

VI. COVENANTS, CONSTITUTION & BY LAWS

COVENANTS

The undersigned, SIMPSON CREEK CONSTRUCTION CO., an Ohio corporation and THE CENTRAL BANC MORTGAGE CO., an Ohio corporation, being owner and mortgagee of the following described real property ("the property"), to-wit:

Situated in Section 29, Town 5, Entire Range 1, Symmes Township, City of Montgomery, Hamilton County, Ohio and being all of Tanager Woods Subdivision Block "D", as the same is recorded in Registered Land Plat Book 44, Pages 29 through 34 of the Recorder's Records of Hamilton County, Ohio. Prior Reference: Registered Land Certificate No. 104455.

Do hereby make, declare and adopt the following covenants, restrictions and limitations upon the uses of the afore described real property in furtherance of the following purposes:

- (1) The compliance with all zoning and similar governmental regulations;
- (2) The promotion of health, safety, and welfare of all owners and residents of the Property;
- (3) The preservation, beautification, and maintenance of the Property and all structures thereon;
- (4) The preservation and promotion of environmental qualities;
- (5) The establishment for development of the Property of requirements relating to land use, architectural features and site planning.

These restrictions and covenants are hereby declared to be covenants running with the land and binding upon all owners, residents, tenants and all claiming under each owner (Beneficiaries). These restrictions shall remain in full force and effect until December 31, 1997. Thereafter, the restrictions shall be automatically renewed for successive periods of ten years unless amended or terminated in whole or in part by written instrument executed by at least seventy-five per cent (75%) of the owners of the Property.

The determination by a court of competent jurisdiction that any provision, covenant, restriction or limitation of the use of property herein is invalid for any reason shall not affect the validity of any other provision hereof.

It is hereby declared that irreparable harm will result to the SIMPSON CREEK CONSTRUCTION CO. and the Beneficiaries of the Restrictive Covenants by reason of violation of the provisions thereof or default and therefore each beneficiary shall be entitled to relief by way of injunction damages or specific performance to enforce the provisions of these Restrictive Covenants as well as any other relief available at law or in equity.

The following restrictions are hereby created, declared and established:

1. *Building Type.* No structure shall be constructed, erected, placed or permitted to remain upon any lot except one single-family residence not to exceed two stories in height. All garages must be attached. All garages must be of sufficient size to accommodate two passenger automobiles. No other structure shall be constructed, erected, placed or permitted to remain upon any lot. The word "structure" as used herein, means any thing or object the placement of which upon any lot may affect the appearance of such lot including, but not limited to, any residence, dwelling unit, building garage, shed, barn, greenhouse, coop, cage, house trailer, or any other temporary or permanent improvement of such lot. It is further provided, however, that the word "structure" does not include covered or uncovered patios, swimming pools, bath houses, fences or storage sheds continuing less than seventy-two (72) square feet of floor space.
2. *Purpose of Property.* No lot shall be used for other than residence purposes for a single family. To the extent permitted by law, an owner, a member of his household, his tenant, or other person claiming through him may use a portion of his single-family residence for his office or studio provided that the activities therein shall not interfere with the quiet enjoyment or comfort of another owner, tenant, household member or other person claiming through such owner and provided further that such activities do not increase the normal flow or traffic or individuals in and out of the Property of said single-family residence.
3. *Fences and Walls.* Fences or walls erected upon any lot shall be ornamental in character and shall not extend beyond the front setback line of each residence constructed or to be constructed. There shall be no wire, chain link or similar fences installed on any lot.
4. *Setback Lines.* No building shall be located on any lot in violation of the minimum building setback lines required by any governmental entity.
5. *Area Requirements.* No one-story or ranch-style residence shall have less than 1800 square feet of enclosed livable area. No two-story residence shall have less than 2000 square feet of enclosed livable area. Livable area shall not include garage and basement area.
6. *Animals.* No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, accepted, or permitted to remain on any lot, except dogs, cats or other household pets not totalling more than three in number provided that they are not kept, bred, or maintained for any commercial purpose. No such pets may be allowed to run unattended.

