

## **DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS DECLARATION, made this 30th day of January, 1979, by NOVA VILLAGE, INC., a Florida corporation, hereinafter called "Declarant."

### **W I T N E S S E T H**

WHEREAS, NOVA VILLAGE, INC., a Florida corporation, is the fee simple owner of all of the real property described on Exhibit 1 attached hereto and made a part hereof, and

WHEREAS, the said fee simple owner of all real property proposes to build single family residences upon said real property and to hold the same or to sell the same to the public, or both, and

WHEREAS, the said single family residences are designed in such a manner that certain residences will be connected by common walls, wherein such common wall is the common boundary between contiguous parcels of improved real, property in the aforesaid real property, and

WHEREAS, for the mutual protection and benefit of said fee simple owner, and its assigns who may from time to time acquire fee simple title in and to any of the real property within said development, with or without improvements thereon, and any persons, corporations, or institutions who may from time to time hold mortgages encumbering and describing any of said lots within said development, and their assigns, and in the interest of the public in the avoidance of unnecessary controversy and to clearly establish the respective rights of each owner and mortgagee as the same from time to time appear.

NOW, THEREFORE, in consideration of the foregoing the Declarant does hereby covenant with all persons who may acquire title to any of the aforesaid real property either by a plat description or a metes and bounds description from said Declarant, and its assigns, and all persons claiming, by, through or under said fee simple owner, and all persons who may now or hereafter acquire or hold mortgages describing and encumbering any of said lots or their assigns, as a covenant running with the said lands, which shall be binding upon Declarant and upon each and every person who shall acquire title within said real property from Declarant, and its successors and assigns, and upon each and every person who shall acquire or hold a mortgage encumbering any of said lots and their heirs, personal representatives, successors and assigns, forever, as follows:

### **ARTICLE I**

#### **NOVA VILLAGE**

**1.1** NOVA VILLAGE shall be comprised of the land described in Exhibit 1 to this Declaration as well as any other land which the Declarant may hereafter from time to

time subject to covenants and restrictions by Declaration the same or similar to this Declaration. All owners of property in NOVA VILLAGE shall automatically be members of the Association, shall have the use and enjoyment of the Common Properties established by the Declarations (subject, of course, to the provisions of the Declarations and the rules and regulations promulgated by the Association for the use thereof by its members) and shall be obligated for a share of the cost of constructing, operating and maintaining the Common Properties, all as hereinafter provided.

## **ARTICLE II**

### **DEFINITIONS**

**2.1** The following words when used in this Declaration shall have the following meanings:

- a. "Association" shall mean and refer to NOVA VILLAGE HOMEOWNERS' ASSOCIATION, a non-profit Florida corporation.
- b. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- c. "Declarant" shall mean and refer to the Declarant herein, its nominees or assigns.
- d. "Dwelling Unit" shall mean and refer to a single family residence to be used as a residence for a person or single family.
- e. "Deed" shall mean and refer to any deed conveying real property or any interest therein and any other instrument conveying or transferring or assigning the interest of an owner to another.
- f. "Improved Real Property" shall mean and refer to any parcel of land upon which a dwelling unit has been constructed.
- g. "Member" shall mean and refer to all those Owners who are members of the association.
- h. "The Properties" shall mean and refer to all such properties described in Exhibit 1 to this Declaration.
- i. "Common Properties" shall mean and refer to those portions of the Properties intended to be devoted to the common use and enjoyment of the members of the Association, as more particularly described in Exhibit 2, attached hereto and made a part hereof.

- j. "Lot" shall mean and refer to any plot of land included within the Properties intended to be improved with a Dwelling Unit or Dwelling Units.
- k. "Private Drive Easements" shall mean and refer to common access easements for ingress and egress as shown and described on Exhibit 3, attached hereto and made a part hereof.

### **ARTICLE III**

#### **DESCRIPTION OF THE LOTS AND COMMON PROPERTIES**

**3.1** Lots and Common Properties comprise the Properties which are described in Exhibit 1 to this Declaration.

### **ARTICLE IV**

#### **PROTECTIVE COVENANTS**

**4.1** The following covenants are hereby declared to constitute covenants running with the Properties, and shall be binding upon the undersigned, its successors and assigns, as well as upon persons claiming under it, and each and all subsequent purchasers, their heirs, personal representatives, successors and assigns:

**A. LAND USE: BUILDING TYPE AND SIZE: BUILDING LOCATION.**

No Lot shall be used except for residential purposes; provided, however, that temporary uses for model homes, parking lots and/or sales offices shall be permitted the Declarant until permanent cessation of such uses by Declarant takes place. In the event there is a cessation in utilities services and/or maintenance and/or repairs of fire hydrants, it shall be the responsibility of the Association to see to it that these services are provided and to contract for same on behalf of the Owners.

