



**Agenda**

- 1. **Open Meeting**
- 2. **Pledge of Allegiance**
- 3. **Invocation**
- 4. **Roll Call**
- 5. **Minutes**

[May 1, 2024](#)

- 6. **Proclamation - Public Works Week** (*Mayor Hawkins*)
- 7. **Presentation - Brad Powers, Tri-State Trails - Mill Creek Triangle Feasibility Study**

**8. Committee and Official Reports**

Civil Service Commission	Mr. Coleman - Mrs. Darby - Mrs. McNear
Rules and Laws	Mr. Jacobs - Mr. Vanover
Finance Committee	Mr. Vanover – Mrs. Webster
Planning Commission	Mrs. Sullivan-Wisecup – Ms. McFarland
Board of Zoning Appeals	Mr. Gleaves - Mr. Jacobs
Board of Health	Ms. McFarland
Capital Improvements	Mrs. Sullivan-Wisecup
O-K-I	Mr. Anderson
Mayor’s Report	Mayor Hawkins
Administrator’s Report	Mr. Jones - Mr. Uhl
Law Director’s Report	Mr. Braun
Engineer’s Report	Mr. Riggs
Rental Program Committee	Mr. Vanover
Urban Farming Special Committee	Ms. McFarland

**9. Communications**

**10. Communications from the Audience** (*Five minutes each speaker, Springdale Code §30.05*)

**11. Ordinances and Resolutions**

[ORDINANCE NO. 20-2024](#)  
[AN ORDINANCE CREATING CHAPTER 140 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO TO REGULATE UNLAWFUL CAMPING](#)

[RESOLUTION NO. R07-2024](#)  
[A RESOLUTION ADOPTING THE GRANTING OF A TEMPORARY CONSTRUCTION EASEMENT BETWEEN THE CITY OF SPRINGDALE, OHIO AND OLYMBEC USA LLC](#)

[RESOLUTION NO. R08-2024](#)  
[A RESOLUTION ADOPTING MERCHANT STREET APARTMENTS & TOWNHOMES DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS](#)

**12. Executive Session**

**13. Old Business**

**14. New Business**

**15. Meetings and Announcements**

**16. Communications from the Audience** (*Five minutes each speaker, Springdale Code §30.05*)

**17. Recap of Legislative Items**

**18. Legislation in Development**

**19. Adjournment**

City of Springdale Council

May 1, 2024

President of Council Anderson called Council to order on May 1, 2024.

The governmental body and those in attendance recited the Pledge of Allegiance.

Mrs. Browder took roll call. Council members Anderson, Gleaves, Jacobs, McFarland, Sullivan-Wisecup, Vanover, Webster were present.

The minutes of the April 17, 2024 meeting were considered. Mrs. Sullivan-Wisecup made a motion to accept the minutes. The minutes were approved with seven affirmative votes.

Proclamations

Mayor Hawkins read and presented to Springdale's Building Official Carl Lamping a proclamation recognizing Building Safety Month.

Mayor Hawkins read and presented to Springdale's Police Chief Tom Butler a proclamation in observance of Police Week.

Communications - None

Communications from the Audience

Mr. Myers: I'll fill that out. It's John Myers. I live at the Crossings of Springdale. I have for 44 years. I'll put a phone number down here, but, the reason I'm here tonight is I had sent a copy of a letter to Jeff Agricola; I sent it to four people who are here tonight. And, because I live at the Crossings. I have to go north on Route 4 to Springdale and Ray Norrish Drive, and turn left, and go up the hill to go home. And, for about 30 years, we could turn left when there was no traffic coming southbound to hit us. Then, they re-did that intersection, and did away with the left-hand turn. Now, there was a red arrow, and you cannot turn until that red arrow turns green. Then, I was over at Alterations of Springdale on Montgomery Road, and, when I came out, and crossed over 275, I wanted to turn left to go west home. There was a red arrow. Thought nothing of it. Do that all the time. But, their red arrow then flashed amber. The reason it flashed amber is you could turn left if there was no traffic that you were going to hit. And, my thought was how come we can't have that? But, before the intersection was modified the last time, what was that; eight or nine months ago? Jeff (Agricola) told me that that was impossible. It's called a "permissive turn", and, we're not allowed to have a permissive turn. Well, it looked like a permissive turn to me on Montgomery Road, so, the big question is, why not? And, you know, we did it for years. We can't do it now. When there's no traffic. Let me explain, if there's no traffic coming out of Crescentville, turning left; they have red lights, they're stopped, and then traffic is going to go northbound and southbound, and, if it's 9:00 at night, there's not a lot of traffic sometimes, and, it's pretty easy to make a left-hand turn on Ray Norrish. And, Mr. Vanover brought up, well, maybe you can't see the people coming out of Ray Norrish. If you check it out, you can see at least three cars if they're waiting to come down Ray Norrish and do something, and they can turn right on red, which is me. I do it all the time, but, I see no reason why we can't expedite the traffic for a very minimal cost, well, that's a detail I won't get into, I'm in a rush. Anyway, it sounds to me like (Jeff) Agricola is retiring. A guy named Huxsoll I'm told is going to take his place. Maybe rather than bother you guys with this incident, I ought to be a hold of Huxsoll, and see if he would agree that we're not against the last if we have an amber arrow pointing left like they have on Montgomery Road. That's all I've got.

President Anderson: I did receive the letter you spoke of. I know permissive lefts. The rules are different depending on the type of road that you're on, which might be why you're seeing the difference. The left turn on Route 4 might be different than what you saw over in Montgomery. So, the reason it is different might be the type of road. But, I would defer to Administration or our City Engineer that might need to get back. I'm not sure. What's the best way to deal with this question?

City of Springdale Council

May 1, 2024

Mr. Riggs: Sure, yes, I'll talk to the City Traffic Engineer. I've seen some correspondence over the last few weeks, months, even about this incident. And, from my understanding that it's not allowed by law in this situation, and, I know the Traffic Operations Engineer, which is the City Traffic Engineer, is not supportive of this move, and, it may be because of safety reasons. There may be some accident history that actually suggests that it shouldn't be permissive besides just the law. I'll get with him to confirm the exact reason. I'm sure there's some documentation as to why, but, I'll follow up with him.

President Anderson: Sir, if you could just make sure your address is there, that way they know how to get back in touch with you. If you make sure your phone number or address is written down.

Mr. Myers: Yes. Maybe we ought to talk to Montgomery and find out how they're getting by with it. You know?

Mr. Riggs: That could be an option. Again, I don't know the situation or the rules exactly. But, I'm sure Ed does.

Mr. Myers: Now I just found the other day in my files, a reply from (Jeff) Agricola about a year ago stating the particular rules that he was concerned about. And, I'm not a lawyer, but, it didn't look to me like it had anything to do with this.

Mr. Riggs: Well, I know in this situation you have dual left turns going eastbound on Route 4, so, southbound to eastbound Crescentville, you have dual lefts. In the situation northbound to westbound Ray Norrish is only a single left, so, because of the dual lefts, that may complicate the issues. Sight distance because it's on off-set left too, that may be another reason. So, I'll follow up. I'm not 100% sure as to the why.

Mr. Myers: When you're trying to turn left on to Ray Norrish, there's no left turns out of Ray Norrish.

Mr. Riggs: Right.

Mr. Myers: There's a right on red, that's it. Should I get a hold of (Mike) Huxsoll?

