

FILED FOR RECORD  
KANE COUNTY, ILL.

94K058701

94 JUL 25 AM 9:00

DECLARATION OF COVENANTS & RESTRICTIONS

*Synda M. Reina*  
RECORDER

DECLARATION, made this 19<sup>th</sup> day of July, 1994, by SUBURBAN BANK OF BARRINGTON, as Trustee under Trust Agreement dated April 9, 1993, and known as Trust Number 1016 (hereinafter referred to as TRUSTEE, DECLARANT or DEVELOPER).

WITNESSETH:

WHEREAS, the Declarant is the record owner of Lots 1 through 30 of Springacres Hills, Unit 1 being a subdivision in the Southwest Quarter of Section 9, and part of the Northwest Quarter of Section 16, Township 42 North, Range 8, East of the Third Principal Meridian in the Village of Carpentersville, Kane County, Illinois (hereinafter referred to as the Property, Tract or Premises):

WHEREAS, Declarant is desirous of establishing for the mutual benefit of all future owners of any part of the Premises certain rights, restrictions and obligations with respect to the use, conduct and maintenance thereof; and

WHEREAS, Declarant desires and intends that the several owners, mortgagees, occupants and any other persons hereafter acquiring any interest in said premises shall, at all times, enjoy the benefits of and shall hold their interest subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative and aesthetic aspects of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness thereof.

SPAHLS - 1 (pb m 2/26)

94K058701

09050648

NOW THEREFORE, the Declarant hereby declares that all of the property described above is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions, and covenants herein which shall be binding upon all parties having or acquiring any right, title, or interest in the described lands or any part thereof.

ARTICLE 1

ASSOCIATION AND ADMINISTRATION

1-1. There is established an Association commonly known as the Springacres Hills Homeowners' Association. The provisions of this Article shall constitute the By-Laws by which, in addition to the other provisions of this Declaration, shall govern the administration of the Common Areas.

1-2. Unless specifically provided otherwise, the Association shall own, maintain, repair and improve the Common Areas within the Property as defined in Article 2.

1-3. The Association shall be governed by the rules, procedures and decisions relating to the Illinois Not For Profit Corporation Act except as may be provided to the contrary herein, which corporation shall be created by the Developer.

1-4. So long as the Developer continues to own 50 percent of the lots subject to this Declaration, by later annexation or otherwise, the Developer may, at its option, maintain the Common Areas at the expense of the Association.

94X058701

0905 0649

1-5. The direction and administration of the Common Areas shall be vested in a Board of Managers (hereinafter referred to as the "Board"), consisting of five (5) persons who shall be elected in the manner hereinafter provided. Each member of the Board shall be an Owner of a lot; provided, however, that in the event a lot Owner is a corporation, partnership, trust or legal entity other than a natural person, then any Officer, Director or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

1-6. The Board shall be the governing body for all the lot owners for the administration and operation of the Common Areas. Upon the formation of such Association, every lot Owner shall be a member therein, which membership shall automatically terminate upon the sale of the lot at which time the new Owner shall automatically become the member.

1-7. There shall be one person with respect to each Lot who shall be entitled to vote at any meeting of the Lot Owners. Such Person shall be known as the "voting member". Such voting member may be the Owner or may be some person designated by such Owner to act as proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board. The total number of votes of all voting members shall be equal to the total number of Lots then subject to this Declaration, and each Lot shall be entitled to one vote. The Developer or its Designee shall be

0905 0650

01XNCR7N1

voting members with respect to any lot owned by the Trustee or its Successor or Assignee.

1-8. Annual meetings of the voting members shall be held in Dundee Township as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members for at least 25 percent of the number of lots shall constitute a quorum. Robert's Rules of Order (most recent edition as from time to time amended) shall govern the conduct of the meetings.

1-10. Members of the Board shall receive no compensation for their personal services, unless expressly allowed by the direction of the voting members for at least two-thirds (2/3) of the number of lots.

1-10. Vacancies on the Board shall be filled by the voting members present at the Annual Meeting or at a Special Meeting of the voting members called for such purpose. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. A majority of the members then presently sitting on the Board shall constitute a quorum.

1-11. The Board shall elect from among its members a President who shall preside over both its meetings and those of the voting members, and who shall be the chief executive officer of the Board and the Association; a Secretary who shall keep the minutes of all meetings of the Board and of the voting members and who shall, in general, perform all the duties incident to the office of a

94X05870

0905 0651

Secretary; a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect.