7. *Nuisances.* No activity which may be considered noxious or offensive by reason of odor, sound, appearance or sight or which may become a nuisance or annoyance will be permitted on any lot nor shall anything be done within any residence, either willfully or negligently, which may be or become an annoyance or nuisance to other owners.
8. *Temporary Structures.* During construction of a structure upon a lot, a temporary construction office shall be permitted for a period of not more than six months, provided that said construction office is actually used in connection with the construction on the lot.
9. *Prohibited Activities.* Except as otherwise provided herein, no industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Property.
10. *Trash.* Trash, garbage, rubbish, or other waste shall not be kept upon a lot except in sanitary containers.
11. *Parking.* No trailers, trucks, boats, buses, vans, or anything other than operative automobiles, motorcycles or scooters, shall be parked or stored upon any lot or upon streets. Any of such vehicles may, however, be stored or parked in an enclosed garage. The word "trailer" shall include trailer coach, house trailer, mobile home, automobile trailer, campcar, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage or the conveyance of machinery, tools, or equipment, whether resting on wheels, jacks, tires or other foundation. The word "truck" shall include and mean every type of motor vehicle other than passenger cars and other than any pickup truck which is used as an automobile vehicle by an owner of a lot and his family. It is provided, however, that vehicles used for the purpose of construction, delivery or repair work upon any lot or residence may be permitted to park on or in front of a lot.
12. *Signs.* No signs, billboard, or advertisement of any kind shall be displayed on or about any lot to public view except for signs advertising the property for sale or rent or signs used by developers and builders to advertise the property during the construction or sale period.
13. *Swimming Pools.* No swimming pool which extends over one foot above the finished grade of a Parcel shall be constructed, erected, placed, or permitted to remain upon any Parcel.
14. *Exterior Lighting.* Each residence shall have at least one (1) post light in the front yard.

These covenants are believed to be accurate, but are not warranted. For any exact wording, please consult the deed restrictions in your possession.

CONSTITUTION

Article I. NAME

The name of the organization shall be the Tanager Woods Civic Association (hereinafter referred to as the "Association").

Article II: LOCATION

The Association is located in the Tanager Woods Subdivision, City of Montgomery, Hamilton County, Ohio.

Article III: PURPOSE

The purposes for which the Association is formed are promoting the general welfare of the residence districts of the area generally known as Tanager Woods by giving special attention to public improvements and all that relates to the betterment thereof; encouraging social activities among its members; and doing any and all things necessary to accomplish these purposes.

Article IV. MEMBERSHIP

Each resident of Tanager Woods who owns, rents and/or leases a home in Tanager Woods and his or her spouse shall be eligible to become members of the Association upon making proper application to the Association.

Article V. OFFICERS AND EXECUTIVE COMMITTEE

Section 1. The officers of the Association shall be as follows:

- (1) President and Statutory Agent
- (2) Vice President
- (3) Secretary
- (4) Treasurer
- (5) Director
- (6) Director
- (7) Director
- (8) Director
- (9) Director

The officers of the Association shall also serve as the Trustees of the Association and their duties shall be defined in the By Laws.

Section 2. The officers of the Association shall constitute the Executive Committee and the Executive Committee shall have such powers as are normally exercised by such bodies, and shall have general charge of the affairs of the Association between meetings, with power to act.

Article VI. BY LAWS

The Association shall adopt By Laws for the conduct of its affairs which are in harmony with this Constitution.

Article VII. AMENDMENT

This Constitution may be amended at any regular meeting of the association by a two-thirds affirmative vote of the households in good standing then in attendance provided a quorum is obtained and provided further that (a) notice of the proposed amendment shall have been given at the immediately preceding regular meeting, and (b) either (i) notice of the proposed amendment shall have been published in the most recent issue of the Association's newspaper or other official publication, or (ii) written notice of the proposed amendment shall have been given to all members in good standing at least 14 days prior to the meeting at which the amendment is to be voted upon.