President Anderson: No. I think you can, sorry, I think they've got the question, and, if your contact information is here, Administration will follow back up with you and get you a better answer instead of reaching back out to Mr. Huxsoll. We're not going to be able to answer that question tonight. It's a very specific question. But, make sure your contact information is down, and they'll get back to you.

Mr. Myers: Alright. Thank you.

Ordinances and Resolutions

Ordinance No. 18-2024

AN ORDINANCE DECLARING CERTAIN CITY PROPERTY AS SURPLUS PROPERTY AND AUTHORIZING THE SALE, DISPOSAL, OR TRANSFER OF SURPLUS PROPERTY

Mrs. Sullivan-Wisecup made a motion to adopt Ordinance No. 18-2024; Mr. Jacobs seconded.

Ordinance No. 18-2024 passes with seven affirmative votes.

City of Springdale Council

May 1, 2024

Ordinance No. 19-2024

AN ORDINANCE AUTHORIZING THE PAYMENT OF FUNDS TO THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE NORTHLAND BOULEVARD RECONSTRUCTION PROJECT AND DECLARING AN EMERGENCY

Mrs. Sullivan-Wisecup made a motion to adopt Ordinance No. 19-2024; Ms. McFarland seconded.

Ordinance No. 19-2024 passes with seven affirmative votes.

Resolution No. R06-2024

A RESOLUTION AUTHORIZING THE CITY OF SPRINGDALE'S PARTICIPATION IN THE OHIO ASSOCIATION OF PUBLIC TREASURERS 2025 WORKERS' COMPENSATION GROUP RETROSPECTIVE RATING PROGRAM

Mr. Vanover made a motion to adopt Resolution No. R06-2024; Mr. Gleaves seconded.

Resolution No. R06-2024 passes with seven affirmative votes.

Old Business

Mr. Vanover: Rental Committee met April 24<sup>th</sup>, and, we're coming to Council with a recommendation that we initiate a traffic study for the possibility of looking at making Ledro one way. And, we'd like to get our numbers in. Anybody that's been over in that neighborhood knows the headache that the traffic is there. So, I'm asking for Council's concurrence to initiate this traffic study.

President Anderson: So, there's a motion to have Council agree, and, in this case, it would be to ask Administration to contract with our existing traffic engineers to do a study that Mr. Vanover discussed related to, although there's estimated costs, I believe, that we have a ballpark of in the five thousand to ten thousand dollar range, so, it's within the authority of Administration, and, inside of an existing contract, so, we don't believe that a separate resolution is required; just a simple concurrence, so we'll do a vote, assuming that somebody seconds the motion. That would be what we're asking for is to direct Administration to do that. So, is there a second for that?

Mrs. Sullivan-Wisecup: Second.

President Anderson: Are there any questions or discussion about the request? (None)

President Anderson: So, with that, we have concurrence to direct Administration to do that. Thank you Council for that. Mr. Vanover did you have another comment on that?

Mr. Vanover: No, not another comment. Actually, I have something else. This is something that rolled out about three months ago, and I've been playing with it. It's called "Hefty Renew". It's an additional recycle program. We've been doing it ourselves, and, basically it picks up the foam clam shells, plastic food bags. The only difference with that is there are orange bags that you can sign up and get a starter kit, you can buy the bags at Meijer's, Kroger's, and it's like four or five bucks for a box of them. And, basically, put stuff in there, and you just take it down to the curb, in that orange bag, and they take it out. So, it's stuff that recycle had not touched before. I've got a copy of the flyer if somebody wants to see all of it, but, we've been told what drives the recycle program is finding an end customer for that. So, evidently, they now have a customer that will take it and I'm all for something. And, it's not anything hard to do. It's a simple thing.

New Business - None

Meetings and Announcements

Mrs. Sullivan-Wisecup: Planning Commission will meet in these chambers on Tuesday, May 14<sup>th</sup> at 7:00 p.m.

## City of Springdale Council

May 1, 2024

Ms. McFarland: Board of Health will meet May 9<sup>th</sup> in the room next to chambers.

Mr. Uhl: Civil Service Commission will meet tomorrow, Thursday, May 2<sup>nd</sup> at 2:00 p.m. in the Council Conference Room.

Mr. Gleaves: The BZA meeting that was scheduled for April 23<sup>rd</sup> was cancelled. The next scheduled meeting is May 28<sup>th</sup> in these chambers. Thank you.

President Anderson: I think that's at 7:00 p.m.?

Mr. Gleaves: 7:00.

Mr. Jones: A couple of quick things. City buildings other than safety services will be closed on May 27<sup>th</sup> in observance of Memorial Day. Reminder that our pool does open at noon on May 24<sup>th</sup>, and, the swimming pool will be open on Memorial Day even though the Recreation Center will not be. Thank you.

President Anderson: And, we're fully staffed ready to go for the pool? I know I've gotten some questions. Sounds like SwimSafe is doing a great job.

### Communications from the Audience

Mr. Spradlin: Hello everybody. My name is Cole Spradlin. I live on 870 Yorkhaven. So, first of all, I do want to say it is National Interpreter Appreciation Day. So, I know we generally do not have a sign language interpreter in here, but, they do play an important role for communication, so, I just want to thank them for all that they do. Also, for those who frequent the pool, according to the City website, Mr. Jones, it says the 25<sup>th</sup>, not the 24<sup>th</sup> for pool opening day. So, I just want to say I'm excited to see you all there. I decided to come back so, this will be my fourth year at the pool. I'm also now Head Lifeguard. I also hope to continue teaching swim lessons. Also, I do want to thank Chief Butler and the Police Department for all that they do. You guys are an important part of this community, and I'd also like to thank them for hiding by the stop signs up in Beacon Hills because, as Ms. McFarland knows, they love to run those, and I've seen less and less people do that. I also thank them for pulling me over a year ago for doing that. Anyway, that's all I have.

Mr. Vanover: As far as the interpreter goes, we have services available that, if we know in advance, that we can have that here. We've had that option for a year or better now, so, if that is so needed and desired, we can do that.

President Anderson: That's a great point Mr. Vanover. So, if anyone does need that and wants to come to a Council meeting, just be sure to reach out to Administration, or anyone on Council, and we can make sure that that service is available to you. Just make sure you give us enough time to get somebody out here. I think 48 hours is what we've asked for in the past.

Mrs. Sullivan-Wisecup: I was going to say the same thing. I recently concluded the Citizens Police Academy thing that we do, and we had two deaf individuals in our class, and they were also in my class two years ago when we did the original Citizens Police Academy. And, we had two phenomenal interpreters there. And, they came both times to both sessions, so, I know that we have the capability if we need them, and, if we use the same ones, we have a great group set up. Thanks.

### Recap of Legislative Items

Mr. Jacobs: As you review your Internal Memorandum, Item Number I was addressed with Ordinance No. 18-2024; An Ordinance Declaring Certain City Property as Surplus Property and Authorizing the Sale, Disposal, or Transfer of Surplus Property. That was approved with seven affirmative votes. Item Number II was addressed with Ordinance No. 19-2024; An Ordinance Authorizing the Payment of Funds to the Ohio Department of Transportation for the Northland Boulevard Reconstruction Project and Declaring an Emergency. That too was approved with seven affirmative votes. Item Number III was addressed with Resolution No. R06-2024; A Resolution Authorizing the City of Springdale's Participation in the Ohio

City of Springdale Council

May 1, 2024

Mr. Jacobs (continued): Association of Public Treasurers 2025 Workers' Compensation Group Retrospective Rating Program. That was approved with seven affirmative votes.

