

**FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS**

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, hereinafter referred to as the "First Amended and Restated Declaration" made on the date hereinafter set forth by Court Street development Co., LLC, the successor in interest to the original declarant, hereinafter referred to as the Declarant.

RECITALS

WHEREAS, the Original Declaration of Covenants, Conditions and Restrictions "Original Declaration", were recorded in the Summit County Recorders office as and on instrument No. ~~546068~~ on January 23, 2002 and ;
54650680

WHEREAS, all the capitalized terms herein shall have the same meaning as in the Original Declaration unless they are otherwise defined herein; and

WHEREAS, the Declarant seeks to modify the Original Declaration; and

WHEREAS, as of the date of recording of this First Amended and Restated Declaration no more than Twenty Nine (29) Lots have been sold; and

WHEREAS, this First Amended and Restated Declaration amends the Original Declaration and is effective on the date that this First Amended and Restated Declaration is filed for record with the Summit County Recorder; and

WHEREAS, the covenants, conditions, restrictions and terms of this First Amended and Restated Declaration shall prevail over the covenants, conditions, restrictions and terms of the Original Declaration in the event there is a conflict and or ambiguity between the covenants, conditions, restrictions and terms of the Original Declaration and this First Amended and Restated Declaration; and

WHEREAS, Declarant as the successor in interest to the owner of the property in the City of Stow, County of Summit, State of Ohio, which is more particularly described as all the property set forth and described as Springbrook Reserve, approved by the City of Stow Engineer, County of Summit, on the 11th day of January , 2002, and recorded on Instrument No. 54650680 on the 23rd day of January 2002 of the Summit County Recorder's Office with all other land annexed hereto by the Declarant in accordance herewith, hereinafter sometimes referred to in the singular as the "Plat," and in the plural as "Plats" with all the land set forth in the Plat (s), hereinafter known

MIDLAND COMMERCE GROUP-STOW
ORDER NO. A-11111111 ESCROW DMJ



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as the "Platted Land." Each Plat describes numerous sub lots upon which dwellings may be erected, hereinafter in the singular "Lot," in the plural "Lots."

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

It shall be the responsibility of the Developer to initiate and complete the formation of the Springbrook Reserve Homeowners Association, at that point in time when not less than thirty-nine (39) Lots have been sold and transferred.

The Developer shall notify all Owners of record and all persons residing on the Platted Land of a meeting to organize, incorporate, and elect officers for the Springbrook Reserve Homeowners Association.

ARTICLE I

MEMBERSHIP VOTING RIGHTS

Section 1. The Owner or Owners of record of each Lot in any of the Platted Land shall automatically become a member, "Member" of the Springbrook Reserve Homeowners Association, "Association", an incorporated non-profit organization to be formed under the laws of the State of Ohio for purposes set forth in Article II and shall be entitled to participate in the operation of the Association and shall be bound by the regulations and restrictions set forth herein. Said regulations and restrictions shall be binding on all successors and assigns, occupants or renters in the Platted Land. Membership in the Association shall lapse and terminate when an Owner ceases to be the Owner of record of the Lot.

Section 2. Each Lot shall have one vote which shall be exercised by the Owner or Owners of record unless said Owner or Owners assigns the voting right to someone else and the assignment of voting rights is filed in writing with the Vice-President and Secretary of the Association. Renters shall not have voting rights unless duly assigned to them by the Owner of the Lot.

ARTICLE II

PURPOSE

The Association shall be formed for the following purposes:



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A. To accept ownership of, or easements to, the real estate along with any improvements or equipment located or to be located thereon; the land shown as Springbrook Reserve Homeowners Association Lands and Easements on the Plat (s), collectively, "The Association Land".

B. To Maintain The Association Land for the use and benefit of the members of the Association and further to provide for the perpetual maintenance, operation, repair and correction of all retention basins, ponds, entrance, trails, plantings, Platted Land signs, fences, and all facilities and structures erected on The Association Land.

C. To represent and promote the welfare of the residents of the Platted Land as aforesaid generally; and to cooperate with the officials of municipal, county, state and other public authority for the promotion and betterment of the interests of the said Platted Land as aforesaid, including, without limitation the dedication of drainage ways for the purpose of carrying off storm water or granting easements thereto, in addition to those granted according to any and all drainage easements now in effect, "Drainage Easement" or in the future given to the appropriate municipal, county or state authority requesting said dedication or easement, in any part of the real estate located in the Platted Land, in order to permit said requesting authority to regulate said drainage ways and easements, provided it shall be the obligation of the Association to operate, repair and correct the retention basins in the Association Land.

