

21971

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

VILLAGES OF SHERWOOD FOREST, A PLANNED UNIT DEVELOPMENT

FOR LEGAL DESCRIPTION SEE EXHIBIT "A"  
AT - 78573B11  
+  
EXHIBIT "C"  
AT - 78 573 D01

This Instrument Prepared By:

Hans H. Soltau, Attorney at Law  
367 West Second Street  
Dayton, Ohio 45402

JOE D. PEGG  
RECORDER

OCT 10 9 43 AM '78

MONTGOMERY CO., OHIO  
RECORDED

OCT 10 1978

OCT 10 1978

NO TRANSFER NEEDED  
ROBERT L. RODERER  
COUNTY AUDITOR

78 573A01

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## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION creating covenants, conditions and restrictions, made on the date hereinafter set forth, by SPRING BROOK DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as "Declarant".

### RECITALS

A. Declarant is the owner of the real property described in "Exhibit A" hereof and it is the desire and intention of the Declarant to develop such property as a residential community consisting of patio homes and/or townhouses, together with tennis courts, green space, open land, driveways, parking, streets and other recreational areas.

B. Declarant is also the owner of the real property described in "Exhibit C" hereof, and contemplates submitting such property to the provisions of the Declaration, by an amendment or amendments hereto.

C. Declarant desires to establish a plan of covenants, conditions, restrictions and private assessments to provide for the preservation of the values and amenities in the real property described in "Exhibit A" hereof. To these ends Declarant is making this Declaration, and has caused to be formed an Ohio not-for-profit corporation named Villages of Sherwood Forest Homeowners' Association, Inc., to own the Common Area and to enforce and administer the provisions hereof.

### DECLARATIONS

NOW, THEREFORE, Declarant hereby declares that all of the real property described in "Exhibit A" hereof, and any additional property to be added to this plan as hereinafter provided, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions and assessments, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of such property. These easements, covenants, conditions, restrictions and assessments, unless otherwise specifically limited herein, shall run with such property submitted hereby, and any additions thereto, and shall be binding on all parties having or acquiring any right, title or interest in the real property described in "Exhibit A" hereof or any part thereof and additions thereto, and shall inure to the benefit of each owner of any part thereof.

#### 1. DEFINITIONS.

The following terms used herein are defined as follows:

A. Articles, shall mean and refer to the Articles of Incorporation of the Association.

B. Association, shall mean and refer to Villages of Sherwood Forest Homeowners' Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

which time the new Owner automatically shall become a Member of the Association. When more than one (1) person is an Owner of a Lot, all such persons shall be Members.

C. Voting Rights. Each Owner shall be entitled to one (1) vote in the affairs of the Association, regardless of the number of Lots owned by that Owner. If such Lots are owned by more than one (1) person, each such person shall have a fraction of a vote equal to his, her or its undivided interest in that Lot.

D. Administration of Property. The administration of the Property shall be in accordance with the provisions of this Declaration, the Articles and the By-Laws. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, the Articles, and the By-Laws, decisions and resolutions of the Association or its representative, and failure to comply with such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief.

E. Board of Trustees. The Board of Trustees, elected as provided by the By-Laws, shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Articles, the By-Laws and by this Declaration upon the Association, except as otherwise specifically provided; provided, however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by, or vested in, a member of the Board of Trustees, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of this Declaration, the Articles and the By-Laws.

F. Declarant's Rights. For a period of five (5) years after the recording of this Declaration for record with the Recorder of Montgomery County, Ohio, or until such time as the sale of seventy-five percent (75%) of all Dwelling Units contemplated in Item 16, Section B of this Declaration, to Owners, other than a Builder, have been consummated, whichever first occurs, the powers, rights, duties and functions of the Association shall be exercised by a Board of Trustees selected by Declarant, with at least two (2) of the persons so selected being Owners, other than Declarant, its agents or representatives.

G. Delegation of Authority. The Association may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority to a managing agent shall be evidenced by a written agreement which shall be (a) terminable by the Association for cause on fifteen (15) days written notice thereof, and (b) not to exceed a term of one (1) year, renewable by agreement of the parties for successive one (1) year periods.