Legislation in Development

Mr. Jacobs: There was also the Rental Committee requested Council to react to the idea of initiating a traffic study in regards to converting Ledro to a one way street. Council gave seven affirmative votes for that.

Adjournment

President Anderson: All we have left before us is Item 15.

Mrs. Sullivan-Wisecup: Move to adjourn.

President Anderson: We're adjourned. Thank you everyone.

Council adjourned at 7:30 p.m.

Respectfully submitted,

Nicole Browder

Minutes Approved:  
Jeffrey Anderson, President of Council

\_\_\_\_\_, 2024

**ORDINANCE NO. 20-2024**

**AN ORDINANCE CREATING CHAPTER 140 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO TO REGULATE UNLAWFUL CAMPING**

WHEREAS, the streets, parks and other public areas within the City of Springdale (the “City”) should be readily accessible and available to residents and the public at large and maintaining the City’s streets, parks and other public areas within the City in a clean, sanitary and accessible condition is crucial to adequately protect the health, safety and public welfare of the City; and

WHEREAS, the use of these areas within the City for camping purposes or storage of personal property or sleeping interferes with the rights of others to use the areas for which they were intended, and such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, \_\_\_\_\_ members elected thereto concurring:

Section 1. Chapter 140 of the Code of Ordinances of the City of Springdale shall be created to regulate unlawful camping as provided for in the attached Exhibit A which is incorporated herein by reference.

Section 2. Council hereby finds and determines that all formal actions relative to the passage of this legislation were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall take effect on the earliest date allowed by law.

Passed this \_\_\_\_ day of May, 2024.

Attest:

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**Exhibit A**  
**Ordinance 20-2024**

**CHAPTER 140 UNLAWFUL CAMPING.**

**140.01 PURPOSE**

The streets, parks and other public areas within the City of Springdale (the “City”) should be readily accessible and available to residents and the public at large. The use of these within the City for camping purposes, storage of personal property, or sleeping interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. The purpose of this Chapter is to maintain the City’s streets, parks, and other public areas within the City in a clean, sanitary and accessible condition and to adequately protect the health, safety, and public welfare of the community while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the City. Nothing in this Chapter is intended to interfere with otherwise lawful and ordinary uses of public property.

**140.02 DEFINITIONS**

As used in this Chapter:

“Bench” means a seat located upon public property or along any public street for the accommodation of passersby or persons awaiting transportation.

“Camp” means to pitch, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.

“Camp facilities” include, but are not limited to, tents, huts, temporary shelters. “Camp facilities” does not include tents, huts, or temporary shelters when used temporarily in a park for recreation or play during daylight hours when the park is open to the public.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks or cooking facilities or similar cooking equipment.

“Park” means any publicly owned area controlled by the City or other governmental entity for park purposes. “Park” also includes all associated areas, including parking lots for parks.

“Public property” means any real property, building, structure, equipment, sign, shelter, vegetation, trail, and public open space, including all associated areas such as parking lots, controlled or owned by the City or any other governmental agency.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

“Street” means any highway, lane, road, street, right-of-way, sidewalk, boulevard, alley, and every way or place in the City open as a matter of right to public pedestrian and vehicular travel.

**140.03 UNLAWFUL CAMPING, STORAGE OF PERSONAL PROPERTY OR SLEEPING IN PUBLIC PLACES.**

A. It shall be unlawful for any person to camp or to store personal property, including camp facilities or camp paraphernalia, in the following areas:

1. Any park; or
2. Any street; or
3. Any public property, improved or unimproved.



**Exhibit A**  
**Ordinance 20-2024**

- B. It shall be unlawful for any person to sleep or engage in protracted lounging on any bench, playground equipment, monument, or parapet wall in the following areas:
1. Any park; or
  2. Any street; or
  3. Any public property, improved or unimproved.

**140.04 EXCEPTION FOR SPECIAL EVENTS OR ACTIVITIES**

No person shall be in violation of this Chapter if they have received permission from the City as part of a special event or activity to camp or to store personal property in any area where such conduct is otherwise prohibited in Section 140.03.

**140.05 PENALTY.**

Whoever violates this Chapter is guilty of “unlawful public camping.” Except as otherwise provided, “unlawful public camping” is a misdemeanor of the fourth degree. If the offender previously has been convicted of, or pleaded guilty to “unlawful public camping” then the violation is a misdemeanor of the first degree.

**RESOLUTION NO. R07-2024**

**A RESOLUTION ADOPTING THE GRANTING OF A TEMPORARY CONSTRUCTION EASEMENT BETWEEN THE CITY OF SPRINGDALE, OHIO AND OLYMBEC USA LLC**

WHEREAS, the City of Springdale, Ohio (the “City”) has planned improvements along the south side of Tri-County Parkway, beginning at Northland Boulevard and connecting to Merchant Street in the City, consisting of planned improvements to construct and install a new sidewalk, utilities, and storm and sanitary sewer lines, with said construction and installation to include, access drives, landscaping, screening, curbing, grading, utilities, and other ancillary and other related improvements, facilities, and systems in support of the project (the “Project”) and for which it is necessary to obtain temporary easements over, across, under and upon certain properties situated immediately adjacent to the Project, including the Property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Springdale, Ohio, \_\_\_\_\_ members elected thereto concurring:

Section 1. City Council hereby adopts the granting of a temporary construction easement agreement between the City of Springdale and Olymbec USA LLC (the “Easement”) and authorizes the City Administrator to execute the Easement on behalf of the City of Springdale. A copy of the Easement is attached as Exhibit A and incorporated herein by reference.

Section 2. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this resolution were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 3. This resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed this 15<sup>th</sup> day of May, 2024.

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Clerk of Council

Approved:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**CERTIFICATE**

The undersigned, Clerk of Council, City of Springdale, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. R07-2024, adopted May 15, 2024.

\_\_\_\_\_  
Clerk of Council

Exhibit A  
Resolution R07-2024

GRANT OF TEMPORARY EASEMENT FOR CONSTRUCTION PURPOSES

This Grant of Temporary Easement for Construction Purposes (“Easement”) is entered into effective as of the \_\_\_\_ day of \_\_\_\_, 2024, by and between Olymbec USA LLC, a Delaware limited liability company (“Owner”) with an address of 1004 E. Brooks Road, Memphis, Tennessee 38116, and the City of Springdale, Ohio, an Ohio municipal corporation (“City”) with an address of 11700 Springfield Pike, Springdale, Ohio 45246.

RECITALS:

A. Owner is the fee simple owner of real property identified as Hamilton County Parcel No. 599-0042-0163-00 (the “Property”), being commonly and collectively known as 175 Tri-County Parkway, Springdale, Ohio 45246 in the City of Springdale, Hamilton County, Ohio, more particularly described on Exhibit A attached hereto and incorporated herein by reference.

B. The City has planned improvements along the south side of Tri-County Parkway, beginning at Northland Boulevard and connecting to Merchant Street in Springdale, Ohio, consisting of planned improvements to construct and install a new sidewalk, utilities, and storm and sanitary sewer lines, with said construction and installation to include, access drives, landscaping, screening, curbing, grading, utilities, and other ancillary and other related improvements, facilities, and systems in support of the project (the “Project”) and for which it is necessary to obtain temporary easements over, across, under and upon certain properties situated immediately adjacent to the Project, including the Property.

C. Owner desires to grant the temporary easement necessary for the completion of the Project, which shall further the use, enjoyment, and desirability of the Property pursuant to the terms set forth in this Easement.

