

21971

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

VILLAGES HERWOOD FOREST, A PLANNED UNIT DEVELOPMENT

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

This Instrument Prepared By:

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JOE D. PEGG
RECORDER

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OCT 10 9 43 AM '78

MONTGOMERY CO., OHIO
RECORDED

OCT 10 1978

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NO INSTRUMENT NEEDED
THE ROBERTSON
COUNTY

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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.

I. 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.

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C. Builder, shall mean and refer to any individual or entity which has been conveyed a part of the Property by the Declarant for the purpose of constructing a Dwelling Unit.

D. By-Laws, shall mean and refer to the By-Laws of the Association.

E. Common Area, shall mean and refer to that part of the Property which shall be conveyed to and owned by the Association for the common use, enjoyment and benefit of the membership of the Association and described in Item 2, Section C hereof, including any improvements or personal property located thereon.

F. Declarant, shall mean and refer to SPRING BROOK DEVELOPMENT CORPORATION, an Ohio corporation, its successors and assigns.

G. Dwelling Unit, shall mean and refer to a patio home or townhouse located on the Property designed and intended for the use and occupancy as a residence for a family unit and include any garage space or spaces located on a separate lot which may be assigned or conveyed with a Dwelling Unit.

H. Lot, shall mean and refer to any plot of land shown upon the recorded plat or re-plat of the Property with the exception of the Common Areas.

I. Member, shall mean and refer to an Owner that is subjected hereto.

J. Owners, shall mean and refer to the owner of any Lot and for purposes hereof shall include Declarant and any Builder.

K. Property, shall mean and refer to the real property subject to this Declaration as described in Item 2, Section A hereof.

2. DESCRIPTION OF PROPERTY.

A. A legal description of the real property subject to this Declaration is described in "Exhibit A" hereof.

B. The Dwelling Units are, or shall be, constructed on those lots or re-plats of those lots situated in the City of West Carrollton, Ohio, as specified under the heading of Dwelling Unit Lots in "Exhibit A" hereof.

C. The Common Area shall consist of Lot 4038 of the revised and consecutively numbered lots of the City of West Carrollton, Ohio.

3. ASSOCIATION.

A. Organization. The Association was formed as an Ohio not-for-profit corporation pursuant to the provisions of Chapter 1702 of the Ohio Revised Code, by the filing of its Articles with the Secretary of State of Ohio. On the date of its incorporation, the Association duly adopted a set of administrative operating rules called the By-Laws. The Articles and By-Laws are attached hereto collectively as "Exhibit B".

B. Membership. Each Owner within the Property, upon acquisition of title to a Lot, shall automatically become a Member of the Association. Membership is appurtenant to, and shall not be separated from, ownership of a Lot. Such membership shall terminate upon the sale or other disposition by each Member of his Lot ownership, at

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.

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

Declarant, shall be conveyed to the Association subject to the right of Owners and residents within a certain condominium called Whispering Woods Village Condominium and a condominium to be built called Willow Green Village Condominium, both of which are located adjacent to the Common Area, to use and enjoy said facilities subject to reasonable and non-discriminatory rules and regulations which may be adopted by the Association. Said rules and regulations shall specify a use charge for any of the Owners or residents of either Whispering Woods Village Condominium or Willow Green Village Condominium on a yearly basis for each condominium unit therein which shall not exceed the sum of Twenty-Five Dollars (\$25.00) per year for a period of five (5) years after the recording of this Declaration.

5. EASEMENTS.

A. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to:

- (1) The right of the Association to suspend the voting rights and right to use the Common Area, egress or parking, for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations after hearing by the Board of Trustees.
- (2) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Members, agreeing to such dedication or transfer has been recorded.

B. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment in and to the Common Area to the members of his family, his tenants or contract purchasers who reside on the Property.

C. Easements for Repair, Maintenance and Restoration. The Association shall have a right of access and an easement to, over and through each Lot, during reasonable hours and upon giving reasonable notice, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair, restoration or servicing of any items, Lots, things or areas of or on the Property, including the removal, correction or abatement of any violations or breach or any attempted violation or breach of the covenants and restrictions herein.

