

BYLAWS  
OF  
FOREST HILLS PROPERTY OWNERS ASSOCIATION

ARTICLE I

Name

Section 1. The name of the corporation shall be FOREST HILLS PROPERTY OWNERS ASSOCIATION, and shall hereinafter be referred to as the "Association."

ARTICLE II

Purposes

Section 1. The purposes for which the Association is formed are to acquire, own, lease, maintain, preserve, control and regulate the use of real estate and improvements thereon for the benefit of its members and their guests, and to promote by all lawful means the common interests of the members of the Association, and the welfare, integrity and aesthetic value of Holiday Hills Subdivision and surrounding areas.

Section 2. This Association shall also have the purpose of implementing and effectuating the plan and program required and contemplated in a certain Agreement among property owners dated the 23rd day of May, 1972, as recorded in Volume 429, Pages 363 to 402 of the records of Medina County, Ohio.

ARTICLE III

Board of Trustees

Section 1. Subject to the provisions governing this

Association as set forth in said deed, the government and business of the Association, the direction of its activities and the regulation and control of its property shall be vested in a Board of Trustees elected in accordance with the rules of the Association. All Trustees shall be members of the Association.

Section 2. The Association shall indemnify each Trustee and officer and every former Trustee and officer against expense actually and necessarily incurred by him in connection with the defense of any action, suite or proceeding to which he is made a party by reason of being or having been such Trustee or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for fraud or malfeasance in the performance of duty. Such indemnification shall not be deemed exclusive of any other rights to which he may be entitled under the Articles of Incorporation, these Bylaws, any agreements, vote of members or otherwise.

Section 3. At the initial election, one Trustee shall be elected to serve a term of three (3) years, one to serve a term of two (2) years, and one to serve a term of one (1) year. A Trustee elected after the initial election shall serve a term of three (3) years.\*

Section 4. Absence from three (3) consecutive meetings of the Board of Trustees without reason deemed valid and so recorded by the Board shall be construed as a resignation.

Section 5. The Board of Trustees shall be empowered to enact such rules and regulations as may be deemed expedient for the government of the Association and for the maintenance, preservation, control and regulation of its property.

Section 6. Trustees shall take office at the first meeting of the Board of Trustees following their election.

Section 7. The members of the Board of Trustees shall be empowered to fill any vacancies on the Board.

Section 8. The President or Vice President of the Association, elected as hereinafter provided, shall preside at all meetings of the Board of Trustees.

Section 9. Trustees shall be elected at the annual meeting of the membership of the Association which shall be held on the second Monday\* in January of each calendar year.

#### ARTICLE IV

##### Officers

Section 1. At the annual meeting of Trustees at which the newly elected Trustees take office, the Board of Trustees shall elect from its own number a President, a Vice President, a Secretary and a Treasurer, and any other officers, subordinate officers or assistant officers as it may determine to be necessary. A Trustee may hold more than one office. The Trustees may elect as officers persons other than Trustees, provided that the President and Secretary shall at all times be elected Trustees.

Section 2. The terms of the officers shall be for one year, and they shall take office immediately upon election.

## ARTICLE V

### Duties of Officers

Section 1. President. The President shall preside at all meetings of the members and shall perform generally all duties incident to the office and such other duties as may be assigned to him from time to time by the Board of Trustees.

Section 2. Vice President. The Vice President shall perform all the duties of the President in case of the latter's absence or disability.

Section 3. Secretary. The Secretary shall keep the minutes of all the proceedings of the members and make a proper record of the same. He shall keep the Association membership book containing the name and address of each member and the date of his or her admission and the date of termination thereof. He shall give all notices required by the Articles, these Bylaws, said Restrictive Covenants, or the laws of Ohio. At the conclusion of his term, the Secretary shall deliver all records and papers of the Association in his possession to his duly elected successor.

Section 4. Treasurer. The Treasurer shall be bonded, at the Association's expense, in such penal sum as shall be fixed from time to time by the Association. He shall receive and safely keep all monies and all other such assets belonging to the Association and shall disburse the same at the direction of the Board of Trustees. Proper vouchers shall be taken of all such disbursements. He shall keep the books of the Association, and such books shall be kept available for inspection by the Board of Trustees, or by any person designated thereby. He shall annually render a complete account of services required of him by the Board of Trustees.

At the conclusion of his term, the Treasurer shall deliver all monies and any other assets of the Association in his possession or custody and its records and books to his duly elected successor.

Section 5. Absence of Executive Officers. In the absence or disability of both the President and Vice President, the Trustees shall elect a President pro tempore.

## ARTICLE VI

### Nominations and Elections

Section 1. At least forty-five (45) days prior to the date for the annual election of Trustees, the President shall appoint a nominating committee of not less than three (3) members whose duty it shall be to nominate from the members of the Association one or more individuals to serve as Trustees as the vacancies shall be available.

Section 2. The nominating committee shall file a list of recommended nominees with the Secretary not less than thirty (30) days prior to the annual meeting.