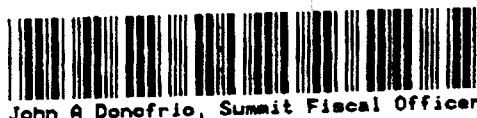
ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges which shall be established and collected as hereinafter provided.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents of the Platted Land and for the improvement and maintenance of The Association Land its retention basins, easements, ponds, landscaping, subdivision signs, fences, trails, and other items which are the responsibility of the Association.

Section 3. Minimum Annual Assessment. The annual assessment for each Lot shall be One Hundred Twenty-Five Dollars (\$125.00). The annual assessment may be increased by a majority vote of the Board of Directors at the time the amount is fixed for the calendar year, provided that said increase may not exceed 10% for any one calendar



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year, unless it is approved by two-thirds (2/3) vote of the voting members. Under no circumstances shall the annual assessment be decreased to an amount less than fifty percent (50%) of the original assessment.

Section 4. Uniform Rate of Assessment. Annual assessments must be fixed at a uniform rate for all Lots and shall be collected at regular intervals, except for Declarant's Lots. Said interval shall not be more frequent than monthly, nor less frequent than annually, provided, however, that nothing herein shall prohibit prepayment of assessments.

Section 5. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the incorporation and establishment of The Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot has been paid. For purposes of this document, the annual assessment period shall be the calendar year.

MAIL

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. A certificate of lien for all or any part of the unpaid balance of that assessment, and interest and costs, may be filed with the Recorder of Summit County, Ohio, pursuant to authorization given by the Board. The certificate shall contain a description of the Lot against which the lien exists, the name or names of the record Owner or Owners thereof, and the amount of the unpaid portion of the assessments, and shall be signed by the president or other chief officer of the Association. The Association may take appropriate legal action to collect the delinquent liens, including but not limited to foreclosing the lien against the property of the Owner obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Association Land, Common Area or abandonment of his Lot.

PAY
OR
LIEN

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot, pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments, which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.



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Section 8. Major Improvements. Any major improvements requiring expenditures over and above the regular maintenance and operating expenses shall be made only upon the affirmative vote of two thirds (2/3) of the total voting membership of the Association and the membership shall be assessed for the same.

Section 9. Exempt Property. The following property shall be exempt from assessments created herein:

- A. All properties dedicated to and accepted by local public authorities.
- B. The Association Land. However, no land or improvements dedicated to dwelling use shall be exempt from said assessments.
- C. Any vacant Lot or Lots owned by the Declarant or its successors and assigns.

Notwithstanding any other provision hereof, including Article V Section 17, Article VI and Article VII Section 3, this Section 9 of Article III may not be altered, amended or modified without the prior written consent of the Declarant.

ARTICLE IV

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall or other structures shall be commenced or erected in or on any Lot or Lots, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an authorized representative of Springbrook Reserve. Drawing and information should be submitted to Court Street Development, Co., LLC, 200 Rockefeller Building, 614 Superior Avenue, N.W., Cleveland, OH 44113. After the Association is formed and organized, as provided in Article 1 and Article II, and no later than when ninety-five percent (95%) of the Lots in the Platted Land are sold, the approval process shall be transferred to the Board of Directors of the Association or to an architectural committee composed of three (3) representatives appointed by the Board of Directors of the Association. In the event Springbrook Reserve or the Board of Directors of the Association or its designated committee fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted, approval will not be required and this Article will be deemed to have been fulfilled.



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Section 2. It is the responsibility of every Purchaser of a Lot to file a notice of intent for an individual building Lot with the Ohio Environmental Protection Agency prior to the commencement of any clearing or construction activity. The Purchaser assumes responsibility for storm water control and silt and erosion control with respect to each Lot from the date of transfer of ownership. This provision shall apply to the Purchaser of a vacant Lot or a Lot having greater than thirty percent (30%) unstabilized soil subject to erosion. Information regarding the Grading Plan and Storm Water Pollution Control Plan is available to Purchaser upon request

ARTICLE V

BUILDING AND LAND USE RESTRICTIONS

Section 1. All Lots in the Platted Land shall be only residential Lots and no building or structure shall be placed or constructed thereon, unless it meets the following area requirements:

A. One Thousand Nine Hundred (1,900) square feet of living area for a one-story ranch dwelling, exclusive of garages, porches or basements.

B. Two Thousand Three Hundred (2,300) square feet of living area for a split-level dwelling, exclusive of garages, porches or basement area, but, including the lower level living area, which does not have to be finished inside prior to occupancy. Lower level living area shall include closets, utility and laundry areas.

C. Two Thousand Three Hundred (2,300) square feet of living area for a colonial dwelling, exclusive of garages, porches or basement area.

