

AMENDED AND RESTATED DECLARATION OF RESTRICTIONS
AND PROPERTY OWNERS ASSOCIATION
SPRING CREEK SUBDIVISION - SECTIONS 1a, 1b, 2 and 3
PLAT AND SUBDIVISION BOOK 41 PAGE 55
JEFFERSON COUNTY, KENTUCKY

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SPRING CREEK, SECTIONS 1a, 1b, 2 and 3 ("Declaration") is made this 7th day, July 2008 ("**Effective Date**"), by **SPRING CREEK HOMEOWNERS' ASSOCIATION, INC.**, a non-stock, non-profit Kentucky corporation having principal office at, 8305 Running Spring Drive, Louisville, KY 40241 ("**Homeowners' Association**").

WHEREAS, Lot Owners own certain real property in Jefferson County, Kentucky, which is developed as a residential subdivision known as "**Spring Creek Subdivision**" ("**Spring Creek**");

WHEREAS, Homeowners' Association, defined by the Lot Owners, wishes to amend and restate those certain: Declaration of Restrictions for Spring Creek, recorded in the Clerk's Office of Jefferson County, Kentucky, as Lots 1 through 37; Lots 38 through 57; Lots 58 through 96; and Lots 97 through 121, all of which are inclusive as shown on the Plat of Spring Creek Section 1a and 1b of record in Plat and Deed Book 39, page 19 and Deed Book 39, page 70; Section 2 of record in Plat and Deed Book 40, Page 34; and Section 3 of record in Plat and Deed Book 41, page 55; and which is a part of the same property acquired by Developer by Deed dated July 10, 1990, of record in Deed Book 5973, page 127; said Declarations being incorporated herein as if set forth at length as recorded in Deed Book 6160, page 136; Deed Book 6265, page 266; Deed Book 6375, page 801 and those restrictions which apply to Section 3; said Declarations being incorporated herein as if set forth at length as recorded in Deed Book 06548, page 0757 in the aforesaid Office (collectively, the "**Original Declarations**");

WHEREAS, Sections 1a and 1b of record in Plat and Deed Book 39, page 19 and Deed Book 39, page 70; Section 2 of record in Plat and Deed Book 40, page 34; and Section 3 of record in Plat and Deed Book 41, page 55, in the office of the Clerk of the County Court of Jefferson County, Kentucky (collectively, the "**Plats**");

WHEREAS, pursuant to Section Twenty-Two of the Original Declarations applying to Section 3 of Spring Creek and Section Twenty-Three in each of the other Original Declarations, the Original Declarations may be canceled, altered or amended by affirmative action of the owners of seventy-five percent (75%) of the lots subject to the Original Declarations;

WHEREAS, owners of at least seventy-five percent (75%) of the lots in each of Sections 1a, 1b, 2, and 3 desire to amend and restate the Original Declarations; and,

NOW, THEREFORE, Homeowners' Association hereby declares that all of the property described in this instrument, and such additions as may be made pursuant to Article I, 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 the real property. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it and shall inure to the benefit of each Lot Owner, including the Lot Owner's heirs, successors and assigns.

I. REAL PROPERTY SUBJECT TO THIS DECLARATION, ADDITIONS

SECTION 1. EXISTING PROPERTY

BEING Lots 1 through 37; Lots 38 through 57; Lots 58 through 96; and Lots 97 through 121, all of which are inclusive as shown on the Plat of Spring Creek, Section 1a and 1b of record in plat and Deed Book 39, page 19 and Deed Book 39, page 70; Section 2 of record in Plat and Deed Book 40, page 34 and Section 3 of record in Plat and Deed Book 41, page 55, in the office of the Clerk of the County Court of Jefferson County, Kentucky.

BEING part of the same property acquired by Developer by Deed dated July 10, 1990 of record in Deed Book 5973, page 127, said Declarations being incorporated herein as if set forth at length as recorded in Deed Book 6160, page 136; Deed Book 6265, page 266; Deed Book 6375, page 801; and those restrictions which apply to Section 3; said Declarations being incorporated herein as if set forth at length as recorded in Deed Book 06548, page 0757, in the office of the Clerk of Jefferson County, Kentucky.

