

RESTRICTIONS
ASHBROOKE EAST SUBDIVISION
PHASES I, II, AND IIIA AND IIIB
Includes Amendments dated 3/30/2009

WHEREAS, Ashbrooke Development Corporation (Declarant) is the owner of land known as Ashbrooke Subdivision hereinafter called "Declarant", in the Township of Hudson, Summit County, Ohio, which it intends to develop into a residential development of single-family residences.

WHEREAS, Declarant deems it necessary for the efficient preservation of the values, general welfare of the buyers, aesthetic harmony, and amenities of said development to impose and provide restrictions, covenants, easements and limitations upon the land of said Declarant.

I. All lots conveyed shall be used exclusively for single-family residence purposes and only one such residence shall be permitted on each lot.

- A. Single family dwellings shall meet the following requirements:
1. Type: Single-family dwellings may be one and two story in design.
 - a. A one-story dwelling is a structure, the living area being the first floor space only constructed with or without a basement and a space between the first floor ceiling and the roof of inadequate heights to permit its use as a dwelling space
 - b. A two-story dwelling is a structure, the living area of which is on two levels connected by a stairway, constructed with or without a basement
 2. Living Area: The "Living area" of any dwelling shall not be less than finished habitable areas as set forth below. "Living area" shall not include garages, attics, basements, breezeways, utility rooms, patios, or any enclosed area not heated for year-round living.
 - a. Such floor area shall not be less than the following in "square feet":
 - (1) One story with basement-2000 square feet
 - (2) Two story with basement-2000 square feet
 - (3) Declarant reserves the right to make minor variances in the above figures if, in its opinion, the intent of this section is maintained.
 3. Market Value: The appraised fair market value of any dwelling erected or placed upon any part of the land herein conveyed shall be not less than \$150,000 including the value of the lot.
 - a. If the cost of living index as of January 1, 1990 as determined by the US Department of Labor, increases thereafter, the required minimum value aforesaid shall likewise increase at the same percentage increases of such cost of living index
 4. Side Yards: Each building shall have a side yard along each lot line. The least dimension of each said yard shall be not less than 15 feet. The side yard nearest the street on any corner lot shall have a width as

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designated on the recorded plat. No shrubbery shall be closer than allowed setback to the street on corner lots.

a. When two or more lots are acquired and used as a single building site, the side lot line shall refer only to the lines bordering on the adjoining property owner.

5. **No lot in this subdivision shall be subdivided or divided.**
6. **Fences:** The Architectural Review Board shall be **predisposed toward not approving fences** unless said fence is required by law, such as for enclosing a swimming pool. No fence shall be approved for installation unless a detailed drawing of type and location is submitted to the Architectural Review Board and a written consent for such fence is obtained. An approved fence shall be constructed of wrought iron like material and shall be no more than four feet in height. If a fence is constructed without board approval, in addition to the remedies set forth in Section III F of the original restrictions, said fence shall be removed at the owner's expense.
7. All garbage or trash containers, oil tanks and bottled gas tanks shall be placed underground or placed in screened areas so that **they shall not be visible** from the adjoining properties.
8. No outdoor **clothes drying** area shall be allowed in the development.
9. *No spirituous or fermented liquor shall be manufactured or sold, either at wholesale or at retail, on any residential premises and no place of public entertainment or resort of any retail, on any residential premises and place of public entertainment or resort of any character shall be established, conducted or suffered to remain on residential premises.*
10. **No unsightly growth** such as weeds, underbrush or the like, shall be permitted to grow or remain upon any lot and no refuse, pipe or unsightly objects shall be allowed to be replaced or suffered to remain anywhere thereon. However, the natural wooded and ground cover conditions of portions of the lot may remain provided that they are aesthetically pleasing to the appearance of the development as a whole. In the event that any lot owner shall fail or refuse to keep his lot free from weeds, underbrush or refuse piles or other unsightly growths or objects. Declarant and the other lot owners within the development shall have the right upon seven (7) days written notice to the offending lot owners, to remove the same at the expense of the lot owner. Entrance onto such owner's lot for each purpose shall not be deemed a trespass.
11. All matters herein requiring the approval of Declarant by the terms of this instrument shall be submitted to Declarant in writing, accompanied by such specification, details and other documents in duplicate as are

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reasonable required by it to make a proper decision. In order to insure that the homes and other buildings will have a uniform high standard of construction, Declarant reserves the **right to reject** all such plans and specifications in writing within twenty (20) days after its receipt of the same and a failure by Declarant to so act within said 20 days period shall constitute approval of the submitted plans. All plans submitted shall be drawn to 1/4" or 1/8" scale and include floor plans for all levels and four (4) elevations. Elevations shall call out materials and colors specified. If plans are not submitted to Declarant as required, the Declarant shall have the right to access such property and cease all building of such home until the appropriated plans have been submitted and approved. Entrance onto such owner's lot for such purposes shall not be deemed a trespass. All building plans shall be submitted to the Declarant **prior to the commencement of construction** on a lot. Declarant shall be entitled to an **immediate restraining order**, restraining further construction on said lot, until such time as the plans have been submitted to the Declarant.