D. Easements for Construction. Declarant hereby reserves, for itself and any Builder, a right and easement to enter upon the Common Area to do all things necessary to complete construction and to complete the development of the Property, including any additional property which may be subjected hereto.

E. Easements for Utilities. The Association may hereafter grant easements on behalf of Owners to entities for utility purposes for the benefit of the Property. Each Owner hereby grants, and the transfer of title to an Owner shall be deemed to grant, the Association in irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Owner, such instruments as may be necessary to effectuate the foregoing.

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 services as may be provided to the Common Area.
- (4) Acquisition of furnishings and equipment for the Common Area.
- (5) Insurance premiums for any and all obligations of the Association pursuant to the provisions of Item 7 hereof.

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- (6) Costs for the operation, management and administration of the Association, including without limitation, fees for property management, fees for legal and accounting services, fidelity bonds, cost of mailing and postage.
- (7) A general operating reserve to assure the availability of funds for the purposes hereunder.

C. Owner's Share of Annual Assessments. Each Owner's share of the annual assessment shall be equal to a fraction determined as follows: the numerator shall be the number of Dwelling Units owned by such Owner and the denominator shall be the total number of Dwelling Units to be constructed on the Property.

As additional property is subjected to this Declaration pursuant to the provisions of Item 16 hereof, the denominator shall be increased by the number of Dwelling Units to be constructed on such additional property at the time of filing an amendment hereto adding such additional property.

D. Preparation of Estimated Budget. The Association shall before or on December 1st of every year prepare an estimate of the total amounts necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reserve for contingencies and replacements. On or before December 15th, each Owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereof. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Owner shall be obligated to pay to the Association or as it may direct one-twelfth (1/12) of his share of the assessment made pursuant to this paragraph. On or before the date of the annual meeting in each calendar year, the Association shall supply to all Owners, an itemized accounting of the maintenance expenses actually incurred for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Owner's share of the assessments to the next monthly installment due from the Owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's share of the assessments to the installments due in the succeeding six (6) months after rendering of the accounting.

E. Reserve for Contingencies and Replacements. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year, shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the same shall be assessed to the Owners according to each Owner's share of the assessments. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and the date or dates when such further assessments are due. At the option of the Board of Trustees such further assessments may be payable in a lump sum or in installments.

F. Budget for First Year. When the first Board of Trustees hereunder take office, the Association shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in Section 17 of this Declaration.

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 the Declaration.

Notwithstanding any assessment which may be levied on all Lots, the Association shall not be liable for any assessment which may be levied on any Lot which is not a part of the Association.

M. Special Individual Lot Assessment. Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense for or on account of any items of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission of any Owner, such cost or expense shall be borne by such Owner and not by the Association, and if paid by the Association shall be paid or reimbursed to the Association by such Owner as a special individual Lot assessment, forthwith upon the Association's demand.

N. Non-Use of Facilities. No Owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Lot.

7. REMEDIES FOR NON-PAYMENT OF ASSESSMENT.

A. Lien of Association. The Association shall have a lien upon the estate of interest in any Lot of the Owner thereof for the payment of the portion of the assessments chargeable against such Lot which remain unpaid for ten (10) days after the same have become due and payable from the time a certificate thereof, subscribed by the President of the Association, is filed with the Recorder of Montgomery County, Ohio, pursuant to authorization given by the Board of Trustees of the Association. Such certificate shall contain a description of the Lot, the name or names of record owner or owners thereof and the amount of such unpaid portion of the assessments. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the court in an action brought to discharge such lien as hereinafter provided.

B. Priority of Association's Lien. The lien provided for in Section A of this Item shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association. In any such foreclosure action, the Owner or Owners of the Lot affected shall be required to pay a reasonable rental for such Lot during the pendency of such action, and the plaintiff in such action is entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

C. Dispute as to Common Expenses. Any Owner who believes that the portion of assessments chargeable to his Lot, for which a certificate of lien has been filed by the Association, has been improperly charged against him or his Lot may bring an action in the Court of Common Pleas for Montgomery County, Ohio, for the discharge of such lien.

