



Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Film-Pg: 29785666

Receipt #: 2072584
Pages Recorded: 4

Recording Fee: \$72.00

Cashier: jcrw for
Date Recorded: 07/18/2018 02:35:59 PM
Authorized By: Tonya Buckingham



**2018 AMENDMENT
TO
DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS AND
DISCLOSURES FOR MEADOWLAKE BEACH
AND
2018 RESTRICTIONS AND EASEMENT FOR
RESERVE H, MEADOWLAKE BEACH ADDITION
WICHITA, SEDGWICK COUNTY, KANSAS**

THIS 2018 AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS EASEMENTS AND DISCLOSURES FOR MEADOWLAKE BEACH ("2018 Amendment") and 2018 RESTRICTIONS AND EASEMENT FOR RESERVE H, MEADOWLAKE BEACH ADDITION ("Reserve H Restrictions") is made this 17th day of July, 2018 by Meadowlake Beach Homeowners' Association for itself, its successors, grantees and assigns.

WITNESSETH:

WHEREAS, on the 8th day of July, 2008, 55th & Clifton Development Corporation ("Declarant") executed that certain Declaration of Covenants, Conditions, Restrictions, Easements and Disclosures for Meadowlake Beach ("Declaration") and caused the same to be recorded on the 11th day of July, 2008 as document no. 28990437, in the office of the Sedgwick County Register of Deeds, covering the following described real property, to wit:

Meadowlake Beach Addition, Wichita, Sedgwick County,
Kansas

The above described property, being hereinafter referred to as the "Property".

WHEREAS, at a special meeting on April 12, 2018, called for such purpose, the Meadowlake Beach Homeowners' Association voted to sell Reserve H, Affidavit attached hereto as Exhibit A.

NOW, THEREFORE, THE UNDERSIGNED PRESIDENT OF MEADOWLAKE BEACH HOMEOWNERS' ASSOCIATION, ON BEHALF OF THE RECORD OWNERS OF THE PROPERTY HEREBY AMENDS THE DECLARATION AS FOLLOWS:

ARTICLE I DEFINITIONS is hereby amended as follows:

- **Remove Reserve H from the definition of "Common Area" and Replace Section 1.6 with the following:**

1.6 "Common Area" shall mean the following portions of the Property, as the same may be modified from time to time, by additions or removals as permitted hereunder:

Reserves A, B, C, D, E, F, G, I, and J, Meadowlake Beach Addition, Wichita, Sedgwick County, Kansas.

FURTHER, THE UNDERSIGNED PRESIDENT OF MEADOWLAKE BEACH HOMEOWNERS' ASSOCIATION, ON BEHALF OF THE RECORD OWNERS OF THE PROPERTY HEREBY RECORDS THE FOLLOWING RESTRICTIONS AND EASEMENT UPON RESERVE H, MEADOWLAKE BEACH ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS:

1. No trash, ashes, dirt, rock, brush, limbs, construction debris or other refuse may be dumped or maintained upon Reserve H; and
2. No prefabricated or modular building, mobile home, trailer, used or previously erected house or building, inoperable vehicle or equipment, of any kind shall be moved, placed or stored, either in sections or as a whole, upon Reserve H; and
3. The Meadowlake Homeowners' Association reserves for itself and the Owners of Lots adjacent to Reserve H, a twenty-foot (20') easement for the purpose of mowing and maintaining landscaping within the Meadowlake Beach Addition, provided, neither Association, nor any adjacent Lot Owner shall have any obligation to mow Reserve H.

The net effect of this 2018 Amendment and Reserve H Restrictions is the removal of Reserve H from the Declaration and the recordation of restrictions and an easement on Reserve H which shall run with the land for the benefit of Meadowlake Beach Addition and burden upon Reserve H.

The undersigned hereby certifies that this 2018 Amendment and Reserve H Restrictions have been executed in accordance with Article XIV, Section 14.10 of the Declaration and are in effect and valid pursuant to all terms and provisions of the Declaration.