D. Two Thousand Five Hundred (2,500) square feet of living area for a bi-level dwelling, exclusive of garages, porches or basement area, but including the lower level living area, which does not have to be finished inside prior to occupancy. Lower level living area shall include closets, utility and laundry areas.

Section 2. Each dwelling shall have a two (2) or three (3) car attached, contiguous or integral garage.

Section 3. Where required, four-foot (4 ft.) sidewalks will be constructed of concrete and must be completed within two (2) years after transfer of Lot.

Section 4. Lawns and shrubbery between the roadway and dwelling shall be installed within ten (10) months after completion of the dwelling.

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Section 5. Except for poured wall brick form concrete, no dwelling shall have concrete or block above grade.

Section 6. No dwellings on adjacent lots shall be the same color, except white.

Section 7. No dwelling elevation shall be duplicated within two (2) lots.

Section 8. The Owner or Owners of record shall use the mailbox and post provided and installed by the Declarant or any Builder.

Section 9. All driveway aprons shall be constructed of concrete and shall comply with the requirements of the City of Stow and shall be completed before the dwelling is occupied. All driveways shall be paved with concrete or asphalt prior to occupancy.

Section 10. No trailer, basement, tent, or other out-buildings shall be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No garage or utility building shall be erected prior to the erection of the principal dwelling house. In no instance shall the construction on the exterior of a building or structure extend beyond one year from the date construction commenced.

Section 11. No billboard or advertising device (other than a permissible *For Sale* sign) shall be erected, placed or suffered to remain upon the premises; no television or radio antenna, except one affixed to the ridge pole or chimney of such dwelling, shall be erected on the premises; no trade business, profession or other commercial activity may be carried on or practiced upon the premises.

Section 12. No trailer or permanent tent of any kind or description whatsoever shall be placed or suffered to remain in said Subdivision.

Section 13. No Owner shall damage any streets within the subdivision or permit any contractor or materialman to damage said street during the period of any home construction or said Owner shall be personally liable for any cost of repairing such street and Owner shall hold Springbrook Reserve or its successors and assigns harmless from any liability to any governmental entity for the cost of repairing such street.

Section 14. Easements for installation and maintenance of utilities and drainage facilities are reserved for the benefit at Springbrook Reserve, its successors and assigns, and the Owners of the Lots.



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Section 15. No camper trailer, boat, motor home, commercial vehicle, or recreational vehicle of any kind shall be kept on the property for more than thirty (30) days, if they are visible from the street.

Section 16. Standard chain link or other metal fences shall not be permitted. Fences may be erected only in the rear yard. For purposes of this section, the rear yard shall be that portion of the Lot that is behind the rear elevation of the Dwelling Unit extended to each lot line. On corner lots, fences may not be placed within the setback on the street side. Perimeter fences are permitted, if they are three-rail wood split rail not to exceed five (5) feet in height or privacy fences not to exceed six (6) feet in height. Wire fencing material (4" x 4" dog wire) may be attached to the split rail fences for additional enclosure. All swimming pool fencing shall be reviewed on an individual basis, in accordance with general standard herein set forth. Decorative fencing will be reviewed upon an individual basis, considering the visual impact on surrounding lots. The Declarant and the Association reserve the right to restrict fencing in areas where its presence would adversely impact the aesthetics of the community. All fences require prior consent, pursuant to Article IV. All fences must be in compliance with applicable ordinances of the City of Stow and, if required, a permit must be obtained from the Building Department.

Section 17. Prior to the date of the sale of the first Lot, Springbrook Reserve, its successors or assigns, shall have the right to amend, change, alter or modify any or all of the restrictions contained in this Declaration; provided, however, that no change, modification or alteration shall, in fact, cause these restrictions to become less restrictive.

After the date the first Lot is sold, then, and in such event, Springbrook Reserve, its successors or assigns, shall have the right to waive, cancel, alter, amend or modify any or all of the restrictions contained in this deed, provided, however, that no modification or alteration shall, in fact, cause these restrictions to become more restrictive. This section shall apply so long as Springbrook Reserve owns Lots in the Subdivision.

UNABLE TO
BE MADE
"RESTRICTIVE"

ARTICLE VI

Drainage Easement

Section 1. The Declarant granted to the City of Stow a Drainage Easement previously mentioned in Article II of this First Amended and Restated Declaration, simultaneously with the filing of the initial Plat. In the event the annexed land as platted provides for a drainage easement or easements such drainage easement or easements will be filed with and form a part of the annexed land Plat.