BY LAWS

Article I. MEMBERSHIP, DUES AND VOTING RIGHTS

Section 1. Each resident of Tanager Woods who owns, rents, and/or leases a home in Tanager Woods and his or her spouse shall be eligible to become members of the Association upon making proper application to the Association.

Section 2. Beginning January 1, 2000 and until December 31, 2000, the annual dues shall be twenty-five (\$25.00) per household. Beginning with annual dues levied as of January 1, 2001, the Executive Committee without a vote of the Members in good standing may increase the maximum amount of the annual dues by an amount not to exceed ten (10%) percent of the previous year's annual amount of dues. Any proposed dues increase in excess of the ten (10%) percent may be levied only with consent of the Members in good standing. Such consent may be obtained at a regular or special meeting of the Members or by written consent.

Any eligible household moving into the subdivision after January 1 of any year shall pay a prorated amount of annual dues. Such amount shall be determined by multiplying the number of months left in the calendar year by one-twelfth of the annual dues.

Dues shall be payable on or before January 1 of each year. Households that have not paid their annual dues shall not be in good standing and shall not be eligible to vote on matters before the Association for consideration (including the election of officers) and individual members of the household shall not be eligible to hold office or serve on any committee of the Association.

Section 3. Each household in good standing shall be entitled to one vote in all matters brought before the Association for consideration (including the election of officers).

Article II. MEETINGS

Section 1. Regular meetings of the Association shall be held in the first Sunday of January, March, May, July, September, and November. In the event a regular date shall be a national holiday, the meeting shall be held on the next succeeding Sunday.

Section 2. Special meetings may be called by the Executive Committee provided that 14 days written notice has been given.

Section 3. Upon a petition of twenty-five (25) households in good standing requesting a meeting and being presented to the President and the Secretary, it shall be their duty to call a meeting in accordance with the wishes of the petitioners.

Section 4. The regular meeting in March shall be the annual meeting.

Section 5. Twenty (20) percent of the households in good standing shall constitute a quorum for the transaction of business for all meetings of the Association.

Article III. ELECTION OF OFFICERS

Section 1. Only members in good standing shall be eligible to hold office in the Association.

Section 2. The election of the officers of the Association shall take place at the March meeting. Officers shall be elected to serve for a period of one year from the annual meeting through the succeeding annual meeting.

Section 3. All elections of officers shall be by secret ballot. The nominee receiving the greatest number of votes shall be declared elected. However, if there is but one nominee for any office it shall be in order to move that the Secretary cast the elective ballot of the Association for that nominee.

Section 4. Two months prior to the March meeting, the President shall appoint a nominating committee of five members. The nominating committee shall nominate at least one eligible member for each office to be filled and report its nominees one month prior to the March meeting. Nominations may be made from the floor at the March meeting, provided the consent of the nominee has been obtained.

Section 5. Whenever a vacancy shall occur in the Executive Committee, the following procedure shall be followed in filling such vacancy:

- (a) If the vacancy is in the position of the President, Secretary or Treasurer, an election shall be held at the next regular meeting of the Association at which time nominations may be made from the floor and the successor to such position shall be elected to fill the unexpired term of the vacated office.
- (b) If the vacancy is on one of the Director positions, the remaining members of the Executive committee shall select the person to fill the unexpired term of the vacated office.

Article IV. DUTIES OF OFFICERS

Section 1. The President shall preside at all meetings of the Association and of the Executive Committee at which he may be present; shall perform such other duties as may be prescribed by these By Laws or assigned to him by the Association or the Executive Committee; and shall coordinate the work of the officers and committees of the Association in order that the purpose of the Association may be promoted.

Section 2. The Vice President shall act as side to the President and shall perform the duties of the President in the absence or disability of that officer to act. He shall present reports at meetings of the Association and at such other times as requested by the Executive Committee.

Section 3.

The Secretary shall record the minutes of all meetings of the Association and of the Executive Committee and shall perform such other duties as may be delegated to him. He shall establish such committees in his area as he deems necessary or as directed by the Association or the Executive Committee. He shall present a report at every meeting of the Association and at such other times as requested by the Executive Committee.