Section 3. Other nominations than those made by the committee may be made by members not later than fifteen (15) days prior to the annual meeting by filing the name of the nominee or nominees with the Secretary in writing signed by not less than five (5) members. Such nominee shall have given his consent in writing before he may be voted upon.

Section 4. The Secretary shall mail to all members in good standing of the Association not less than ten (10) days prior to the annual meeting a list of nominees recommended by the nominating committee and the names of any other nominees properly filed with him.

Section 5. Voting shall be by person or proxy at the annual meeting in conformity with such additional rules and regulations as the Board of Trustees may adopt.

## ARTICLE VII

### Recall

Section 1. Any or all of the Trustees and officers of this Association may be removed from office by the members as provided for in this Article. Upon the request in writing of twenty-five per cent (25%) of the members of the Association in good standing, the Board of Trustees shall, not less than fifteen (15) nor more than thirty (30) days after the receipt of said written request (unless within said 15-day period the named Trustee or officer shall deliver his resignation in writing to the Board of Trustees), call a special meeting of the membership of the Association for the purpose of voting upon the recall of such officer or Trustee. Such meeting shall be held not less than ten (10) or more than fifteen (15) days after the mailing of such notice.

The right to vote at a special meeting of the membership of the Association to consider the recall of a director shall be determined in accordance with Section D of said Restrictive Covenants.

Section 2. In any such recall election, if the majority of the votes entitled to be cast on the question of removal of any Trustee or officer are in favor of the removal of that Trustee or officer, the person whose removal is sought shall thereupon be deemed removed from office upon the announcement of the official count of that election as prescribed by the Board of Trustees, and the vacancy caused by such recall shall, within thirty (30) days, be filled by the remainder of the Board of Trustees,

## ARTICLE VIII

### Referenda

Section 1. Upon the request in writing of ten (10)

members in good standing or upon its own initiative, the Board of Trustees shall submit a question by mail to the members of the Association for a referendum vote.

Section 2. The ballot for a referendum vote may be accompanied by a brief statement of both sides of the question. Unless otherwise stated on the written ballot, any action taken by the members shall be final and shall bind the Board of Trustees and the membership.

Section 3. Referenda questionnaires or ballots submitted to the members shall be returned within five (5) days of the date of mailing to be termed valid.

Section 4. Nothing herein shall be construed to permit the amendment of the Restrictive Covenants or the amendment of these Bylaws except in accordance with its procedure set forth therein and at a meeting, general or special, of the membership of the Association.

## ARTICLE IX

### Committees

Section 1. The President shall appoint all committees, subject to the confirmation of the Board of Trustees.

Section 2. The Board of Trustees shall authorize and define the powers and duties of all committees.

Section 3. The President shall appoint a finance committee which shall cause to be audited annually the books and accounts of the Association at the close of the fiscal year and report its findings to the Board of Trustees and to the membership.

Section 4. No expenditures of the funds of the Association shall be made without the approval of the Board of Trustees, whether as a part of the budget or as a separate appropriation.

## ARTICLE X

### Meetings

Section 1. The President shall call a meeting of the members of the Association whenever a majority of the Board of Trustees shall consider it necessary or desirable or whenever not less than twenty per cent (20%) of the members in good standing request such a meeting in writing addressed to the Board of Trustees. An annual meeting of the membership shall be held on the third Monday of each calendar year.

Section 2. Unless otherwise specified in the Restrictive Covenants or herein, at all meetings of the members, fifty per cent (50%) of the total voting power of the Association in good standing shall constitute a quorum.

Section 3. The Board of Trustees shall meet in its annual organizational meeting immediately following the annual meeting of the membership of the Association and shall meet monthly thereafter.

Section 4. At meetings of the Board of Trustees, two (2) members thereof shall constitute a quorum. At such time as the Board of Trustees shall consist of seven (7) members, four (4) members thereof shall constitute a quorum.

Section 5. Special Meetings of the Membership of the Association. In order to take action under Article XII, or other actions requiring the approval of the membership, a special or annual meeting of the membership shall be held. Special meetings shall be called and held in accordance with this Section 5. Written notice setting forth the purpose of the meeting shall be given to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. The presence of members or proxies entitled to cast fifty per cent (50%) of the votes of each class of membership shall constitute a quorum. If the quorum is not forthcoming at any meeting, another meeting may be



called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be sixty-six and two-thirds per cent (66-2/3%) of the required quorum of the preceding meeting.

#### ARTICLE XI

##### Control of Funds and Assets

Section 1. The Board of Trustees shall prescribe the forms and procedures for receiving and disbursing all funds due or entrusted to the Association.

Section 2. The Board of Trustees shall have power to purchase, lease or sell real estate and mortgage the same, incur debts, borrow money and give notes of the Association signed by any two (2) of the following officers: President, Vice President, Treasurer or Secretary. The Board of Trustees shall designate the depository or depositories of the funds of the corporation, and the officer or officers of the corporation which shall sign the checks thereof. The Board of Trustees shall exercise all other powers as are now or hereafter provided by the Ohio statutes for non-profit corporations.

