

**VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE 2022-11**

**WAIVING A DEED RESTRICTION TO PERMIT CONSTRUCTION OF A CHIMNEY SWIFT
HABITAT STRUCTURE AT 314 DAYTON STREET AND DECLARING AN EMERGENCY**

Whereas, by Ordinance 95-07 adopted June 5, 1995, Village Council authorized the sale of the real estate located at 314 Dayton Street, Yellow Springs, Ohio, from the Village to a private purchaser by a Deed with six restrictive covenants, including Restriction 3, which prohibited erection of any “permanent structures in the area between the Dayton Street property line and the existing Building line, except for a temporary structure used during reconstruction, repair or preservation of the building” as recorded in June 9, 1995 in Volume 913, Page 525 of the Greene County, Ohio Official Records; and

Whereas, Iron Table Holdings LLC purchased the real estate November 23, 2020, “subject to all restrictions, easements, conditions and covenants of record” as recorded on December 3, 2020 by Instrument No. 2020025193 of the Greene County, Ohio Official Records; and

Whereas, in 2021, Iron Table Holdings LLC subsequently obtained Planning Commission approval for conditional use of the building for joint occupation by WYSO Radio and Iron Table Holdings, and members of the public voiced concern for the chimney swift population on site due to the plans; and

Whereas; the Village Environmental Commission recommended erecting a structure comparable in form to replace the existing chimney swift habitat prior to April 15, 2022 due to seasonal nesting patterns for the species, but the location identified for such structure would violate the deed restriction;

NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

Section 1. The Village Manager and Council President are authorized to execute an Amendment of Deed Restriction 3 in a form substantially similar to attached Exhibit A to permit construction.

Section 2. Amendment of the Deed Restriction shall be recorded at Iron Table Holdings LLC’s expense.

Section 3. This Ordinance is an emergency measure necessary for the public purpose of preservation of a known population of chimney swifts, a species classified as “Vulnerable” by the International Union for Conservation of Nature, and shall take effect immediately upon passage.

Brian Housh, President of Council

Passed: 4-4-2022

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL

Brian Housh __Y__	Marianne MacQueen __Y__	Kevin Stokes __Y__
Lisa Kreeger __Absent__	Carmen Brown __Y__	

**AMENDMENT OF DEED RESTRICTION
(Exhibit A to Ordinance No. 2022-11)**

This AMENDMENT OF DEED RESTRICTION is made the _____ day of April, 2022 by the Village of Yellow Springs, an Ohio municipal corporation, ("Village"), of 100 Dayton Street, Yellow Springs, Ohio, 45387, acting through Village Manager Josue Salmeron and Council President Brian Housh as duly authorized by the Village of Yellow Springs Council by virtue of Ordinance No. 2022-11.

WHEREAS, on or about June 9, 1995, the Village conveyed certain property (the "Property") by Deed recorded in Greene County Official Records Volume 913, Page 525 ("the 1995 Deed") which sets forth certain restrictions; and

WHEREAS, Iron Table Holdings LLC, an Ohio limited liability company, ("Iron Table") subsequently acquired the Property by deed recorded as Instrument No. 2020025193 of the Greene County, Ohio Official Records December 3, 2020, subject to all restrictions, easements, conditions and covenants of record, and updated the legal description more fully described as:

Situated in the County of Greene, Village of Yellow Springs and State of Ohio, and being Lot 4A of the Replat of Oak Wood Addition to Yellow Springs Lots 4, 5, 6, 7, 12, 13, 14, 15 and part of a 20' vacated alley as recorded in Plat Cabinet 39, Page 108A of the Plat Records of Greene County, Ohio.

Parcel No. F19-0001-0011-0-0004-00

Address: 314 Dayton St., Yellow Springs, Ohio 45387

WHEREAS, Iron Table requested the Village to amend a certain restriction of the 1995 Deed, as set forth below, to permit the preservation of wildlife habitat for a population of chimney swifts which have used the obsolete chimney of the existing structure,

NOW, THEREFORE, THE VILLAGE OF YELLOW SPRINGS, Grantor of the 1995 Deed, hereby amends Restriction 3 of the 1995 Deed to permit construction of a single tower structure between the Dayton Street property line and the existing building line at Iron Table's expense to replicate habitat on-site for chimney swifts and no other purpose. Iron Table shall use reasonable efforts to comply with all applicable zoning, building and other codes and if use of the structure ceases for more than 24 consecutive months, the structure shall be removed at Iron Table's expense.

Except as expressly amended above, all other terms and restrictions of the 1995 Deed remain unmodified and in full force and effect.

IN WITNESS WHEREOF, authorized representatives of the Village have executed this Amendment of Deed Restriction, as of the date written above.

VILLAGE OF YELLOW SPRINGS, OHIO

By: _____
Josue Salmeron, Village Manager

By: _____
Brian Housh, Council President

**STATE OF OHIO
COUNTY OF GREENE**

Acknowledged before me by Josue Salmeron, Village Manager, and Brian Housh, Council President, on behalf of the Village of Yellow Springs, Ohio, this ____ day of April, 2022. No oath or affirmation was administered for this notarial act.

Notary Public

This instrument prepared by:
The Village of Yellow Springs, 100 Dayton St., Yellow Springs, OH 45387 937-767-7202