12. **No garage shall be erected** which is not connected to the main building. All garages must be of sufficient size to house two automobiles (220 square feet minimum).
 13. **No below ground swimming pools** shall be constructed without the written consent of the Board.
 14. **No satellite dishes greater than 24" diameter** shall be allowed. Location must be approved prior to installation by the Architectural Review Board of the Association.
- B. No structure or portion thereof shall be constructed between a street R.O.W. line and the building line shown on the plat of Ashbrooke.
- C. A person who is classified a Tier III or Tier II sexual offender/child-victim offender, or any future equivalent classification, and for whom the County Sheriff or other government entity must provide community notification of the sex offender's residence is **prohibited from residing** in or occupying a Lot or remaining in or on the property for any length of time. The classification of a sexual offender/child-victim offender and determination of whether notice is required is made by a court of law pursuant to the Ohio Sex Offenders Act, as may be amended and/or renamed from time to time, or similar statute from another jurisdiction. The Association shall not, however, be negligent, intentional, or otherwise, to enforce the provisions of this restriction.

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II. The following shall be prohibited:

- A. Drilling oil or gas wells on land designated for single-family lots.
- B. Mining or extraction of any minerals including the removal of sand or gravel; provided, however this restriction shall not prohibit the removal of any material in connection with development of the property for permitted uses by Declarant.
- C. The keeping, raising, and harboring of cattle, swine, fowl, livestock, and horses; provided however, that nothing in this restriction shall prohibit the keeping of household pets, excepting the above, provided they are not kept bred or maintained for commercial purposes, or kept in a manner as to constitute a nuisance.
- D. Temporary structures, above-ground swimming pools, boats or trailers of any kind (travel, camping, motor homes etc.); provided, however, that this restriction shall not prohibit trailers and temporary structures used in connection with the building of an owner's home. Any recreational trailer or boat may be kept provided it is kept in the garage out of sight.
- E. Signs, billboard or advertising devices of any kind except: signs not larger than six (6) square feet for offering homes for sale shall be permitted on the premises to be sold with the exception of an entrance sign and builder model home signs that shall identify Developers and/or Builders and the area.
- F. Nuisances and noxious or offensive activities of any kind.
- G. A visible radio tower or visible antennae.
- H. Any unlicensed vehicle of any description that is kept outside.
- I. Any unattached storage buildings, shed, barns, etc.
- J. Any above ground swimming pools.
- K. Permanent parking of commercial vehicles in driveway or in the street; provided, however, that this restriction shall not prohibit vehicles used in connection with the building or remodeling of an owner's property. A commercial vehicle may be kept on an owner's property provided it is kept in the garage and out of sight. A commercial vehicle is defined as either a medium or heavy duty vehicle used for commercial purposes, such as delivery trucks, wreckers, or box bed trucks.
- L. Permanent parking of vehicles in the street on a regular basis (i.e. 8 hours a day for 4-5 days a week.)

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III. General Provisions:

- A. All the lots and land in this subdivision are subject to all easements and rights of way of record.
- B. Declarant reserves the right for themselves, their agents, employees, successors, and assigns to enter upon any lot for the purpose of carrying out and completing the development of the property, including but not limited to the completion of any filling, grading, or installation of drainage facilities. Entry onto said property for such purposes shall not be deemed a trespass.
- C. The provisions herein shall run in favor of and shall be enforceable by any person, and the heirs and assigns of such person who is or becomes an owner of any lot in this development as well as Declarant, its successors or assigns.
- D. All of the provisions of this instrument shall be deemed as covenants running with the land and not as conditions, and shall be binding on all owners of any part of this developments and all persons claiming under them until January 1, 2020, and shall be automatically extended beyond the date for successive ten (10) year periods unless an appropriate instrument signed by the majority of the then owners of the lots in this development has been recorded, agreeing to change said covenants in whole or in part.
- E. Invalidation or unenforceability of any one or more of the provisions herein by judgment or court order shall in no manner affect any of the other provisions hereof, and such other provisions shall remain in full force and effect.
- F. In the event of a violation of any of the restrictions herein contained, Declarant reserves unto themselves, their successors or assigns, for so long as Declarant owns any part of the premises, the right to enforce said restrictions by appropriate legal action against any person or persons who violate or attempt to threaten to violate said restrictions; or to enter upon the property where such violation exists and summarily abate and remove, at the expense of the owner thereof, any structure use or condition that may be or exist thereon contrary to these restrictions. Declarant shall not be deemed guilty of trespassing for such entry, abatement or removal. Failure of Declarant to enforce any of the restrictions contained herein, shall in no event be construed to be in any manner a waiver of, acquiescence in, or consent to a further or succeeding violation of these restrictions. However, the failure, refusal or neglect of Declarant to enforce said restrictions or to prevent violations thereof shall in no event make Declarant liable for such failure, refusal or neglect.
- G. The Declarant reserves the right to transfer its rights in these covenants to the Ashbrooke Homeowners' Associations, Inc. (Association), a non-profit corporation, made up of the owners of the lots in the Development. The

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Declarant also reserves the right to transfer to the Association title to certain common areas and facilities.

- H. It is hereby expressly understood that a five (5) foot wide **easement** on the side of each lot and a ten (10) foot wide easement at the front and rear of each lot which shall be used for installing, operating, maintaining and servicing pole lines, cables and conduits for the electric company, the telephone company and cable company and other public utilities, shall be imposed, excepting, however, the interior boundaries of this allotment in which case they shall be ten (10) feet in width. The character of the installation and structures which may be constructed, reconstructed, removed, and maintained in, on and through these easements shall include all incidental appurtenances, such as guys, conduits, poles, anchors, transformers, sanitary sewers, storm inlets, storm sewers, grass-lined swales, manholes, water mains, etc.
- I. Buyers will have the **lot landscaped** within six (6) months after each buyer has taken possession of his home except homes occupied between May 1 and October 1, in which case the landscaping shall take place within sixty days after occupancy.
- J. All driveways shall be **paved with concrete** within one year after construction starts but the cost of paving must be included in original contract.
- K. All foundation wall treatments which face the street shall be **brick to grade**. For example on corner lots the two foundations walls facing the streets must be brick to grade.
- L. All homes must have a roof pitch of not less than seven (7) foot rise for every 12 feet depth (7/12 pitch) unless approved by Developer.
- M. A home of basically the **same design cannot be constructed** within three (3) lots in either direction or across the street for three (3) lots in either direction from the house in question. In addition to the above, no house with the same color shall be placed side by side or across the street from each other unless the color is white. The "look alike feature" is being judged on having at least three features that are different from the houses being judged:
1. The first and most important, being the front elevation, which included reverse elevations.
 2. The second, being the number an arrangement of windows, porches, and the direction of the garage roof with or without cupolas.
 3. The third, being the color scheme of the houses in question, which includes roofing, siding, trim , shutters, and front doors.

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- N. All fireplaces and chimneys shall be constructed of **masonry material** (except the fire boxes which can be a pre-assembled metal unit).
- O. Each home shall have a **mailbox and a post light**.
- P. All of the restrictions above shall **apply to all land** within the platted area of this plat.
- Q. Invalidation of any provision hereof by judgment or court order **shall in no way affect the remainder** of the provisions hereof, which provision shall remain in full force and effect.
- R. As used in this Declaration and when required by the context, each number (singular or plural) shall include **all numbers, and each gender** (masculine, feminine, or neuter) shall include all genders.
- S. The terms, covenants, conditions and restrictions of this Declaration shall created perpetual, mutual, and reciprocal benefits and servitudes upon the Property, running with the land. The terms, covenants, conditions restrictions of this Declarations **shall be binding upon anyone** having any right title or interest in a Lot or any part thereof and shall insure to the benefit of Developer, the Association and each Owner.
- T. Amendment of Restrictions: If a Member wishes to **change these Restrictions or the Bylaws**, he must gather signatures from one third (1/3) of the current eligible voting Members on a petition stating the desired change. The petition and signatures must be given to an officer of the Association at least two (2) weeks prior to the Homeowners' Annual Meeting held during the first calendar quarter of each year (as per Section 2 of the Bylaws). The petition will be read and discussed at that Homeowners' Meeting. The Board of the Association will review the proposal and petition and, if it is acceptable in accordance with this section, the Board will mail voting ballots on said amendment to the Members within thirty (30) days. Two thirds (2/3) of the Members must vote affirmatively for the requested amendment in order for the same to be accepted as part of these Restrictions and/or Bylaws. Upon acceptance, the Board shall then put the amendment of the restrictions into recordable form and record same with the Summit County Recorder. Amendments to the Bylaws shall be published to the Members.