#### ARTICLE XII

##### Mergers and Consolidations

Section 1. To the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of the holders of two-thirds (2/3) of the voting power of the Association.

ARTICLE XIII

Proxies

Section 1. At all meetings of members of the Association, each member may vote in person or by proxy.

Section 2. All proxies shall be in writing and filed with the Secretary.

ARTICLE XIV

Books and Records

Section 1. All books and records of the Association, together with such other papers as may be placed on file by the vote of the Board of Trustees shall, during the existence of the Association, be available for inspection by all members in good standing at all reasonable times.

ARTICLE XV

Liability Insurance

Section 1. The Association shall at all times carry liability insurance in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000) in the event of injury or death to one person and Five Hundred Thousand Dollars (\$500,000) in the event of injury or death to more than one person arising out of one occurrence and Twenty-five Thousand Dollars (\$25,000) in the event of property damage.

ARTICLE XVI

Incorporation of Provisions of Declaration

Section 1. Incorporated herein by reference are all the provisions of the Agreement among property owners dated the 23rd day of May, 1972, and filed with the Recorder of Medina County in Volume 429, Pages 363 to 402.

ARTICLE XVII

General

Section 1. The fiscal year of the Association shall end on the 31st day of December of each calendar year.

Section 2. The proceedings of the Association's meetings shall be governed by and conducted according to Roberts' Manual of Parliamentary Rules.

Section 3. These Bylaws may be amended or altered by a sixty-six and two-thirds per cent (66-2/3%) vote of the voting power of the Association then entitled to vote and present by person or proxy at the annual meeting or at a special meeting called in accordance with Section 5., Article X.

FOREST HILLS HOMEOWNERS ASSOCIATION BY-LAW  
AMENDMENTS

Article 111, Section 3:

Now reads as follows:

- "A trustee elected after initial election shall serve a term of three (3) years."

To be changed to read:

- "A trustee elected after the initial election shall serve a term of two (2) years."

\*\*\*\*\*

Article 111, Section 9:

Now reads as follows:

- "Trustees shall be elected at the annual meeting of the membership of the Association which shall be held on the second Monday in January of each calendar year."

To be changed to read:

- "Trustees shall be elected at the annual meeting of the membership of the Association which shall be held during the month of January of each calendar year."

THE ABOVE BY-LAW AMENDMENTS WERE APPROVED BY  
THE MEMBERSHIP ON JANUARY 24, 1977

AGREEMENT  
AMONG PROPERTY OWNERS REPEALING AND AMENDING  
CERTAIN PRIOR RESTRICTIONS AND SUBJECTING  
PROPERTY TO NEW UNIFORM COVENANTS AND RESTRICTIONS

THIS AGREEMENT executed at Brunswick, Ohio this \_\_\_\_\_ day of \_\_\_\_\_, 1972, by and between BRUNSWICK RECREATION COMPANY, a Partnership, and BRUNSWICK CONSTRUCTION CO., INC., an Ohio corporation, hereinafter jointly referred to as "Brunswick," SHERWOOD CONSTRUCTION COMPANY, an Ohio corporation, hereinafter referred to as "Sherwood," HOLIDAY HILLS CONDOMINIUM OWNERS ASSOCIATION, a corporation not for profit, hereinafter referred to as "Holiday," and FOREST PARK ASSOCIATES, a limited partnership, hereinafter referred to as "Forest Park", and the Owners of certain sublots situated in the City of Brunswick, Medina County, Ohio, which Owners are listed in Exhibits "A" and "B," attached hereto and made a part hereof.

PRELIMINARY RECITALS

Previously, Brunswick Recreation Company and Brunswick Construction Company, an Ohio partnership, which is now dissolved, and Brunswick Construction Co., Inc. did subject the following described parcels of land to certain restrictive covenants by virtue of a warranty deed from Brunswick Recreation Company to Brunswick Construction Company filed for record on March 3, 1971, and recorded in Volume 402, Pages 177 to 191 of the Deed Records of Medina County, and by virtue of another warranty deed from Brunswick Recreation Company to Brunswick Construction Co., Inc. recorded on April 7, 1972 in Volume 422. Pages 519 to 536 of the Deed Records of Medina County, Ohio:

PARCEL 1

Situated in the City of Brunswick, County of Medina, and State of Ohio and known as being part of Block "B" in Holiday Hills Subdivision No. 1 of part of Original Brunswick Township Tract 1, Lot No. 5 and Tract 2, Lot No. 1 as shown by a plat recorded in Volume 14, Page 24 of the Medina County Map Records, and being hereinafter known as Block "B" Revised, which is further described as follows:

Beginning at a point on the Southerly line of Block "B" in Holiday Hills Subdivision No. 1 as shown by the recorded plat in Volume 14, Page 24 of Medina County Map Records, said point being distant Easterly 398.25 feet from the centerline of Pearl Road as measured along the Southerly line of said Block "B";

Thence North-25 degrees-56'-50"-East a distance of 246.80 feet to a point on the Southerly line of Skyview Drive (80 feet wide);