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Section 2. On the date the Association is formed, the Association shall become the Owner of the Easement Parcel as defined in the Drainage Easement and any other drainage easements that may be required by the appropriate municipal, county and state authority to regulate the drainage ways and easements thereof with respect to each of the annexed land plat's and as such shall be responsible to the City of Stow for the full performance of all the obligations on the part of the Grantor to be performed in the Drainage Easement.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any of the other provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the Platted Land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, and after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years. Except as otherwise provided in this Declaration at Section 9 Article III, Section 17 Article V, and Article VI, the covenants and restrictions of this Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

Section 4. Annexation.

A. Additional land owned by the Declarant within the area described in that deed recorded for record at Volume 5408 Page 353 through 356 Summit County records, may be annexed by the Declarant without the consent of the Members prior to the fourth anniversary date of the recording of this First Amended and Restated Declaration, provided that the City of Solon approves the plat of the Additional land to be annexed.



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B. Additional residential and or Springbrook Reserve area may be annexed to the Platted Land with consent of two-thirds (2/3) of the Lot Owners.

Section 5. Rights of Declarant. Development by Declarant of the Lots and the sale of the Lots is essential to the establishment thereof as an ongoing residential community. In order that such work may be completed and the Platted Land be established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to prevent Declarant or the employees, contractors or subcontractors of the Declarant from:

A. Working on any part or parts of the Lots owned by Declarant or their representatives, as Declarant determines may be reasonable, necessary or advisable in connection with the completion of such work;

B. Constructing and maintaining on any part or parts of the Lots owned by Declarant, or upon the Platted Land such structures as Declarant may deem reasonably necessary or appropriate for the completion of such work and the disposition of the Lots by sale.

C. Conducting on any part or parts of the Lots owned by Declarant, the business of completing such work and of disposing of the Lots by sale.

D. Maintaining such entrance signs on any of the Lots owned by Declarant, or which Declarant has an easement, as Declarant may deem reasonable, necessary or appropriate in connection with the development, sale, or other disposition of the Lots.

Section 6. Notices. Any notice, required to be sent to any Member under the provisions of this Declaration, shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member on the records of the Association at the time of such mailing.

Section 7. Rules, Regulations and Policies. The Association, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of this Declaration. In so adopting and promulgating such rules and regulations, and in making any findings, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits shall take into consideration the best interest of the Members, the Declarant and the Lots, to the end that the Lots shall be maintained as a high quality residential development. In granting and permitting, authorization, or approval, as herein provided, the Association may impose any conditions or limitations thereof as it shall deem advisable under the circumstances in each case in light of the considerations set forth in this section.



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Section 8. Assignability. The Declarant, its successors and assigns, notwithstanding any other provision herein to the contrary, shall at all times have the right to fully transfer, convey and assign any or all of its right, title and interest under this Declaration, provided that such transferee, grantee or assignee shall take such rights subject to all obligations also contained herein.

Section 9. Non-Liability of Declarant. Neither Declarant nor Declarant's representatives, successors or assigns, nor any of Declarant's agents, shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration or in Declarant's (or its representative's or agent's) capacity as Declarant, contractor, manager, or seller of any portion of the Platted Land or Additional Land, if any, whether or not such claim: (a) shall be asserted by any Member, the Association, or by any person or entity claiming through any of them; or (b) shall be on account or injury to person or damage to or loss of property wherever located and however caused; or (c) shall arise *ex contractu* or (except in the case of gross negligence) *ex delicto*. Without limiting the generality of the foregoing, the foregoing enumerations include all claims for, or arising by reason of, the Association Land, Common Area and Facilities or any part thereof, being or becoming out of repair, or containing any patent or latent defects, or by reason of any act or neglect of any Member, or the Association and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Association Land, Common Area and Facilities or by reason of the failure to function or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, cable TV, etc.) serving the Platted Land in whole or part whatsoever.

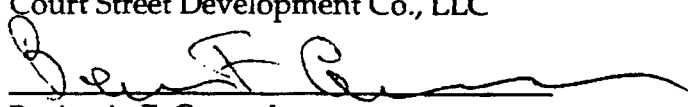
Section 10. Captions. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

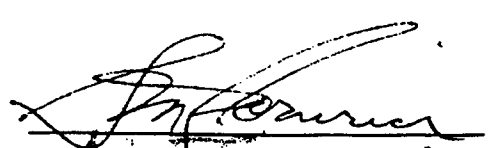
IN WITNESS WHEREOF, the undersigned, being the Declarant, has hereunto set its hand and seal this 11th day of July, 2003.

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

"DECLARANT"

Court Street Development Co., LLC


Benjamin F. Cappadora


Susan Carrier

Thano G. Pasalis



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