

Return to Don Craven
P.O. Box 1207
Spfld #71 62705

rev. 11-5-91

RESTRICTIVE COVENANTS

RE: Heritage Point Estates Subdivision, a development by the New Berlin Development Corporation in the Village of New Berlin, Illinois

The following Restrictive Covenants shall apply to the above development.

As a part of the consideration for the conveyance of lots in the above described addition and as covenants and restrictions running with said real estate and binding upon the present owners of record of the lots in the subdivision and the heirs, devisees, assigns and legal representatives of the Grantees of each lot in such addition or parts thereof, and for the benefit of any person or persons who may now or may hereafter hold the title to any other lot in New Berlin Subdivision. Said Grantees, by accepting the conveyance of any such lot, or parts thereof, covenant and agree for themselves, their heirs, devisees, assigns and legal representatives to follow such restrictive covenants.

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1. The purpose of these restrictions is to insure the use of the above described property, sometimes referred to herein as "such lot", for attractive, single family residential purposes only.

2. On lots designated for single family dwellings, only one detached single family dwelling and attached private garage (capacity not less than two cars nor more than 3 cars) shall be erected on such lot. No use shall be made of such lot except such as is incidental to the occupation thereof for residence purposes by one private family residing in a detached, single family dwelling. On lots designated for duplex construction, the same restrictions apply, with the exception that only one building, intended for 2 families, shall be constructed, and both garages shall be attached and shall meet the size restrictions. No building shall be erected, altered, placed or permitted to remain on such lot exceeding two and one-half stories in height.

3. The minimum floor area of any single dwelling constructed on such lot, exclusive of basement, garages, and open porches and decks, shall be as follows:

- a. one story dwelling, at least 1,500 square feet total;
- b. story and a half dwelling (including bi-level homes), at least 1,600 square feet;
- c. two story dwelling, at least 1,800 square feet total.
- d. the minimum floor area, as defined above, for any duplex construction shall be 2400 square feet.

4. No building inclusive of eaves and steps shall be located on such lot nearer to the front lot line or side line than the minimum building line, as shown on the recorded plat of said subdivision, and nearer than 10 feet to any interior lot line,

except on the lots set aside for duplex construction.

Interior lot lines as used herein means the lot lines having no street frontage shown on the recorded plat of said subdivision.

Where a side yard is used for driveway purposes, that side yard adjacent to the dwelling shall not be less than 12 feet in width. Driveways shall be concrete or asphalt.

5. No spirituous, vinous or malt liquor shall be sold or kept for sale on such lot. No lot shall be used for any commercial purpose.

No machinery, appliance, or structure of any kind shall be permitted upon, maintained or operated in or on the premises of such lot for the facilitation and carrying on of any trade, business or industry, except as required by developer for the completion of the improvements to the subdivision.

6. No animals, livestock or poultry of any kind shall be raised, bred, or kept on such lot, except dogs, cats, or other usual and common household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

7. No noxious or offensive activity shall be carried on or upon such lot, nor shall anything be done thereupon which may become an annoyance or nuisance to the neighborhood, disturb the peace and quiet thereof; or annoy any occupant of the neighboring property. Such lot, nor any part thereof, shall be used either temporarily or permanently to sell, store, or accumulate used car parts therefrom or junk of any kind or character, whatever. Rubbish, trash, garbage, or other waste shall not be kept on any lot except temporarily and all such rubbish, trash, garbage or other waste shall be kept in sanitary containers. All containers or other equipment for the storage of waste material shall be kept in a clean and sanitary condition and so as not to be visible to the public, except when temporarily placed there on trash collection days. No rubbish, trash, waste, garbage or junk shall be burned in the subdivision, either in an open fire or in an incinerator.

8. No sign of any kind shall be maintained or displayed on such lot, except one sign of not more than one square foot in area identifying the occupants of the dwelling, one sign of not more than five square feet in area advertising the property for sale or rent, and similar signs used by contractors doing the construction of any improvements thereon.

9. No building, wall, retaining wall, drive, walk or other structure or excavation shall be commenced, installed, or maintained, nor shall any addition to, or any change or alteration to any structure be made except interior alterations until plans and specifications, acceptable to the Architectural Control Committee, showing the nature, kind, shape, height, and material, color, scheme, location and approximate cost of such improvements, and the grading plan of the lot to be built upon shall have been submitted to and approved in writing by the Architectural Control Committee, or its authorized agent, and a copy of said plan and specifications, as finally approved, and logged permanently with the Architectural Control Committee.

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10. All areas of such lot not occupied by a building, a driveway not more than 24' in width and sidewalks, and that part of the public right of way lying between the paved part of the street and the sidewalk shall be sodded or seeded by Grantee, and landscaped and maintained as a lawn.

11. No fences shall be located closer than the building set back line to any street, or the back corner of the residence, whichever is further from the street.

12. Neither Grantee nor any person or persons claiming under him shall or will at any time raise the grade of any lot or lots herein conveyed above the grade established or to be established by Grantor.

13. No commercial vehicle, boat, motor home, trailer, or camper shall be stored on such lot, except inside a garage.

14. Construction must be commenced within 6 months from the purchase of a lot (measured from the closing date of the transaction), and exterior construction completed and the dwelling occupied within 18 months of the purchase of the lot. Variances from these deadlines may be granted by the Architectural Control Committee for good cause shown (weather conditions, or other conditions beyond the control of the builders). No building shall be occupied for living purposes which is not functionally complete in detail as to the exterior. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

15. No outside television or radio aerial or antenna or satellite dish or other aerial or antenna, for reception or transmission, or solar panels, shall be maintained on the exterior of any lot, living unit, or the common area without the prior written consent of the Architectural Control Committee.

16. No construction shall be undertaken without approval of a site plan and building plans and specifications. The Architectural Control Committee shall have the right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable in its opinion for aesthetic or other reasons; and in so passing upon such plans, specifications and grading, it shall have the right to take into consideration the suitability of the proposed building or other structure or improvements to be built or constructed, to the site upon which it is proposed to erect the same, and the harmony as planned in view of the outlook of the adjacent or neighboring properties.

The purpose of this paragraph is to develop the subdivision into a beautiful harmonious private, residential section. If disagreement as to any of the points set forth in this paragraph should arise, the decision of the Architectural Control Committee shall control.

The Architectural Control Committee shall be initially composed of Keith King, Gene Neuman and Tom Sapp. The Committee may designate a representative to act for it. In the event of the

death or resignation of any member of the Committee, the remaining member shall have full authority to designate a successor. Neither of the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Committee's approval or disapproval shall be in writing.

In the event that the members of the Committee or their representative or successors fail to approve or disapprove such design and location in 30 days after building plans, specifications, plot plans, and grading plans have been submitted to them, or, in any event if no suit to enjoin the erection of such building or the making of such alterations have been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to be fully met. The Architectural Control Committee shall select appropriate mailboxes and poles. All lot owners must use the mailboxes and poles as selected by the committee.