Thence along said Southerly line of Skyview Drive, along the arc of a curve deflecting to the left, said arc having a radius of 390.00 feet and a chord of 165.76 feet bearing South 75 degrees-39'-02"-West, an arc distance of 167.10 feet to a point of tangency;

Thence South-99 degrees-14'-54"-East continuing along said Southerly line of Skyview Drive a distance of 360.81 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right, said arc having a radius of 30.00 feet and a chord of 42.43 feet bearing South-44 degrees-014'-54"-East, an arc distance of 47.12 feet to a point of tangency, said point being on the Westerly line of Judita Drive (60 feet wide);

Thence South-00 degrees-45'-05"-West along said Westerly line of Judita Drive, a distance of 20.00 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right, said arc having a radius of 220.00 feet and a chord of 105.23 feet bearing South-14 degrees-35'19"-West, an arc distance of 106.25 feet to a point of tangency;

Thence South 28 degrees-25'-33"-West continuing along said Westerly line of Judita Drive, a distance of 42.10 feet to the Southeast corner of said Block "B";

Pages 2 thru 10 are all legal descriptions  
similar to above

Brunswick, Sherwood, Holiday and Forest Park and the Owners listed in Exhibit "A" are the owners of all the property described in said warranty deeds. It is the desire of those persons to repeal and void said restrictive covenants contained in the foregoing warranty deeds, and for their mutual benefit and for the benefit of others to subject their property to the restrictive covenants contained herein. The Owners of certain other sublots located in the City of Brunswick, Medina County, Ohio, which Owners are listed in Exhibit "B," wish to subject their sublots to the uniform covenants and restrictions hereinafter set forth for their mutual benefit and for the benefit of Brunswick, Sherwood, Holiday, Forest Park and the Owners listed in Exhibit "A."

Brunswick has improved a common area with certain facilities, including a swimming pool and bath house. A description of said common area is attached hereto and marked Exhibit "C." The improvement and existence of said common area is to be for the common use and enjoyment of the Owners of the premises previously described herein, the Owners listed in Exhibit "B," and the Owners of other properties to become subjected to the covenants. Brunswick intends to complete said improvement and convey said recreation area to a corporation not for profit for the benefit of all the property described herein, as well as the property owned by the Owners listed in Exhibit "B," as well as other Owners of property subjected hereafter to the covenants with respect to the common area. It is the intention of the parties hereto that all the property described herein, as well as the

property of the Owners listed in Exhibit "B" and others who shall become parties to this Agreement, be developed, held, transferred, sold, conveyed and occupied in accordance with the uniform covenants and restrictions hereinafter set forth. All persons deriving or claiming title from, through or under any of the parties hereto shall hold title in accordance with the following uniform covenants and restrictions which shall run with the land and which shall inure to the benefit of and be enforceable by and against all such persons.

#### COVENANTS

In consideration of the enhancement of the property described herein, as well as the property owned by the undersigned Owners who shall become parties to this Agreement, and for other valuable consideration, receipt and sufficiency whereof are hereby acknowledged, the parties do hereby agree as follows:

1. Repeal of Prior Covenants. Brunswick, Sherwood, Holiday, Forest Park, and the Owners listed in Exhibit "A" being the owners of the entire premises described in the aforesaid warranty deeds recorded in Volume 402, Pages 177 through 191, and recorded in Volume 422, Pages 519 through 536 of the Deed Records of Medina County, Ohio, hereby repeal and revoke all of the aforesaid restrictions and agree that said restrictions shall henceforth be inoperable and that the premises described in said deed shall henceforth be free and clear of the restrictions and covenants contained in said deed.



2. Duration of Restrictions. The conditions, restrictions, covenants and obligations herein set forth (except as the same shall be modified in accordance with the provisions hereof) shall run with the land and shall remain in full force and effect until the Forest Hills Property Owners Association, an Ohio corporation not for profit, shall cease to be the owner of any common areas for the benefit of its members.

3. Establishment of Forest Hills Property Owners Association.

(a) Brunswick has caused said corporation not for profit to be organized under the laws of the State of Ohio, which corporation is hereinafter referred to as "Association." Not later than June 15, 1972, Brunswick shall convey to said Association approximately 3.7998 acres of land as described in Exhibit "C." At the time of conveyance, the improvements thereon will be in good working order and in the event of a dispute with respect thereto, a qualified engineer will be appointed to determine the same all in accordance with a certain agreement between Brunswick and the Association. Said land described in Exhibit "C" and all said improvements thereon, together with all other land similarly acquired and/or improved, are hereinafter referred to as "Common Area."

(b) The Articles of Incorporation of the Association, as well as the Bylaws of the Association, are available for inspection at the office of Brunswick, which is presently

situated at 4036 Skyline Drive, Brunswick, Ohio, 44212, and at such time as Brunswick shall cease to be a member of the Association, the foregoing shall be available for inspection at the principal office of the Association.