**B. EASEMENTS.** Easements for installation and maintenance of utilities are as may have been heretofore put of record or as may hereafter be put of record by recorded grant. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage any structure installed in accordance with said easement, or prevent the installation and maintenance of utilities in the utility easements. The easement area shall be maintained continuously by the Owner of the particular property subject to the easement, except for the installations for which a public authority or utility company is responsible. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utilities whose installation or maintenance caused the damage.

**C. PRIVATE DRIVE EASEMENTS.** Declarant has recorded certain easements for ingress and egress over the Properties, which easements provide for entrance upon the Properties by municipal service vehicles and by police, fire and other emergency vehicles providing services to the Properties and the Owners, as well as ingress and egress to the Properties for Owners and other parties enumerated in the same easement. It shall be the obligation of the Association to maintain the Private Drive Easements.

**D. NUISANCES.** No noxious or offensive activity shall be carried on upon the Properties, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood at any time. This includes but is not limited to loud noise by person(s), vehicle(s) or animal(s).

**E. TEMPORARY STRUCTURES.** No structures of a temporary character, trailer, basements, tent, shack, garage, barn or other outbuilding shall be permitted on any of the Properties or used on any of the Properties at any time as residence, either temporarily or permanently.

**F. SIGNS.** No sign of any kind shall be displayed to the public view in or around any Dwelling Unit except,

- (i) One (1) sign of not more than one (1) square foot used to indicate the name of resident, and
- (ii) One (1) sign of not more than five (5) square feet advertising the Dwelling Unit for sale or for rental. In addition, one (1) sign of not more than five (5) square feet advertising the Dwelling Unit for sale or rental shall be permitted along Nova Drive.
- (iii) One (1) sign only shall be permitted along Nova Drive to rent or sell a unit.
- (iv) A maximum of three (3) signs, no larger than 18X24 inches, may be used to advertise a yard sale. The sign must include only the words "yard sale," "garage sale," or "moving sale" and the unit address. The signs may be placed only on the front swale along Nova Drive, near the pool area, and at the entrance to the phase of the unit holding the sale. No signs may be attached to any Nova Village structures, trees, mailboxes, or phase pole signs. Signs may be displayed only on Saturdays and Sundays, and the owner is responsible for recovery and disposal of all signs immediately when sale is over.

**G. OIL AND MINING OPERATIONS.** No oil, drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be carried on upon or in the Properties, nor shall oil wells, tanks, tunnels, mineral

excavations or shafts be permitted upon or in the Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the Properties subject to these restrictions.

**H. LIVESTOCK, POULTRY AND WILDLIFE.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any of the Properties, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. The Association is not responsible for trapping and or removing the wildlife from the property (e.g. raccoons, ducks, opossums and cats).

**I. SEWAGE DISPOSAL.** No individual sewage disposal system shall be permitted on any of the Properties; provided that a central sewage disposal system is being operated in accordance with the requirements of the governmental regulatory body having jurisdiction over said central system.

**J. WATER SUPPLY.** No individual water supply system shall be permitted on any of the Properties except for use in air conditioners and sprinkler systems; provided that a central water supply system is being operated in accordance with requirements of the governmental body having jurisdiction over said central system.

**K. EXTERIOR APPEARANCES AND LANDSCAPING.** The paint, coating, stain and other exterior finishing colors on all buildings shall be maintained as that originally installed, without prior approval of the Association, but prior approval of the Association shall be necessary before any such exterior finishing color is changed. The landscaping, including without limitation, any trees, shrubs, lawns, flower beds, walkways and ground elevations located on a Lot shall be maintained as originally installed, any additional landscaping, including without limitation, trees, shrubs and flower beds by a lot owner, in good taste may be done without the consent of the Association.

**L. COMMERCIAL VEHICLES, TRUCKS, TRAILERS AND BOATS.** In order to maintain the high standards of the Properties with respect to residential appearance, no trucks or commercial vehicles, boats, house trailers, boat trailers, and trailers of every other description shall be permitted to park or be stored at any place on the Properties described herein, except only during periods of approved construction. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other commercial services, nor to the parking of commercial automobiles which the owner thereof also uses for family transportation and employment parked within a parking space or driveway.