D. Non-Liability of Foreclosure Sale Purchaser or an Acquirer of Title in Lieu of Foreclosure for Past Due Assessments. Where the mortgagee of a first mortgage of record or other purchaser of a Lot acquires title to the Lot as a result of a foreclosure of any lien or a deed in lieu of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of assessment by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of assessments shall be deemed to be assessments collectible from all of the Lots, including that of such acquirer, his successors or assigns.

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 hereinafore provided.

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D. Common Area. No part of the Common Area shall be used by anyone other than the Association for the storage or maintenance of any signs, goods, machinery, material or other item or device, nor shall clothes, sheets, blankets, laundry or other articles of any kind be hung out on any part thereof visible from the outside, nor shall there be playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Area, except in accordance with rules and regulations therefor adopted from time to time by the Board of Trustees. In addition, no use shall be made of the driveway areas that would prohibit free and unimpeded ingress and egress by a Member and his motor vehicles to and from his garage and the drives of the Common Area.

E. Vehicles. The parking of motor vehicles on the private streets located on the Common Area shall be expressly prohibited, any motor vehicle parked in violation hereof shall be immediately towed away, at the Owner's expense, and without notice. The parking of motor vehicles on other areas of the Common Area, other than the private streets, shall be subject to such rules and regulations as the Board of Trustees may from time to time establish, which may include the assignment of exclusive parking spaces. No boats, trailers, trucks or other like vehicles shall be permitted to park on the Common Area or visible part of any Lot, nor shall mechanical work on vehicles be permitted thereon.

F. Nuisances. No noxious or offensive activity shall be carried on or upon any Lot or Dwelling Unit or the Common Area, nor shall anything be done thereon which may in any way or for any purpose endanger the health or unreasonably disturb the occupant of a Dwelling Unit or interfere with the full use of a Dwelling Unit.

G. Structural Integrity. Nothing shall be done on any Lot or in, on or to the Common Area which will impair or change the structural integrity of any improvement located thereon.

H. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any Lot or on the Common Area at any time as a residence either temporarily or permanently.

I. Signs. No sign of any kind shall be displayed to the public view on the Property, except signs used by the Declarant or a Builder to advertise Lots or Dwelling Units for sale during the construction and sales period, and professional signs as limited by rules and regulations adopted by the Board of Trustees.

J. Animals. Except as hereinafter provided, no animal, livestock, or poultry of any kind shall be raised, bred or kept on any Lot of the Common Area. Notwithstanding the foregoing, household domestic pets, not in excess of the total of two (2), not bred or maintained for commercial purposes, may be maintained on a Lot, provided that (1) no such animal shall be permitted in any portion of the Common Area, except by a leash maintained by a responsible person, (2) be permitting of attended leashed animals on the Common Area shall be subject to such rules and regulations as the Board of Trustees may from time to time establish, and (3) the right of a Member to maintain an animal on a Lot shall be subject to termination if the Board of Trustees, in its full and complete discretion, determines that the maintenance of the animal constitutes a nuisance.

K. Garbage and Refuse Disposal. No Lot or the Common Area shall be used or maintained as a dumping ground for rubbish. Trash, refuse or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

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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 mortgagee which may be paid by any Owner as hereinafter permitted.

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No Owner may purchase an individual policy of fire and extended coverage insurance for any Dwelling Units constructed on his Lot. If irrespective of this prohibition an Owner purchases an individual policy insuring such Dwelling Unit, said Owner shall be responsible to the Association for any loss or expense that such policy may cause in adjusting the Association's insurance, and such amount of loss shall be a lien on his Lot and enforced in the manner provided for in the By-Laws.

Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice not less than ten (10) days prior to any expiration or cancellation of such coverage to any mortgagee or mortgagees of any Lot.

Such insurance by the Association shall be without prejudice to the right of any Owner or occupant of a Dwelling Unit to obtain individual contents on chattel property insurance.

Such policy shall also provide for the release by the insurer thereof of any and all rights of subrogation or assignment and all causes and rights of recovery against any Owner, member of his family, his tenant or other occupant of the Property for recovery against any one of them for any loss occurring to the insured Property resulting from any of the perils insured against under such insurance policy.