4. Membership in Forest Hills Property Owners Association.

(a) Every person or entity who is the record owner of a fee or undivided fee interest in any subplot or family unit in a condominium structure, as defined in Section 5311 of the Ohio Revised Code, located on the premises described herein, shall be a member of the Association. The person or persons (as opposed to tenants thereon) owning the property, or any portion thereof, identified as Parcels Nos. 1 and 2 in the Preliminary Recitals hereof, which property is presently utilized for multi-family housing, shall also be a member of the Association. The owners of other sublots in Holiday Hills Subdivisions No. 1 and 2 not described in the Preliminary Recitals of this Agreement, including those persons listed in Exhibit "B," shall be admitted to membership in the Association upon executing a counterpart to this Agreement or this Agreement and subjecting their sublots to these covenants and to assessment by the Association by appropriate instrument filed with the Recorder of Medina County, Ohio. The foregoing is not intended to include persons or entities who hold a fee interest merely as security for the performance of an obligation. No owner shall have more than one membership.

Membership shall be appurtenant to and shall not be separated from ownership of the real property which is subject to assessment by the Association. Membership shall terminate upon transfer, and the transferee shall succeed to membership conditioned upon the payment of any due and unpaid assessments.

The owner of any other property hereafter subjected to restrictions and covenants and to assessment by the Association for the maintenance of the common area shall also be members of the Association.

5. Voting Rights. The Association shall have one (1) class of voting membership. Members shall be entitled to one (1) vote for each subplot or each family unit located in a condominium structure in which they hold the interest required for membership by Section 4. When more than one (1) person holds such interest in any subplot or family unit, all such persons shall be members. The voting for such subplot or family unit shall be exercised as the owners of such subplot or family unit shall determine amongst themselves, but in no event, shall more than one (1) vote be cast with respect to one (1) subplot or one (1) family unit.

With respect to property hereinbefore identified as Parcels No. 1 and No. 2 in the portion of the Agreement identified as "Preliminary Recitals," those Parcels No. 1 and No. 2 are presently used for multi-family rental housing. The owner or owners of all or a portion of the property identified as Parcels No. 1 and No. 2 shall be entitled to one (1) vote for each rental

unit situated on that owner's property. Where more than one (1) person shall be the owner of a portion of Parcels No. 1 and No. 2, all such persons shall be members, but no more than one (1) vote may be cast with respect to one (1) rental unit. No tenant of a rental unit shall be a member unless he also shall be an owner of all or a portion of Parcels 1 and 2. Each owner may cast the votes by person or proxy with respect to the rental units situated on the property owned by him.

At the time of the execution of this Agreement, Forest Park is the owner of Parcels No. 1 and No. 2 and there are one hundred twenty (120) rental units situated thereon, thereby entitling the owner to one hundred twenty (120) votes.

5. Acquisition of Additional Common Area. The acquisition of additional property by the Association or the installation of additional improvements to the Common Area (as opposed to repair or replacement thereof) shall require the assent of persons holding two-thirds (2/3) of the voting power of the Association present in person or by proxy at a meeting called for this purpose. Such a meeting shall be called on not less than ten (10) days' written notice setting forth the purpose of the meeting. The presence of members or proxies entitled to fifty per cent (50%) of the voting power of each class of the members of the Association shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, another meeting may be called, subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be

sixty-six and two-thirds per cent (66-2/3%) of the required quorum at the previous meeting. Provided, however, no consent from the membership of the Association shall be required for the acquisition of additional common area from Brunswick, if Brunswick shall not receive any consideration therefor. The assumption by the Association of real estate taxes and assessments shall not constitute payment of any consideration to Brunswick. Provided, however, that Brunswick shall have paid all real estate taxes and assessments due and payable as of the date of transfer.

It is, in fact, contemplated that Brunswick will develop and convey to the Association another recreation area with respect to its development of the contemplated Holiday Hills Subdivision No. 3.

7. Property Rights of the Members of Forest Hills Property Owners Association in the Common Area.

(a) Members' Easements of Enjoyment. Every member shall have a right and easement to enjoyment in and to the Common Area and its improvements, and such easement shall be appurtenant to and pass with the title of every property assessed hereunder, subject to the following limitations:

(i) The right of the Association to limit the number of guests of members and number of guests of the occupants of the rental units. The rights of occupants of the rental units with respect to guests, fees and use of the

Common Area shall be the same as the rights of the owners of sublots and family units, irrespective of the fact that such occupants are not members.

~~\*~~ (ii) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area. ~~\*~~

~~\*~~ (iii) The right of the Association to enact reasonable rules and regulations for the use thereof. ~~\*~~

(iv) The right of the Association in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be superior to the rights of the members hereunder.

(v) The right of the Association pursuant to its Bylaws to suspend the voting rights and the right to the use of the recreational facilities of a member or others, including occupants of the rental units, for any period during which an assessment against his property remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.

(b) Delegation of Use. Any member may delegate, in accordance with the Bylaws and rules and regulations of the

Association, his right of enjoyment in the Common Area and facilities to the members of his family and to others, expressly including occupants of the rental units, provided that said family and others shall reside in a single-family unit, dwelling or rental unit constructed upon a property which is the subject of assessment pursuant hereto. Such delegation shall automatically terminate when said person shall cease to be a bona fide resident in a condominium family unit, dwelling or rental unit constructed upon a property, subject to assessment pursuant hereof.