IV. Association:

- A. Formation and Organization. The Association is and shall remain a non-profit, non-stock corporation organized and existing under the laws of this state, and **charged with the duties and vested with the powers** prescribed by law and set forth in these Restrictions, the Articles, and Bylaws, as such may be amended from time to time, providing no other documents have for any reason be changed or interpreted so as to be inconsistent with these Restrictions.

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B. Membership.

1. Bases. Every **lot owner shall be a member** (Member) of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. Transfer of a lot shall automatically transfer membership to the transferee.
2. Members Rights and Duties. Members shall have all such **rights, and be burdened with such obligations** as are set forth in these Restrictions, the Articles, Bylaws and Book of Resolutions adopted by the Association.
3. Voting Rights. All Members in said subdivision shall be entitled to **one vote** for each lot owned. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

C. Voting. Unless a greater percentage is required by these Restrictions or by the Articles of Incorporation of the Association or the Bylaws of the Association, all decisions requiring a vote of the Members shall be **determined by a majority** of the Members.

D. Notice of Meeting. **Written notice** of any meeting called for the purpose of taking any action requiring a voted of the Members shall be sent to all Members not less than seven (7) days and not more than (60) days in advance of such meeting.

V. **Covenants for Assessments.**

A. Obligation of Assessments. Each Class A Member, by acceptance of a deed for such Member's lot, is deemed to covenant and **agree to pay to the Association**, such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments shall be a charge on and continuing lien on each lot of the owner responsible for the payment of such assessment. Each such assessment shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.

B. Purpose. The assessments levied by the Association **shall be used exclusively** to promote the health, safety, and welfare of the residents and owners in the Development, and for the improvement, maintenance, repair and replacement of the common areas and facilities, and for purposes incidental or related thereto. The Declarant also anticipates transferring to the Association easement rights to the entranceway of the Development.

C. Initial Assessment

1. Unless the initial assessment fee is **increased or decreased** pursuant to *paragraph D of the Article V*, the initial assessment fee with respect to any lot owned by a Class A Member, shall be sixty dollars (\$60) per lot per year. All assessment fees must be fixed at a uniform rate for all lots.

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2. *The initial assessment fee may be increased or decreased only by the affirmative vote of a majority of the voting power of the Board of Trustees (Board).*
- D. Commencement and Method of Assessment. The Assessment fees shall commence upon transfer of title to that lot prorated on the calendar year basis to the date of transfer. The initial assessment shall be adjusted according to the number of days remaining in the calendar year, and such assessments shall thereafter be on a full calendar year basis. The Board shall fix the amount of subsequent assessments at least thirty (30) days in advance of each annual assessment period. The due date for such assessment shall be established by the Board. Each Member shall pay such Member's assessment in **one annual payment** commencing on the date designated by the Board. Separate due dates may be established by the Board for partial annual assessments and special assessments, as long as made thirty (30) days in advance thereof. Written notice of the assessments shall be sent to each Member. The Association shall, on demand by an officer of the Association, setting forth whether the assessments payable with respect to a specific lot have been paid.
- E. Special Assessments for Lots Comprising Parts of a Lake. The lakes and ponds (Lakes) in the Development are owned by lot owners and are **not common areas and facilities**. The lot owners whose lots comprise a part of a Lake hereby covenant and agree to pay to the Associations such special assessments as the Association deems proper for the maintenance and care of the Lake comprising a part of such lot owner's lot. This special assessment shall be equally proportioned among all lot owners whose lots comprise a part of a Lake for which a special assessment under this section for a Lake which is not partially comprised of such lot owner's lot.
- F. Effect of Non-Payment of Assessment. Any assessment not paid within thirty (30) days after the due date shall be **deemed in default**. Members may not waive or otherwise escape liability for assessments provided for herein by non-use of common areas and facilities or abandonment of such owner's lot. A delinquent assessment of fifteen dollars (\$15.00) shall be paid within sixty (60) days, and the Association shall have the right to prohibit the use of the common areas and facilities by Members who are delinquent in the payment of their assessments. The Association may bring action at law against the Member, and upon obtaining a judgment, such judgment shall include interest on the assessment at the rate of ten percent (10%) and reasonable attorney's fees to be fixed by the court, together with the cost of the action paid by the delinquent Member.
- G. Lien and Delinquent Assessment. The lien for assessment fees provided for herein shall be **subordinate to the lien of any first mortgage**. A sale or transfer of any lot shall not affect such lien. No sales or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

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H. Cost of Collection. An Owner, who fails to pay any assessments within ten (10) days after same have become due and payable, shall be liable for any **late charges** as established by the Board and all costs and expenses incurred by the Association in connection with the collection of said Owner's account, including reasonable attorney's fees, recording costs, title reports and/or court costs.