NOW THEREFORE, in consideration of the City’s intent to construct improvements as set forth above, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby declares, covenants and agrees as follows:

1. Grant of Temporary Easement.

1.1. Grant of Temporary Construction Easement. Owner hereby grants, bargains, sells, conveys, and releases to the City, its agents, contractors, employees, successors, and assigns a temporary, non-exclusive approximately four hundred twenty eight square foot (428 s.f.) construction easement along the portion of the property line of the Property as depicted in Exhibit B, attached hereto and incorporated herein by reference (“Temporary Construction Easement Area”) for the purpose of performing the work necessary to permit and enable the construction of the Project on, above, under and through the Temporary Construction Easement Area (“Temporary Construction Easement”).

1.2. Remediation. The City shall, as soon as practical after the substantial completion of the Project upon the Temporary Construction Easement Area, restore and/or replace, at its sole cost and expense, the Temporary Construction Easement Area to the same or better condition as existed immediately prior to the commencement of the Project on the Temporary Construction Easement Area by the City or its agents, employees or contractors,

including, without limitation, any landscaping, shrubbery, sidewalks, concrete, asphalt, curbs, lights, and anything else that existed in, on, or about the Temporary Construction Easement Area immediately prior to the commencement of the Project on the Temporary Construction Easement Area. The City shall be liable for any damages to the Temporary Construction Easement Area, the area adjacent thereto, and/or used to access the Temporary Construction Easement Area by its employees or by its agents or contractors in the exercise of the easements and rights-of-way during the current construction process of the Project or in the case of any future maintenance, projects, remediation, restoration, and/or replacement.

1.3. Expiration. Notwithstanding anything in this Easement to the contrary this Easement shall expire and terminate upon the earlier to occur of: (i) the completion of the Project as memorialized in a letter from the City to Owner; or (ii) January 31, 2025. Upon such event and upon the written request of the Owner, the City shall record a termination of this Easement at its sole cost and expense (“Termination of Easement”). If the City records the Termination of Easement in accordance with this Section 1.3, then the parties agree that neither party shall be under any legal obligation of any kind whatsoever, or otherwise be obligated to the other party under the terms of this Easement, except for any such matters otherwise specifically agreed to herein.

2. Enforcement. The easements, conditions, restrictions and agreements contained in this Easement, and in any amendment hereto, shall operate for the benefit of, and may be enforced by the City and its respective heirs, successors, and assigns. The Owner’s or City’s failure or delay in enforcing any provision of this Easement shall not operate as a waiver of any such provision, the right to enforce such provisions thereafter, or a waiver of any of the other provisions of this Easement.

3. Covenants Running with the Land. All of the language, statements, words, paragraphs, sections and articles of this Easement shall be deemed to constitute covenants, conditions, restrictions or easements; and all of said covenants, conditions, restrictions and easements shall run with the land and bind the land that consists of the Property, and shall be binding upon and inure to the benefit of any part and all of said land, and all present and future parties having any right, title or interest in all or part of the Property and their respective mortgagees, tenants, invitees, licensees, guests, customers, agents, heirs, executors, administrators, successors, and assigns. The rights granted hereunder and liability for the obligations of any owner of the Property shall be limited to the period of time during which such owner shall have owned an interest in the Property.

4. No Amendment or Termination of Easements. No amendments or modifications of this Easement shall be effective without the prior written consent of the Owner, or the then current owner of the Property, and the City. Except as otherwise specifically provided herein, no default under this Easement shall entitle either party to terminate, cancel or otherwise rescind this Easement.

5. Counterparts. This Easement may be executed in one or more counterparts each of which is an original, and all of which constitute only one agreement between the Owner and City.

6. Entire Agreement. This Easement states the full and complete agreement between the Owner and City and supersedes all prior oral or written negotiations and agreements.

7. Construction. This Easement shall be construed without regard to the rule that a document shall be construed against the drafter.

8. Recitals. The above recitals are hereby incorporated into this Easement as if fully set forth herein and are true and correct in all material respects.

9. Governing Law; Miscellaneous. The conditions, terms and provisions of this Easement Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. The Section headings are included only for convenience, and shall not be construed to modify or affect the covenants, terms or provisions of any Section.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

[COUNTERPART SIGNATURE PAGE TO GRANT OF TEMPORARY EASEMENT FOR CONSTRUCTION PURPOSES]

IN WITNESS WHEREOF, the undersigned have executed this Easement effective as of the date first above written.

OLYMBEC USA LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Jason Berger  
Its: EVP Operations and General Counsel

State of Tennessee        )  
  ) SS:  
County of Shelby         )

This instrument was acknowledged before me this 30th day of April, 2024 by Jason Berger, the EVP Operations and General Counsel of Olymbec USA LLC, a Delaware limited liability company, on behalf of the limited liability company.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal this 30th day of April, 2024.

Renee Wright  
Notary Public

My commission expires: 9/26/27



[COUNTERPART SIGNATURE PAGE TO GRANT OF TEMPORARY EASEMENT FOR CONSTRUCTION PURPOSES]

IN WITNESS WHEREOF, the undersigned has executed this Easement effective as of the date first above written.

CITY OF SPRINGDALE, OHIO  
an Ohio municipal corporation

By: \_\_\_\_\_  
Lawrence C. Hawkins, III

State of Ohio            )  
                                  )        SS:  
County of Hamilton    )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024 by Lawrence C. Hawkins, III, the Mayor of the City of Springdale, Ohio, an Ohio municipal corporation, on behalf of the municipal corporation.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY, AND AFTER RECORDING RETURN TO, APPROVED AS TO FORM:

\_\_\_\_\_  
Joseph J. Braun, Esq., Strauss Troy Co., L.P.A.  
150 E. 4<sup>th</sup> Street, Fourth Floor,  
Cincinnati, Ohio 45202, (513) 621-2120

16883931.2

EXHIBIT A  
(Legal Description of Property)

Situated in the City of Springdale, in Section 12, Town 3, Entire Range 1, Miami Purchase, Springfield Township, Hamilton County, Ohio described as follows:

Commencing at the intersection of the center line of Tri-County Parkway with the southeasterly line of Northland Road, thence southwestwardly, along the southeasterly line of Northland Road, on a curved line deflecting to the right with a radius of 1959.86 feet, a distance of 52.16 feet, thence southeastwardly on a curved line deflecting to the right with a radius of 12.50 feet a distance of 19.30 feet (chord of said curve bears South 77°32'15" East, a distance of 17.44 feet) to the southwesterly line of Tri-County Parkway, thence South 33°18' East, along the southwesterly line of Tri-County Parkway, a distance of 154.82 feet to the place of beginning.

Thence, along the southwesterly line of Tri-County Parkway, South 33°18' East a distance of 2.04 feet and on a curved line deflecting to the left with a radius of 449.26 feet, a distance of 297.96 feet (chord of said curve bears South 52°18' East, a distance of 292.53 feet);

Thence, South 10°03'30" West, a distance of 446.71 feet;

Thence, South 83°28'02" West, a distance of 425.00 feet;

Thence, North 0°50'15" East, a distance of 497.78 feet;

Thence, North 56°42' East, a distance of 311.57 feet to the place of beginning.