1-12. The Board, by vote of three of its members, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Common Areas, Detention, Drainage and Retention Areas and the planting areas within the cul-de-sacs. Written notice of such rules and regulations shall be given to all Lot Owners and the entire Property shall at all times be maintained subject to such rules and regulation. If, within thirty (30) days from the date of passage and written notice delivered to the Lot Owners of the adoption of any such rule and regulation, the voting members for at least one-fourth (1/4) the number of lots shall file with the Board a written objection thereto; then such rule and regulation shall be deemed rescinded until approved by the voting members for at least two-thirds (2/3) of the number of lots at a Annual or Special meeting of the Lot Owners.

1-13. Until December 1, 1999 or so long as 75 percent of the lots subject to this Declaration are owned by the Trustee, the later of which occurs, the Developer and/or his nominees shall constitute the entire Board of Directors of the Association after which time an election shall be called and the Board shall be constituted. The Developer shall be entitled to one vote per lot owner by it and may nominate one or more persons to serve on the Board.

94A058701

09050682

**ARTICLE 2**

**COMMON AREAS**

2-1. The Common Areas shall include parks, wetlands, common easements, entranceways, non-municipal rights-of-way, non-municipal common planting areas, drainage retention and detention areas not otherwise located upon the lot of another owner, and all such other real property as may be deeded to or owned by the Association as well as all improvements thereon. Further, although not owned by the Association, the planting areas within the cul-de-sacs shall, except for ownership, be considered a common area subject to maintenance by the Association as though it were in fact a common area.

2-2. As to the portions of the premises owned by the Association, same shall be held for the sole enjoyment of all Lot Owners and their guests. The use thereof by others is prohibited.

2-3. If, due to the negligent act or omission of a Lot Owner, a member of his family, household or guest shall cause any damage to be occasioned to the property of the Association, the cost of such repairs shall be added to the lot assessments of such Owner.

**ARTICLE 3**

**DRAINAGE**

3-1. No Owner shall alter the rate or direction of flow of water to or from the drainage, water retention and detention areas or in any way change the boundaries or composition of said areas without prior approval of the Developer (so long as it owns any lot upon the Property) and required governmental authorities.

94X058701

0905 0653

3-2. The following provisions apply to all drainage detention and retention areas as noted on the plats of survey and areas to which these Covenants are or may become applicable:

- a. No excavation or placement of dredged or fill material, debris or landscape waste may be placed upon said areas.
- b. No structures of any kind may be placed upon said areas.
- c. Said areas may be landscaped by grass seeding only.
- d. Bicycles and any other types of vehicles are prohibited from operation upon said area.
- e. There shall be no modifications to the hydrology of these restricted areas, either directly or indirectly, that would allow more water onto, or that which would naturally drain water from such areas. Such prohibitive modifications include but are not limited to ditching, changes to any water control structure, alteration to drain tiles or any natural occurring contours or those contours installed by the Developer.

#### ARTICLE 4

#### ASSESSMENTS

4-1. Each year on or before December 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall on or before December 15th notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof.

94X058701

0905 0654

Said "estimated cash requirement" shall be assessed to the Lot Owners equally per lot then subject to the terms hereof. On or before January 1st of the ensuing year each Owner shall be jointly and severally liable for and obligated to pay to the Association, or as it may direct, such annual assessment. On or before April 1st of each calendar year the Board shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid.

4-2. The failure or delay of the Board to prepare or serve the annual or adjusted estimate shall not constitute a waiver or release in any manner of such Lot Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the maintenance charge at the then existing rate is adjusted.

4-3. If a Lot Owner is in default in the payment of maintenance charges or assessments 30 days after due the board may bring suit to enforce collection thereof or to foreclose the lien thereof as hereinafter provided. There shall be added to the amounts due the costs of said suit, and other fees and expenses together with annual interest at the rate of 10 percent from date of default and reasonable attorneys' fees. The amount of any delinquent or unpaid charges or assessments, and interest, costs and fees as above provided shall be and become a lien or charge against the Lot when payable and may be foreclosed as provided by law.

941058701

0905 0655

4-4. The lien of the assessment of installments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon the lots subject to assessment; provided, however, that such subordination shall apply only to assessments or installments which have become due and payable prior to the issuance of a deed by a sheriff, or Special Commissioner pursuant to foreclosure of any such mortgage. Such transfer shall not relieve the property involved from liability for any assessments or installments thereafter becoming due nor from the lien of any such subsequent assessment or installment.

4-5. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, maintenance and improvement of the common elements owned by the association.

4-6. The assessments provided for herein shall commence on the date affixed by the Board of Directors of the Association. The first annual assessment shall be for the balance of the calendar year and shall become due and payable on the day fixed for commencement by the Developer. The budget for the initial total annual assessment shall be fixed by the Developer.

## ARTICLE 5

### USE RESTRICTIONS

5-1. All lots shall be residential lots. No structures shall be erected, altered, placed or permitted to remain on any lot other than one building for a private residence.

