATION, A Delaware Corporation, its successors and assigns.

Unit: A portion of a platted lot upon which one Townhome is constructed or to be constructed.

Parking Area: Those portions of the Common Areas designated as such by the Developer or by the Association.

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Recreation Area:

Those portions of the Common Areas designated as such by the Developer or the Association.

Subdivision:

Those portions of the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, as may be specifically declared from time to time by the Developer to be subject to the covenants and restrictions in this Declaration and platted into a lot or lots, it being intended that the subdivision may be thereby enlarged from time to time by the inclusion of such portions and that membership in the Association may be thereby enlarged from time to time, provided however, that only portions of the property described in Section 1 of Article II can be brought within the jurisdiction of the Association by the Developer alone and any additions outside of that property described in Section 1 of Article II must be voted upon by the Association as provided in its Articles of Incorporation.

Townhome:

A one-family dwelling constructed on a Unit, which Townhome may be attached to one or more Townhomes by common party walls.

Walks:

Such front, side, and rear walks on Common Areas and Units as may be installed or designated by the Developer or the Association.

Owner:

The record owner, whether one or more persons or entities and including the Developer where applicable, of the fee simple title to any Unit situated in the subdivision but shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding or transfer in lieu of foreclosure.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property, from which the Developer may from time to time declare portions to be specifically included in this Declaration and thereby be held, transferred, sold, conveyed and occupied subject to these covenants and restrictions, is located in DuPage County, State of Illinois, and is more particularly described on Exhibit A attached hereto, all of which real property shall hereinafter be referred to as "Existing Property".

The following portions of the Existing Property:

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1. Westlake Townhouses Lakeshore - Unit #1
2. Lot 1 in Lakeshore Recreation Park

as more fully described in Exhibit "B" attached hereto, are hereby specifically declared to be subject to this Declaration and included within the covenants and restrictions hereof, effective upon the recording of this Declaration.

Additional portions of the Existing Property may be annexed hereto and made subject to this Declaration and included within the covenants and restrictions hereof by the Developer, without the consent of the Association or its members, from time to time within the period of ten (10) years from the date of this Declaration, provided that the Federal Housing Administration or the Veterans Administration determines that such annexation is in accord with the general plan previously approved by such agency.

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

(a) Upon approval in writing of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, the owner of any property who is desirous of adding it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants, Conditions and Restrictions which shall extend the scheme of the covenants and restrictions of this Declaration to such property.

Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing Property.

(b) Upon a merger or consolidation of the Association with another association as provided in its Articles of 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, by 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 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 with the Existing Property except as hereinafter provided.

### ARTICLE III

#### BUILDING AND USE RESTRICTIONS

Section 1. The subdivisions are hereby restricted to residential dwellings, including Townhomes and ancillary and accessory uses and buildings in connection therewith, including but not limited to a community building. All buildings or structures erected in the subdivisions shall be of a new construction and no buildings or structures shall be moved from other locations to the subdivisions and no subsequent buildings or structures other than Townhomes shall be built on any Unit where the Developer has theretofore constructed a Townhome. No building or structure of a temporary character, trailer, basement, tent, shack, barn, or other outbuilding shall be used on any Unit at any time as a residence either temporarily or permanently.

Section 2. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Unit except for dogs, cats, or other household pets kept for other than commercial purposes.

Section 3. Except that no more than one "For Rent" or "For Sale" sign of not more than five square feet may be maintained on any Unit, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Unit, nor shall any Unit be used in any way or for any purpose which may endanger the health or unreasonably disturb the residents of the subdivisions. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the subdivisions except activities intended primarily to serve residents in the subdivisions. The foregoing restrictions shall not apply to the com-

mercial activities, signs, and billboards, if any, of the Developer during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, By-Laws and Rules and Regulations, as the same may be amended from time to time.

Section 4. No building, except accessory buildings, such as garages, shall be located nearer than 20 feet to the front yard line of the Unit, nor nearer than 8 feet from the rear yard line of the Unit. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2') and six (6') feet above the roadways shall be placed or permitted to remain on any corner unit within the triangular area formed by the public street property lines and a line connecting them at points twenty-five (25') feet from the intersection of the public street property lines extended. The same sight-line limitations shall apply on any Unit within ten (10') feet from the intersection of a public street property line with the edge of a private drive pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No fence or wall shall be erected, placed or altered on any Unit nearer to any front street line than the minimum front building setback line, except by the Developer in the initial construction.