**RESOLUTION NO. R08-2024**

**A RESOLUTION ADOPTING MERCHANT STREET APARTMENTS & TOWNHOMES DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS**

WHEREAS, Trinity Square Holdings, LLC developed an integrated residential townhome and multi-family apartment project known as the Merchant Street Development on the site of property that was previously vacant commercial space located in the City of Springdale (the “City”); and

WHEREAS, as part of the Merchant Street Development, the developer and the City agreed to certain covenants, conditions, restrictions, and easements related to the development that are contained in declarations agreed to by the parties.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Springdale, Ohio, \_\_\_\_\_ members elected thereto concurring:

Section 1. City Council hereby adopts the Merchant Street Apartments & Townhomes Declarations of Covenants, Conditions and Restrictions and Reservation of Easements (the “Declarations”) and authorizes the City Administrator to execute the Declarations on behalf of the City of Springdale. A copy of the Declarations is attached as Exhibit A and incorporated herein by reference.

Section 2. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this resolution were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 3. This resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed this 15<sup>th</sup> day of May, 2024.

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Clerk of Council

Approved:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**CERTIFICATE**

The undersigned, Clerk of Council, City of Springdale, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 08-2024, adopted May 15, 2024.

\_\_\_\_\_  
Clerk of Council

**MERCHANT STREET APARTMENTS & TOWNHOMES  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND  
RESERVATION OF EASEMENTS**

---

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS (“Declaration”) is made this \_\_\_ day of May, 2024, by **TRINITY SQUARE HOLDINGS LLC**, an Ohio limited liability company (“Developer”) under the following circumstances:

A. Developer is the owner of certain parcels of land in City of Springdale, Hamilton County, Ohio as more particularly described in **Exhibit A** attached hereto and made a part hereof (the “Property”).

B. Developer intends to cause the Property to be developed as an integrated residential townhome and multi-family apartment project, with such projects having certain shared common open space as further described herein.

C. In order to accommodate the integrated development and operation of the above-described project, the Developer desires that the Property be held, sold, and conveyed subject to the covenants, conditions and restrictions and reservation of easements contained in this Declaration.

NOW, THEREFORE, in consideration of the above premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer declares that the Property shall be held, sold, and conveyed subject to this Declaration.

This Declaration and all amendments hereto (a) shall be, and shall be construed as, covenants running with the land, (b) shall be binding upon the Declarant, its successors and assigns, and each other “Owner” (as hereinafter defined) and all claiming by, through or under each Owner, and (c) shall (regardless of whether or not any such beneficiary owns an interest

in any Parcel) inure to the benefit of and be enforceable by the Owner and all parties claiming by, through or under such Owner of any Parcel.

## ARTICLE I

### DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the following words shall mean respectively:

City. “City” means the City of Springdale, Ohio, an Ohio municipal corporation, or any of its agencies.

Common Open Space. “Common Open Space” means those areas indicated on the Common Open Space Plan as “Common Open Space” that are reserved for the use and enjoyment of the residents of the apartment and townhome units on the Property. The Common Open Space includes the land, landscaping, walkway, signage, and other appurtenances located in such areas.

Common Open Space Plan. “Common Open Space Plan” means the plan attached hereto as **Exhibit B** and made a part hereof showing the approximate boundaries of the Property and the Common Open Space.

Declaration. “Declaration” means this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements as the same may from time to time be amended.

Development Period. “Development Period” means the period commencing on the date of this Declaration and expiring on the earlier to occur of (a) the date that is thirty (30) years hereafter, or (b) the date Developer records in the office of the Recorder of Hamilton County, Ohio, a notice that neither it nor any entity affiliated with Developer owns any portion of any Parcel and no longer has any interest in any portion of any Parcel as a result of obligations related to the tax increment financing affecting any Parcel or otherwise. Developer shall, promptly upon the occurrence of the events described in clause (b), record a notice in the Hamilton County, Ohio Recorder’s office indicating that the Development Period has so expired.

Owner. “Owner” means, the owner of record from time to time of all or any part of any Parcel.

Parcel. The term “Parcel” or “Parcels” shall mean each separately identified parcel of real property now constituting a part of the Property and any future subdivisions thereof,

provided, however, Developer shall have the right to reserve unto itself some or all of its rights under this Declaration for the benefit of one or more Parcels, all as described in this Declaration.

Project. “Project” and "Merchant Street Apartments & Townhomes" mean the Property and all Structures or other improvements now or hereafter located thereon.

PUD Plan. “PUD Plan” means the development plan for the Project as approved by the City pursuant to City of Springdale Ordinance No. 15-2021, a copy of which is attached hereto as **Exhibit C** (“Ordinance”), as the same may be modified with approval from the City from time to time.

Service Agreements. “Service Agreements” mean those certain Service Agreements affecting the Property as approved by the City of Springdale by Ordinance No. 26-2021, and as recorded in OR 14565 PG 2080 of the Hamilton County, Ohio Records, as the same have been or may be modified from time to time, affecting the Property.

Stormwater Detention Facility. “Stormwater Detention Facility” means that certain underground stormwater detention basin and appurtenances thereto, including, without limitation, an underground detention vault and underground stormwater pipes and lines, located on the Property and as described in the Stormwater Easement Agreement (as defined below).

Stormwater Easement Agreement. “Stormwater Easement Agreement” means, collectively, that certain Deed of Easement recorded in Deed Book 4199, page 1967, as amended by that certain Amendment to Deed of Easement recorded in Deed Book 4219, page 1173, both of the Hamilton County, Ohio, Official Record.

Structure. “Structure” means any building, improvement or other structure now or hereafter located on any Parcel and intended to be occupied. The term “Structure”, as used herein, shall not include the Stormwater Detention Facility.

## **ARTICLE II**

### **GENERAL RESTRICTIONS**

The following restrictions shall apply to the Property:

2.1 Use. No noxious or offensive activity (including the operation of a garbage plant, rendering plant, junk yard or slaughterhouse) shall be conducted on any Parcel nor shall anything be done thereon which may become or create an annoyance or nuisance (by reason of unsightliness or the excessive emission of odors, dust, fumes, smoke, or noise) or which violates the then existing PUD Plan.

2.2 Setback Lines; Density and Other Building Requirements; PUD. All Structures constructed on any Parcel shall also comply with all setback and density requirements imposed by the applicable zoning code and the PUD Plan as then in effect. During the Development Period, any modification to the PUD Plan shall require Developer's and the City's prior written approval, which approval shall not be unreasonably withheld, delayed, or conditioned, along with the prior written approval of the Owner of each Parcel affected by such modification, which approval shall not be unreasonably withheld, delayed, or conditioned.

2.3 Parking and Landscaping. Certain areas between the building lines and property lines shall be used either for landscaping and green areas or for off-street surfaced parking areas. All such areas shall comply with the requirements imposed by the applicable zoning code and the PUD Plan as then in effect. Landscaped and parking areas shall be properly maintained thereafter by the then Owner of the Parcel on which such areas are located in a well-kept condition, reasonably free of potholes and otherwise in a condition consistent with first-class developments, including such areas designated to be Common Open Space.

2.4 Waste and Refuse. No waste materials or refuse shall be dumped upon or permitted to remain on any part of any Parcel outside the Structures constructed thereon. Dumpsters shall be effectively screened from view from any adjacent street, in conformance with the PUD Plan.

2.5 Maintenance. The then Owner of any portion of any Parcel must at all times keep such portion of such Parcel in attractive and wholesome condition and comply in all respects with the PUD Plan and all governmental health and police requirements and will contain and remove at its own expense any trash or rubbish of any character whatsoever which may accumulate on said lots. Grass shall be cut on a regular basis as necessary to maintain the same at a level and condition as is ordinary for well-kept residential lawns in the Greater Cincinnati, Ohio area and the level required by any City zoning codes, ordinances, or regulations.