94X058701

0905 0656

5-2. No lot shall be re-subdivided or divided other than as shown on the recorded plat made and covering the premises or portion thereof except as may be done by the Declarant.

5-3. No livestock, poultry, or more than two dogs and two cats over four months of age shall be kept or maintained on any lot. Every owner shall promptly dispose of all of his refuse and garbage. No commercial vehicle (as the same is defined by Chapter 95 1/2 of the Illinois Revised Statutes, §1-114), mobile home or trailer shall be parked on any lot unless such vehicle shall be wholly contained within a fully enclosed garage attached to the residence. No automotive repairs shall be conducted except in the confines of an attached garage.

5-4. No signs of any kind shall be displayed to public view on any lot except one sign advertising a lot for sale and except signs used by the Declarant, Developer or Association to advertise lots for sale or identify the tract.

5-5. Exposed laundry poles and lines are prohibited on any lot. No radio, television or tower of any kind shall be erected on any lot except as allowed by the Declarant. One mesh style satellite dish antenna may be placed on a lot only with the prior approval of the Developer or Association which shall be substantially landscape screened from public view. No above-ground pools shall be erected on any lot. There shall be no obstruction of the Common Areas or Drainage Retention/Detention Areas nor anything stored thereon.

0905 0657

94K058701

5-6. No trailer, basement, shack, shed, garage, barn or other outbuilding in said subdivision shall at any time be used as a residence, temporarily or permanently; nor shall any structure of a temporary character be used as a residence. No garage or outbuilding shall be constructed or placed on any lot prior to construction of any residence.

5-7. No outbuildings, accessory buildings, sheds or detached garages shall be erected upon a lot.

5-8. No lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

#### ARTICLE 6

#### ARCHITECTURAL CONTROL

6-1. Until such time as Trustee or its successor has conveyed title to the last lot in all units of the tract owned by it, all building plans for any building, fence, corral, wall, pool, antenna or structure to be erected upon any lot, and the proposed location thereof upon any lot, and any changes after approval thereof, any exterior remodeling, reconstruction, alteration or addition to any building, road, driveway or other structure upon any lot shall first require the approval in writing of the Developer or by the

0905 0658

94K058701

Association when the Trustee no longer owns any lots herein. Before beginning the construction of any road, driveway, building, fence or other structure whatsoever, or exterior remodeling, reconstruction or altering such road, driveway or structure upon any lot, the person or persons desiring to erect, construct or modify the same shall submit two (2) complete sets of road or driveway plans, showing the locations, course and width of same, or two (2) complete sets of building plans and specifications for the building, fence or other structure as is applicable, so desired to be erected, constructed or modified. No structure of any kind, the plans, elevations and specifications of which have not received written approval of and which does not comply fully with such approved plans and specifications, shall be erected, constructed, placed or maintained upon any lot. Approval of such plans and specifications shall be evidenced by written endorsement on such plans and specifications, a copy of which shall be delivered to the owner of the lot upon which the prospective building, road, driveway structure is contemplated prior to the beginning of such construction. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the Designee. The Designee shall be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

6-2. Each single-story residence shall have not less than 2300 square feet of living area space and each multi-level residence

09050659

94K058701

shall have not less than 2600 square feet of living space. The foregoing shall be exclusive of porches, basements and garages.

6-3. The landscape plan and any amendments shall likewise be submitted to and approved by the Designee who shall be the sole judge as to the harmony of design of all buildings and landscape designs. The Designee may require such landscaping as may be necessary and deemed by it to be desirable to cover foundations, walls and entrances. The exterior of all improvements including finished grade, landscaping and exterior decorating shall be completed within one year from such date of approval of the Designee else such approval shall abate.

6-4. The erection of any new structure and the re-erection or repair of any structure shall be completed as rapidly as practicable. All unused building materials and temporary construction shall be removed from a lot within thirty (30) days after substantial completion of building construction. Any lot upon which excavation and construction work is completed shall be finish graded and grass seeded as soon as weather and construction circumstances permit.

6-5. All driveways are to be of hard-surface construction.

6-6. All outside building and construction shall be completed within one (1) year after ground is broken for the foundation.

6-7. No solid, unbroken, view-obstructing fence, wall, hedge or any other fencing or screening shall be erected on any lot without architectural approval of the Developer or the Association.

107850X46  
94X058701

09050660

Any fence, wall or hedge screening shall be of an ornamental type only and shall be no higher than five (5) feet from the ground.