- M. FENCES.** No fence, wall, hedge or other enclosure shall be erected on the Properties, except as originally approved and installed by the Declarant and except any subsequently approved by the Association.
- N. GARBAGE AND TRASH DISPOSAL.** No garbage, refuse, trash or rubbish shall be deposited on any portion of the Properties, except in designated receptacles; provided, however, that the requirements from time to time of Broward County, or the Town of Davie, for disposal or collection shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and out of public view except during trash collection times (between 8:00 p.m. of the night prior to regular trash pick-up and 9:00 p.m. of the day of trash pick-up).
- O. CLOTHESLINES.** No clotheslines or drying yards shall be erected, used or permitted to remain anywhere on the Properties.
- P. ACCESS TO LOTS.** Access from Lots and drive-ways by motor vehicle to dedicated roads shall be permitted only over Private Drive Easements.
- Q. CARE AND APPEARANCE OF PREMISES.** The structures and grounds on each parcel of improved real property shall be maintained in a neat and attractive manner.
- R. RESIDENTIAL PURPOSES.** Each Dwelling Unit shall be used for residential purposes only and not for commercial purposes.
- S. UNSCREENED AND SCREENED-IN PORCHES.** Each dwelling unit owner shall have the right to build an unscreened or a screened-in porch on each unit provided that all plans shall be approved by the Association and the owner complies with all municipal ordinances of the Town of Davie, including the application for and the granting of a building permit for construction thereof. All plans for patio construction, modification, enlargement, etc., must be submitted to the Board of Directors for NOVA VILLAGE for approval, prior to application for a permit from the Town of Davie. The size of porches, whether screened-in or unscreened, constructed after January 1, 1991, shall not exceed 12' x 29'. No wooden patios or other wooden structures will be permitted. Any screening used for patio enclosures must be black. Kickplates can be no larger than 36 inches. All construction of patio enclosures must be in aluminum. Only vinyl, acrylic or glass windows will be permitted in patio enclosures. The patios must be maintained in a neat and attractive manner. It is the express intention of the Dwelling Unit Owners of NOVA VILLAGE to maintain an appearance of uniformity within NOVA VILLAGE for aesthetic and valuation purposes. Failure to comply with the provisions of this Section shall result in suit brought by NOVA VILLAGE for injunctive relief and a claim for all costs and attorney's fees, including

appellate fees, incurred as a result of bringing and pursuing legal and equitable remedies.

- T. RENTAL OF UNITS.** No unit may be rented without the approval of the Board of Directors of the Association. A Unit Owner shall not lease the unit anytime within the first 24 months from purchase. Unit Owners who acquire title as a result of inheritance may lease the unit within the first 24 months of ownership. Unit owners seeking to lease their units must make application to the Board of Directors which shall then screen the application and/or interview the prospective renter. There shall be a FIFTY (\$50.00) DOLLAR charge for the application and screening process. All rentals must be pursuant to a written lease having a duration of at least one (1) year. However, with the approval of the Board of Directors, unit owners may lease each unit to as many as two (2) different renters in any one (1) calendar year. In addition, no lease may be renewed without the approval of the Board of Directors. The Association is to be given a fully executed copy of the original lease and a copy of any lease renewal. The Association shall be informed in writing of any lease renewal at least thirty (30) days prior to the renewal thereof. The unit owner or renter shall deposit with the Association the sum of THREE HUNDRED AND NO/100 (\$300.00) DOLLARS which sum shall be applied towards the repair of any damage to the common areas. Said deposit shall not bear interest, but shall be returned to the unit owner or renter when the unit is vacated if the renter has not caused any damage to the common area. A fine of TWO HUNDRED FIFTY AND NO/100 (\$250.00) DOLLARS shall be imposed upon any Unit Owner who violates the provisions of this Section, and said fine may be collected by the utilization of any or all of the remedies set forth in Article VII Section 7.2 of this Declaration for the collection of assessments. This section does not prohibit units from being transferred subject to a lease; however, the transferee receiving title is prohibited from renting the unit for a period of 24 months from the expiration of the existing lease.
- U. ALL LEASES TO REQUIRE ADDENDUM OF RULES AND REGULATIONS.** All leases by Owners to tenants of Dwelling Units, as defined in Article II, Declaration of Covenants and Restrictions for NOVA VILLAGE, shall contain an addendum comprised of the then effective Rules and Regulations for NOVA VILLAGE and shall make compliance with the same, a material term of the lease. Prior to approval of tenancy by the Board and prior to transfer of possession of the dwelling unit, lessee must sign the addendum stating that he has read and understood the Rules and Regulations and agrees to abide by them.
- V. PARKING.** Each townhome is assigned two parking spaces. No townhome resident may park in a guest spot. Guest spots are for guests only. All vehicles parked in front of single family homes must fit within the confines of the driveway. Cars may not be parked in the cul-de-sac or on the grass at any