17. An easement over a portion of such lot designated as easement shown in the recorded plat of said subdivision is hereby reserved for drainage and the use of public utility companies and others to install, construct, renew, operate and maintain pipes, conduits, cables, poles and wires for the purpose of providing any property in said subdivision with gas, electric, telephone, water, sewer or other utility services.

Overhead cables, poles and wires for public utilities shall not be permitted. All electric, telephone service and other lines therefrom for any improvements in said subdivision shall be installed and maintained underground. Drainage and such portions so designated as easements shall not be blocked or impaired and any owner of any lot or part thereof in said subdivision shall have the privilege of removing any obstruction blocking or impairing such drainage.

18. Invalidation of any of these covenants by judgment or court order shall in no way affect the other provisions which shall remain in full force and effect.

19. No vehicle shall be parked except on the driveway and/or public street. No vehicle shall be parked on a driveway or public street for a period in excess of 48 hours. No repairs shall be made on vehicles, except in a garage. No disabled vehicles, or vehicles on blocks, are permitted.

20. No household gas storage tanks shall be permitted.

21. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, shed or other outbuilding shall be permitted on said lot at any time.

22. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in said lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in said lot, No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon said

lot.

23. All plans for the location of private swimming pools shall be submitted to the Architectural Control Committee. The Architectural Control Committee's decision as to location shall be controlling notwithstanding any restrictions to the contrary.

24. No exterior lights (except street lights installed by developer or Village) with power in excess of 100 watts shall be maintained on any building or free standing pole in the subdivision. No security lights shall be permitted.

25. As to all utility mains for water and sewer, the Grantor reserves an easement to attach to and extend said mains as it shall desire. This right to attach shall be exercised solely by the Grantor, its successor and assigns. No lot owner is empowered to grant the right to attach to said water or sewer mains and is expressly prohibited from granting same. No lot owner may cause water from down spouts, sump pumps, swimming pools or similar sources to be routed into the sanitary sewer system.

26. In the event that legal action is taken to enforce any of these covenants, the costs and legal expenses of such enforcement proceeding shall be paid by the lot owner and in the event they are not paid shall become a lien with the same attributes of a mechanic's lien on the lot in question.

27. The ownership of a building site shall carry with it a membership in Homeowners' Association, an Illinois not-for-profit corporation, the purposes of which are to conduct civic, recreational, charitable, social and educational activities, and, in general, to do and perform such acts as will promote the general welfare of the residents of and the improvement of the community known as Heritage Point Estates. The developer covenants and agrees to maintain the water retention area until such time as the development is completed or substantially completed. Further, developer covenants and agrees that such maintenance shall be consistent with the best interests of the entire area of Heritage Point Estates and the general public. At such time as the development of Heritage Point Estates is completed, or in the sole discretion of the developer substantially completed, developer shall convey that area to the improvement association to be organized for such purpose, and each grantee by the acceptance of developer's deed and the affirmative act of recording same in the office of the Recorder of Deeds of Sangamon County covenants and warrants that said grantee will cause said improvement association to maintain the lakes and green area with the Heritage Point Estates area in a manner consistent with the best interests of the said improvement association and the general public. The Board of the Association may levy assessments against all members, which assessment may not exceed \$100 per calendar year.

The Association shall have two classes of membership, Class A and Class B, as follows:

a. Class "A". Class A members shall be all Owners with the exception of the Declarant, any successor of Declarant who takes title for the purpose of development and sale and anyone holding

one or more lots for the purpose of development or sale. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership. When more than one person holds such interest in any lot, the vote for such lot shall be exercised as those owners themselves determine and advise in writing the Secretary prior to any meeting. In the absence of such advice, the lot's vote shall be suspended in the event more than one person seeks to exercise it. If a lot is owned by a corporation, partnership or trust, such entity shall designate in writing the person authorized to vote in behalf of such entity.

b. Class "B". The Class B member shall be the Developer. The Class B member shall be entitled to four votes for each lot in which it holds the interest required for membership provided that the Class B membership shall cease and become converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (1) When the total votes outstanding of the Class A membership exceeds the total votes outstanding of the Class B membership; or
- (2) December 31, 2001; or
- (3) At such time as Developer voluntarily relinquishes its Class B membership rights.

The assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environment of the properties for the common benefit and enjoyment of the Owners and occupants of residences, improvement and maintenance of the common areas and other common facilities and areas of common responsibility including but not limited to repair, replacement and additions thereto, and for the cost of labor, equipment, and materials, management and supervision thereof, all as may be authorized from time to time by the Board of Directors.

It is expressly understood and agreed, that the several restrictive covenants contained herein shall attach to and run with the land, and it shall be lawful not only for grantor, his heirs and assigns, but also for the owner or owners of any lot or lots adjoining or in the neighborhood of the premises hereby granted, deriving title from or through grantor, to institute and prosecute any proceedings at law or in equity against the person or persons violating or threatening to violate the same.

Dated this 28 day of July, 1992

New Berlin Development Corporation

By: Donald M. Craven
Its President

Vice

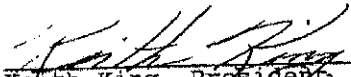
Secretary

Don Craven
P.O. Box 1207
Springfield 62705

NOW COMES New Berlin Development Corporation, the developer of Heritage Point Estates in the Village of New Berlin, Illinois and hereby waives the Restrictive Covenants requiring owner occupancy as to Lot 1 of the subdivision, as it applies to Simpson Lands, Inc. This waiver, executed and effective prior to the recording of the Plat of Subdivision and the Restrictive Covenants, is intended to be, and hereby is, incorporated in the Restrictive Covenants.

Simpson Lands, Inc. purchased Lot 1 before the subdivision was completed and requested a waiver in order to allow the construction of a residence for the farmer who farms much of Simpson Lands, Inc. farm ground in the New Berlin vicinity.

New Berlin Development Corporation, as present owner of all other lots in the Subdivision, agrees to waive the restriction requiring owner occupancy as to Lot 1 for Simpson Lands, Inc. Simpson Lands, Inc. will be bound by all other restrictive covenants, and has been provided a copy of the restrictive covenants applicable to the subdivision.


Keith King, President
New Berlin Development Corporation

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SANGAMON COUNTY
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Mary Ann Sammel
RECORDER

DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS

#8 Constitution Drive - #8 Heritage Point Avenue
New Berlin, Illinois

THIS DECLARATION made and entered into by STEVEN R. FLYNN and JANE A. FLYNN (for convenience sometimes referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the holder of the legal title to the following described real estate:

Lot 8, Heritage Point Subdivision, First Addition.

Situated in Sangamon County, Illinois.