**ARTICLE 7**

**MISCELLANEOUS**

7-1. Each Owner of any lot within the premises accepts conveyance thereof subject to all conditions and restrictions herein set forth. In the event of the breach of any covenant herein contained, it shall be the right of any person owning an interest in the premises or any part thereof, or the Developer, which is subject to the same restrictions or conditions in respect to which the default is made, to institute and prosecute appropriate proceedings at law or in equity for the wrong done or attempted, including a right for reimbursement of attorney's fees from one found to have breached this Declaration.

7-2. If any provision of this Declaration or any section, sentence, clause, phrase or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of this Declaration and of the application of any provision, section, sentence, clause or word in any other circumstances shall not be affected thereby.

7-3. No covenant, restriction, condition, obligation or provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

94 058701

1990 0661

7-4. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan of exclusive executive residential properties.

7-5. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of (10) years. This Declaration may be amended or terminated by an instrument executed and acknowledged by not less than fifty-one percent (51%) of the voting members; provided, however, that until such time as the last lot subject hereto is sold by the Trustee or Developer, such instrument shall also be required to be executed and acknowledged by it or the same shall be of no force and effect. Any such amendment shall be effective only upon recordation in the Office of the Recorder of Deeds of Kane County.

7-6. This document may be amended by a majority vote of the lot owners so voting at a meeting called for that purpose. For a period of 60 months from the date of first recordation of this Declaration, the Developer reserves the sole privilege to amend this document. Any amendment shall be recorded with reference to this document.

7-7. As used herein the term "Owners" shall infer the singular and the plural. Owners with multiple lots shall be entitled to one vote per lot on all matters herein subject to ballot.

7-8. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation

94K058701

0905 0662

of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of William C. Clinton, the now incumbent President of the United States.

7-9. The invalidity of any restriction hereby imposed, or of any provision hereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration and all of the terms hereof are hereby declared to be severable.

7-10. Each grantee of the Trustee, by the acceptance of a deed of conveyance, or each purchaser under Articles of Agreement for Deed, accepts the same subject to all easements, restrictions, conditions and covenants contained herein and all such covenants, conditions and restrictions hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

7-11. The Declarant hereby reserves the right to add and annex other property to become subject to this Declaration from time to time within a period of 10 years after the date of recording of this Declaration by recording an Document of Annexation which shall

94X058701

0905 0663

set forth a legal description of the additional parcel or parcels to be annexed and thereafter subject to this Declaration and which shall state the intention of the Declarant to submit such additional property to the provisions hereof. Upon recordation of such Document of Annexation the additional property therein described shall be deemed to be governed in all respects by the provisions of this Declaration and all of its provisions, regulations and rules promulgated hereunder.

7-12. The Village of Carpentersville, a municipal corporation of the State of Illinois, shall have the right, but not the obligation, to enforce covenants or obligations of the Association or the Owners of the Lots as defined and provided within the Declaration of Covenant and Restrictions, and further shall have the right, upon 30 days prior written notice specifying the nature of a default, to enter upon the common areas or any drainage-retention and detention area upon a lot and cure such default, or any failure to maintain or cause the same to be cured at the cost and expense of the Association or the Owner or Owners thereof. The Village shall also have the right to charge or place a lien upon the property of the Association for the repayment of such costs and expenses and/or any lot wherein a detention or retention area is located (but as to any lot the amount of the lien shall be limited to cost or expense upon such lot), including reasonable attorneys' fees in enforcing such obligations. This provision may not be amended without the approval of the President and Board of Trustees of the Village of Carpentersville.

94K058701

09050664



Trustee, and 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 severally acknowledged that as such ANP, President and ANP, Secretary, they signed and delivered the said instrument as ANP, President, and ANP, Secretary, and caused its seal to be affixed thereto, pursuant to authority, given by the Board of Directors of said Trustee as their free and voluntary act, and as the free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 19<sup>th</sup> day of July, 1994.

Nancy L. Ford  
Notary Public



CONSENT OF MORTGAGEE

Suburban Bank of Barrington, holder of mortgages on the property herein described dated April 9, 1993 and recorded April 16, 1993 as Document Nos. 93K25352 and 93K25354 hereby consents to the execution and reporting of the attached declaration of covenants and restrictions and agrees that said mortgage is subject to the provisions thereof.

IN WITNESS whereof Suburban Bank of Barrington has caused this instrument to be signed by its duly authorized officers on its behalf this 19<sup>th</sup> day of July, 1994.

Suburban Bank of Barrington,

[Signature]  
President

Attest:

[Signature]  
Assistant Secretary

This document prepared by  
and should be returned to:

Ronald O. Roeser  
ROESER, VUCHA & CARBARY  
920 Davis Road, Suite 100  
Elgin, IL 60123



94K058701

File: SAH-6 for 06-14-94; 06-20-94  
06-30-94; 07-05-94

0905 0666