time within the properties. No car that has an expired tag, or is in disrepair, or non-operable (including but not limited to flat tires, car damage, missing parts of the body) may be parked in the property at any time. Car covers may not be used to hide a vehicle that is in disrepair or is non-operable. Commercial vehicles, trailers and boats parked overnight anywhere within Nova Village will be towed at the owner's expense. When a homeowner has more vehicles than can fit in the driveway, the vehicles are to be parked around the lake in the direction of traffic flow, on the lakeside of the roadway, with all four tires on the pavement. The motor vehicle of any Owner or resident which is noted to be parked in violation of this covenant shall be towed, at the sole expense of the Owner or resident (including towing and any storage). Any charges incurred by the Association in connection with towing and/or storage due to improper parking shall become an assessment against the homeowner and subject to Claim of Lien and foreclosure if not paid in accordance with the By-Laws of the Association.

**W. NUMBER OF FAMILIES PER DWELLING UNIT.** No Dwelling Unit, as defined in Article II, Declaration of Covenants and Restrictions for NOVA VILLAGE, shall, at any time, be permanently occupied by one or more than one nuclear family. The nuclear family of a dwelling unit may have single relatives permanently residing with it and may have other nuclear families as "guests" temporarily visit it, however any stay by more than one nuclear family in excess of one (1) month, without prior written permission of the Board, will be considered in violation of this Covenant and Restriction. Violation will subject the owner to a fine as provided by 12.3 (A) Amendment to Declaration of Covenants and Restrictions and/or suit for injunction.

**X. NOTIFICATION TO NOVA VILLAGE BOOKKEEPER BY CLOSING AGENT OF SALE.** All Owners of Dwelling Units, as defined by Article II, Declaration of Covenants and Restrictions for NOVA VILLAGE, shall advise their closing agent, upon entry into contract for sale, to notify the NOVA VILLAGE bookkeeper so that (s)he may provide the new owner with copies of the then effective NOVA VILLAGE Articles of Incorporation, By-Laws, Declaration of Covenants and Restrictions and Rules and Regulations, plus all applicable Amendments thereto. The new owner shall be responsible, and shall be deemed to agree, to pay for the cost of duplicating the above. The cost, if not paid up front, shall become an assessment against the dwelling unit after title is transferred. If the new owner can demonstrate that the old owner has provided him with current copies of the aforementioned documents, the new owner need not pay for duplicates of the same.

**Y. DOGS.** Residents must abide by the Broward County Leash Laws. Dogs must be kept on a leash at all times when outside the resident's unit. Dog owners must remove any feces deposited by their dog(s) on any property within Nova Village except on the Owner's personal property. Under no



circumstances will residents be allowed to have pitbulls in Nova Village Homeowners' Association.

**Z. DOUBLE FRENCH DOORS.** Unit Owners may install double French doors in place of sliding glass doors or in place of the garage door without having to enclose said doors within a screened-in patio, provided all provisions of Article IX, ARCHITECTURAL CONTROL have been met prior to them being installed. In addition, each of the double French doors must be of the same size and each door must not exceed 6'8" in height nor 36" in width.

**AA. CAR REPAIRS** There will be no car repairs or maintenance and tune ups within Nova Village with the exception of any repair not requiring the car to be lifted up or with any fluids involved will be allowed (ex: washing, changing a light, windshield wipers, spark plugs, air filter or tire, etc.). However, nowhere on Nova Village property will any vehicle be allowed to be up on ramps, jacked up or worked on in the yard. If a homeowner's vehicle leaks fluid of any kind, a fine will be levied and the homeowner is responsible to have the leak properly cleaned up. If the Board feels that any car repair is a violation, a fine can be levied and if the homeowner does not cease the repairs immediately, the Board can tow the car from the property. No car will stay in disrepair for more than ten (10) days.