(c) Title to the Common Area. Brunswick hereby covenants, fee themselves, their successors and assigns, that they will convey fee simple title on or before June 15, 1972, to the Common Area described in Exhibit "C" to the Association by general warranty deed, free and clear of all liens and encumbrances, except for easements, restrictions and conditions of record, zoning ordinances, and real estate taxes and assessments not then due and payable.

8. Covenant for Assessments.

(a) Creation of Lien and Personal Obligation for Payment of Assessments. The parties hereto for the premises hereinbefore described, as well as other owners committing themselves to these covenants, with respect to the premises owned by each of them, hereby covenant and each subsequent owner of any portion thereof by acceptance of a deed of

conveyance thereof, whether it shall be so expressed in such deed or other conveyance, is hereby deemed to covenant and agree to pay to the Association, its successors and assigns:

- (i) Annual assessments or charges, and
- (ii) Special assessments for renovation of capital improvements, all of which assessments shall be fixed and collected from time to time as hereinafter provided.

(b) Annual Assessments. Promptly upon the execution of this Agreement and thereafter prior to January 1, 1973, and prior to January 1st of each succeeding calendar year, the Board of Trustees of the Association shall meet and establish an estimate of the total amount necessary for the operation, enjoyment and use of the Common Area, together with a reasonable amount considered by the Board of Trustees to be necessary as a reserve for contingencies, plus any amount necessary to pay the reasonable operating expenses of the Association. Said estimate shall take into account any surplus on hand or deficit at the close of each calendar year.

Commencing with the calendar year 1972, the assessments shall be established as follows:

- (i) With respect to each subplot used as a single-family residence, the assessment shall be Fifty Dollars (\$50) per calendar year.
- (ii) With respect to each condominium family unit, the



assessment shall be Thirty Dollars (\$30) per calendar year.

(iii) With respect to each apartment rental unit situated in a multi-family rental structure, the assessment shall be Twenty Dollars (\$20) per calendar year.

(iv) To the extent that the assessments for any calendar year by reason of the payment set forth in Sections 8. (b) (i), 8. (b) (ii) and 8. (b) (iii) above shall exceed the operating cost of the Common Area, as hereinbefore set forth, such excess shall be refunded to the members, or at the discretion of the Board of Trustees of the Association, applied to diminish the annual assessment to become due during the next succeeding calendar year pursuant to Sections 8. (b) (i), (ii) and (iii). In all events, such excess shall be refunded to the member or credited against the next succeeding annual assessment in proportion to the amounts paid pursuant to Section 8. (b) (i), (ii) and (iii). That is, the proportion shall be: two and one-half (2 1/2) with respect to a subplot, one and one-half (1 1/2) with respect to a condominium family unit and one (1) with respect to an apartment rental unit.

(v) To the extent that the estimate of the operating costs of the Board of Trustees shall be in excess of the

assessment shall be Thirty Dollars (\$30) per calendar year.

(iii) With respect to each apartment rental unit situated in a multi-family rental structure, the assessment shall be Twenty Dollars (\$20) per calendar year.

(iv) To the extent that the assessments for any calendar year by reason of the payment set forth in Sections 8. (b) (i), 8. (b) (ii) and 8. (b) (iii) above shall exceed the operating cost of the Common Area, as hereinbefore set forth, such excess shall be refunded to the members, or at the discretion of the Board of Trustees of the Association, applied to diminish the annual assessment to become due during the next succeeding calendar year pursuant to Sections 8. (b) (i), (ii) and (iii). In all events, such excess shall be refunded to the member or credited against the next succeeding annual assessment in proportion to the amounts paid pursuant to Section 8. (b) (i), (ii) and (iii). That is, the proportion shall be: two and one-half (2 1/2) with respect to a subplot, one and one-half (1 1/2) with respect to a condominium family unit and one (1) with respect to an apartment rental unit.

(v) To the extent that the estimate of the operating costs of the Board of Trustees shall be in excess of the

total amount payable by the assessments pursuant to Sections 8. (b) (i), 8. (b) (ii) and 8. (b) (iii), the Board of Trustees shall establish an additional annual assessment with respect to each property subject to assessment hereunder. The amount by which the estimate of the Board of Trustees shall exceed the total amount of assessments payable by reason of Sections 8. (b) (i), 8. (b) (ii) or 8. (b) (iii) shall be assessed equally amongst all sublots, condominium family units and apartment rental units. That is, there shall be no differentiation between the respective types of property subject to assessment hereunder and each entity shall bear that proportion of the estimate of expenses in excess of the assessments pursuant to Section 8. (b) (i), (ii) and (iii) as that entity shall bear to the total number of sublots, condominium family units and apartment rental units subject to assessment hereunder.