If the required insurance coverage under this Section A of Item 11 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Property may remedy that lack of insurance by purchasing policies to supply the insurance coverage. 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 secured by a special assessment against all Owners and shall not require a vote of the Members of the Association, anything to the contrary in the Declaration notwithstanding.

All insurance policies under this Section A and any endorsements thereto shall be deposited with the Insurance Trustee, as hereinafter defined, who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof. All such policies shall provide that all proceeds payable as a result of casualty losses shall be paid to any bank, as Trustee, which is selected by the Association and located in Dayton, Ohio, with trust powers and total assets of more than Fifty Million Dollars (\$50,000,000), hereinafter referred to as the "Insurance Trustee". The Insurance Trustee shall not be liable for payment of premiums nor for the renewal of the policies, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in Trust for the purposes elsewhere stated herein, and for the benefit of the Owners and their respective mortgagees.

B. Sufficient Insurance. In the event that the Dwelling Units constructed on the Lots within the Property, shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction, shall be undertaken by the Association and the insurance proceeds shall be applied by the Association in payment therefor; provided, however, that in the event within thirty (30) days after such damage or destruction, the Owners, if they are entitled to do so, pay out

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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.

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The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practicable.

Each Owner shall be deemed to have delegated to the Board of Trustees his right to adjust with insurance companies all losses under the insurance policies referred to in Section A of this Item 11 of this Declaration.

E. Non-Restoration of Damage or Destruction. In the event of substantial damage to or destruction of two-thirds (2/3) or more of the Dwelling Units constructed on the Lots within the Property, the Owners by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power may elect not to repair or restore such damage or destruction. Upon such election, all of the Property shall be subject to an action for sale as upon partition at the suit of any Owners. In the event of any such sale or sales of the Property after such election by agreement of all Owners, the net proceeds of the sale together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Owners on the basis of the following fraction: the numerator shall be the replacement value of such Owner's Dwelling Unit or Units and the denominator shall be the replacement value of the total number of Dwelling Units included within the insurance coverage. The replacement value of such Dwelling Unit shall be determined from the then current insurance policy. No Owner, however, shall receive any portion of his share of such proceeds until all liens encumbrances on his Lot have been paid, released or discharged.

12. LIABILITY INSURANCE.

The Association as a common expense shall insure itself, the Board of Trustees, all Owners and members of their respective families and other persons residing with them in the Property, their tenants, and all other persons lawfully in the possession or control of any Dwelling Unit, or part thereof, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from the Common Area, such insurance to afford protection to a limit of not less than Five Hundred Thousand Dollars (\$500,000) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million Dollars (\$1,000,000) in respect to any one occurrence, and to the limit of not less than One Hundred Thousand Dollars (\$100,000) in respect to damage to or to destruction of property arising out of any one accident.

Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Lots, or Dwelling Units located thereon.

13. CONDEMNATION.

In the event that by reason of the exercise by appropriate public authority of the right of eminent domain any portion of the Common Area is appropriated, the net proceeds received therefrom shall be prorated and distributed among the owners in the same proportions as their share of the annual assessments are charged, subject to the right of any holder of the first mortgage to the portion of the proceeds applicable to the Lot mortgaged to such mortgagee.

14. CONSTRUCTION AND PLAN APPROVAL.

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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

substantially the same type, character, quality, style and size as those constructed on the Lots submitted to the provisions of this Declaration. Declarant, further contemplates submitting the land in "Exhibit C", with any improvements thereon, to the provisions of this Declaration, so that the same will become in all respects part of the Property.

B. Reservation of Right to Annex Additional Property. Declarant hereby reserves the right at any time within a period of five (5) years, commencing on the date this Declaration is filed for record to take the action so contemplated in submitting the land described in "Exhibit C" heretofore, but does hereby expressly limit the number of Dwelling Units on the Property, to a total of one hundred thirty-three (133). Said Dwelling Units shall consist of townhouses, or patio homes in whatever mix or combination determined by Declarant, along with Common Area so that the same will become in all respects part of the Property.