2.6 Compliance with Service Agreements. The then Owner of any portion of any Parcel shall comply with the obligations imposed upon such Parcel by the terms of the Service Agreements.

2.7 Expiration of Approval Rights. Upon the expiration of the Development Period, the approval requirements, and rights of Developer under Section 2.2 with respect to modifications of the PUD Plan on the Property shall expire and no longer be effective. The maintenance obligations imposed under this Article II shall not expire upon the expiration of the Development Period, but shall continue to be binding upon the then Owner of all or any portion of any Parcel.

## ARTICLE III

### COMMON OPEN SPACE

3.1 Reservation of Easements. Developer hereby reserves for the benefit of each Owner, itself and all residents of the Project perpetual and non-exclusive easements on, over and across the portions of the Property shown on the Common Open Space Plan as the Common Open Space.

3.2 General Rights of Enjoyment in Common Open Space. Except as specified otherwise herein with respect to any specific Common Open Space, the Owner, residents of the Project, and their invitees shall have a right and nonexclusive easement for use and enjoyment of the Common Open Space, and such right and easement shall run with the land and be binding upon and benefit the successors and assigns of Developer and each Owner. Such rights and privileges shall be subject, however, to the specific limitations described in this Article III and Section 5.12, including, but not limited to, the following:

(a) the right of each Owner to adopt, enforce, and from time to time, amend, reasonable rules and regulations pertaining to the use of the Common Open Space located on the Parcel owned by such Owner, each of which shall be enforced in a non-discriminatory manner;

(b) the right upon approval by Developer during the Development Period to grant easements or rights-of-way, or to convey or lease Common Open Space to, any public agency or utility, or lease any portion of the Common Open Space to any authority for the benefit of any Parcel and the Owner of such Parcel; and

(c) the right of the Developer to modify, replace and add to the Common Open Space from time to time and at any time provided that any such modifications, replacements, or additions to the Common Open Space that materially and adversely affect the rights of the Owner of any Parcel shall require the prior written approval of such Owner, which approval shall not be unreasonably withheld, conditioned, or delayed. The foregoing right shall expire at the end of the Development Period.

3.3 Right to Specifically Identify Common Open Space. The locations of the initial Common Open Space are shown on the Common Open Space Plan as attached to this Declaration. At any time and from time to time during the Development Period, each Owner, with the prior written approval of Developer, which approval may be withheld at Developer's sole discretion, or during the Development Period, Developer, unilaterally, shall have the right to (i) specify more exact locations for the Common Open Space located on such Owner's Parcel, and (ii) to modify, eliminate or create additional Common Open Spaces on such Owner's Parcel by executing and recording a Supplement to this Declaration. Any such additional Common



Open Space to be created shall be of similar type and character to the existing Common Open Spaces. All such modifications shall require the approval of the City, which approval shall not be unreasonably withheld, delayed, or conditioned.

## **ARTICLE IV**

### **DURATION, AMENDMENT AND TERMINATION**

4.1 Duration. The covenants, conditions and restrictions contained herein shall be covenants running with the land and shall bind each Parcel and, subject to Section 5.12, shall inure to the benefit of and be enforceable by Developer, City, and Owners and their legal representatives, heirs, devisees, successors, and assigns, and shall continue in full force and effect for thirty (30) years from the date on which this Declaration is recorded. Thereafter the covenants, conditions and restrictions contained herein shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this Article. Notwithstanding the foregoing or any other provision contained herein, easements created by this Declaration shall be perpetual and shall continue to be in full force and effect unless and until terminated or modified by the benefited and burdened parties, in each instance.

4.2 Amendment or Termination. Except as otherwise specified in this Declaration, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument executed by an Owner (or all of the Owners, as applicable); provided, however, (a) that any such amendment or termination shall become effective only with the written consent of Developer, which approval shall not be unreasonably withheld, conditioned, or delayed, if during the Development Period; (b) that any such amendment or termination shall require the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned, or delayed ; and (c) that any amendment to this Declaration which does not affect a certain Parcel or Parcels shall not require the approval or execution of the Owner of such unaffected Parcel or Parcels but shall be effective upon execution by Developer, the Owner or Owners of the affected Parcel or Parcels, and the City.

4.3 Reservation of Right by Developer to Make Amendments by Supplements. Notwithstanding anything above to the contrary, Developer shall have the unilateral right to amend this Declaration at any time during the Development Period by executing and recording a Supplement to this Declaration for the following purposes: (i) as necessary to correct clerical or typographical errors; (ii) to make nominal changes; (iii) to clarify Developer's original intent or otherwise eliminate or resolve any ambiguity herein; (iv) to make any changes necessary or desirable to meet the requirements of any institutional lender or any agency which insures loans; or (v) to effectuate any of the other supplements, amendments or modifications which are indicated as permitted by unilateral action by Developer pursuant to the terms of this Declaration, provided that any such amendment shall require the City's prior written consent

(which consent shall not be unreasonably withheld, conditioned, or delayed) if such amendment may conflict with the PUD Plan.

This Declaration may be amended for any of the purposes stated in this Section upon the filing for record with the Recorder of Hamilton County, Ohio, of any instrument in writing setting forth specifically the amended item or items. The aforementioned instrument shall have been duly executed by Developer acting as an Owner (if it still owns any portion of any Parcel at that time), the then current Owner (if Developer no longer owns any portion of any Parcel), and/or the City, if the City's consent is required by this Declaration.

## ARTICLE V

### MISCELLANEOUS

5.1 No Reverter. No covenant, condition, restriction, or reservation of easement contained in the Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility or reverter.

5.2 Notices. Except and to the extent otherwise specified herein, provided any notice required or permitted to be given to Developer pursuant to the provisions of this Declaration shall be in writing and shall be either (a) delivered personally; (b) sent by Federal Express (or other nationally recognized courier service) for overnight delivery; or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, and addressed to Developer at its address set forth below, and the same shall be effective (i) upon receipt, if personally delivered, (ii) one (1) business day after delivery to Federal Express (or such other nationally recognized courier service) for overnight delivery, or (iii) three (3) business days after deposit in the mails, if mailed by registered or certified mail:

Trinity Square Holdings LLC  
5027 Madison Road, Suite 200  
Cincinnati, Ohio 45227

5.3 Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid of any reason shall not affect the validity of any other provision hereof.

5.4 Headings. The headings of the Articles and Sections are for convenience only and shall not affect the meaning of construction of the contents of this Declaration.

5.5 Notice to and Rights of First Mortgagees. All notices and documents required to be provided to the Developer or any Owner under this Declaration shall, upon prior written

request by the holder of a first mortgage on any Parcel, be provided to such mortgagee at the same time as provided to such Developer or Owner.

5.6 Effect Upon Applicable Zoning Code. Nothing contained in this Declaration is intended to, nor shall any provision contained herein be interpreted to, supersede any applicable zoning code requirements or impositions relating to the Property. The Owner of any Parcel, in addition to complying with the requirements of this Declaration, must comply with all requirements now or hereafter imposed by the applicable zoning code.

5.7 No Merger. None of the restrictions, covenants, and rights created by this Declaration shall be merged or terminated due to the current or future common ownership of the Property or any Parcel.