Section 5. All clotheslines, equipment, garbage cans, service yards, wood-piles, and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Units and streets. All rubbish, trash, and garbage shall be regularly removed from the subdivision and shall not be allowed to accumulate thereon.

#### ARTICLE IV

##### ARCHITECTURAL CONTROL COMMITTEE

No exterior additions or alterations to any Building in the subdivision, nor changes in fences, hedges, walls, and other structures, shall be commenced, erected, or maintained, except such as are installed or approved by the Developer in connection with the initial construction of the

Buildings in the subdivisions, until the plans and specifications showing the nature, kind, shape, height, materials, location, and approximate cost of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding Buildings in the subdivisions by an architectural committee composed of the Board of Directors of the Association, or by a representative or representatives designated by the Board of Directors. In the event said committee, or its designated representatives, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, and if no suit to enjoin the making of such additions, alterations or changes has been commenced prior to the completion thereof, such approval will be deemed to have been given. Neither the members of the architectural committee nor its designated representatives shall be entitled to compensation to themselves for services performed pursuant to this paragraph, but compensation may be allowed to independent professional advisors retained by the architectural committee. Private exterior antennas shall not be placed on any Townhome without the approval of the architectural committee or its designated representatives, and if a community antenna is provided to service such Townhome, such private exterior antennas may be disapproved.

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#### ARTICLE V

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

Section 1. Membership. Every person or entity who is a record owner of a fee interest in any Unit in a portion of the subdivisions, and which portion of the subdivisions is by appropriate Declaration in the manner hereinbefore described included within these covenants and restrictions, shall be a member of the Association and which membership shall be appurtenant to said Unit, and each purchaser of any Unit by acceptance of a deed therefor covenants and agrees to be a member of the Association whether or not it shall be so expressed in any such deed or other conveyance, 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. Membership shall be expanded from time to time to the extent of the number of Units within a portion of the Existing Property when such portion is by Declaration included within these covenants and

restrictions and thereby included within the subdivisions which are subject to this Declaration.

Section 2. Voting and Non-Voting Membership. The Association shall have two classes of voting membership, and one class of non-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 Unit in which they hold the interest required for membership by Section 1. When more than one person holds such interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

Class B. The Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each Unit in which it holds the interest required for membership by Section 1, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) four (4) years from the execution of this Declaration of Covenants, Conditions and Restrictions. In the case of additional memberships being created by annexation of portions of the additional land and the platting of same, the tests of (a) and (b) above shall be applied separately to each portion of the annexed lands and the test under (b) shall be four (4) years from the time the Developer records the statement annexing such portion.

Class C. By action of its Board of Directors, the Association may create a non-voting Class C membership only for the period during which the Existing Property is being developed and Townhomes are being constructed and Units are being sold by the Developer.



Class C memberships may be sold to employees or representatives of the Developer, and to residents of the Village of Bloomingdale. The amount of the dues to be paid by Class C members shall be determined by the Board of Directors. Such memberships will be for a period of one year, will be renewable only with the consent of the Board of Directors and will entitle Class C members to the use of the community building, parking area, swimming pools and tennis courts. At no time shall the combination of units represented by Class A memberships and C memberships exceed 500. The income derived from Class C memberships is to be collected by the Association, and used exclusively to defray the costs of the operations of the community building and the adjoining recreational facilities for the period during which the Existing Property is being developed. To the extent of said income to be so applied, the Board of Directors may reduce the annual assessments of Class A and Class B members.

Class C members shall have only those privileges stated above, and shall have no other rights or privileges of Class A or B members.