Each entity of a classification shall pay the same assessment as all other entities of that classification. If a property subject to an assessment shall be owned by more than one person, each person shall be jointly and severally liable for the portion of the assessment attributable to that property. No subplot, condominium family unit or apartment rental unit shall be subject to payment of an assessment until that property is actually utilized as a resident. Forest Park hereby stipulates that commencing with the assessment for the year 1972, all 120 apartment units located on Parcels 1 and 2 shall be treated as

occupied as a residence. Thereafter, regardless of whether the property shall be utilized as a residence or not, it shall be subject to an assessment.

The assessment under this Section (b) shall not be utilized to pay maintenance of the common property other than normal annual maintenance. All costs of maintenance and repairs occasioned by obsolescence, uninsured causality or destruction, or any and all maintenance and repair resulting in a capital improvement to the premises, shall be paid pursuant to the assessment set forth in Section (c) hereof.

Written notice of the assessment shall be mailed to the owner or owners of each property subject to assessment, on or about January 20th of each calendar year, commencing with January 20, 1973. All assessments shall be due and payable on or before March 15th of each calendar year. Any assessment not paid as aforesaid shall be subject to interest computed at the rate of eight per cent (8%) per annum on the unpaid balance from the due date thereof.

Written notice of any additional annual assessment for the year 1972 shall be mailed to the owners within ten (10) days after determination thereof and all annual assessments for the year 1972 shall be due and payable on or before June 1, 1972. Annual assessments shall bear interest at eight percent (8%) per annum thereafter until paid.

(c) Special Assessments for Capital Improvements, Major Repairs and Renovation. In addition to the annual

assessments authorized by the preceding Section (b), the Association may levy in any calendar year a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement (to the extent that the same shall constitute a capital expenditure as herein defined) of an improvement upon the Common Areas, provided that such assessment shall have the approval of the Board of Trustees of the Association. Action by the Board of Trustees of the Association shall be taken at a regular or special meeting of the Trustees which meeting shall be open to all members. Written notice of such meeting to consider the adoption of a special assessment shall be given to all members not less than ten (10) days in advance of the meeting.

Such action special assessment by the Trustees shall require the ratification and consent by persons holding two-thirds (2/3) voting power of the Association present in person or by proxy at a meeting called for this purpose. Such meeting shall be called on not less than ten (10) days' written notice setting forth the purpose of the meeting and nothing shall prevent the special assessment from being adopted at a joint meeting of the Board of Trustees of the members and the Board of Directors. The presence of members or proxies entitled to fifty percent (50%) of the voting power of the members of the Association shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, another meeting may be called subject to the notice

requirement set forth above, and the required quorum at such subsequent meeting shall be sixty-six and two-thirds percent (66 2/3%) of the required quorum at the previous meeting.

It is the intention of the parties that all repairs and maintenance of the improvements shall be paid by reason of the regular annual assessments set forth in Section 8. (b) to the extent that the same is not a capital improvement. All cost of replacements and improvements to the Common Area and all costs of repairs and maintenance to the Common Area to the extent that the same constitute a capital improvement shall be paid by reason of a special assessment pursuant to this Section 8. (c). Repairs and maintenance to the extent that the same substantially adds to the value of the Common Area or appreciably prolongs the life of the improvements on the Common Area shall be paid by special assessment pursuant to this Section 8. (c).

In case of a dispute as to whether a particular expenditure shall be paid by reason of an annual assessment or a special assessment, the same shall be determined by arbitration pursuant to the rules of the American Arbitration Association. The costs of arbitration pursuant hereto shall be a cost to be paid by the regular annual assessment. The criterion shall be the law as it pertains to the deductability of an expense as opposed to the capitalization and depreciation thereof pursuant to the Internal Revenue Code of the United States of America.

Every special assessment shall be per capita uniform as to all entities subject to assessment and there shall be no differential between a single family dwelling, family unit or rental unit.

That is, each rental unit shall pay that proportion of the costs which are the subject of a special assessment as that entity shall bear to all entities subject to assessment.

(d) Obligation to Pay Assessments. The annual and special assessments, together with interest thereon and costs of collection thereof, including reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which assessment is made. Each assessment, together with interest and costs of collection, shall also be personal obligation of the person who was the owner of such property at the time the assessment became due. The personal obligation shall not pass to a successor in title unless expressly assumed by the successor. Provided, however, such assessment, interest and costs of collection shall continue to be a lien upon the property subject to assessment acquired by a successor, and the successor shall not be entitled to membership in the Association until payment of said assessment, interest and cost of collection.

(e) Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the promotion of the recreation, health, safety and welfare of the residents of the properties which shall be subject to Assessment, and to promote the welfare, integrity and aesthetic value of the aforesaid properties. In particular, the assessments shall be used for the improvement and maintenance of the Common

Area, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and the operating costs of the Association.

(f) Effect of Nonpayment of Assessments. Any assessments which are not paid when due shall be delinquent and the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. Said remedies shall be cumulative and not alternative. Interest computed at eight percent (8%) per annum on the unpaid balance from the due date of said assessment, together with costs of collection, including reasonable attorneys' fees, shall be added to the amount of the assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of the property which is subject to assessment.