Commonly known as #8 Constitution Drive, New Berlin, Illinois, and #8 Heritage Point Avenue, New Berlin, Illinois, hereinafter sometimes referred to as the "real estate";

WHEREAS, certain portions of said real estate, as hereinafter more particularly described, are intended as dwelling sites, said portions so intended being hereinafter sometimes referred to as "Townhouse Parcels", upon which two (2) so-called "Townhouses" have been erected, each such Townhouse being a single family private residence erected upon a separate Townhouse Parcel. Said Townhouses are constructed in one group, with such group constituting a more or less continuous structure with party wall straddling the boundaries between the Townhouse Parcels, all as depicted on the Plat attached hereto and made a part hereof and identified as Exhibit "A" hereof;

WHEREAS, each of the parcels hereinafter described are, solely for convenience and identification thereof in the present instrument, at the times herein referred to, identified or designated as follows:

TOWNHOUSE PARCELS

PARCEL 1:

UNIT 1

EXHIBIT "A"

Part of Lot 8, Heritage Point Subdivision, First Addition, New Berlin, Sangamon County, Illinois, described as follows:

Beginning at the Northwest corner of said Lot 8; thence East 75.49 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 76.59 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 13.20 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.66 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 5.00 feet, thence deflecting to the left 6.25 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 5.00 feet, thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.08 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 0.66 feet; thence deflecting to the left 49.50 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 26.97 feet to a point on a curve to the right of radius of 25 feet; thence Northwesterly on the curve for a chord distance of 35.35 feet; thence North 114.09 feet to the point of beginning, containing 0.205 acres, more or less.

Commonly known as #8 Constitution Drive, New Berlin, Illinois.

PARCEL 2:

UNIT 2

EXHIBIT "A"

Part of Lot 8, Heritage Point Subdivision, First Addition, New Berlin, Sangamon County, Illinois, described as follows:

From the Northwest corner of said Lot 8, East 75.49 feet to the point of beginning; thence continuing East 49.51 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 139.09 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 73.03 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 49.50 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 0.66 feet, thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.08 feet; thence deflecting to the right 5.00 feet, thence deflecting to the left 90 degrees 00 minutes 00 seconds, 6.25 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 5.00 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.66 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 13.20 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, 76.59 feet to the point of beginning, containing 0.189 acres, more or less.

Commonly known as #8 Heritage Point Avenue, New Berlin, Illinois.

WHEREAS, the Declarant intends to sell and will sell, convey and mortgage some or all of the parcels so improved, and desires and intends that the several purchasers, owners, mortgagees thereof, and all persons acquiring any interest therein now or hereafter, shall at all times enjoy the benefits of and shall hold their said individual parcels subject to the rights, easements, burdens, uses and privileges hereinafter set forth;

NOW, THEREFORE, said Declarant does hereby declare that the following rights, easements, covenants, burdens, uses and privileges shall and do exist at all times hereafter among the several owners, purchasers or mortgagees of the said parcels of the real estate in this instrument described in the manner and to the extent herein set forth, and that the declarations contained herein shall be binding upon and inure to the benefit of each and every such parcel in this instrument described.

ARTICLE I

PREAMBLES AND EXHIBITS

SECTION 1.1

The preambles of this Declaration of Easements, Covenants and Restrictions and any and all Exhibits attached hereto are all hereby expressly incorporated herein by this reference and hereby made a part hereof.

ARTICLE II

MAINTENANCE, ALTERATIONS AND ADDITIONS

SECTION 2.1

The exterior masonry of the improvements upon the real estate shall be cleaned and tuckpointed at least once in every ten (10) years, unless both Owners deem it unnecessary. The cost thereof shall be determined for each Townhouse Parcel, and each Owner shall pay for costs associated with his own Townhouse Parcel.

SECTION 2.2

The exterior soffit and siding of the improvements upon the real estate shall be maintained by each Owner in the present color scheme, or in such color scheme as shall be unanimously approved by the Owners of all other Townhouse Parcels. If unanimous agreement is not reached with respect to any proposed change in color scheme, then the prevailing color scheme shall again be used and maintained. The cost of maintenance, repair or replacement shall be determined for each Townhouse Parcel, and each Owner shall pay the costs associated with his own Townhouse Parcel.

SECTION 2.3

No Owner shall make any exterior architectural changes or additions to any of the Townhouse structures erected upon the Townhouse Parcels herein described and designated, or identical structures erected in replacement thereof, and no exterior structures, entrances, roof, barricades, fences or additions, or additional buildings of any kind shall be built upon any portion of said real estate without the prior unanimous approval of the Owners of all other Townhouse Parcels.

SECTION 2.4

If any Owner fails to maintain, rebuild or restore the Townhouse Parcel owned by him as herein provided, then the other Owners may, after sixty (60) days' written notice to such defaulting Owner, have such work done, and the amount paid therefor shall be charged against such defaulting Owner, and the Owner may bring proceedings against such defaulting Owner to collect same by suit at law or in equity, and there shall be added to amount due, the costs of such suit together with interest and reasonable attorney's fees, to be fixed by court order.

SECTION 2.5

The Owner of each Townhouse Parcel shall be responsible for the maintenance, repair and replacement of that portion of the common roof and gutter system as is located or installed upon or attached to the Townhouse on his respective Townhouse Parcel.

SECTION 2.6

Except as herein to the contrary specifically provided, the Owner of each Townhouse Parcel shall furnish and be responsible for, at his own expense, all decorating, maintenance, repairs and replacements within and upon his own Townhouse Parcel.

SECTION 2.7

The cost of repairs to or replacement of any common sidewalk, including any common front and rear concrete steps or patio situated upon the premises or any portion of such common sidewalk and steps or patio, shall be borne equally by the Owners sharing such common sidewalk or steps or patio. As to all steps, sidewalks, patios and driveways not common requiring repairs or replacement, the cost of such repair or replacement shall be borne by the respective Townhouse Owner.

SECTION 2.8

The Owner of each Townhouse Parcel shall at all times be responsible for the repair, maintenance or reconstruction of the

private portions of the sewer and water systems upon or leading from his Townhouse Parcel to the point of connection of same with the common sewer and water systems. Each Owner shall be responsible for one-half of the costs of maintenance, repair and upkeep for any common sewer and water system serving the premises.

SECTION 2.9

The Owner or occupant of each Townhouse Parcel shall maintain the lawn and landscaping, if any, on his premises in a reasonable condition.

ARTICLE III

PARTY WALLS

SECTION 3.1

All dividing walls which straddle the boundary line between Townhouse Parcels shall at all times be considered party walls, the cost of maintenance, repair or replacement of which shall be borne equally by the Owners of the Townhouse Parcels served thereby.

SECTION 3.2

In the event that any party wall or portion thereof now or at any time hereafter, because of shifting, settling, original construction or otherwise, actually encroaches upon any portion of the Townhouse Parcel of another Owner, there shall be deemed to be an easement therefor in favor of the Townhouse Parcel whose party wall so encroaches, but only to the extent and for so long as such encroachment shall exist.