#### ARTICLE VI

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer, to the extent provided in Section 11 of this Article, and each purchaser of any Unit in the subdivisions by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees, for himself, his heirs, personal representatives, successors and assigns, to pay to the Association: (1) annual assessments or charges, payable monthly or on any other periodic basis as may be designated by the Board of Directors of the Association; (2) special assessments for capital improvements, such 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 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 such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner 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 promoting the recreation, health, safety and welfare of the residents of the subdivisions 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 Common Areas and of the Townhome situated in the subdivisions including, but not limited to, the payment of taxes and insurance on the Common Areas and facilities thereon and 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 not more than Three Hundred Thirty-Six (\$336.00) Dollars per Unit. From and after January 1, 1972, for each succeeding year, on an annual basis, the annual assessment may be increased by vote of the members, as hereinafter provided.

In the event the maximum annual assessment is not increased by vote of the members, as hereinafter provided, this assessment may be increased on January first of each year without a vote of the members in conformance with the Consumer Price Index for the preceding month of September based on the following method of computation:

(a) Method of Computation: The Consumer Price Index (published by the Bureau of Labor Statistics, Department of Labor, Washington, D.C.) established the metropolitan Chicago average numerical rating for the month of September, 1969, as 127.2. This will be the base rating for computation of future assessments. The maximum annual assessment for the year 1971 is \$336.00. To determine the percent of increase to be applied to the maximum annual assessment for each subsequent year, first ascertain the numerical rating for the month of September immediately prior to the proposed assessment year; then, if the numerical rating is higher than 127.2 subtract 127.2 from that higher rating, then divide the remainder by 127.2 thus arriving at the percent of increase for the proposed year. This percentage will be multi-

plied by \$536.00 to determine the dollar increase. This amount added to \$536.00 will establish the maximum annual assessment for the proposed assessment year.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

If taxes on real estate owned by the Association, as shown by the tax bills received by the Association in the spring of each year, shall exceed the amounts estimated for such taxes in the budget previously used in determining the annual assessment for such year, the Board of Directors shall, without a vote of the members, levy a special assessment to provide funds for payment of such increase in taxes, in such manner as the Board of Directors shall determine.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of each class of its voting membership, voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Maximum of Annual Assessment. Subject to the limitations of Section 3 hereof, for the year 1971, for each annual period thereafter, the Association may change the maximum annual assessment fixed pursuant to Section 3 hereof prospectively for any such period provided that any such change shall have the consent of two-thirds of each class of its voting members, voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided further, that the limitations of Section 3 hereof shall not apply to any

change in the maximum annual assessment undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2 hereof.

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

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of members, or of proxies, entitled to cast sixty (60) percent of all of the votes of each class of voting members shall constitute a quorum. If the required quorum is not forthcoming at said meeting, another meeting may be called, subject to the 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 sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments.

Due Dates: The annual assessments provided herein shall commence as to all those Units in any portion of the Existing Property which by declaration has been brought under these covenants and restrictions on the first day of the month following the conveyance of the Common Areas within such portion of the Existing Property.

The first annual assessment shall be made pro rata for the balance of the calendar year following the date of closing of the sale and conveyance by the Developer of each Unit, respectively, and shall become due and payable in equal monthly installments to be paid each month in advance on or before the first day of the month, unless the Board of Directors designates another form of periodic payments. The assessments for any year, after the first year, shall become due and payable in equal monthly installments to be paid each month in advance on or before the first day of the month commencing on the first day of January of said year, unless the Board of Directors designates another form of periodic payments.

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 paragraph 3 hereof as the remaining number of months in that year bear to twelve.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement, and the amount of the assessment against each 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 Association and shall be open to inspection by any Owner. The Board of Directors may, in its discretion, designate a form of periodic payments. The Board of Directors may also, in its discretion, designate and retain a collecting agency for the Association to whom assessments payments shall be made.

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

The Association shall within a reasonable time upon request furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, or a collecting agent designated by the Board of Directors, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property of the delinquent which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. Sale or transfer of any Unit shall not affect the continuing lien on such Unit for the amount of any unpaid assessments.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall accrue interest from the date of de-

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linquency at the rate of eight percent (8%) per annum, and the Association, or its collecting agent designated by the Board of Directors, may bring any 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 the 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. In addition thereto, the Association may deny to the owner the use and enjoyment of any of the common areas and facilities thereon, except ingress and egress to and from the owners unit, until the delinquent assessment is paid along with any interest, costs and other sums set forth above which the Association is entitled to receive. No owner may avoid liability for the assessments provided for herein by non use of the Common Areas or abandonment of his Unit.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage placed upon the Units subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale of such Unit pursuant to a decree of foreclosure of any such mortgage or prior to a deed or conveyance on such Unit given by the mortgagor in lieu of foreclosure. Such sale, or deed or conveyance in lieu of foreclosure, shall not relieve such Unit from liability for any assessments thereafter become due nor from the lien of any such subsequent assessment.