**BB. PAVERS.** Owners of single family homes may replace their asphalt driveways with pavers (traditional pavers, stamped concrete or thin pavers over concrete) at their own expense, provided the following criteria are met:

1. Permission must be requested from and given by the Board of Directors prior to any installation. Said permission must include a sample of the actual pavers that will be used and a copy of the survey for the property.
2. Only colors which coordinate with the pre-approved paint palette selection will be permitted.
3. Prior to initiation of construction, the owner must provide the Board with the Town of Davie permit number, in addition to the name and license number of the contractor doing the work.
4. Owners are responsible for maintaining the pavers, including, but not limited to replacing broken pavers, replacing pavers discolored by automobile fluids or other substances that stain the pavers, removing any weeds that grown between the pavers, and taking any other corrective action as directed by the Board.

## **ARTICLE V**

### **THE ASSOCIATION**

**5.1** The functions and duties of the Association, whose charter and by-laws are attached hereto as Exhibits 4 and 5 respectively, shall include:

- a) The maintenance and administration of the Common Properties of NOVA VILLAGE.
- b) The maintenance of the Private Drive Easements.
- c) The maintenance of utilities services and maintenance and/or repairs of fire hydrants in the event there is a cessation of these services as provided in Paragraph 4.1 A.
- d) The assessment of its Members for the purposes of defraying the costs of carrying out its functions and duties and to have such lien rights as may herein be provided for the purposes of securing payment of said assessments.
- e) The administration and enforcement of the covenants and restrictions affecting NOVA VILLAGE.
- f) The promulgation of rules and regulations for the use of the Common Properties of NOVA VILLAGE.
- g) To have and to exercise such other powers and duties as may be delegated to it under this and similar declarations, and the charter and by-laws of the Association, including the power to delegate to a management firm the performance of all or any part of its functions and duties.

**5.2** Every person or entity who is a record owner of any Lot or Dwelling Unit which is subject to covenants of 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.

**5.3** With respect to voting rights in the Association, Members shall be entitled to one (1) vote for each Lot or Dwelling Unit in which they hold the interest required for membership by Section 5.2. When more than one person holds such interest in any Lot or Dwelling Unit, all such persons shall be Members, and the vote for such Lot or Dwelling Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot or Dwelling Unit. For purposes of determining the votes allowed under this Section, when Dwelling Units are counted, the Lot or Lots upon which such Dwelling Units are situated shall not be counted.

## **ARTICLE VI**

### **THE COMMON PROPERTIES**

**6.1** The Common Properties, together with such other Common Properties as may have been heretofore, or as may hereafter from time to time be established by the Declarant by Declaration similar to this Declaration, shall comprise and constitute the Common Properties of NOVA VILLAGE.

**6.2** Subject to the provisions of Section 6.4, every Member of the Association shall have a right and easement of enjoyment in and to the Private Drive Easements and Common Properties of NOVA VILLAGE and such easement shall be appurtenant to and shall pass with the title to every Lot or Dwelling Unit.

**6.3** The Declarant may retain the legal title to any of the Common Properties established in this or any other similar declaration until such time as it has completed the construction of the improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same but, notwithstanding any provisions herein, the Declarant hereby covenants, for itself, its successors and assigns, that it shall convey the Common Properties of NOVA VILLAGE to the Association, free and clear of all liens and encumbrances, not later than January 31, 1986.

**6.4** The rights and easements of enjoyment created hereby shall be subject to the following:

- a) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties and Private Drive Easements against foreclosure;
- b) All provisions of this Declaration, any plat of all or any part or parts of the Properties, and the Articles and By-Laws of the Association;
- c) Rules and regulations adopted by the Association governing use and enjoyment of the Private Drive Easements and Common Properties;
- d) The right of the Association to suspend the voting rights and right to use of the Common Properties by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations; and
- e) The right of the Association to dedicate or transfer all or any part of any and all of the Private Drive Easements and/or Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members and applicable government authorities. Such dedication shall be subject to acceptance by such public agency, authority or utility.

No dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Members agreeing to such dedication or transfer has been recorded.