The Association may file with the Recorder of Medina County a Notice of lien to evidence any delinquent assessment, but the Association shall not be under any duty to file said Notice of Lien, and its failure or omission to do so shall not in any way impair or affect the Association's lien and rights against an owner or his property.

(g) Subordination to First Mortgage Lien and Effect of Transfer. The lien of assessments provided herein shall be subordinate to the lien of any first mortgage or mortgages to a lending institution. Sale or transfer of any lot shall



not affect the assessment lien. However, the sale or transfer of any property subject to assessment which is the subject of any mortgage pursuant to a decree of foreclosure under such mortgage shall extinguish the lien for such assessments as to payments which became due prior to such sale or transfer to the extent the same are not paid from the proceeds of such foreclosure sale distributed in accordance with the priorities established by law. No sale or transfer of a property subject to assessment shall relieve any owner thereof from personal liability for any assessments due as of the date of the said sale or transfer.

9. Applicability. Each person who shall subsequently acquire title of property subject to these covenants, by the acceptance of a deed of conveyance, for himself and for his executors, administrators, devisees, heirs and assigns, accepts such conveyance and title to such lot subject to all of the easements, reservations, conditions, restrictions, covenants and agreements hereinbefore set forth, and consents and agrees that such easements, reservations, conditions, restrictions, covenants and agreements shall be construed to run with the land and that they shall be kept, observed and performed by, shall be binding upon, and shall inure to the benefit of, every owner of an interest in land subject to these covenants, all in like manner as though the provisions of this Agreement were stipulated in full in each and every deed of conveyance.

It is the intention of the parties hereto and all other


persons who shall subject their properties to these covenants, to create a general plan for the establishment, maintenance, repair and operation of the Common Area, and that all rights and obligations established hereby shall be enforceable by the Association, and all owners of property described in this Agreement of conveyance or otherwise subject to these restrictive covenants.

The foregoing shall apply with equal force and effect to any other property owner who shall subject his property to these covenants or such portions thereof by causing appropriate instruments to be filed for record with the Recorder of Medina County, Ohio.

10. Separability. The invalidation of any provision hereof by court judgment or decree shall not impair or affect the validity, enforceability or effect of any other provision hereof.

11. Modification. These covenants and restrictions may be modified or cancelled, effective on the 30th day following a meeting of the members of the Association held for such purpose by the affirmative vote of members entitled to exercise sixty-six and two-thirds percent (66 2/3%) of the entire voting power of the membership of the Association. Not less than thirty (30) days' written notice shall be given to each member, and such notice shall contain the modifications to be considered at such meeting. Voting may be by person or proxy. If such modification or cancellation shall be enacted, the President and Secretary of the Association shall execute and file for record an instrument

reciting such modification or cancellation. Provided, however, no modification can be made with respect to the voting rights of the membership or to alter the method or terms with respect to assessment as set forth in Section 8. hereof, except upon the affirmative vote of eighty-five percent (85%) of the entire voting power of the membership of the Association obtained at a meeting of the membership held and conducted as previously set forth in this Section 11.

 12. Additional Services. The Association, in addition to its performance of the functions and responsibilities hereinbefore set forth, may provide other services determined by the Trustees to be of general benefit or utility to the owners of any property subject to these restrictions, and the expense of any such service shall be paid by the levy of assessments pursuant hereto.

13. Exclusion of Certain Persons. It is contemplated that this Agreement will be signed by all persons and their spouses owning parcels in the Holiday Hills Subdivisions Nos. 1 and 2 as filed for record in Volume 14 of Maps, Page 24, and Volume 14 of Maps, Page 71, respectively, of the Medina County Records, and that this Agreement will be filed for record with the Recorder of Medina County. If the owner of any such subplot does not sign this Agreement, this Agreement will remain in full force and effect as to Brunswick and all other owners joining in this Agreement as to any subplot or parcel described herein or owned by a person becoming a party to this Agreement by subjecting his subplot to the provisions hereof. Any nonsigning owner and any

persons deriving or claiming title from, through or under him shall have no rights or obligations under this Agreement and shall have no easement or other right or obligation with respect to any recreational facility or other Common Area described herein or hereafter acquired by the Association. Any subplot which is not initially subject hereto may become subject hereto by executing an instrument subjecting that subplot to the covenants and restrictions contained herein.

14. This Agreement shall be binding upon the undersigned, their legal representatives, heirs, devisees, successors and assigns.

IN WITNESS WHEREOF, we have executed this Agreement the date  
and place first above written.

WITNESSES:

BRUNSWICK RECREATION COMPANY,  
a Partnership

By \_\_\_\_\_

BRUNSWICK CONSTRUCTION CO., INC.

By \_\_\_\_\_

and By \_\_\_\_\_

SHERWOOD CONSTRUCTION COMPANY

By \_\_\_\_\_

and By \_\_\_\_\_

HOLIDAY HILLS CONDOMINIUM OWNERS  
ASSOCIATION

By \_\_\_\_\_

and By \_\_\_\_\_

FOREST PART ASSOCIATES,  
A Limited Partnership

By \_\_\_\_\_