Section 11. Exempt Units. Each Unit, for the period prior to the time a Townhome is constructed thereon, sold and conveyed by the Developer, shall be exempted from the assessments, charges and liens created herein for any amounts in excess of forty percent (40%) of the monthly assessment paid by Unit Owners to whom title has been conveyed by Developer. Such partial

exemption for any such un conveyed Unit shall continue until the time of closing of the sale and conveyance of such Unit by the Developer. The Developer's obligation for its 40% portion of the assessments shall become due on the annual assessment dates, but shall not be payable until the expenditure of the funds is required to meet the operating expenses of the Association.

Upon the conveyance by the Developer to an owner other than the Developer of a Unit which was theretofore entitled to the above partial exemption, such partial exemption shall be terminated and such Unit shall thereafter be subject to the full amount of the assessments elsewhere set forth in this Article VI, prorated from the date of such conveyance.

It is further understood that the following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority and properties granted to or used by a Utility company; (b) the Common Area; (c) all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Illinois, so long as they are not used as a dwelling; and (d) Units used as models by Developer.

#### ARTICLE VII

##### MAINTENANCE DUTIES AND RIGHTS OF THE ASSOCIATION

The Association, in addition to its other powers, rights and duties as set forth in these covenants and in its Articles of Incorporation, By-Laws and Rules and Regulations, and as any of the same may be amended, shall maintain and otherwise manage all the Common Areas including the parking area and recreation area and any community building, swimming pools, tennis courts, facilities and equipment in the such Common Areas; shall pay all

real estate taxes, personal property taxes, or other charges which may be assessed against or levied upon the Common Areas; shall maintain and otherwise manage the landscaping, rubbish removal and snow removal in the Common Areas and upon the yard areas and driveways of the Units.

In addition to maintenance upon the Common Areas, the Association shall provide exterior maintenance upon each Unit which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements, and the Association for itself and its agents is hereby granted the right and easement to enter in and upon all Units and the exterior of the Townhomes thereon for purposes of such maintenance. Such exterior maintenance shall not include glass surfaces, patio areas, and fenced-in yards. The Association shall not provide exterior maintenance to exempt Units under Section 11 of Article VI during the period of their exemption.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Unit is subject.

In furtherance of the above duties and all other powers, rights and duties of the Association, the Association for itself, its agents, successors, and assigns, is hereby granted the right and easement to enter in and upon all yard areas and walks of the Units in the subdivisions.

The extent and frequency of the activities of the Association in carrying out the duties of maintenance and management set forth above shall be decided by the Board of Directors, and the Board of Directors may appoint committees to advise the Board on such matters. The Board of Directors may also promulgate Rules and Regulations to aid in carrying out of said maintenance and management duties, and may amend said Rules and Regulations from time to time.

#### ARTICLE VIII

##### USE AND RIGHTS IN COMMON AREAS

Section 1. Use and Rights of Owners and the Association. Except as the right may be suspended under Article VI Section 9 herein for non-payment of delinquent assessments, or as provided below, each Owner, at the time he becomes



an Owner and for so long as he is an Owner, is hereby granted as easement of use and access to all of the Common Areas in the subdivisions and the facilities thereon, subject to the Rules and Regulations of the Association as promulgated from time to time. This easement of use and access granted to each Owner shall be deemed to be attached to the Owner's Unit and shall run with the land and deemed to be granted to each successive Owner of the Unit.