C. Reservation of Right to Amend Declaration. Declarant hereby reserves the right to amend this Declaration, in the manner hereinafter provided, in such respects as Declarant may deem advisable in order to effectuate the generality of the foregoing, the right to amend this Declaration so as to include the real property described in "Exhibit C" and the improvements constructed thereon as part of the Property.

D. Consent and Approval for Annexation Amendments. Declarant on its own behalf as the Owner of all Lots in the Property and on behalf of all subsequent Owners, hereby consents and approves, and each Owner and his mortgagee by accepting of a deed conveying such ownership, or a mortgagee encumbering such interest, as the case may be, hereby consents and approves the provisions of this Item 16, including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided in Section E. of this Item 16, and all such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate said provisions.

E. Power of Attorney, Coupled With an Interest. Each Owner and his respective mortgagees by the acceptance of a deed conveying such ownership, or a mortgage encumbering such interest, as the case may be, hereby irrevocably appoints Declarant his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney in the event that the Declarant exercises the rights reserved above to add to the Property additional property to execute, acknowledge and record for and in the name of such Owner an amendment of this Declaration for such purpose and for and in the name of such respective mortgagee, a consent to such amendment.

17. GENERAL.

A. Covenants Running With Land. The covenants, conditions, restrictions, easements, reservations, liens and charges created by this Declaration shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Property, and their respective heirs, executors, administrators, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time it shall automatically be extended for successive periods of ten (10) years, unless amended as hereinafter provided.

B. Enforcement. In addition to any other remedies provided in this Declaration, Declarant, the Association, or any Member, shall have the right to enforce,

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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 on 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 debt shall be

secured by a special assessment against all Owners and shall not require a vote of the Members of the Association, anything to the contrary in this Declaration notwithstanding.

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:

Hans H. Soltau

Armedy D. West

SPRING BROOK DEVELOPMENT
CORPORATION

By W. Alex Simms
Its President

By Lois K. Sparks
Its Assistant Secretary

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 4th day of October, 1978, by ALEX SIMMS, President, and LOIS K. SPARKS, Assistant Secretary of SPRING BROOK DEVELOPMENT CORPORATION, an Ohio corporation, on behalf of the corporation.

Hans H. Soltau
Notary Public

HANS H. SOLTAU, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Section 147.03 O. R. C.

THIS INSTRUMENT PREPARED BY:

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

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NOTARY PUBLIC
MONTGOMERY COUNTY, OHIO
OCT 11 1978

"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.

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EXHIBIT "B"

ARTICLES OF INCORPORATION
OF
VILLAGES OF SHERWOOD FOREST
HOMEOWNERS' ASSOCIATION, INC.

The undersigned, desiring to form a corporation, not-for-profit, under Sections 1701.01 et seq., Ohio Revised Code, does hereby certify:

FIRST: The name of said corporation shall be VILLAGES OF SHERWOOD FOREST HOMEOWNERS' ASSOCIATION, INC.

SECOND: The place in Ohio where the principal office of the corporation is to be located is the City of West Carrollton, County of Montgomery.

THIRD: The general purpose or purposes of which said corporation is formed are:

(a) To provide for maintenance, operation and control of any green space, open lands and other facilities that may be conveyed to it as part of the development of Villages of Sherwood Forest, a Planned Unit Development, in the City of West Carrollton, County of Montgomery, Ohio.

(b) To promote the health, safety, and welfare of the owners of lots within such Planned Unit Development as may be brought within the jurisdiction of the corporation.

FOURTH: To carry out the general purposes set forth above, the corporation shall have the following more specific purposes:

(a) To acquire, own, hold, improve, operate, maintain, convey, sell, lease, transfer, dedicate for public use or to otherwise dispose of real or personal property in connection with the affairs of the corporation.

(b) To hire such employees as may be necessary to fulfill the purposes of the corporation, to contract for services, materials and otherwise as the corporation may deem necessary or convenient in order to carry into effect the purposes of the corporation.

(c) To fix, levy, collect and enforce payment by any lawful means, all charges or assessments against its members for the use and enjoyment of the property, and any facilities thereon, that may be owned or controlled by the corporation.