SECTION 2. ADDITIONS TO EXISTING PROPERTY

Additional lands may become subject to this Declaration in any of the following manners:

(a) Additions in Accordance with a General Plan of Development. Homeowners' Association intends to make Sections 1a, 1b, 2 and 3 part of a larger community to be maintained in accordance with current plans and known as Spring Creek. Additional land may (but is not required to) be included by Homeowners' Association as other Sections of Spring Creek within 20 years from the date of this Declaration, and may include certain common areas and properties. Homeowners' Association reserves the right to create cross easements and to restrict all the properties according to the terms of this Declaration. The common areas initially covered by this Declaration, including the "Open Space" lots, shall inure to the benefit of the owners of any new lots which may become subjected to this Declaration and the common areas allocable to the owners of any new lots shall inure to the benefit of the owners of lots recorded earlier, each to enjoy the common areas of the other and to have and to hold the same as if each new lot had been developed and subjected to this Declaration simultaneously.

II. USE RESTRICTIONS

SECTION 1. PRIMARY USE RESTRICTIONS

(a) No lot shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half stories in height and containing a garage for the sole use of the Lot Owner and occupants of the lot.

(b) There shall be no further subdivision of the original lots described herein. However, the original lots in said section may be reduced by combining original lots and re-subdividing into fewer resultant lots so long as any resultant lot is not smaller than an original lot.

SECTION 2. NUISANCES

No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

SECTION 3. USE OF OTHER STRUCTURES AND VEHICLES

(a) No structure of temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a Builder or Lot Owner, which shall be removed when construction or development is completed.

(b) No outbuilding, trailer, basement tent, shack, garage, barn or structure other than the main residence erected on a lot shall at any time be used as a residence, temporarily or permanently.

(c) No trailer, motorcycle, vehicle having a gross vehicle weight (GVW) greater than 6000 pounds, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time unless housed in a garage or basement, nor on any street or public right-of way in a continuous or habitual manner. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street in Spring Creek. For purposes of this subsection, "continuous or habitual" and "habitually and repeatedly" shall mean a period in excess of twenty-four hours in any one calendar month. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in Spring Creek for a period in excess of twenty-four hours in any one calendar month.

SECTION 4. ANIMALS

No animals, including reptiles, livestock or poultry of any kind, shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning

the domestic pets traditionally recognized as household pets in this geographical area) may be kept, provided they are not kept, bred or maintained for any commercial or breeding purposes. Existing leash laws shall be observed.

SECTION 5. CLOTHES LINES; FENCES AND WALLS; SWIMMING POOLS; ANTENNA AND RECEIVERS/TRANSMITTERS

- (a) No outside clothes lines shall be erected or placed on any lot.
- (b) No fence or wall of any nature may be extended toward the front or street side property line beyond the front or side wall of residence. Any fence must be constructed of: (a) wood, with posts and cleats positioned on an inward side of the fence, *e.g.* "neighborly side out," not to exceed six feet (6') in height; or (b) wrought iron, or other coated metal having a wrought iron appearance, not to exceed four feet (4') in height. Screen boundary fences erected by Developer are exempt from this restriction. All fences must be approved in writing by Homeowners' Association. Any non-compliant fences pre-dating this document are hereby "grandfathered" in as meeting this restriction until at least seventy-five percent (75%) of said fence requires repair or replacement, as determined by the Homeowners' Association, at which time the entirety of said fence shall be replaced and shall be made compliant with this restriction.
- (c) No above ground swimming pools shall be erected or placed on any lot.
- (d) No antenna (except for standard small satellite dishes) or microwave and other receivers and transmitters shall be placed on any lot unless its design and placement is approved in writing by Developer or the Homeowners' Association. Any placement of these structures must be in the rear yard only and screened with landscaping from the street. No satellite dish shall be placed or erected on the front of any lot unless its design and placement is approved in writing by Homeowners' Association. Satellite dishes shall not exceed four feet (4') in diameter.
- (e) No stand-alone tennis court or other recreational court shall be constructed on any lot.

SECTION 6. DUTY TO MAINTAIN LOT

- (a) From and after the date of purchase of lot, it shall be the duty of each Lot Owner to keep the grass on the lot properly cut at a height not to exceed six (6) inches, to keep the lot free from weeds and trash and to keep it otherwise neat and attractive in appearance. Should any Lot Owner fail to do so, then Homeowners' Association may take such action as it deems appropriate, including mowing, in order to make the lot neat and attractive, and the Lot Owner shall, immediately upon demand, reimburse Homeowners' Association or other performing party for all expenses incurred in so doing.

(b) Lot Owners will be responsible for removal of mud on roadways when condition is caused by construction on their lot. Lot Owners will make every effort to schedule deliveries to their sites to minimize the possibility of mud accumulation.

(c) Lot Owner will be responsible for maintaining construction sites in reasonably neat condition as determined by the Homeowners' Association, including the removal and/or containment of all food and drink containers and any other personal debris that may be deposited on lot by contractors or subcontractors.