SECTION 3.3

Except as herein expressly provided to the contrary herein, the easements or cross-easements hereby created shall not terminate in the event that any party wall or portion thereof has been destroyed or materially damaged by fire or other cause but shall remain in full force and effect. License is hereby granted to Owners of Townhouse Parcels for reasonable access onto adjoining Townhouse Parcels for the purpose of rebuilding destroyed or materially damaged party walls. Any Owner of a Townhouse Parcel served by such materially damaged or destroyed party wall who shall have rebuilt same shall be entitled to receive from the Owner of the other adjacent Townhouse Parcel also served by such party wall, an amount equal to one-half (1/2) of the cost of rebuilding same, including the costs of foundations and supports necessarily installed.

SECTION 3.4

Whenever any party wall or portion thereof shall be repaired, replaced or rebuilt, it shall be erected as nearly plumb as possible on the same line (provided such line is located exactly on the dividing line of the Townhouse Parcel it separates), and shall be of the same size and the same or similar materials and of like quality as the present party wall, and it shall conform in all respects to the laws and ordinances regulating the construction of buildings in force at that time.

ARTICLE IV

USE AND OCCUPANCY

SECTION 4.1

The Owner of each Townhouse Parcel shall be responsible for the removal of snow, ice and other debris or matter from that portion of the common sidewalk on his Townhouse Parcel, and there shall be no continual parking or storage of baby carriages, bicycles, wagons, toys, travel trailers, campers, boats, abandoned vehicles or other like objects on such sidewalks and/or the driveways. The Owner of each Townhouse Parcel shall be responsible for the removal of snow, ice and other debris or matter from his Townhouse Parcel.

SECTION 4.2

Each Townhouse Parcel shall be used for residential and no other purpose. No industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational or otherwise, whether designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any Townhouse Parcel. An Owner or other lawful occupant may, however, use a portion of his Townhouse Parcel for an office or studio, provided that the activities therein shall not interfere with the quiet enjoyment or comfort by any other Owner or lawful occupant, and, specifically, will not result in the employment of parties working on such premises nor the frequent use of such premises by customers, students or clients of such Owner or lawful occupant; and provided further, that in no event shall any portion of any Townhouse Parcel be used as a restaurant, boarding house, or school, as a music, dance or voice studio, or as a judo, karate, physical training or exercise hall.

SECTION 4.3

No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in or upon any Townhouse Parcel, except that dogs, cats or other common household pets may be kept

in Townhouse Parcels; provided, however, that such pets are not kept, bred or maintained for any commercial purpose. Care shall be taken that pets do not violate the rights of other Owners or lawful occupants of Townhouse Parcels to the safe, quiet and peaceful enjoyment of their respective premises, nor be allowed to use any easement granted herein for purposes other than those stated herein. Failure to comply with the terms of this Section 4.3 will constitute a nuisance within the meaning of this Declaration.

SECTION 4.4

No unlawful or immoral practice, no noxious or offensive activity, nor any act nor any practice that will injure the reputation of the Townhouses upon the real estate or which will unreasonably disturb the Owners or lawful occupants of adjoining Townhouse Parcels shall be permitted or committed, either wilfully or negligently, upon any Townhouse Parcel.

SECTION 4.5

No Owner or occupant shall keep or permit to be kept in any Townhouse Parcel, any inflammable fluids (except fuel in the tanks of parked vehicles) or explosives, nor do any act or keep any substance in or upon any Townhouse Parcel which will increase the rate of fire insurance on any Townhouse or contents thereof applicable for residential use, nor that will result in the cancellation of fire insurance on any Townhouse or the contents thereof.

SECTION 4.6

No Owner shall cause or permit any clothes, laundry, sheets, blankets or other article or object to be hung or displayed on the outside windows or placed on the outside walls of any Townhouse, and no sign, awning, canopy or shutter, nor any mast, antenna or other structure for transmitting or receiving messages or programs by radio or television shall be erected, permitted, or maintained upon any Townhouse or any other portion of any Townhouse Parcel without the prior approval of the other Owners, and at all times in compliance with any and all applicable statues, codes and ordinances.

SECTION 4.7

The Owners and lawful occupants shall keep their respective Townhouse Parcels free and clear of rubbish, debris and other unsightly, injurious or unhealthy materials; provided, however, that the same shall be deposited in closed containers.

SECTION 4.8

Nothing shall be done in or upon any Townhouse Parcel, or to any party wall, which will impair the structural integrity of any Townhouse Parcel upon the real estate, or which would structurally change any Townhouse Parcel, except as otherwise provided herein.

SECTION 4.9

Any and all other facilities of any kind presently existing or hereafter lawfully installed or designed for the common use shall be perpetually used and maintained in common by the Owners and lawful occupants of each Townhouse Parcel.

SECTION 4.10

The right is expressly reserved by the Declarant, its agents and beneficiaries, to place "For Sale" or "For Rent" signs on any Townhouse Parcel to aid him in selling or renting Townhouse Parcels owned by it, and the right is hereby given to any mortgagee who may become the Owner of a Townhouse Parcel, to place such signs upon any Townhouse Parcel owned by such mortgagee. Nothing in this Declaration contained shall be construed to prevent the Declarant, his agents and beneficiaries, during the period in which sales of Townhouse Parcels are in progress, from conducting business and promotional activities in any of the unoccupied or unsold Townhouse Parcels in order to effect sales or rentals thereof, provided that such activities do not unreasonably interfere with the quiet enjoyment of the Owner or lawful occupant of any Townhouse Parcel.

ARTICLE V

EASEMENTS

SECTION 5.1

All easements in this Declaration described are easements appurtenant, running with the land, and they shall at all times inure to the benefit of and be binding upon the Declarant, all its grantees and their respective heirs, successors, assigns and legal or personal representatives, perpetually in full force and effect.

SECTION 5.2

Each grantee of the Declarant and each and every heir, successor, assign and legal or personal representative of each such grantee, and each purchaser of a Townhouse Parcel under articles of agreement for a deed, real estate sales contract or otherwise, accepts the same, subject to all restrictions, conditions, covenants, easements, and charges, and the jurisdiction, rights and powers set forth herein.

SECTION 5.3

No new utility easements are granted by this Declaration in addition to those which have already been provided by the Plat of Subdivision for Heritage Point Subdivision, First Addition. Each Owner shall grant such other easements as he shall deem necessary for the furnishing of utilities or services to his individual Townhouse Parcel. He shall have no right to grant utility easements with respect to any other Townhouse Parcel covered by this Declaration.