## **ARTICLE VII**

### **COVENANTS FOR ASSESSMENTS**

**7.1** From and after the first day of the month succeeding the month in which this Declaration is recorded among the Public Records of Broward County, each Owner of any Lot or Dwelling Unit located on the Properties shall be deemed to covenant and agree to pay to the Association, for each Lot or Dwelling Unit owned by such Owner (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided; except that Declarant shall have the right, at its sole discretion, to fully or partially excuse any developer of improved real property (including itself) from the payment of assessments until such time as the Dwelling Unit built by him for resale or rental shall first be sold or rented. Owners of Dwelling Units shall pay assessments for each Dwelling Unit owned.

**7.2** If the assessments are not paid on the date when due, such assessment shall then become delinquent, and shall, together with such late fees thereon and cost of collection thereof, thereupon become a continuing lien on the Lot that shall bind such property in the hands of the Owner, his heirs, devisees, personal representatives, and assigns, and shall also be the continuing personal obligation of the Owner against whom the assessment was levied.

If the assessment is not paid within twenty (20) days of the due date, (the date such assessment was due as fixed by the Board of Directors of the Association), a \$25 late fee will be added to the assessment.

If the assessment is not paid within 30 days after the due date the Association may at any time thereafter bring an action to foreclose the lien against the Lot in like manner to a foreclosure of a mortgage on real property and/or a suit on the personal obligation against the owner. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action (including reasonable attorney's fee); and in the event a judgment is obtained, such judgment shall include a reasonable attorney's fee to be fixed by the Court, together with the cost of the action.

**7.3** If an assessment becomes delinquent as defined above, and late charges, attorney's fees and costs are assessed in accordance with provisions contained in the By-Laws and Declaration of Covenants and Restrictions of Nova Village Homeowners' Association, Inc., payments subsequently received from the Owner shall be applied as follows:

- a. First to late fees;
- b. Second to attorney's fees;
- c. Third to other costs associated with the assessment;
- d. Fourth to delinquent maintenance;
- e. Fifth to current maintenance.

**7.4** 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 NOVA VILLAGE and in particular for the maintenance of the property, services and facilities devoted to the purpose and related to the use and enjoyment of the Common Properties of NOVA VILLAGE including but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

**7.5** The assessment established herein to be paid by each owner for each Lot or Dwelling Unit that he owns shall be a fixed obligation whether or not the Owner or occupant of the particular Dwelling Unit for which the assessment is payable uses the Common Properties.

**7.6** The Board of Directors of the Association shall fix the assessments, which shall be in amounts determined in accordance with the projected financial needs of the Association, as to which the decision of the Board of Directors of the Association shall be dispositive.

**7.7** All regular and special assessments shall be fixed at a uniform rate for each Lot, however, the Board of Directors, in its sole discretion and by a majority vote, may waive late fees and interest upon submission by the Owner against whom the same are levied of a Hardship Affidavit and other reasonable evidence of inability to pay the same, the credibility of which shall be determined in the sole discretion of the Board of Directors. In no event shall the regular and special assessments (other than late fees and interest) be waived.

**7.8** The assessments provided for herein shall commence on the date or dates (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement and the due date of any assessment. The Assessments shall be payable in advance in one payment or in monthly or quarterly installments if so determined by the Board.

**7.9** The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least 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. Written notice of the assessment shall be sent to every Owner subject thereto not later than 7 days after fixing the date of commencement thereof.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate, in writing, signed by an officer of the Association, 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.

**7.10** The lien of the assessment provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to assessments provided that said mortgage is held by a recognized institutional lender such as a bank, savings and loan association, insurance company, real estate investment trust, mortgage company, or the loan correspondent for any of the foregoing, and the Association does hereby subordinate the lien of the assessments to the lien of such institutional lender. Where the institutional lender or other purchaser of the property subject to the lien obtains title to the property as a result of foreclosure, or where the institutional lender accepts a deed in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the assessments chargeable of title as a result of the foreclosure or the acceptance of such deed in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

**7.11** The Board of Directors of the Association shall have the right to exempt property subject to this Declaration from the assessments, charges or liens created herein if such property is used (and as long as it is used) for any of the following purposes:

- a. Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- b. The Private Drive Easements and Common Properties as defined in Article I hereof and
- c. All properties exempted from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Association.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens other than exemptions for interest and late charges as specified above for documentable hardship. Any Owner of any exempted property other than from interest and late charges, shall not have any membership rights or obligations with respect to the exempted property as long as the property is exempted.