Section 4. The Treasurer shall receive and disburse all funds of the Association and shall deposit or invest its money in a manner approved by the Executive Committee. He shall keep a complete and accurate account of all receipts and expenditures and shall be responsible for maintenance of all such books of accounts and records. He shall present a financial report at every meeting of the Association and at such other times as requested by the Executive Committee and shall make a full report at the annual meeting. An annual audit of the Treasurer's books shall be made by a committee to be appointed by the President at the annual meeting. He shall establish such committees in his area as he deems necessary or as directed by the Association or the Executive Committee.

Section 5. A Director shall have the following duties:

- (a) to serve on the Executive Committee
- (b) to represent his geographical area
- (c) to chair any committee as directed by the Executive Committee
- (d) to fulfill other duties as assigned by the Executive Committee

Section 6. The officers of the Association shall also serve as Trustees of the Association.

Section 7. At the May meeting the Treasurer shall submit an annual budget for the approval of the Association membership.

Article V. EXECUTIVE COMMITTEE

Section 1. The Executive Committee shall consist of the officers of the Association.

Section 2. The duties of the Executive Committee shall be:

- (a) to transact necessary business in the intervals between Association meetings and such other business as may be referred to it by the Association;
- (b) to approve the plans of the committee before presentation to the Association membership;
- (c) to present a report at the regular meeting of the Association;
- (d) to approve expenditure within the limits of its authority;
- (e) to approve annual budgets submitted by the officers.

Section 3. Regular meetings of the Executive Committee shall be held during the interval between regular meetings of the Association, the time to be fixed by the Executive Committee. A majority of the Executive Committee shall constitute a quorum for the transaction of its business. Special meetings of the Executive Committee may be called by the President or by a majority of its members.

Article VI. COMMITTEES

Section 1. The Executive Committee shall establish by majority vote any such committee as deemed necessary to carry on the work of the Association and to appoint the Chairman of such committees.

Section 2. The Chairman of each committee shall present his plans to the Executive Committee. No committee work shall be undertaken without prior approval of the Executive Committee and no plan may be submitted to the Association membership for their consideration without first being presented to the Executive Committee for their review.

Article VII. AUTHORITY

Section 1. All contracts or expenditures of more than \$100 but less than \$500 must be approved by the Executive Committee before they may be incurred. All contracts or expenditures of more than \$500 or the acquisition or disposition of property having a value of more than \$500 must be approved by the Association membership before the expense may be incurred or the transaction entered into.

Section 2. Assessments may be passed at any meeting of the Association by a two-thirds affirmative vote of households who are members of the Association in good standing. Absentee voting will be permitted only in this instance.

Section 3. All checks must be signed by any two of the following: President, Vice President, Treasurer and Secretary.

Section 4. The Executive Committee may, at their discretion, approve committee action without approval by the Association membership, subject to the limitation in Section 1 of this article. Notification of each such approval shall be made at the next meeting of the Association.

Article VIII. ORDER OF BUSINESS

The order of business to be observed at all Association meetings shall be as follows unless modified by the Executive Committee:

- (1) Call to order
- (2) Reading of the minutes of prior meeting
- (3) Officers' reports (including reports of committees under Directors)
- (4) Old business
- (5) New business
- (6) Announcement
- (7) Adjournment

Article IX. PARLIAMENTARY PROCEDURE

Robert's Rules of Order, revised edition, shall be followed by the Association in all cases involving parliamentary procedure when it does not conflict with the Constitution or By Laws of the Association.

Article X. AMENDMENT

These By Laws may be amended at any regular meeting of the Association by a two-thirds affirmative vote of the members in good standing then in attendance provided a quorum is obtained and provided further that (a) notice of the proposed amendment shall have been given at the immediately preceding regular meeting and (b) either (1) notice of the proposed amendment shall have been published in the most recent edition of the Association's newspaper or other official publication, or (2) written notice of the proposed amendment shall have been given to all members in good standing at least 14 days prior to the meeting at which the amendment is voted upon.