ARTICLE VI

LEASING

SECTION 6.1

In the event that a Townhouse Parcel is leased by an Owner thereof to a third person or family other than the Owner thereof or his family, on a month-to-month, yearly or other basis, or that the improvements upon such Townhouse Parcel are lawfully occupied under some arrangement allowing the use and benefit of such premises by a person or family other than the Owner thereof or his family, it is understood that the rights of such other person or family are subject to the following provisions:

(a) No more than one (1) family shall be permitted to occupy the improvements upon each Townhouse Parcel;

(b) Each and every person so occupying such premises, or enjoying the use and benefit thereof, shall be subject to the terms and provisions of this Declaration;

(c) The Owner of such leased or otherwise so occupied Townhouse Parcel shall at all times also be responsible, jointly and severally, with his tenants, lessees or other occupants, for any failure or default of any tenant, lessee or other occupant to observe or comply with the terms and provisions of this Declaration; and

(d) No such tenant, lessee or occupant, nor their guests or invitees, shall have the right to direct enforcement of any terms or provisions of this Declaration, such power of enforcement being at all times reserved to and lodged solely in the Owner of such Townhouse Parcel.

ARTICLE VII

INSURANCE

SECTION 7.1

The Owner of each Townhouse Parcel shall obtain insurance for the property against loss or damage by fire or other hazards for the full insurable replacement costs of the improvements located thereon and shall obtain comprehensive public liability insurance in such limits as the Owner shall deem appropriate or desirable. The Owner of each Townhouse Parcel shall be responsible for insurance, if any, on the contents of the improvements located thereon in such limits and to such extent as the Owner shall deem appropriate and necessary.

ARTICLE VIII

GENERAL PROVISIONS

SECTION 8.1

If any Owner or occupant of any Townhouse Parcel fails for any reason to maintain or rebuild the premises owned or occupied by him as herein required, the Owner or Owners of any other Townhouse Parcel or Parcels, or any mortgagee, may, after sixty (60) days' written notice to such defaulting Owner or occupant, have such work done as may be reasonably necessary to cure any such default, and the amount paid therefor shall be a charge against the defaulting Owner of the premises on which such work was done, and also against any defaulting occupant claiming through or under such Owner, jointly and severally, and said amount together with court costs and reasonable attorney's fees, to be fixed by court order, may be recovered from the defaulting Owner or occupant, or both, jointly and severally, by suit at law or in equity; provided, however, that any language contained in this Declaration to the contrary notwithstanding, the same shall not be deemed a lien against any part of the real estate nor against any Townhouse Parcel until such time as a notice of lien is recorded in the office of the Recorder of Deeds, Sangamon County, Illinois, nor shall the lien of any mortgagee or trustee be affected thereby until such lien is duly recorded in the office of said Recorder of Deeds.

SECTION 8.2

In the event of the violation or breach of any covenant, restriction or provision contained in this Declaration by the Owner or occupant of any Townhouse Parcel, the other Owners, or any of them, or any mortgagee shall also have the right:

(a) In the event of an emergency consisting of an immediate threat to health and safety of the Owner, Owners or the general public, to enter upon the Townhouse Parcel, or within the improvements thereon, on or in which, or as to which such violation or breach exists and to summarily abate, remove or remedy, at the expense of the Owner and occupants of such premises, jointly and severally, any structure, thing or condition which may exist or be maintained thereon contrary to the intent and meaning of the provisions of this Declaration, and neither the other Owner or Owners, its successors and assigns, nor any mortgagee so acting shall thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate, or remedy by appropriate legal proceedings, at law or in equity, the continuance of any such violation or breach, and to recover from such defaulting Owner and occupant, if any, jointly and severally, all court costs attendant thereto and reasonable attorneys' fees therefor, to be fixed by court order.

(c) If the Owners of both Townhouse Parcels shall agree, any deadlock or dispute arising out of the ownership of the Townhouse Parcels or the covenants, terms and conditions of this Declaration may be resolved by arbitration in the following manner:

The Parcel Owner desiring arbitration shall nominate one arbitrator and shall give notice to the other Parcel Owner of such nomination. The other Parcel Owner, if he desires to submit the deadlock or dispute to arbitration, shall within five (5) days time nominate an arbitrator and give to the other Parcel Owner notice of such nomination within five (5) days. The two arbitrators chosen by the Parcel Owners shall then choose a third arbitrator or, in the event they cannot agree upon the third arbitrator, the third arbitrator shall be chosen by the presiding Judge of the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois. Upon appointment of the third arbitrator, arbitration proceedings shall be conducted in accord with the Uniform Arbitration Act (Ill. Rev. Stat. 1989 Edition, Chapter 10 Sec. 101 through 123 as amended from time to time).

SECTION 8.3

No restriction, covenant, condition or provision hereof or imposed hereby shall be considered abrogated or waived by reason of the forbearance, failure or continued failure of the other Owners, its successors or assigns, or any mortgagee to enforce the same,

irrespective of the number of violations or breaches which might occur.

SECTION 8.4

The remedies contained herein shall be cumulative, and the exercise or non-exercise of any one shall not preclude the exercise of any other appropriate remedy provided herein.

SECTION 8.5

The invalidity, in whole or in part, of any restriction, covenant, condition or provision herein contained or hereby imposed or established shall not impair or affect in any manner the validity, enforceability or effect of the remaining portions of this Declaration.

SECTION 8.6

Before the sale of any Townhouse Parcel, the Declarant or his successors or assigns, shall have the right to change, alter, modify or rescind, in whole or in part, this Declaration or any restrictions, covenants, easements or provisions herein contained.

SECTION 8.7

The rights, privileges and powers herein reserved to or retained by the Declarant shall not be assignable without the written consent of the Owners, which consent shall not be unreasonably withheld.

SECTION 8.8

All costs or maintenance charges not specifically allocated by this Declaration shall be the joint and several responsibility of the Owner and occupants of the Townhouse Parcel or Parcels affected or benefited thereby.

SECTION 8.9

The headings preceding each Article of this Declaration are for convenience only and shall not be deemed in any way to limit or affect the construction or application of this Declaration or any part hereof.

SECTION 8.10

Except where the context clearly indicates the contrary, the male pronoun shall include the female and the neuter, and vice versa, and the singular tense, the plural and vice versa.

WITNESS our hands and seals this 21st day of MAY, 1997.

Steven R. Flynn
STEVEN R. FLYNN

Jane A. Flynn
JANE A. FLYNN

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

I, William A Roach, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that STEVEN R. FLYNN and JANE A. FLYNN, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 21st day of MAY, 1997.



William A Roach
Notary Public

This Document Prepared by:
Paul E. Presney, Sr.
PRESNEY, KELLY & PRESNEY
726 South Second Street
Springfield, Illinois 62704
(217) 525-0016

(16) 27-06
SANGAMON COUNTY
ILLINOIS

97-23299

97 JUN 18 AM 10:55

Mary Ann Sammel
RECORDER

#8

**RE-RECORDING OF DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS**

This document is being re-recorded to include the Plat of Survey which was to be attached as Exhibit "A".

PREPARED BY AND RETURN TO:

**PRESNEY KELLY & PRESNEY
726 S. 2ND STREET
SPRINGFIELD, IL 62704
(217) 525-0016**

000121

(14)

25
[Handwritten signature]

SANGAMON COUNTY
ILLINOIS

97-20029

97 MAY 27 PM 1:59

Mary Ann Samml
RECORDER

DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS

#8 Constitution Drive - #8 Heritage Point Avenue
New Berlin, Illinois

THIS DECLARATION made and entered into by STEVEN R. FLYNN and JANE A. FLYNN (for convenience sometimes referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the holder of the legal title to the following described real estate:

Lot 8, Heritage Point Subdivision, First Addition.