5.8 No Waiver. The failure of Developer, City, or any Owner in any one or more instances to insist upon compliance with any provision or covenant herein or to exercise any right or privilege herein shall not constitute or be construed as a waiver of such or any similar provision of covenant, including the right to cure a breach or default, but the same shall continue and remain in full force and effect, as if no such forbearance has occurred.

5.9 Estoppel Certificates. Each Owner, within twenty (20) days of its receipt of a written request from any other Owner, shall from time to time provide the requesting Owner a certificate binding upon such Owner stating (a) to the best of such Owner's knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

5.10 Covenants to Run with the Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

5.11 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

5.12 Developer's Rights. Developer shall have the right to enforce any of Developer's rights hereunder by any legal or equitable means or remedy available including,

without limitation, by seeking injunctive relief. Developer's enforcement rights and the rights to waive any such enforcement shall not run to the benefit of future Owners of any Parcel unless and to the extent Developer specifically assigns any such right by executing and recording a supplement to this Declaration containing such an assignment.

5.13 Relationship of Parties. Nothing contained in this Declaration shall be construed to make Developer, any Owner, and City partners or joint ventures or to render Developer, any Owner, or City liable for the debts or obligations of the other, except as in this Declaration expressly provided.

5.14 Counterparts. This Declaration may be executed in one or more counterparts each of which is an original, and all of which constitute only one agreement.

## **ARTICLE VI**

### **PROVISIONS WITH RESPECT TO CITY'S RIGHTS**

6.1 Enforcement. Notwithstanding anything in this Declaration to the contrary, Developer grants to the City the right to enforce any and all provisions contained in this Declaration by use of any proceeding at law or in equity in the event of any default of the provisions of this Declaration past any applicable notice or cure period. City shall, except in the case of an emergency, prior to the commencement of any such enforcement proceeding, notify Developer in writing of any purported violation of this instrument, and, except in the case of an emergency, allow Developer not less than thirty (30) days after receipt of such written notice to cure such violation, or commence and diligently pursue the cure of such violation if such cure cannot reasonably be completed within such thirty-day period. In addition to this right of enforcement, City shall have the right to undertake any of the maintenance obligations of Developer or Owner, or their respective successors and assigns, in this Declaration or the Stormwater Easement Agreement in the event of a default of such obligations past any applicable notice and cure period. Before commencing any such maintenance, City shall notify Developer or Owner in writing of any purported violation with regard to maintenance, and except in the case of an emergency, allow Developer or Owner not less than thirty (30) days after receipt of such written notice to commence the performance of the required maintenance. In the event the required maintenance is not commenced within this thirty (30) days and completed within a reasonable period of time thereafter, City shall have the right to perform the required maintenance and recover all actual and demonstrated costs from Developer or Owner, as applicable. Notwithstanding anything to the contrary in this Article, City shall not have any obligation to enforce any of the provisions of this Declaration or carry out any maintenance obligations of Developer or Owner. For the purpose of this Section 6.1, an "emergency" shall be deemed to be a default by Developer under this Declaration which presents an immediate

risk of personal injury, death, or major property damage, including, but not limited to, the risk of damage to or flooding of the public rights-of-way adjoining the Property.

6.2 Right of Entry. The City's enforcement rights granted in Section 6.1 above include the right of the City, its agents, employees, contractors, successors, and assigns to enter upon and temporarily utilize that portion of the Property as is reasonably necessary to reach the Common Open Space or the Stormwater Detention Facility and to exercise the City's rights under Section 6.1; provided, however, that such right of entry does not include the right to enter into the interior of any Structure located at any time or from time to time on any Parcel or permit the City to stage construction on any Parcel without the express written consent of Developer and the Owner of the affected Parcel. For purposes of clarification, the City's right of entry shall include the right to enter into the Stormwater Detention Facility in order to exercise the City's enforcement rights under Section 6.1 above.

6.3 Exercise of City's Rights. In the event that the City exercises its right to undertake any of the Developer's or Owner's obligations as described in Section 6.1 above, neither Developer nor any Owner shall be responsible for any claims, liabilities, or damages caused by or resulting from the City's negligence or intentional misconduct. The City's entry onto and/or utilization of the Property shall not unreasonably interfere with, and shall be undertaken in a manner designed to minimize any interference with the free use and enjoyment of the Property by Developer and any Owner and their respective employees, agents, contractors, and tenants. In no event shall the City, acting pursuant to this Declaration, block vehicular ingress and egress to and from the parking areas serving the Property, except that in the event the City exercises its rights under Section 6.1, the City may block ingress and egress to and from the parking areas serving the Property on a temporary basis and only for the period reasonably necessary to allow the City to exercise its rights under Section 6.1 above. During any such period, the City shall use its best efforts to provide alternate routes for ingress and egress to and from the Property's parking areas.

6.4 Continued Use. Without limiting any of Developer's right in this Declaration (including, but not limited to, Section 3.2 above), Developer hereby reserves the right to use the Property in any manner which does not unreasonably interfere with the City's rights hereunder, including, without limitation, the construction of improvements such as sidewalks, drive lanes, surface parking, landscaping, tenant amenities, and utilities thereon. Notwithstanding the foregoing, any such improvements shall be constructed and maintained in accordance with the PUD Plan and all applicable legal requirements.

6.5 Remediation. Any maintenance or repair performed by the City hereunder shall be pursued to completion using reasonable diligence and dispatch. Once completed, the City shall clean, restore, repair, and/or reconstruct the affected portion of the Property (including all previously existing improvements located thereon) to a condition which is equivalent to or better than the condition which existed prior to the commencement of such work. Owner shall

then be responsible for any and all such costs associated with the City's cleaning, restoration, repair, and/or reconstruction of such affected portion of the Property.

6.6 Notice. Any notice, request, demand, instruction or other documents or communication to be given or served hereunder or under any document or instrument executed pursuant hereto, as it pertains to the City, shall be in writing and shall be either (a) delivered personally; (b) sent by Federal Express (or other nationally recognized courier service) for overnight delivery or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid and addressed to the parties, at their respective addresses set forth below, and the same shall be effective (i) upon receipt, if personally delivered, (ii) one business day after delivery to Federal Express (or such other nationally recognized courier service), for overnight delivery or (iii) two business days after deposit in the mails, if mailed by registered or certified mail:

City of Springdale  
Attn: Chief Building Official  
11700 Springfield Pike  
Springdale, Ohio 45246

6.7 Approval. Notwithstanding anything in this Declaration to the contrary, Developer, its successors and assigns, and each Owner agree to develop, use, and maintain the Property and each Parcel thereof in accordance with the PUD Plan.

*[Remainder of page intentionally left blank – signature page(s) follows.]*

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed of the day and year first above written.

TRINITY SQUARE HOLDINGS LLC,  
an Ohio limited liability company

By: \_\_\_\_\_,  
J. Robert Smyjunas, Sole Member

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024 by J. Robert Smyjunas, as the Sole Member of Trinity Square Holdings, LLC, an Ohio limited liability company, on behalf of such limited liability company. This is an acknowledgement, no oath or affirmation was administered to the signer in connection with this instrument.

\_\_\_\_\_  
Notary Public

This instrument prepared by:

Amy A. Shaw, Esq.  
Griffin Fletcher & Herndon LLP  
3500 Red Bank Road  
Cincinnati, Ohio 45227  
(513) 421-1313

**CONSENT AND AGREEMENT  
OF  
CITY**

The City of Springdale agrees that Developer has legal authority to execute the Declaration with regard to the Property, and hereby approves and agrees to be bound by the terms and conditions set forth in said Declaration.