(d) Any cost to Homeowners' Association resulting from noncompliance with the above will be charged to the noncompliant Lot Owner and shall constitute a lien against the property.

SECTION 7. DUTY TO REPAIR AND REBUILD

(a) Lot Owners shall, at their sole cost and expense, repair their residence, keeping it in a condition comparable to that at the time of its initial construction, excepting only normal wear and tear.

(b) If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then the Lot Owner shall, with all due diligence, promptly rebuild, repair or reconstruct such residence in a manner which will substantially restore it to its apparent condition immediately prior to the casualty.

SECTION 8. BUSINESS; HOME OCCUPATIONS

No trade or business of any kind (and no practice of medicine, dentistry, chiropractic, osteopathy and other like endeavors) shall be conducted on any lot which: (i) violates any applicable zoning regulations and binding elements or other applicable laws, rules or regulations; (ii) results in retail sales of merchandise or services from the lot; (iii) results in employees or customers coming to the lot; and (iv) increases traffic to the lot or within Spring Creek. In addition nothing shall be done on any lot which may become an annoyance or nuisance to Spring Creek; nor shall anything be done which conflicts with any of the restrictions in this Declaration.

SECTION 9. SIGNS

No sign for advertising or for any other purpose shall be displayed on any lot or on a building or structure on any lot except one sign by the builder and one sign by the realtor or Lot Owner advertising the sale or rent thereof, which shall not be greater in area than nine square feet each.

SECTION 10. DRAINAGE

Drainage of each lot shall conform to the general drainage plans for Spring Creek. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

SECTION 11. DISPOSAL OF TRASH

No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers, such containers to be placed in a manner and location so as to not be visible from the street. Such containers shall be placed at appropriate collection points not earlier than the night preceding a scheduled collection, and shall be promptly removed and returned to said location after each collection.

SECTION 12. UNDERGROUND UTILITY SERVICE

Electric service lines serving each lot shall be underground throughout the length of service lines from the Louisville Gas & Electric Company pedestal to the building erected on each lot and the cost of installation and maintenance thereof, shall be borne individually by the respective Lot Owner upon which said service lines are located. The electric and telephone easements shown on the Plats shall be maintained and preserved in their present condition and no encroachment therein and no change in the grade or elevation thereof shall be made by any person or Lot Owner without the express consent in writing of the Louisville Gas & Electric Company and American Telephone & Telegraph (AT&T) or their successors.

SECTION 13. RULES OF COMMON AREAS

The Homeowners' Association is authorized to adopt rules for the use of common areas and such rules shall be furnished in writing to the Lot Owners.

SECTION 14. APPROVAL OF CONSTRUCTION PLANS

(a) No structure may be erected, placed or altered on any lot until the construction plans and building specifications and a plan showing (1) the location of improvements on the lot; (2) the grade elevation (including rear, front and side elevations); (3) the type of exterior material; and (4) the location and size of the driveway (which shall be concrete or other higher grade material, not to include asphalt, approved in writing by the Homeowners' Association), shall have been approved in writing by the Homeowners' Association.

(b) References to "Homeowners' Association" shall include any entity, person or association to whom Homeowners' Association may assign the right of approval.

SECTION 15. BUILDING MATERIALS; ROOF; BUILDER

- (a) The exterior building material of all structures shall extend to ground level and shall be either brick, stone, brick veneer or stone veneer or a combination of same. Homeowners' Association recognizes that the appearance of other exterior building materials (such as wood siding) may be attractive and innovative and reserves the right to approve in writing the use of other exterior building materials.
- (b) The roof pitch of any residential structure shall not be less than a plane of eight (8) inches vertical for every plane of twelve (12) inches horizontal.
- (c) The general contractor constructing the residential structure on any lot shall have been in the construction business for a period of one (1) year and must have supervised the construction of, or built a minimum of, six (6) homes. Homeowners' Association makes this requirement to maintain a high quality of construction within Spring Creek and reserves the right to waive these standards of experience.

SECTION 16. MINIMUM FLOOR AREAS

The following shall be the minimum floor areas for homes to be constructed in Spring Creek:

- (a) The ground floor area of a one story house shall be a minimum of 1700 square feet exclusive of the garage.
- (b) The total floor area of a one and one-half story house shall be a minimum of 2000 square feet exclusive of the garage.
- (c) The total floor area of a two-story house shall be a minimum of 2200 square feet, exclusive of the garage.
- (d) The total floor area of a tri-level house shall be a minimum of 2000 square feet, exclusive of the garage.
- (e) Finished basement areas, garages and open porches are not included in computing floor areas.