#### 4. COMMON AREA.

A. Conveyance. Declarant agrees that within ninety (90) days after the first Lot has been conveyed to any Owner, other than a Builder, that it will convey the Common Areas to the Association free and clear of all liens and encumbrances except general real estate taxes and assessments not then due and payable, and to those exceptions and restrictions contained in Section D of this Item 4. } no D in Item 4

B. Reservation. For such period of time as Declarant controls the Association pursuant to the provisions of Item 3, Section F hereof, Declarant reserves the right, but assumes no obligation to construct or erect such additional improvements on or to the Common Area, as it in its sole discretion determines.

C. Tennis Courts. The tennis courts as constructed on the Common Area, and any additional courts which may be constructed on the Common Area by the

F. Tie-In Easements. Declarant reserves the right and easement over, on and under the Common Area and to any Lots, to use, tie into and extend all existing utility lines for purposes of serving additional property which may be submitted to this Declaration as hereinafter provided.

G. Service Easements. An easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all other similar persons, and to the local governmental authorities, but not the public in general, to enter upon the Common Area in the performance of their duties.

H. Easements Shall Run With Land. All easements and rights described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee and any other person having an interest in the Property, or any part or portion thereof. Failure to refer specifically to any or all of the easements described in this Declaration in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation shall not defeat or fail to reserve said easement but same shall be deemed conveyed or encumbered along with the Lot.

I. Access to Tennis Courts. Any Owner or resident of either Whispering Woods Village Condominium or Willow Green Village Condominium who elects to use the tennis courts on the Common Area shall have the right to enter upon the Common Area for the purpose of using such tennis courts.

#### 6. ASSESSMENTS.

A. Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments, (2) common Lot assessments, and (3) special individual Lot assessments, such assessments to be established and collected as hereinafter provided. The annual, common and special assessments, together with interest and costs shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made as provided for in Item 7 hereof. Each such assessment, together with interest and costs, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due.

B. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property, and for the maintenance and improvement of the Common Area, and the enforcement of these restrictions. The assessments shall include without limitation the following expenses:

- (1) Maintenance and repair of the Common Area.
- (2) Taxes and assessments on the Common Area.
- (3) Water, sewer, electricity, telephone or any other utility service as may be provided to the Common Area.
- (4) Acquisition of furnishings and equipment for the Common Area.
- (5) Insurance premiums for insurance obtained by the Association pursuant to the provisions of Item 12 hereof.

G. Failure to Prepare Annual Budget. The failure or delay of the Association to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined. In the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period until the first monthly maintenance payment which occurs more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

H. Books and Records of the Association. The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Area and other common receipts and expenses, together with records showing the allocation, distribution and collection of the common profits, losses and expenses among and from the Owners; minutes of the proceedings of the Owners and Board of Trustees. Such books and records shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at reasonable times and upon request by an Owner. If by terms of a first mortgage an Owner has authorized such mortgagee to inspect such books and records, the presentation to the Secretary of the Association by a representative of such mortgagee of a copy of the mortgage containing such authorization shall constitute written authorization of such inspection. Upon ten (10) days notice to the Board of Trustees and upon payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

I. Commencement of Assessments. The assessments shall begin with respect to each Lot upon the conveyance of title to such Lot by Declarant to an Owner other than Declarant or a Builder.

J. Declarant's Obligation to Pay Assessment. Notwithstanding any provision hereof, Declarant shall have no obligation to pay assessments for the Lots owned by it except that it will pay to the Association a monthly amount equal to the difference between the actual operating expenses of the Association and the aggregate of the assessments paid by the Owners, other than Declarant, Declarant's obligation to pay said deficiency shall cease when it relinquishes control of the Board of Trustees at which time Declarant shall pay the assessment for each Dwelling Unit owned by it and any Builder who is not then obligated to pay the assessment pursuant to Section K of this Item.

K. Builder's Obligation to Pay Assessment. The assessments for any Builder shall begin with respect to each Lot owned by him upon the issuance by the appropriate officials of a certificate of occupancy to the Dwelling Units constructed on such Lot or Lots.