VI. Property owners agree **not to have any construction** of any kind located on the within easements assigned to KST Oil and Gas Co., Inc., except landscaping with grass, and property owners agree to keep such area open at all times for access to the well, tank battery and pipelines. Property owners shall not build or allow to be built any structure within an area prohibited by regulations of the Ohio Division of Oil and Gas, Hudson Township and/or any governmental authority with respect to oil and gas wells on the premises.

VII.

- A. Property owners are notified by this restriction that Lots 72-75 abut property which is currently being used as a **horse farm**.
- B. Property owners are notified by this restriction that Lots 1-9 abut property which is currently being used as a **kennel**.
- C. Property owners are notified by this restriction that an **emergency access drive** is located on the south lot line of Lot 61 and will be removed at the time of constructing and dedications of the second access to the development in the Third Phase.
- D. Title to the fee includes the obligation to **pay the drainage maintenance fee** assessed or to be assessed by the county pursuant to the Ohio Revised Code Chapter 6137.

VIII. Wetlands

- A. Buyer acknowledges that some **lots may contain wetlands** as shown on the record plat. Buyer understands that changes to the wetland area, if any, have to be done in accordance with existing local, state and federal laws.

IX. Violations of Restrictions

- A. Enforcement: In addition to the enforcement of provisions set forth in Section V above, relating to the collection of assessments, the **Board may enforce compliance** with violations of these Restrictions or provisions of the Association Bylaws, as from time to time amended, in accordance with this section. Any Member may notify the Board of the Association of a perceived violation of these Restrictions or of the Bylaws of the Association. In order to preserve peace and tranquility in the subdivision, all reports of perceived violations will be maintained by the Board of the Association in confidence. A violation shall be deemed "actionable" if a majority of the Board, upon consideration of said issue, deems same to be a violation of these restrictions or of the Bylaws of the Association. If said

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violation is deemed actionable, the Board shall notify the offending Member in accordance with the notice and hearing provisions set forth in the Bylaws. If after hearing, the offending Member has been determined by the Board to have violated a Restriction or a provision of the Bylaws, the Board may impose any or all of the remedies included in these Restrictions or in the Bylaws, including. But not limited to the following:

1. To **resort to legal action** whether through injunction, for money only or otherwise for court enforcement of these Restrictions of the Bylaws, with the legal expense therefore to be paid by the offending Member.
2. To **abate and remove**, at the expense of the offending Member, any structure, use or condition that may exist contrary to these Restrictions or the Bylaws, the Association's action hereunder or that of any of its board members or designees shall not be deemed to be a trespass upon the property of the offending Member.
3. Upon failure to resolve the violation within thirty (30) days, a **fine of \$50** may be assessed upon the offending Member. Upon failure to resolve the violations within sixty (60) days and additional fine of \$100 shall be assessed. After 60 days, a lien may be placed upon the property hereunder may include a reasonable attorney's fee.

B. Other Enforcement: In addition to the enforcement provisions set forth herein and in the original recorded Restrictions, any and all of the enforcement provisions of the Bylaws of the Association are hereby incorporated by reference. Except as augmented, amended and modified herein, the original, recorded Restrictions of the subdivision remain in full force and effect and said Restrictions, as amended herein, shall be deemed as **covenants running with the land** and not as conditions, and shall be binding on all Members and all persons claiming under them, unless Restrictions are again modified and changed in accordance with Section III T.

C. Cost of Enforcement. If any Owner (either by his or her conduct or by the conduct of any occupant or guest of his or her Lot) shall violate any provision of the Restrictions, Bylaws or rules and regulations adopted by the Board, said **Owner shall pay to the assessments for violation** of said provision or rule levied by the Board, all costs and expenses incurred by the Association in connection with attorneys' fees and/or court costs. Said enforcement assessments, costs and expenses shall be charged as a special assessment against said Owner. The Association, in addition to all other remedies available shall have the right to place a lien upon the estate or interest of said Owner as further explained and set forth in Restrictions SECTION V, Section G.