Dated: May \_\_, 2024

**CITY OF SPRINGDALE**

By: \_\_\_\_\_  
Its:

By: \_\_\_\_\_  
Its:

STATE OF Ohio                    )  
  ) ss.  
County of \_\_\_\_\_         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024 by \_\_\_\_\_, on behalf of the City of Springdale.

\_\_\_\_\_

\_\_\_\_\_  
Notary Public



Approved as to Form:

---

Joseph J. Braun, City Law Director



**CONSENT AND SUBORDINATION  
OF  
PORT AUTHORITY**

The undersigned Warren County Port Authority (the "Port"), being the Ground Lessee under that certain Ground Lease (Project Merchant Street) as reflected in the Memorandum of Ground Lease recorded on December 16, 2021, at Volume 14565, page 2097, of the Hamilton County, Ohio, Official Record (the "Ground Lease"), and being the Lessor under that certain Project Lease (Project Merchant Street) as reflected in the Memorandum of Project Lease recorded December 16, 2021, at Volume 14565, page 2137, of the Hamilton County, Ohio, Official Record (the "Project Lease"), hereby joins in, consents to, and subordinates the Ground Lease and the Project Lease to the terms and conditions of the foregoing Merchant Street Apartments & Townhomes Declaration of Covenants, Conditions and Restrictions and Reservation of Easements (the "Declaration"), and the Port agrees that all of its right, title, and interest in and to the real property described in the Ground Lease and the Project Lease shall be subordinate to the terms and provisions of the Declaration, and the Declaration shall survive any foreclosure, deed in lieu of foreclosure, and/or exercise of any remedy by the Port pursuant to the Ground Lease or the Project Lease.

WARREN COUNTY PORT AUTHORITY

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of the Warren County Port Authority, a port authority and body corporate and politic organized and existing under the Constitution and the laws of the State of Ohio, on behalf of said port authority and body corporate and politic. This is an acknowledgement; no oath or affirmation was administered to the signer in connection with this instrument.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**EXHIBITS**

Exhibit A - Legal Description of Property

Exhibit B - Common Open Space Plan

Exhibit C - Ordinance

**Exhibit A**  
**Legal Description of Property**

**LEGAL DESCRIPTION**  
**10.8520 ACRES**

SITUATE IN SECTION 12, TOWN 3, ENTIRE RANGE 1, CITY OF SPRINGDALE, HAMILTON COUNTY, OHIO AND BEING ALL OF LOT 4 AND PART OF LOT 5 OF TRI-COUNTY MERCHANDISE PARK, BLOCK "A" AS RECORDED IN PLAT BOOK 210, PAGE 57 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF MERCHANT STREET WITH TRI COUNTY PARKWAY; THENCE ALONG THE CENTERLINE OF TRI COUNTY PARKWAY, NORTH 66°14'00" EAST, 42.50 FEET TO A POINT; THENCE LEAVING THE CENTERLINE OF TRI COUNTY PARKWAY SOUTH 23°46'00" EAST, 40.00 FEET TO A POINT IN THE SOUTHERLY RIGHT OF WAY OF TRI COUNTY PARKWAY AND THE REAL PLACE OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF TRI COUNTY PARKWAY THE FOLLOWING TWO COURSES AND DISTANCES, NORTH 66°14'00" EAST, 321.04 FEET TO A POINT AND ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 1,105.92 FEET, A DISTANCE OF 135.58 FEET, THE CHORD OF SAID CURVE BEARS, NORTH 69°44'43" EAST, 135.49 FEET TO A POINT; THENCE LEAVING THE SOUTHERLY RIGHT OF WAY OF TRI COUNTY PARKWAY, SOUTH 23°46'00" EAST, 308.38 FEET TO A POINT; THENCE SOUTH 00°14'00" WEST, 727.20 FEET TO A POINT IN THE NORTHERLY RIGHT OF WAY OF MERCHANT STREET; THENCE ALONG THE RIGHT OF WAY OF MERCHANT STREET THE FOLLOWING SEVEN COURSES AND DISTANCES, SOUTH 38°10'00" WEST, 140.21 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 170.00 FEET, A DISTANCE OF 155.77 FEET, THE CHORD OF SAID CURVE BEARS SOUTH 64°25'00" WEST, 150.38 FEET TO A POINT; THENCE NORTH 89°20'00" WEST, 129.11 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 70.00 FEET, A DISTANCE OF 109.96 FEET, THE CHORD OF SAID CURVE BEARS, NORTH 44°20'00" WEST, 98.99 FEET TO A POINT; THENCE NORTH 00°40'00" EAST, 581.16 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE LEFT, HAVING A RADIUS OF 144.73 FEET, A DISTANCE OF 61.72 FEET, THE CHORD OF SAID CURVE BEARS, NORTH 11°33'00" WEST, 61.25 FEET TO A POINT AND NORTH 23°46'00" WEST, 304.18 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 12.50 FEET, A DISTANCE OF 19.63 FEET, THE CHORD OF SAID CURVE BEARS, NORTH 21°14'00" EAST, 17.68 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 10.8520 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

I HEREBY CERTIFY THAT THE DESCRIPTION OF THE PROPERTY PROPOSED TO BE DEVELOPED IS A COMPLETE, PROPER AND LEGAL DESCRIPTION THEREOF.



STEPHEN L. CAHILL  
OHIO REGISTERED SURVEYOR #7862



**Exhibit C**  
**Ordinance**

See attached.

ORDINANCE NO. 15-2021

**AN ORDINANCE APPROVING THE PRELIMINARY DEVELOPMENT PLAN FOR THE PROPERTIES LOCATED AT 134 AND 144 MERCHANT STREET**

WHEREAS, the properties located at 134 and 144 Merchant Street in the City of Springdale (collectively the "Property") were rezoned by City Council from General Business (GB) and Office Business District (OB) to Planned Unit Development District (PUD);

WHEREAS, along with the request to rezone the Property to PUD, a Preliminary Development Plan was submitted for the Property to allow for the construction of a multi-family housing development; and

WHEREAS, at its meeting of April 13, 2021, the Planning Commission recommended approval of the request to re-zone the Property to PUD, and approved the proposed Preliminary Development Plan for the Property; and

WHEREAS, a public hearing was held by City Council on May 19, 2021 to consider the Preliminary Development Plan pursuant to the requirements of the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, Ohio, 7 members elected thereto concurring:

Section 1. The request to approve the Preliminary Development Plan for the properties located at 134 and 144 Merchant Street to allow for the construction of a multi-family housing development, which has been reviewed and approved by the Planning Commission in accordance with the exhibits listed and described in Exhibit "A", which is incorporated herein by reference, is hereby approved, subject to the conditions of the Planning Commission, and any other conditions or modifications imposed by Council including:

- a. Staff, City Engineer, and City Planner's recommendations and considerations contained in their report.

Section 2. That this Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. That the Clerk of Council/Finance Director is hereby authorized and directed to notify the applicant of Council's action.




Section 4. That this Ordinance shall be effective from and after the earliest period allowed by law.

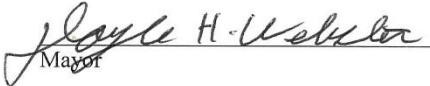
Passed this 19 day of may, 2021.

  
\_\_\_\_\_  
President of Council

Attest:

  
\_\_\_\_\_  
Clerk of Council/Finance Director

Approved:

  
\_\_\_\_\_  
Mayor  
May 19, 2021  
\_\_\_\_\_  
Date