Situated in Sangamon County, Illinois.

Commonly known as #8 Constitution Drive, New Berlin, Illinois, and #8 Heritage Point Avenue, New Berlin, Illinois, hereinafter sometimes referred to as the "real estate";

WHEREAS, certain portions of said real estate, as hereinafter more particularly described, are intended as dwelling sites, said portions so intended being hereinafter sometimes referred to as "Townhouse Parcels", upon which two (2) so-called "Townhouses" have been erected, each such Townhouse being a single family private residence erected upon a separate Townhouse Parcel. Said Townhouses are constructed in one group, with such group constituting a more or less continuous structure with party wall straddling the boundaries between the Townhouse Parcels, all as depicted on the Plat attached hereto and made a part hereof and identified as Exhibit "A" hereof;

WHEREAS, each of the parcels hereinafter described are, solely for convenience and identification thereof in the present instrument, at the times herein referred to, identified or designated as follows:

000122

000466

TOWNHOUSE PARCELS

PARCEL 1:

UNIT 1

EXHIBIT "A"

Part of Lot 8, Heritage Point Subdivision, First Addition, New Berlin, Sangamon County, Illinois, described as follows:

Beginning at the Northwest corner of said Lot 8; thence East 75.49 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 76.59 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 13.20 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.66 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 5.00 feet, thence deflecting to the left 6.25 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 5.00 feet, thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.08 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 0.66 feet; thence deflecting to the left 49.50 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 26.97 feet to a point on a curve to the right of radius of 25 feet; thence Northwesterly on the curve for a chord distance of 35.35 feet; thence North 114.09 feet to the point of beginning, containing 0.205 acres, more or less.

Commonly known as #8 Constitution Drive, New Berlin, Illinois.

PARCEL 2:

UNIT 2

EXHIBIT "A"

Part of Lot 8, Heritage Point Subdivision, First Addition, New Berlin, Sangamon County, Illinois, described as follows:

From the Northwest corner of said Lot 8, East 75.49 feet to the point of beginning; thence continuing East 49.51 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 139.09 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 73.03 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 49.50 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 0.66 feet, thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.08 feet; thence deflecting to the right 5.00 feet, thence deflecting to the left 90 degrees 00 minutes 00 seconds, 6.25 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 5.00 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, 3.66 feet; thence deflecting to the right 90 degrees 00 minutes 00 seconds, 13.20 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, 76.59 feet to the point of beginning, containing 0.189 acres, more or less.

Commonly known as #8 Heritage Point Avenue, New Berlin, Illinois.

WHEREAS, the Declarant intends to sell and will sell, convey and mortgage some or all of the parcels so improved, and desires and intends that the several purchasers, owners, mortgagees thereof, and all persons acquiring any interest therein now or hereafter, shall at all times enjoy the benefits of and shall hold their said individual parcels subject to the rights, easements, burdens, uses and privileges hereinafter set forth;

NOW, THEREFORE, said Declarant does hereby declare that the following rights, easements, covenants, burdens, uses and privileges shall and do exist at all times hereafter among the several owners, purchasers or mortgagees of the said parcels of the real estate in this instrument described in the manner and to the extent herein set forth, and that the declarations contained herein shall be binding upon and inure to the benefit of each and every such parcel in this instrument described.

ARTICLE I

PREAMBLES AND EXHIBITS

SECTION 1.1

The preambles of this Declaration of Easements, Covenants and Restrictions and any and all Exhibits attached hereto are all hereby expressly incorporated herein by this reference and hereby made a part hereof.

ARTICLE II

MAINTENANCE, ALTERATIONS AND ADDITIONS

SECTION 2.1

The exterior masonry of the improvements upon the real estate shall be cleaned and tuckpointed at least once in every ten (10) years, unless both Owners deem it unnecessary. The cost thereof shall be determined for each Townhouse Parcel, and each Owner shall pay for costs associated with his own Townhouse Parcel.

SECTION 2.2

The exterior soffit and siding of the improvements upon the real estate shall be maintained by each Owner in the present color scheme, or in such color scheme as shall be unanimously approved by the Owners of all other Townhouse Parcels. If unanimous agreement is not reached with respect to any proposed change in color scheme, then the prevailing color scheme shall again be used and maintained. The cost of maintenance, repair or replacement shall be determined for each Townhouse Parcel, and each Owner shall pay the costs associated with his own Townhouse Parcel.

SECTION 2.3

No Owner shall make any exterior architectural changes or additions to any of the Townhouse structures erected upon the Townhouse Parcels herein described and designated, or identical structures erected in replacement thereof, and no exterior structures, entrances, roof, barricades, fences or additions, or additional buildings of any kind shall be built upon any portion of said real estate without the prior unanimous approval of the Owners of all other Townhouse Parcels.

SECTION 2.4

If any Owner fails to maintain, rebuild or restore the Townhouse Parcel owned by him as herein provided, then the other Owners may, after sixty (60) days' written notice to such defaulting Owner, have such work done, and the amount paid therefor shall be charged against such defaulting Owner, and the Owner may bring proceedings against such defaulting Owner to collect same by suit at law or in equity, and there shall be added to amount due, the costs of such suit together with interest and reasonable attorney's fees, to be fixed by court order.

SECTION 2.5

The Owner of each Townhouse Parcel shall be responsible for the maintenance, repair and replacement of that portion of the common roof and gutter system as is located or installed upon or attached to the Townhouse on his respective Townhouse Parcel.

SECTION 2.6

Except as herein to the contrary specifically provided, the Owner of each Townhouse Parcel shall furnish and be responsible for, at his own expense, all decorating, maintenance, repairs and replacements within and upon his own Townhouse Parcel.

SECTION 2.7

The cost of repairs to or replacement of any common sidewalk, including any common front and rear concrete steps or patio situated upon the premises or any portion of such common sidewalk and steps or patio, shall be borne equally by the Owners sharing such common sidewalk or steps or patio. As to all steps, sidewalks, patios and driveways not common requiring repairs or replacement, the cost of such repair or replacement shall be borne by the respective Townhouse Owner.

SECTION 2.8

The Owner of each Townhouse Parcel shall at all times be responsible for the repair, maintenance or reconstruction of the

private portions of the sewer and water systems upon or leading from his Townhouse Parcel to the point of connection of same with the common sewer and water systems. Each Owner shall be responsible for one-half of the costs of maintenance, repair and upkeep for any common sewer and water system serving the premises.

SECTION 2.9

The Owner or occupant of each Townhouse Parcel shall maintain the lawn and landscaping, if any, on his premises in a reasonable condition.