The Association shall have the right to suspend the use and access by any Owner to any of the Common Areas and the facilities thereon, except for ingress and egress to the Owner's Unit, for a period not to exceed thirty (30) days for each infraction of its promulgated rules and regulations. The Association shall have the right to charge reasonable admission and other fees for the use by guests of Owners of any facilities situated upon the Common Areas. The Association shall have the right, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving all or portions of the Common Areas, including facilities thereon, and in aid thereof to mortgage subject to the assent of 2/3rds of each class of membership entitled to vote thereon all or portions of the Common Areas and the rights of such mortgagee in said Common Areas shall be subordinate to the rights of the Owners herein. The Association, subject to the assent of 2/3rds of each class of membership as specified in Section (e) of Article IV of its Articles of Incorporation, shall have the right to dedicate all or portions of the Common Areas to the general public for public use, provided each Owner shall have ingress and egress to his Unit.

Section 2. Use and Rights of Developer. Prior to the first conveyance by the Developer of a completed Townhome in each portion of the Existing Property which by Declaration is brought under these covenants and restrictions the Developer shall convey to the Association in fee all of the Common Areas in each such portion of Existing Property, free and clear of all mortgages and encumbrances, except easements for utilities as provided below, and except for these covenants and restrictions, and except for public zoning ordinances, and except for current real estate taxes, if any, which shall be prorated between the Developer and the Association.

Any other Common Areas in other portions of the Existing Property which are brought under these covenants and restrictions shall be conveyed to the Association in like manner. The Common Areas, and the Developer's conveyance thereof to the Association, shall be subject to utility easements granted or to be granted for sewer, water, gas, electricity, telephone and any other necessary utilities. If such utilities are not installed, or easements therefore are not granted or reserved, prior to conveyance of the Common Areas, such easements shall be granted later at the request of the Developer pursuant to engineering plans approved by the Federal Housing Administration. As part of its program of development of the subdivisions into a residential community and to encourage the marketing thereof, the Developer shall have the right to use the Common Areas and facilities thereon, including the community building, without charge during the sales and construction period for the Existing Property, and for additions thereto which may become subject to this Declaration as provided in Section 2 of Article II hereof.

#### ARTICLE IX

##### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the townhomes in the subdivision and placed on the dividing line between the units 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 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 respective Owners who make use of the wall in proportion to their respective use.

Section 3. Encroachments and Overhangs. Since some of the individual Townhomes in a building are esthetically and functionally designed with structures that may encroach and/or overhang adjoining Units, each such adjoining Unit shall be subject to a perpetual easement for any such overhang and/or encroachment.

Section 4. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, either of the Owners who have used the wall may restore it, and, if the other Owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof in proportion to such use.

## ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. These covenants and restrictions shall run with, and be binding upon, all land which by Declaration, as elsewhere herein provided for, is brought within these covenants and restrictions and shall be binding upon the Association and upon all persons owning, leasing, sub-leasing, or occupying any such land, their heirs, executors, administrators, personal representatives, successors and assigns. These covenants and restrictions may be enforced by the Association, which shall have the right to expend Association monies in pursuance thereof, and may also be enforced by the Owner of any Unit in the subdivisions or any one or more of said parties. If these covenants and restrictions are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners, if successful in such enforcement and if the Association had theretofore refused such enforcement, may be reimbursed by the Association for all or any part of the cost incurred, but such reimbursement shall be solely in the discretion of the Board of Directors of the Association.

Section 2. Severability. Invalidation of any of these covenants and restrictions or portions hereof by judgment or court order shall in no way affect the validity of any of the other provisions or portions hereof and the same shall remain in full force and effect.

Section 3. Terminology. The word "he" wherever used in this instrument shall be used as synonymous with the words "she", "it" and "they" and the word "his" synonymous with the words "her", "its", and "their". The word "person" may refer to an individual, corporation, partnership or other legal entity.

Section 4. Duration. These covenants and restrictions shall remain in full force and effect for a period of twenty (20) years from the date hereof, and thereafter they shall be deemed to have been renewed for successive terms of ten (10) years, except that at any time during the first twenty (20) years from the date hereof they may be amended by the Owners of not less than ninety percent (90%) of the Units in the subdivisions and after said first twenty (20) years they may be amended by the Owners of not less than seventy-five percent (75%) of the Units in the subdivisions. Any amendment shall be by an instrument in writing executed by the required number of Owners and shall be recorded in the office of the Recorder of Deeds, DuPage County, Illinois.

