

Memorandum

To: Lawyers submitting “Declarations”

From: Assistant City Attorney Duke McDonald

Re: A checklist for preparing “Declarations” under *Springfield Zoning Ordinance § 36-463 (6)*

I will review your declarations as soon as you:

1. incorporate the following elements; and,
 2. redline them in your document.
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- I. Provide that the covenants in the declarations are perpetual.
 - II. Define common property as that so designated and shown on the final plat.
 - III. Specify who owns common:
 - A. open spaces; and,
 - B. improvements.
 - IV. Establish a:
 - A. condominium, homeowners’, or property owners’ association; or,
 - B. trust.
 - V. Say how the association or trust will maintain common property.
 - VI. Make the association or trustee responsible for:
 - A. liability insurance;
 - B. taxes on the common elements; and,
 - C. perpetual maintenance.
 - VII. Make association membership mandatory for each:
 - A. homeowner;
 - B. property owner; and,
 - C. successive buyer.
 - VIII. State that:

- A. open-space restrictions are permanent;
- B. homeowners or property owners are liable to pay:
 - 1. maintenance fees; and,
 - 2. capital assessments;
- C. unpaid fees and assessments will be a lien on delinquent properties;
- D. the association or trustee must give every new property buyer a copy of the declarations; and,
- E. no person may amend the declarations to affect the city's rights without the city's written consent.

IX. Insert this paragraph:

City of Springfield Rights. Notwithstanding any other provision to the contrary within this Declaration, and in conjunction with the powers granted to the City of Springfield under Article I, Land Development Code, Section 36-463, et seq., as amended, readopted or recodified from time to time, which is incorporated herein by reference, in the event for any reason the Association should fail to maintain any Common Area or Areas, or in the event the Association should be dissolved for any reason or cease to exist, and the Lot Owners (*Unit Owners for condominiums*) fail to maintain such Common Area or Areas, then the City shall have the right and full authority and ability to intercede and maintain the Common Areas and assess the City's costs of same to the Lot Owners (*or Unit Owners*) within the subdivision (*or condominium*) or any lot (*unit*) or parcels previously served by the Association or any of the Common Areas of the subdivision (*condominium*), on a pro rata basis of square footage of the lots (*units*) within the area previously served by the Association and such shall run as a lien against the lots. The City shall be given the power provided herein, as well as any other remedy available to it under Law, to set and enforce such assessments to pay for the maintenance of, or abatement of any nuisance contained in, any Common Area or Areas. The Association may not be dissolved without the written consent of the City Manager of the City.