ARTICLE III

PARTY WALLS

SECTION 3.1

All dividing walls which straddle the boundary line between Townhouse Parcels shall at all times be considered party walls, the cost of maintenance, repair or replacement of which shall be borne equally by the Owners of the Townhouse Parcels served thereby.

SECTION 3.2

In the event that any party wall or portion thereof now or at any time hereafter, because of shifting, settling, original construction or otherwise, actually encroaches upon any portion of the Townhouse Parcel of another Owner, there shall be deemed to be an easement therefor in favor of the Townhouse Parcel whose party wall so encroaches, but only to the extent and for so long as such encroachment shall exist.

SECTION 3.3

Except as herein expressly provided to the contrary herein, the easements or cross-easements hereby created shall not terminate in the event that any party wall or portion thereof has been destroyed or materially damaged by fire or other cause but shall remain in full force and effect. License is hereby granted to Owners of Townhouse Parcels for reasonable access onto adjoining Townhouse Parcels for the purpose of rebuilding destroyed or materially damaged party walls. Any Owner of a Townhouse Parcel served by such materially damaged or destroyed party wall who shall have rebuilt same shall be entitled to receive from the Owner of the other adjacent Townhouse Parcel also served by such party wall, an amount equal to one-half (1/2) of the cost of rebuilding same, including the costs of foundations and supports necessarily installed.

SECTION 3.4

Whenever any party wall or portion thereof shall be repaired, replaced or rebuilt, it shall be erected as nearly plumb as possible on the same line (provided such line is located exactly on the dividing line of the Townhouse Parcel it separates), and shall be of the same size and the same or similar materials and of like quality as the present party wall, and it shall conform in all respects to the laws and ordinances regulating the construction of buildings in force at that time.

ARTICLE IV

USE AND OCCUPANCY

SECTION 4.1

The Owner of each Townhouse Parcel shall be responsible for the removal of snow, ice and other debris or matter from that portion of the common sidewalk on his Townhouse Parcel, and there shall be no continual parking or storage of baby carriages, bicycles, wagons, toys, travel trailers, campers, boats, abandoned vehicles or other like objects on such sidewalks and/or the driveways. The Owner of each Townhouse Parcel shall be responsible for the removal of snow, ice and other debris or matter from his Townhouse Parcel.

SECTION 4.2

Each Townhouse Parcel shall be used for residential and no other purpose. No industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational or otherwise, whether designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any Townhouse Parcel. An Owner or other lawful occupant may, however, use a portion of his Townhouse Parcel for an office or studio, provided that the activities therein shall not interfere with the quiet enjoyment or comfort by any other Owner or lawful occupant, and, specifically, will not result in the employment of parties working on such premises nor the frequent use of such premises by customers, students or clients of such Owner or lawful occupant; and provided further, that in no event shall any portion of any Townhouse Parcel be used as a restaurant, boarding house, or school, as a music, dance or voice studio, or as a judo, karate, physical training or exercise hall.

SECTION 4.3

No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in or upon any Townhouse Parcel, except that dogs, cats or other common household pets may be kept

in Townhouse Parcels; provided, however, that such pets are not kept, bred or maintained for any commercial purpose. Care shall be taken that pets do not violate the rights of other Owners or lawful occupants of Townhouse Parcels to the safe, quiet and peaceful enjoyment of their respective premises, nor be allowed to use any easement granted herein for purposes other than those stated herein. Failure to comply with the terms of this Section 4.3 will constitute a nuisance within the meaning of this Declaration.

SECTION 4.4

No unlawful or immoral practice, no noxious or offensive activity, nor any act nor any practice that will injure the reputation of the Townhouses upon the real estate or which will unreasonably disturb the Owners or lawful occupants of adjoining Townhouse Parcels shall be permitted or committed, either wilfully or negligently, upon any Townhouse Parcel.

SECTION 4.5

No Owner or occupant shall keep or permit to be kept in any Townhouse Parcel, any inflammable fluids (except fuel in the tanks of parked vehicles) or explosives, nor do any act or keep any substance in or upon any Townhouse Parcel which will increase the rate of fire insurance on any Townhouse or contents thereof applicable for residential use, nor that will result in the cancellation of fire insurance on any Townhouse or the contents thereof.

SECTION 4.6

No Owner shall cause or permit any clothes, laundry, sheets, blankets or other article or object to be hung or displayed on the outside windows or placed on the outside walls of any Townhouse, and no sign, awning, canopy or shutter, nor any mast, antenna or other structure for transmitting or receiving messages or programs by radio or television shall be erected, permitted, or maintained upon any Townhouse or any other portion of any Townhouse Parcel without the prior approval of the other Owners, and at all times in compliance with any and all applicable statues, codes and ordinances.

SECTION 4.7

The Owners and lawful occupants shall keep their respective Townhouse Parcels free and clear of rubbish, debris and other unsightly, injurious or unhealthy materials; provided, however, that the same shall be deposited in closed containers.

SECTION 4.8

Nothing shall be done in or upon any Townhouse Parcel, or to any party wall, which will impair the structural integrity of any Townhouse Parcel upon the real estate, or which would structurally change any Townhouse Parcel, except as otherwise provided herein.

SECTION 4.9

Any and all other facilities of any kind presently existing or hereafter lawfully installed or designed for the common use shall be perpetually used and maintained in common by the Owners and lawful occupants of each Townhouse Parcel.

SECTION 4.10

The right is expressly reserved by the Declarant, its agents and beneficiaries, to place "For Sale" or "For Rent" signs on any Townhouse Parcel to aid him in selling or renting Townhouse Parcels owned by it, and the right is hereby given to any mortgagee who may become the Owner of a Townhouse Parcel, to place such signs upon any Townhouse Parcel owned by such mortgagee. Nothing in this Declaration contained shall be construed to prevent the Declarant, his agents and beneficiaries, during the period in which sales of Townhouse Parcels are in progress, from conducting business and promotional activities in any of the unoccupied or unsold Townhouse Parcels in order to effect sales or rentals thereof, provided that such activities do not unreasonably interfere with the quiet enjoyment of the Owner or lawful occupant of any Townhouse Parcel.

ARTICLE V

EASEMENTS

SECTION 5.1

All easements in this Declaration described are easements appurtenant, running with the land, and they shall at all times inure to the benefit of and be binding upon the Declarant, all its grantees and their respective heirs, successors, assigns and legal or personal representatives, perpetually in full force and effect.

SECTION 5.2

Each grantee of the Declarant and each and every heir, successor, assign and legal or personal representative of each such grantee, and each purchaser of a Townhouse Parcel under articles of agreement for a deed, real estate sales contract or otherwise, accepts the same, subject to all restrictions, conditions, covenants, easements, and charges, and the jurisdiction, rights and powers set forth herein.

SECTION 5.3

No new utility easements are granted by this Declaration in addition to those which have already been provided by the Plat of Subdivision for Heritage Point Subdivision, First Addition. Each Owner shall grant such other easements as he shall deem necessary for the furnishing of utilities or services to his individual Townhouse Parcel. He shall have no right to grant utility easements with respect to any other Townhouse Parcel covered by this Declaration.