L. Common Lot Assessment. In addition to the annual assessment, the costs of the following items are a common Lot assessment and notwithstanding any provision hereof, the Association shall maintain complete records and include such assessments under a separate category within their budget.

- (1) The cost of utilities or services to any group of Lots which may be serviced by a common meter.
- (2) The cost of insuring a Dwelling Unit pursuant to Item 11 hereof,

Said common Lot assessment shall be payable, in addition to the annual assessment, at such time and at such intervals as may be determined by the Association.

E. Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Lot other than a conveyance in lieu of foreclosure, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Lot for his share of the assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee and his mortgagee shall be entitled to a statement from the Board of Trustees of the Association setting forth the amount of all unpaid and current assessments against the grantor due the Association, and such grantee shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

#### 8. ARCHITECTURAL CONTROL.

No building, fence, wall, or other structure shall be commenced, erected, or maintained on the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, color, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees, or by an architectural committee composed of three (3) or more representatives appointed by the Board of Trustees. In the event said Board of Trustees, or its designated committee, 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 Item will be deemed to have been fully complied with.

#### 9. USE RESTRICTIONS.

A. Use. The Property shall be used for residential purposes and for no other purpose except for purposes reserved to Declarant herein and except as herein specifically provided otherwise. It shall be expressly permissible for Declarant or Builder to maintain during the period of its sale of Lots upon those portions of the Property as it deems desirable, those facilities it deems reasonably required, convenient or incidental to the construction and sale of Lots or Dwelling Units, and improvements thereof, including, without limiting the generality of the foregoing, a sales office, storage area, models and parking areas.

B. Rental. No Lot or any Dwelling Unit thereon shall be rented or leased unless (1) the lease or rental agreement is in writing, (2) the lease or rental agreement is for a term of at least one (1) year in duration, and (3) the lease or rental agreement specifically provides that the terms of the lease or rental agreement and of the tenancy thereby created shall be subject in all respects to the terms of this Declaration, the Articles and the By-Laws, and any failure to comply therewith shall be a default under the lease or rental agreement. The Owner of any Lot shall provide the Association with a copy of any lease or rental agreement entered into for the lease or rental of any Dwelling Unit, prior to the commencement of such lease or rental term.

C. Exterior of Lots. Nothing shall be permitted to be hung, displayed or stored on the outside of windows or placed on the outside walls of a Dwelling Unit or on the exterior walls of patios, or otherwise outside of a Unit or any part thereof, except in enclosed patios, and no sign, awning, canopy, shutter, radio or television antenna or any other device or ornament shall be affixed to or placed upon the exterior walls, roof or the exterior patio walls, or otherwise on the Lot areas visible to the public, other than originally provided by Declarant or as authorized by the Board of Trustees, or its committee as hereinbefore provided.

L. Water Supply. No individual water supply system shall be permitted on any Lot.

M. Sewage Disposal. No individual sewage disposal system shall be permitted on any Lot.

N. Rules and Regulations. The Board of Trustees of the Association may establish and enforce rules and regulations as to the use of the Common Area, and the same is promulgated from time to time, shall be enforceable in the same manner and to the same extent as other restrictions herein.

O. Arbitration. In the event of any dispute between Members as to the application of these restrictions or any rule or regulation to any particular circumstance, the party aggrieved shall submit a complaint in writing to the Board of Trustees specifying the dispute. The Board of Trustees shall set a time, date and place for hearing thereon within twenty (20) days thereafter, and give written notice to the party thereof no less than three (3) days in advance. The Board of Trustees shall thereupon hear such evidence on the dispute as the Board deems proper and render a written decision on the matter to each party within thirty (30) days thereafter. No action of law may be instituted by the party to such dispute unless arbitration pursuant hereto has first been had.

#### 10. MAINTENANCE.

A. Association. The Association shall maintain and repair the Common Area, and all parts thereof, including but not limited to swimming pool, tennis courts, drives, streets, utility facilities, lawns, shrubs, trees, pathways and walkways.