SECTION 17. SETBACKS

No structure shall be located on any lot nearer to the front lot line of the side street line than the minimum building setbacks lines shown on the recorded Plats except bay windows and steps may project into said areas, and open porches may project into said areas not more than six (6) feet. Homeowners' Association may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

SECTION 18. GARAGES; CARPORTS

All lots shall have at least a two-car garage unless otherwise approved in writing by Homeowners' Association. No detached garages or carports are allowed unless otherwise approved in writing by Homeowners' Association.

SECTION 19. LANDSCAPING; SIDEWALKS; DRIVEWAYS; TREES

(a) Within sixty (60) days of the final completion of construction of a residence, the Lot Owner shall grade, sod and landscape that portion of the lot between the front and street side walls of the residence and the pavement of any abutting streets. Homeowners' Association, in its sole discretion, may extend or postpone this sixty (60) day period to allow for weather conditions.

(b) Each Lot Owner shall cause a sidewalk to be constructed as required by Louisville Metro Department of Public Works.

(c) Each Lot Owner shall construct a driveway, in accordance with Section 14(a)(4) of this Declaration, within three (3) months after completion of a single family residence. Thereafter, Lot Owner shall maintain the driveway in good repair and condition.

(d) Upon final completion of construction of a residence, the Lot Owner shall cause to be planted two (2) trees at least two inches in diameter at breast height ("DBH") in the front yard of the lot, unless there are at least two existing trees of comparable size. These trees shall be in addition to any trees planted in the right-of-way by Homeowners' Association or other performing party. No trees may be removed from any lot without the prior written approval of Homeowners' Association, except in the area of construction of the home.

(e) Upon a Lot Owner's failure to comply with the provisions of this Section 19, Homeowners' Association may take such action as necessary to comply therewith, and the Lot Owner shall immediately, upon demand, reimburse Homeowners' Association or other performing party of all expenses incurred in so doing, together with allowable statutory interest, and Homeowners' Association shall have liens on that statutory interest and on that lot and the improvements thereon to secure the repayment of such amounts.

SECTION 20. AIR CONDITIONING UNITS

Except as may be permitted from time to time by Homeowners' Association, in its sole discretion, no window air conditioning units may be kept or used on any lot.

SECTION 21. MAIL AND PAPER BOXES

Each mail box and paper holder shall be uniform as to design and use, as approved in writing by the Homeowners' Association. No other mail boxes or paper boxes shall be permitted on any lot.

SECTION 22. ENTRANCE WALL; SCREEN FENCING AND LANDSCAPE EASEMENT

An easement is retained within the 30' electric and telephone easement and the 20' landscape buffer easement, as shown on the recorded Plats, for the stone entrance wall and screen fencing as constructed within said easements. It shall be the responsibility of the Homeowners' Association to maintain the entrance wall, screen fencing along Springdale Road and landscaping associated with this buffer and entrance area.

SECTION 23. RESTRICTIONS RUN WITH LAND

Unless canceled, altered or amended under the provision of this paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this Declaration is recorded, after which time they shall be extended automatically for a successive period of ten (10) years, unless an instrument signed by 75% of the then Lot Owners of all lots in Spring Creek have been recorded, agreeing to change these covenants and restrictions in whole or in part. These restrictions may be canceled, altered or amended at any time by the affirmative action of the owners of 75% of the lots subject to these restrictions. No section of Spring Creek shall have restrictions differing from any other section.

SECTION 24. ENFORCEMENT

(a) Enforcement of these restrictions shall be by proceeding of law or in equity, brought by Homeowners' Association or any Lot Owner against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. Failure to enforce any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions.

(b) Per Diem Penalty. A per diem penalty shall be assessed to any Lot Owner in violation of these restrictions. The per diem penalty shall not accrue prior to the next Board meeting following written notice of the violation and until the Lot Owner has had reasonable time to cure the violation following the next Board meeting. The per diem penalty shall be \$5.00 per day. The per diem penalty shall be suspended at the filing date of a cause of action by either a Lot Owner or the Homeowners' Association. Failure to enforce the per diem penalty shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions.