R70-37279

IN WITNESS WHEREOF, HOFFMAN ROSNER CORPORATION (the Developer herein)  
has caused its corporate seal to be affixed hereunto and has caused its name  
to be signed to this instrument by its President and attested by its Secretary  
this 12th day of October, 1970.

HOFFMAN ROSNER CORPORATION,  
a Delaware Corporation

By Lowell C. Sijj  
Senior Vice President



Robert H. Haag  
Secretary

## WESTLAKE TOWNHOME OWNER'S ASSOCIATION "EXISTING PROPERTIES"

Lot 1 in "Lakeshore Recreation Park", being a Subdivision of part of the Southwest quarter of Section 14, of part of the Northeast quarter of Section 22, and of part of the Northwest quarter of Section 23, all in Township 40 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded March 30, 1970, as Document No. R70-9276, all in the Village of Bloomingdale, DuPage County, Illinois.

Lot 4 in "Lakeshore Recreation Park", being a Subdivision of part of the Southwest quarter of Section 14, of part of the Northeast quarter of Section 22, and of part of the Northwest quarter of Section 23, all in Township 40 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded March 30, 1970, as Document No. R70-9276, together with all of "Westlake Townhouses, Lakeshore, Unit No. 1", being a Subdivision of part of the Northwest quarter of Section 23, Township 40 North, Range 10 East of the Third Principal Meridian, (excepting that part thereof dedicated for roadway usage and known as Edgewater Drive), according to the plat thereof recorded March 30, 1970, as Document No. R70-9295, all in the Village of Bloomingdale, DuPage County, Illinois.

That part of the West half of Section 23, Township 40 North, Range 10 East of the Third Principal Meridian, in DuPage County, Illinois, described as follows: Beginning at the Southwesternmost corner of "Westlake, Unit No. 2", according to the plat thereof recorded September 10, 1969 as Document No. R69-40420, being a point on the Westerly line of Glen Ellyn Road, as dedicated in the aforesaid recorded plat; thence Northward along the said Westerly line of Glen Ellyn Road, N 1° 11' 11" W, a distance of 293.81 feet to a point of curvature; thence Northeastward along a curved line, convexed to the Northwest, of 995.00 feet in radius, for an arc length of 546.33 feet; thence N 41° 50' 51" W, a distance of 165.00 feet; thence N 39° 44' 40" E, a distance of 145.00 feet; thence N 46° 28' 44" W, a distance of 29.87 feet to a point of curvature; thence Northwestward along a curved line, convexed to the Northeast, of 1030.00 feet in radius, for an arc length of 374.54 feet to a point of compound curvature; thence continuing Northwestward along a curved line, convexed to the Northeast, of 1416.01 feet in radius, for an arc length of 561.95 feet to a point of tangency; thence S 89° 56' 54" W, a distance of 47.15 feet; thence S 00° 03' 06" E, a distance of 25.00 feet to a point of curvature; thence Southwestward along a curved line, convexed to the Southeast, of 478.13 feet in radius, for an arc length of 220.00 feet; thence S 1° 52' 05" W, a distance of 598.36 feet; thence S 4° 04' 29" W, a distance of 527.55 feet; thence S 88° 37' 11" E, a distance of 923.00 feet to the point of beginning, in DuPage County, Illinois.

The following described portions of the Existing Property are hereby specifically declared to be subject to the WESTLAKE TOWNHOME OWNERS ASSOCIATION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this 12th day of October, A.D., 1970, by HOFFMAN ROSNER CORPORATION.

WESTLAKE TOWNHOUSES

LAKESHORE - UNIT #1

Being a Subdivision of Part of the Northwest Quarter of Section 23, Township 40 North, Range 10 East of the Third Principal Meridian, in the Village of Bloomingdale, DuPage County, Illinois.

LOT 1 IN

LAKESHORE RECREATION PARK

Being a Subdivision of part of the Southwest quarter of Section 14, of part of the Northeast quarter of Section 22, and of part of the Northwest quarter of Section 23, all in Township 40 North, Range 10 East of the Third Principal Meridian, in the Village of Bloomingdale, DuPage County, Illinois.