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EXHIBIT "B"

(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

Iris E. Sparks 24 North Jefferson
Dayton, Ohio 45402

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EXHIBIT "B"

Hans H. Soltau

367 West Second Street
Dayton, Ohio 45402

IN WITNESS WHEREOF, I have hereunto subscribed my name, this
day of _____, 1978.


Hans H. Soltau

78 573C02

EXHIBIT "B"

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

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EXHIBIT "B"

BY-LAWS
OF
VILLAGES OF SHERWOOD FOREST
HOMEOWNERS' ASSOCIATION, INC.

The within By-Laws are executed and attached to the Declaration creating covenants, conditions and restrictions for Villages of Sherwood Forest, a planned unit development. Their purpose is to provide for the establishment of an association for the administration of the property in the manner provided by the Declaration and by these By-Laws. All present or future Owners or tenants or their employees, and any other person who might use the facilities of the property in any manner, shall be subject to any restrictions, conditions or regulations hereafter adopted by the Board of Trustees of the Association. The mere acquisition or rental of any of the Dwelling Units, located in the Lots within the property and any amendment thereto, or the mere act of occupancy of any of the Dwelling Units will constitute acceptance and ratification of the Declaration and of these By-Laws.

1. DEFINITIONS.

All of the terms used herein shall refer to and have the same meaning as set forth in the Declaration.

2. ASSOCIATION.

A. Name of Association. The Association shall be an Ohio corporation not-for-profit and shall be called Villages of Sherwood Forest Homeowners' Association, Inc.

B. Membership. Each Owner within the Property, upon acquisition of title to a Lot, shall automatically become a Member of the Association. Membership is appurtenant to and shall not be separated from ownership of a Lot. Such membership shall terminate upon the sale or other disposition by such Member of his Lot ownership, at 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. Majority of Owners. As used in these By-Laws the term "majority of Owners" shall mean those Owners holding fifty-one percent (51%) of the votes of the Association.

E. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of Owners as defined in Section D of this Item 2 shall constitute a quorum.

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EXHIBIT "B"

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 7 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.

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EXHIBIT "B"

M. Order of Business. The order of business at all meetings of the Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Reports of committee.
- (f) Election of inspectors of election.
- (g) Election of managers.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

3. BOARD OF TRUSTEES.

A. Number and Qualification. The affairs of the Association shall be governed by a Board of Trustees composed of five (5) persons, all of whom must be Owners. If at any time one bank or lending institution shall hold mortgages upon more than fifty percent (50%) of the Lots, such lending institution may designate its representative who shall be a sixth (6th) member of the Board of Trustees. Such representative need not be an Owner or occupier of a Dwelling Unit.

B. Election of Trustees. The required Trustees shall be elected at each annual meeting of Members of the Association. The only persons nominated as candidates shall be eligible for election as Trustees, and the candidates receiving the greatest number of votes shall be elected. Each Member may vote for as many candidates as there are vacancies in the Board of Trustees, due to the expiration of their terms. Provided, however, that a vacancy in a position of a representative of a lending institution as provided in Section A of this Item 3, if any, shall be filled by such lending institution.

C. Vacancies During the Term. In the event of the occurrence of any vacancy or vacancies in the Board of Trustees, during the term of such Trustee or Trustees, the remaining Trustees, though less than a majority of the whole authorized number of Trustees, may, by the vote of a majority of their number, fill any such vacancy for the unexpired term; provided, however, that a vacancy in a position of a representative of a lending institution as provided in Section A of this Item 3, if any, shall be filled by such lending institution.

D. Term of Office; Resignations. Each Trustee shall hold office until his term expires, or until his earlier resignation, removal from office or death. Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or as such other time as the Trustee may specify. At the first annual meeting of the Members of the Association, the term of office of three (3) Trustees shall be fixed so that such term will expire one (1) year from and after the date of the next following annual meeting of Members of the Association. The term of office of the remaining two (2) Trustees shall be fixed so that such term will expire at the date of the next following annual meeting of Members of the Association. At the expiration of such initial term of office for each respective Trustee, its successor shall be elected to serve for a term of two (2) years.

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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.

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A. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Trustees. The offices of Treasurer and Secretary may be filled by the same person.