(c) Any such Lot Owner and/or Homeowners' Association who prevails enforcing these restrictions shall be entitled to recover all costs and expenses incurred in connection with such action, including without limitation, court costs, and reasonable attorney fees. Any award of damages received by Lot Owner or the Homeowners' Association in connection with any such action, and all costs and expenses incurred by the Lot Owner or the Homeowners' Association in

connection therewith, shall constitute a lien upon the lot, of equal priority to the lien for assessments provided for in these restrictions. The attorney fees and costs referred to in this section shall not be recoverable against the Homeowners' Association Board of Directors or its individual members acting in their official capacity.

SECTION 25. SPRING CREEK HOMEOWNERS' ASSOCIATION

Every Lot Owner, by acceptance of a Deed for any lot, agrees to accept membership in, and does thereby become a member of the Homeowners' Association.

SECTION 26. GENERAL PROVISIONS

(a) The objects and purposes of the Homeowner's Association shall be set forth in its Articles of Incorporation or By-Laws and shall be to promote the social welfare of its members, and shall include, unless such obligations are otherwise assumed by any municipal or governmental agency having jurisdiction thereof, the maintenance and repair of the streets, medians, open spaces or common areas, street signs, sidewalks, crosswalks, storm drains, basins, fences, street lights and entrances, including signature wall, landscaping, as may be shown on the aforesaid plats, and acceptance of common area for purposes of operation, maintenance and repair.

(b) Assessments. Any assessments levied by the Homeowners' Association shall be used only for purposes generally benefiting Spring Creek and shall constitute a lien upon the lot and improvements against which each such assessment is made. This lien shall be subordinate to the lien of any first mortgage or vendor's lien on the lot and shall be enforceable against the real estate by foreclosure otherwise.

(i) Annual Assessments. An annual assessment will be made by the Homeowners' Association on January 1 of each year. The Homeowners' Association may increase, decrease or maintain the annual assessment in accordance with the By-Laws. The annual assessments provided for herein shall begin as to any lot subject to the assessment at the time the lot becomes owned. The flat annual assessment shall be adjusted according to the number of months remaining in the calendar year when the lot is first owned.

(ii) Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Homeowners' Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon a common area, including fixtures and personal property related thereto. Any such assessment shall have the assent of the members of the Homeowners' Association in accordance with the By-Laws.

(iii) Any assessment not paid by the due date shall incur an immediate penalty of \$75. The Homeowners' Association may bring an action at law against the Lot Owner personally obligated to pay the assessment or foreclose the lien against the property, and interest costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessments provided for herein.

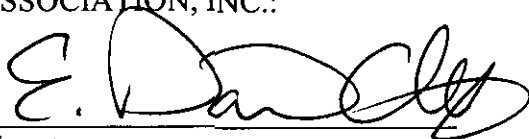
(iv) The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but said sale or transfer shall not extinguish the liability of the Lot Owner to satisfy said lien. No sale or transfer shall relieve such lot from any assessments thereafter becoming due or from the lien.

(c) No common areas, including medians in the right-of-way, shall be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville Metro Planning Commission. The Homeowners' Association cannot amend the Restrictions as provided herein without the approval of the Louisville Metro Planning Commission.

(d) Should it be held at any time by a court of competent jurisdiction that any of the covenants, restrictions or obligations set forth in this Declaration are illegal, invalid or unenforceable, the validity of the remaining parts, terms, or provisions shall not be affected thereby and any illegal, invalid or unenforceable parts, terms or provisions shall be deemed not to be a part of this Declaration.

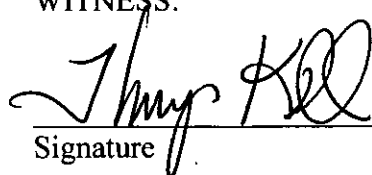
WITNESS the signature of SPRING CREEK HOMEOWNERS' ASSOCIATION, INC., on this the 29 day of July, 2008.

SPRING CREEK HOMEOWNERS' ASSOCIATION, INC.:


Signature

E. Daniel Clift
Printed

WITNESS:


Signature

Thomas J. Kuhler
Printed

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 29 day of July, 2008, by E. Daniel Clift, on behalf of the Spring Creek Homeowners' Association, Inc., and was acknowledged and delivered by him to be his act and deed.

Drema Dawson
Notary Public

My commission expires: 10/26/10

This instrument prepared by: Mike Kelly
Fischer & Kelly
718 West Main Street
Two South
Louisville, Kentucky 40202
(502) 589-6380

Mike Kelly
Mike Kelly

Document No.: DN2008110569
Lodged By: KELLY
Recorded On: 07/31/2008 02:48:22
Total Fees: 40.00
Transfer Tax: .00
County Clerk: BOBBIE HOLSCLOW-JEFF CO KY
Deputy Clerk: TERNIG

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