B. Lots. Maintenance and repair of all improvements on a Lot are to be maintained and repaired by the Owners. In the event an Owner shall fail to maintain his Lot and improvements situated thereon, to such an extent that in the opinion of the Board of Trustees, the conditions require maintenance, repair or service for purposes of protecting the public safety of residents in or visitors to the Property, or in order to prevent or avoid damage to or destruction of any part, portion, or aspect of the value thereof, the Association shall have the right, upon approval of the majority of the Board of Trustees, to enter upon that Lot and maintain, repair or service the same. The cost of such maintenance, repair or service shall be added to and become a special individual Lot assessment, chargeable to the Lots they maintain, repaired or serviced.

#### 11. HAZARD INSURANCE.

A. Fire and Extended Coverage Insurance. The Association shall obtain and maintain for the benefit of all Owners and mortgagees insurance on all Dwelling Units constructed on the Lots within the Property, against loss or damage by fire, lightning and such perils as are at this time comprehended within the term "extended coverage" with no co-insurance and in an amount not less than one hundred percent (100%) of the replacement value thereof. In the event such policy contains co-insurance provisions, such policy shall contain an agreed amount endorsement. Such insurance shall be written in the name of, and the proceeds thereof shall be payable to the Insurance Trustee, as hereinafter defined, as Trustee for each of the Owners and mortgagees for the purposes hereinafter set forth. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Such policy shall provide coverage for built-in installed fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement value thereof and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Owner as hereinafter permitted.

to Section E of this Item 11 shall elect to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

C. Insufficient Insurance. In the event the Dwelling Units constructed on the Lots within the Property, shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction thereof, unless the Owners shall within ninety (90) days after such damage or destruction, they are entitled to do so pursuant to Section E of this Item 11, elect to withdraw the Property from the provisions of this Declaration, such repair, restoration or reconstruction of the Dwelling Units so damaged or destroyed shall be undertaken by the Association at the expense of all the Owners of the Units in the same proportions in which they shall share in the annual assessments. Should any Owner refuse or fail after reasonable notice to pay his share of such cost in excess of available insurance proceeds, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Owner and such assessment shall have the same force and effect, and if not paid, may be forced in the same manner as hereinbefore provided for the non-payment of assessments.

D. Procedure for Reconstruction or Repair. Immediately after a casualty causing damage to any Dwelling Unit constructed on a Lot within the Property, the Association shall obtain reliable and detailed estimates of the cost to place the damaged Property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Trustees deems necessary.

The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of special assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Dwelling Units from time to time as the work progresses, but not more frequently than once in any calendar month. Such Trustee shall make such payments upon the written request of the Association, accompanied by a certificate, dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work, who shall be selected by the Association, setting forth (1) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate, (2) that except for the amounts stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of vendors, mechanics, materialmen or similarly arising from such work, and (3) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such cost of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged Property is to be reconstructed or repaired.

No excavation shall be made, no structure shall be erected nor shall any materials be stored upon any Lot or part of the Property by any Builder or Owner until two (2) sets of the complete building plans and specifications for the structure or structures intended to be erected thereon, containing such information as Declarant may require in its design requirements, shall have been submitted in writing to Declarant, and plans and specifications shall have been approved in writing by Declarant. Upon approval of such plans and specifications, Declarant shall return one (1) copy thereof to the Builder or Owner together with a certificate of approval thereof. If Declarant fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted, such plans and specifications shall be deemed to have been approved and the requirements herein fulfilled. All construction work commenced on the Property shall be completed within a reasonable time after the start of construction, in accordance with the plans and specifications approved by Declarant.

#### 15. PARTY WALLS.

A. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Dwelling Units upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Item, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

C. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, an Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use of the wall, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

D. Weatherproofing. Notwithstanding any other provision of this Item, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Right to Contribution Runs With Land. The right of any Member to contribute from any other Member under this Item shall be appurtenant to the land and shall pass to such Owner's successors in title.

F. Arbitration. In the event of any dispute arising, concerning a party wall, or under the provisions of this Item, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

#### 16. ANNEXATION.

A. Contemplated Annexation by Declarant. Declarant is the owner in fee simple of the real property described in "Exhibit C", and contemplates constructing thereon additional Dwelling Units and reserving certain portions of it for green space, open areas, parking and other recreational lands. The residential structures are to be

by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or now or hereafter imposed by or through the Association's rules and regulations. Failure by Declarant, the Association or by any Member to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. The Association shall not deliberately refuse to enforce the provisions hereof or discontinue operations, or attempt to terminate its operations without giving thirty (30) days prior written notice to all of the holders of first mortgage liens on Lots.