## **ARTICLE VIII**

### **PARTY WALLS**

**8.1** Each wall or part thereof which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the lines shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

**8.2** Roofs covering more than one contiguous dwelling Unit shall constitute “common roof areas” and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding common roof areas and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

**8.3** The cost of reasonable repair and maintenance of a party wall and/or common roof areas shall be shared by the Dwelling Unit Owners who make use of the wall and/or common roof area in proportion to such use.

**8.4** If a party wall and/or common roof area is destroyed or damaged by fire or other casualty, any dwelling unit owner who has used the party wall and/or common roof area may restore it and if the other dwelling unit owners, or their successors in interest, thereafter make use of the party wall and/or common roof area, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such dwelling unit owner to call for a larger contribution from the others under any rule regarding liability for negligent or willful acts or omissions. In order for the contribution provisions contained herein to apply, any dwelling unit owner who undertakes repair of a party wall and/or common roof area must, prior to hiring a contractor for repair, obtain three (3) independent bids on the job and must accept the most reasonable bid for the quality of work offered.

**8.5** Any owner of dwelling units sharing a party wall and/or common roof area in need of repair and/or restoration and/or painting shall grant reasonable access to other owners sharing the party wall and/or common roof area for the purpose of making necessary repairs, restorations and or painting.

**8.6** Notwithstanding any other provision in this Article, a dwelling unit owner who, by his negligent or willful act, causes the party wall or common roof area to be exposed to the elements shall bear in whole the cost of furnishing the necessary protection against such elements.

**8.7** The right of any dwelling unit owner to contribution from any other such owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

**8.8** In the event of any dispute arising concerning a party wall and/or common roof area, 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 the majority of all the arbitrators shall be final and conclusive of the questions involved.

## **ARTICLE IX**

### **ARCHITECTURAL CONTROL**

**9.1** No building, fence, wall, hedge 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 Board of Directors of the Association. In the event the Board of Directors fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with, provided that the resident can show proof (e.g. certified mail, return receipt requested) that said plans and specifications were submitted to the Board. In all cases, any Owner who receives Board approval for such changes is responsible for maintaining a copy of the approval notice and passing it on to any subsequent Owner of the Unit for which the approval was granted.

## **ARTICLE X**

### **COVENANT FOR MAINTENANCE**

**10.1** The Association shall at all times maintain the Private Drive Easements and Common Properties in good condition and repair.

## **ARTICLE XI**

### **EXTERIOR MAINTENANCE**

**11.1** In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

**11.2** In order to maintain the appearance and re-sale value of NOVA VILLAGE, periodic painting of all residences will be required, at a minimum, once every ten (10) years beginning in 2000 unless the Architectural Committee determines the house needs painting. Said painting will be at the expense of the homeowner of each Dwelling Unit, as defined in Article II, Declaration of Covenants and Restrictions for NOVA VILLAGE. Dwelling Unit Owners who can demonstrate that they have painted within two years of a regularly scheduled painting of all residences, will be exempt upon petition to the Board of Directors for NOVA VILLAGE. When repainting, the only permissible colors will be



earth tones, and each grouping of attached townhomes and villas must be painted in one (1) uniform color. In the event that the Dwelling Unit Owners cannot agree on one (1) color, the majority will prevail with Board approval. Any dwelling unit owner or group of same wishing to change the original color of paint, must submit the paint choices to the Board for approval. Failure to do so may, in the reasonable discretion of the Board, subject the Dwelling Unit Owner to a fine, pursuant to 12.3(A) - Amendment to Declaration of Restriction and Covenants for NOVA VILLAGE or may, at the election of the Board, allow it to contract for repainting at the expense of the Owner.

## **ARTICLE XII**

### **GENERAL PROVISIONS**

**12.1** The covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of and be enforceable by the Association, the Owner of any land subject to this Declaration and any other person named herein and accorded rights hereunder, their respective legal representatives, heirs, successors and assigns, for a term ending forty (40) years from the date hereof, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless the Owners of two-thirds (2/3) of the Lots or Dwelling Units in NOVA VILLAGE subject to assessment agree to change said covenants and restrictions in whole or in part and said changes are evidenced by instrument recorded amongst the Public Records and executed by the appropriate officers of the Association which instrument shall also contain a certification by the members of the Board of Directors of the Association that the requisite Owner approval has been secured. For purposes of meeting the two-thirds requirement, when Dwelling Units are counted, the Lot or Lots upon which Dwelling Units are situated shall not be counted. Provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of the meeting at which such proposed agreement is to be considered for adoption.