ARTICLE VI

LEASING

SECTION 6.1

In the event that a Townhouse Parcel is leased by an Owner thereof to a third person or family other than the Owner thereof or his family, on a month-to-month, yearly or other basis, or that the improvements upon such Townhouse Parcel are lawfully occupied under some arrangement allowing the use and benefit of such premises by a person or family other than the Owner thereof or his family, it is understood that the rights of such other person or family are subject to the following provisions:

(a) No more than one (1) family shall be permitted to occupy the improvements upon each Townhouse Parcel;

(b) Each and every person so occupying such premises, or enjoying the use and benefit thereof, shall be subject to the terms and provisions of this Declaration;

(c) The Owner of such leased or otherwise so occupied Townhouse Parcel shall at all times also be responsible, jointly and severally, with his tenants, lessees or other occupants, for any failure or default of any tenant, lessee or other occupant to observe or comply with the terms and provisions of this Declaration; and

(d) No such tenant, lessee or occupant, nor their guests or invitees, shall have the right to direct enforcement of any terms or provisions of this Declaration, such power of enforcement being at all times reserved to and lodged solely in the Owner of such Townhouse Parcel.

ARTICLE VII

INSURANCE

SECTION 7.1

The Owner of each Townhouse Parcel shall obtain insurance for the property against loss or damage by fire or other hazards for the full insurable replacement costs of the improvements located thereon and shall obtain comprehensive public liability insurance in such limits as the Owner shall deem appropriate or desirable. The Owner of each Townhouse Parcel shall be responsible for insurance, if any, on the contents of the improvements located thereon in such limits and to such extent as the Owner shall deem appropriate and necessary.

ARTICLE VIII

GENERAL PROVISIONS

SECTION 8.1

If any Owner or occupant of any Townhouse Parcel fails for any reason to maintain or rebuild the premises owned or occupied by him as herein required, the Owner or Owners of any other Townhouse Parcel or Parcels, or any mortgagee, may, after sixty (60) days' written notice to such defaulting Owner or occupant, have such work done as may be reasonably necessary to cure any such default, and the amount paid therefor shall be a charge against the defaulting Owner of the premises on which such work was done, and also against any defaulting occupant claiming through or under such Owner, jointly and severally, and said amount together with court costs and reasonable attorney's fees, to be fixed by court order, may be recovered from the defaulting Owner or occupant, or both, jointly and severally, by suit at law or in equity; provided, however, that any language contained in this Declaration to the contrary notwithstanding, the same shall not be deemed a lien against any part of the real estate nor against any Townhouse Parcel until such time as a notice of lien is recorded in the office of the Recorder of Deeds, Sangamon County, Illinois, nor shall the lien of any mortgagee or trustee be affected thereby until such lien is duly recorded in the office of said Recorder of Deeds.

SECTION 8.2

In the event of the violation or breach of any covenant, restriction or provision contained in this Declaration by the Owner or occupant of any Townhouse Parcel, the other Owners, or any of them, or any mortgagee shall also have the right:

(a) In the event of an emergency consisting of an immediate threat to health and safety of the Owner, Owners or the general public, to enter upon the Townhouse Parcel, or within the improvements thereon, on or in which, or as to which such violation or breach exists and to summarily abate, remove or remedy, at the expense of the Owner and occupants of such premises, jointly and severally, any structure, thing or condition which may exist or be maintained thereon contrary to the intent and meaning of the provisions of this Declaration, and neither the other Owner or Owners, its successors and assigns, nor any mortgagee so acting shall thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate, or remedy by appropriate legal proceedings, at law or in equity, the continuance of any such violation or breach, and to recover from such defaulting Owner and occupant, if any, jointly and severally, all court costs attendant thereto and reasonable attorneys' fees therefor, to be fixed by court order.

(c) If the Owners of both Townhouse Parcels shall agree, any deadlock or dispute arising out of the ownership of the Townhouse Parcels or the covenants, terms and conditions of this Declaration may be resolved by arbitration in the following manner:

The Parcel Owner desiring arbitration shall nominate one arbitrator and shall give notice to the other Parcel Owner of such nomination. The other Parcel Owner, if he desires to submit the deadlock or dispute to arbitration, shall within five (5) days time nominate an arbitrator and give to the other Parcel Owner notice of such nomination within five (5) days. The two arbitrators chosen by the Parcel Owners shall then choose a third arbitrator or, in the event they cannot agree upon the third arbitrator, the third arbitrator shall be chosen by the presiding Judge of the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois. Upon appointment of the third arbitrator, arbitration proceedings shall be conducted in accord with the Uniform Arbitration Act (Ill. Rev. Stat. 1989 Edition, Chapter 10 Sec. 101 through 123 as amended from time to time).

SECTION 8.3

No restriction, covenant, condition or provision hereof or imposed hereby shall be considered abrogated or waived by reason of the forbearance, failure or continued failure of the other Owners, its successors or assigns, or any mortgagee to enforce the same,

irrespective of the number of violations or breaches which might occur.

SECTION 8.4

The remedies contained herein shall be cumulative, and the exercise or non-exercise of any one shall not preclude the exercise of any other appropriate remedy provided herein.

SECTION 8.5

The invalidity, in whole or in part, of any restriction, covenant, condition or provision herein contained or hereby imposed or established shall not impair or affect in any manner the validity, enforceability or effect of the remaining portions of this Declaration.

SECTION 8.6

Before the sale of any Townhouse Parcel, the Declarant or his successors or assigns, shall have the right to change, alter, modify or rescind, in whole or in part, this Declaration or any restrictions, covenants, easements or provisions herein contained.

SECTION 8.7

The rights, privileges and powers herein reserved to or retained by the Declarant shall not be assignable without the written consent of the Owners, which consent shall not be unreasonably withheld.

SECTION 8.8

All costs or maintenance charges not specifically allocated by this Declaration shall be the joint and several responsibility of the Owner and occupants of the Townhouse Parcel or Parcels affected or benefited thereby.

SECTION 8.9

The headings preceding each Article of this Declaration are for convenience only and shall not be deemed in any way to limit or affect the construction or application of this Declaration or any part hereof.

SECTION 8.10

Except where the context clearly indicates the contrary, the male pronoun shall include the female and the neuter, and vice versa, and the singular tense, the plural and vice versa.

WITNESS our hands and seals this 21st day of MAY, 1997.

Steven R. Flynn
STEVEN R. FLYNN

Jane A. Flynn
JANE A. FLYNN

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

I, William A Roach, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that STEVEN R. FLYNN and JANE A. FLYNN, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 21st day of MAY, 1997.



William A Roach
Notary Public

This Document Prepared by:

Paul E. Presney, Sr.
PRESNEY, KELLY & PRESNEY
726 South Second Street
Springfield, Illinois 62704
(217) 525-0016