C. Notice to Mortgagees. Notwithstanding any other provisions hereof, the Association shall notify the holder of the first mortgage lien on the Lot, in writing, of any default by the Owner of such Lot in performance of that Owner's obligations under this Declaration, the Articles or the By-Laws which is not cured within thirty (30) days.

D. Amendment. Except as hereinafter provided, this Declaration may be amended only with the approval of Members exercising not less than seventy-five percent (75%) of the voting power of the entire membership. Notwithstanding the foregoing, Declarant hereby reserves the right and power, and each Member by acceptance of a deed to a Lot is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with title to a Lot and is irrevocable for a period of two (2) years from the date hereof, to amend this Declaration and to execute any and all documents deemed necessary or desirable by Declarant to conform to requirements of any lending institution in order to issue a mortgage loan, or in order to correct any typographical or scrivener errors.

E. Partition. There shall be no judicial partition of the Common Area, nor shall Declarant, or any Owner or any person acquiring any interest in the Property or any part thereof, seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of any Lot owned in co-tenancy.

F. Severability. In validation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in any way affect any other provisions which shall remain in full force and effect.

G. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, or individuals, male or female, shall in all cases be assumed as though in each case fully expressed herein.

H. Captions. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

I. Taxes, Assessments and Charges. The first mortgagee of any Lot, either singly or jointly with other holders of first mortgages on any Lot, at its or their option, may pay taxes, real estate assessments or other charges which are in default and which may or have become a charge against the Common Area. The funds so advanced shall be deemed to have been loaned to the Association; shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Property; and shall be due and payable to the mortgagee by the Association immediately. The repayment of said obligation shall be

"EXHIBIT A"

- A. The following is a legal description of the real property subject to the Declaration.

Situate in the City of West Carrollton, County of Montgomery, and State of Ohio and being Lots Numbered 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4025, 4026, 4027, 4028, 4029, 4030, 4031, 4032, 4033, 4034, and 4038 of the revised and consecutive by numbered lots of the City of West Carrollton, Ohio.

- B. Dwelling Unit Lots. With the exception of Lot 4038, the Dwelling Units shall be, or are, constructed on those lots listed in Section A above or in any re-plat or re-plats of those lots.

(d) To borrow money and, with consent of two-thirds of its members, to mortgage, deed and trust, hypothecate or otherwise encumber any and all of its real estate or personal property as security for money borrowed or debts incurred.

(e) To dedicate, sell or transfer all or any part of the real estate it owns to any public agency, authority or utility for such purposes and subject to the conditions as may be approved by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds of the members agreeing to such dedication, sell or transfer. Provided, however, that the foregoing is not intended to limit the Board of Trustees and officers of the corporation to grant easements, licenses and the like as may be necessary or convenient to the use of its property.

(f) To participate in mergers and consolidations with other non-profit corporations organized for the same or similar purposes, provided that such merger or consolidations shall have the consent of two-thirds of its members.

(g) In generally, to exercise the powers and authorities set forth in the Declaration and By-Laws of the corporation which are recorded in the Deed Records of Montgomery County, Ohio, said Declaration and By-Laws being incorporated herein as if set forth at length; and to have and to exercise all powers, rights and authority granted to non-profit corporations under Chapter 1702 of the Ohio Revised Code.

FIFTH: The members of the corporation shall be the owners of any lot on which dwelling units are to be constructed, or are constructed, on the property subjected to the aforesaid Declaration.

SIXTH: The following persons shall serve said corporation as Trustees until the first annual meeting or other meeting called to elect Trustees.

Alex Simms

24 North Jefferson  
Dayton, Ohio 45402

Lois K. Sparks

24 North Jefferson  
Dayton, Ohio 45402

BY-LAWS

OF

VILLAGES OF SHERWOOD FOREST  
HOMEOWNERS' ASSOCIATION, INC.