**12.2** 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, postage prepaid, 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.

**12.3** 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 restrictions, 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, any Owner or any other person named herein and accorded rights hereunder, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**A. ADDITIONAL ENFORCEMENT** Every unit owner and approved lessee shall comply with any and all rules and regulations which from time to time

may be adopted and/or amended by the Board of Directors of the Association, and the provisions of this Declaration, the By-Laws and the Articles of Incorporation of the Association, all as amended from time to time. Failure of a unit owner or approved lessee to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. In addition to all other remedies cited above, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon a unit owner or approved lessee for the failure of a unit owner, or approved lessee, or their family members, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation set forth herein, or in the Articles of Incorporation or in the By-Laws, or in those rules and regulations as may be from time to time adopted and/or amended, provided the following procedures are adhered to:

1. Fines. The Board of Directors may levy reasonable fines, not to exceed \$100 per violation, against any member or any tenant, guest, or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed the maximum allowed by law.
2. Notice. A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a Fine Appeals Committee consisting of at least three members appointed by the board who are not officers, directors, or employees of the association of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. Included in the notice shall be the date and time of the next Board of Directors' meeting, at which time the unit owner or approved lessee may appeal the imposition of the fine or suspension. At such meeting, the unit owner or approved lessee shall be entitled to be represented by counsel (at his or her expense) and cross examination and present witnesses and other testimonial evidence. This unit owner or approved lessee may present the appeal in writing, as long as the appeal is received by the Board of Directors seven (7) days prior to the date of the hearing.
3. Hearing. Formal rules of evidence shall not apply during the hearing. If the Appeals Committee, by majority vote, dismisses the fine or suspension, it may not be imposed by the Board of Directors. A written decision of the Fine Appeals Committee shall be sent by the Board of Directors to the unit owner or approved lessee not later than twenty-one (21) days after the hearing.
4. Payment of Penalties. The fine shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties. If a fine is appealed and upheld, the fine must be paid within seven (7) days of

notification of the Fine Appeal Committee's decision and not later than thirty (30) days after the original notice of the fine.

5. Collection of Fines. The fine shall be treated as an assessment subject to the provisions for the collection of assessments, including the imposition of late fees, as set forth in Article VII of the Declarations. Late fees imposed because of non-payment of a fine shall take effect as of the due date of the fine and accumulate every thirty (30) days thereafter.

**12.4** 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.

**12.5** This Declaration may be amended at any time and from time to time upon the execution and recordation of an instrument executed by Owners holding no less than one-half (1/2) of the voting interest of the membership, provided that so long as the Declarant is the Owner of any Lot or any property affected by this Declaration or amendment, such amendment shall not affect or impair the rights of the Declarant hereunder.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed in its name by its proper officer and its corporate seal to be hereunto affixed the day and year first above written.

Signed, Sealed and Delivered  
In the presence of:

NOVA VILLAGE, INC.  
a Florida corporation

\_\_\_\_\_/S/\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_/S/\_\_\_\_\_  
Wallace R. Brady, President

STATE OF FLORIDA   )  
                                  )   SS:  
COUNTY OF DADE    )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of January, 1979 by Wallace R. Brady, as President of Nova Village, Inc., a Florida corporation, on behalf of the said corporation.

My Commission Expires:

\_\_\_\_\_/S/\_\_\_\_\_  
Notary Public, State of Florida

FOR GOOD AND VALUABLE CONSIDERATION, the receipt whereof is hereby acknowledged, NOVA VILLAGE HOMEOWNERS ASSOCIATION, INC, a Florida corporation not for profit, hereby agrees to and does accept all of the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed in its name by its proper officer and its corporate seal to be hereunto affixed this 30th day of January, 1979.

Signed, Sealed and Delivered  
In the presence of:

NOVA VILLAGE, HOMEOWNERS'.  
ASSOCIATION, INC.  
a Florida non-profit corporation

\_\_\_\_\_/S/\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_/S/\_\_\_\_\_  
Wallace R. Brady, President

STATE OF FLORIDA   )  
                                  )   SS:  
COUNTY OF DADE    )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of January, 1979 by Wallace R. Brady, as President of Nova Village Homeowners' Association, Inc., a Florida non-profit corporation, on behalf of the said corporation.

My Commission Expires:

\_\_\_\_\_/S/\_\_\_\_\_  
Notary Public, State of Florida