B. Term of Office: Vacancies. The officers of the Association shall hold office until the next organization meeting of the Board of Trustees until their successors are elected, except in case of resignation, removal from office or death. The Board of Trustees may remove any officer at any time with or without cause by a majority vote of the Trustees then in office. Any vacancy in any office may be filled by the Board of Trustees.

C. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Trustees. Subject to directions of the Board of Trustees, the President shall have general executive supervision over the business and affairs of the Association. He may execute all authorized deeds, contracts or other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Trustees or otherwise provided for in the Declaration or in these By-Laws.

D. Vice President. The Vice President shall perform the duties of the President whenever the President is unable to and shall have such other authority and perform such other duties as may be determined by the Board of Trustees.

E. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Trustees and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Trustees may direct, and he shall, in general, perform all the duties incident to the office of Secretary.

F. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements and books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Trustees.

5. GENERAL POWERS OF THE ASSOCIATION.

A. Payments from Maintenance Funds. The Association shall establish and shall pay for out of the maintenance fund created by the annual assessment on each Dwelling Unit the following:

- (1) Utility Services. The cost of water, waste removal, electricity, telephone, heat, power or any other necessary utility service for the Common Area. The Association reserves the right to levy additional assessments against any Owner to reimburse it for excessive use, as shall be determined by the Board of Trustees by such Owner of any utility service having been charged against or to the maintenance fund.
- (2) Care of Common Area. The cost of landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Area.

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- (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

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provisions of the Declaration and of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

D. No Active Business to be Conducted for Profit. Nothing herein shall be construed to give the Association authority to conduct active business for profit on behalf of the Owners or any of them.

E. Delegation of Duties. Subject to the limitations contained in the Declaration, the Association, through its Board of Trustees and officers has the authority to delegate to persons, firms or corporations of its choice such duties and responsibilities of the Association as the Board of Trustees shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

F. Right of Entry. An Owner, or any occupant of any Dwelling Unit constructed on the Property, shall grant the right of entry to the Association or its agent, in case of any emergency originating in or threatening his Dwelling Unit, whether the Owner or such occupant is present at the time or not.

G. Special Services. The Association may arrange for the providing of any special services and facilities for the benefit of any Owner or occupant of any Dwelling Unit that may desire to pay for the same. Fees for such special services and facilities shall be determined by the Board of Trustees and shall be charged directly to the participating Owner or occupant.

6. COMMITTEES.

The Board of Trustees may appoint an architectural control committee, as provided in the Declaration, and shall appoint other committees as deemed appropriate in carrying out its purpose.

7. AMENDMENT.

These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of Members exercising a majority of the voting power of Members, and if material to the rights of a mortgagee, the approval of all holders of first mortgage liens on Lots has first been obtained.

8. GENERAL PROVISIONS.

A. Declarant's Rights Pending the Sale of Seventy-Five Percent (75%) of all Lots. For a period of five (5) years after the recording of the 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 Item 16, Section B of the Declaration, to Owners other than 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.

B. Requirement for Manager or Managing Agent. A manager or managing agent may be required by any lending institution holding mortgages on over fifty-one percent (51%) of the Lots or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Lots. The Association shall provide such mortgagee or mortgagees, as the case may be, with a copy of any management agreement entered into the Association as such manager or management company.

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EXHIBIT "B"

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 9th day of October, 1978

Signed and acknowledged
in the presence of:

Harold S. Soren

Anthony J. ...

SPRING BROOK DEVELOPMENT
CORPORATION

By *W. A. ...*
Its President

By *...*
Its Assistant Secretary

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EXHIBIT "B"

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 4th day of ~~October~~, 1978, by ALEX SIMMS, President, and LOIS K. SPARKS, Assistant Secretary of SPRING BROOK DEVELOPMENT CORPORATION, an Ohio corporation, on behalf of the corporation.


Notary Public

HANS H. SOLTAU, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Section 147.03 O. R. C.

THIS INSTRUMENT PREPARED BY:

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

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OCT 10 1978

NO TRAILER NEEDED
ROBT. L. GREEN

"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 W. ROEDER
COUNTY CLERK

100325 82