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU  
Attorney-at-Law  
YOUNG & ALEXANDER  
367 West Second Street  
Dayton, Ohio 45402

- 78 573C03 -

F. Proxies. Votes may be cast in person or by proxy. The person appointed as proxy need not be an Owner. Proxies must be in writing and filed with the Secretary of the Association before the appointed time of each meeting or action taken. Unless otherwise provided, all proxies shall be revocable at any time by delivering written notice of such revocation to the Secretary of the Association. If by the terms of a first mortgage an Owner has designated such mortgagee as his proxy, the presentation to the Secretary of the Association by representative of such mortgagee of a copy of the mortgage containing such proxy designation shall constitute notice of such proxy designation, and if the mortgage so states, notice of the irrevocability of such designation.

G. Place of Meetings. Meetings of the Association shall be held at such place upon the Property as may be designated by the Board of Trustees and specified in the notice of the meeting at 8:00 p.m., or at such other time as may be designated by the Board of Trustees specified in the notice of the meeting.

H. Annual Meeting. The first annual meeting of Members of the Association shall be held within one (1) month after the date on which the Declarant relinquishes control of the Association as provided for in Item 8, Section A hereof. Thereafter, the annual meeting of the Association shall be held in each succeeding year thereafter, on the third (3rd) Tuesday of March, if not a legal holiday and, if a legal holiday, then on the succeeding business day.

I. Special Meetings. It shall be the duty of the President of the Association to call a special meeting of the Owners as directed by resolution of the Board of Trustees or upon a petition signed by a majority of the Owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the Owners present, either in person or by proxy.

J. Notice of Meeting. It shall be the duty of the Secretary of the Association to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Owner of record, at least fourteen (14) days but not more than twenty-eight (28) days prior to such meeting. The Owners of record will be determined as of the day preceding the day on which notice is given.

K. Waiver of Notice. Notice of the time, place and purposes of any meeting of Members of the Association may be waived in writing, either before or at the commencement of such meeting, by any Members of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Members of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting.

L. Action by Unanimous Written Consent of the Owners. Any action which may be authorized or taken at a meeting of the Owners may be authorized or taken without a meeting in a writing or writings signed by all of the Owners. The writing or writings evidencing such action taken by the unanimous written consent of the Owners shall be filed with the records of the Association. Written notice of any action proposed to be taken by unanimous written consent of the Owners shall be sent to all persons entitled to notice under Section J of this Item 2 of these By-Laws at least five (5) days prior to the circulation of the action for unanimous written consent among the Owners and shall specify the action proposed to be so taken.

E. Removal of Trustees. At any regular or special meeting duly called, any one or more of the Trustees may be removed with or without cause by the vote of Members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, except the Trustee, if any, acting as a representative of a lending institution, may not be removed by such vote. Any Trustee whose removal has been proposed by the Members of the Association shall be given an opportunity to be heard at such meeting. In the event that a Trustee is removed by such vote, his successor shall then and there be elected to fill the vacancy thus created. This section shall be subject to the provisions contained in Item 8, Section A, hereof.

F. Organizational Meeting. Immediately after each annual meeting of Members of the Association, the newly elected Trustees and those Trustees whose terms hold over shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

G. Regular Meetings. Regular meetings of the Board of Trustees may be held at such times and places as shall be determined by a majority of the Trustees, but at least four (4) such meetings shall be held during each year.

H. Special Meetings. Special meetings of the Board of Trustees may be held at any time upon call by the President or any two (2) Trustees. Written notice of the time and place of each such meeting shall be given to each Trustee either by personal delivery, or by mail, or telegram or telephone at least two (2) days before the meeting, which notice shall specify the purpose of the meeting; provided, however, that attendance of any Trustee at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting and such notice may be waived in writing either before or at the commencement of such meeting, by any Trustee which writing shall be filed with or entered upon the records of the meeting. If all the Trustees are present at any meeting of the Board, no notice shall be required of any business may be transacted at such meeting.

I. Board of Trustees' Quorum. At all meetings of the Board of Trustees, the majority of the Trustees shall constitute a quorum for the transaction of business, and the acts of the majority of the Trustees present at a meeting at which quorum is present shall be the acts of the Board of Trustees. If, at any meeting of the Board of Trustees, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

J. Action by Unanimous Written Consent of the Board of Trustees. Any action which may be authorized or taken at a meeting of the Board of Trustees may be taken or authorized without a meeting in a writing or writings signed by all of the members of the Board of Trustees. The writing or writings evidencing such action taken by unanimous written consent of the Board of Trustees shall be filed with the records of the Association.

K. Fidelity Bonds. The Board of Trustees shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

#### 4. OFFICERS.

- DALLAS
- (3) Certain Maintenance of Dwelling Units. The cost of the maintenance and repair of any Dwelling Unit, if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Area, or any other portion of the Property, and the Owner or Owners of said Dwelling Units have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided the Association shall levy a special individual lot assessment against such Owner for the cost of such maintenance or repair.
  - (4) Liability Insurance. The premium upon a policy or policies insuring the Association, the members of the Board of Trustees, and the Owners against any liability to the public or to the Owners, their invitees or tenants, incident to the ownership and/or use of the Common Area, as provided in the Declaration, the limits of which policy shall be reviewed annually.
  - (5) Wages and Fees for Services. The fees for services of any person or firm employed by the Association, including, but not limited to, the services of a person or firm to act as a manager or managing agent for the property and legal and/or accounting services necessary or proper in the operation of the property or the enforcement of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.
  - (6) Workmen's Compensation. The cost of Workmen's Compensation insurance to the extent necessary to comply with any applicable laws.
  - (7) Additional Expenses. The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, common expenses or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws or which, in its opinion, shall be necessary or proper for the maintenance and operation of the property as a first-class planned unit development or for the enforcement of the Declaration and these By-Laws.

B. Capital Additions and Improvements. The powers of the Association described herein are limited in that the Association shall have no authority to pay for out of the maintenance fund any capital additions and improvements having a total cost in excess of One Thousand Dollars (\$1,000) unless it is for the purpose of replacing or restoring portions of the Common Area. The Association shall not authorize any structural alterations, capital additions to, or capital improvements of the Common Area requiring any expenditure in excess of One Thousand Dollars (\$1,000), without, in each case, the prior approval of the majority of the Members of the Association.

C. Rules and Regulations. The Board of Trustees may by majority vote, adopt such reasonable rules and regulations and may amend the same which the Board of Trustees may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and occupants and the Property shall at all times be maintained subject to such rules and regulations. In the event that adopted rules and regulations conflict with the

C. Copy of Notices to Mortgage Lenders. Upon written request to the Board of Trustees, the holder of any duly recorded mortgage against any Lot ownership shall be given a copy of any and all notices and other documents permitted or required by the Declaration or these By-Laws to be given to the Owner or Owners whose Lot ownership is subject to such mortgage and a copy of any lien filed by the Association.

D. Service of Notices on the Board of Trustees. Notices required to be given to the Board of Trustees or to the Association may be delivered to any member of the Board of Trustees or officers of the Association either personally or by mail addressed to such Member or officer at his Dwelling Unit.

E. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

F. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedure established in the Declaration and these By-Laws shall be deemed to be binding on all Owners, their successors, heirs and assigns.

G. Severability. The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

H. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporation, partnerships, or individuals, male or female, shall in all cases be assumed as though in each case fully expressed herein.

I. Captions. The captions of the various provisions of these By-Laws are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

IN WITNESS WHEREOF, SPRING BROOK DEVELOPMENT CORPORATION, by its duly authorized officers has caused the execution of this instrument this 4th day of October, 1978.

Signed and acknowledged  
in the presence of:

Harold H. Soltan  
Rochey M. Roof

SPRING BROOK DEVELOPMENT  
CORPORATION

By

W. A. H. Herring  
Its President

By

Lois K. Spivey  
Its Assistant Secretary

"EXHIBIT C"

Situate in the City of West Carrollton, County of Montgomery,  
and State of Ohio and being Lots Numbered 4035, 4036, 4037,  
4039, and 4040 through 4071, inclusive, of the revised and  
consecutively numbered lots of the City of West Carrollton, Ohio  
and any re-plats of said lots.

OCT 10 78

NO TRANSFER NEEDED  
ROBERT L. RODERER  
COUNTY AUDITOR

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