If any restriction, condition, covenant or reservation contained in this 2018 Amendment or Reserve H Restrictions shall at any time be held invalid or for any reason becomes unenforceable, no other restriction, condition, covenant, reservation, easement or any part thereof, shall be affected or impaired. The failure of Declarant, its successors in interest, any Board of Directors of the Meadowlake Beach Homeowners' Association or of any Lot Owner to enforce any of the restrictions, conditions, covenants, easements or reservations contained herein shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, easement or reservation.

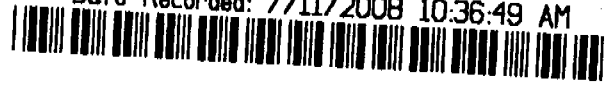


Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28990437

Receipt #: 1692833
Pages Recorded: 44
Cashier Initials: AL

Recording Fee: \$180.00
Authorized By:

Date Recorded: 7/11/2008 10:36:49 AM



After Recording Return To:
Ron H. Hamden
Triplett, Woolf & Garretson, LLC
2959 N. Rock Road, Suite 300
Wichita, KS 67226

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS
AND DISCLOSURES FOR MEADOWLAKE BEACH**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND DISCLOSURES FOR MEADOWLAKE BEACH ("Declaration") is made effective the 8th day of July, 2008, by 55th & Clifton Development Corporation, a Kansas corporation (hereinafter referred to as the "Developer").

WITNESSETH, THAT:

WHEREAS, Developer desires to adopt and establish covenants, conditions, easements and restrictions for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (as hereinafter defined); and

WHEREAS, it is desirable to establish binding covenants, conditions and restrictions applicable to the Property for the proper development thereof, maintenance and governance of the Common Area (as hereinafter defined), and to specify the rights and obligations of the Developer and the Owners (as hereinafter defined); and

WHEREAS, the Association (as hereinafter defined) will be incorporated for the purpose of exercising certain powers and functions hereunder; and

WHEREAS, Developer will convey title to all of the Property, subject to the covenants, conditions and restrictions hereinafter set forth.

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NOW, THEREFORE, Subject to the provisions hereof, Developer hereby covenants, agrees and declares that the Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are hereby declared to be for the benefit of all of the Property described herein and the Owners thereof, their successors and assigns.

ARTICLE I

DEFINITIONS

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration and are defined as follows:

1.1 "Articles" shall mean the Articles of Incorporation of the Association which shall be filed in the office of the Secretary of State of Kansas, as such Articles may be amended from time to time.

1.2 "Association" shall mean and refer to Meadowlake Beach Homeowners' Association (or such other corporate name as Developer shall hereafter select), a nonprofit corporation, incorporated under the laws of the State of Kansas, its successors and assigns.

1.3 "Association DRC" shall mean and refer to the Design Committee responsible for all matters pertaining to fences; certain drainage matters; and for construction, installation and modifications of Structures following completion of the initial residence and related improvements on Lots, all as referenced in Section 8.1 hereof, together with other responsibilities as provided elsewhere herein.

1.4 "Board" shall mean and refer to the Board of Directors of the Association.

1.5 "Bylaws" shall mean the Bylaws of the Association as such Bylaws may be amended from time to time.

1.6 "Common Area" shall mean the following portions of the Property, as the same may be modified from time to time, by additions or removals as permitted hereunder:

Reserves A, B, C, D, E, F, G, H, I and J, Meadowlake Beach Addition, Wichita, Sedgwick County, Kansas

1.7 "Design Committee" shall mean the Association DRC and/or New Construction DRC, as applicable, according to the context.

1.8 "Developer" shall mean 55th & Clifton Development Corporation, a Kansas corporation, and its successors and assigns; provided, any such successors or assigns shall acquire for the purpose of development or sale all or any portion of the remaining unsold Lots, and in the instrument of conveyance to any such successor or assign, such successor or assign is designated as the "Developer" hereunder by the grantor of such conveyance, which grantor shall be the "Developer" hereunder at the time of such conveyance. Upon such designation of a successor Developer, all rights and obligations of the former Developer in and to such status as

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ARTICLE II

ASSOCIATION MEMBERSHIP; VOTING RIGHTS; AND FORMATION

2.1 Membership. The Association shall have as members only Owners. All Owners shall, upon acquiring a Lot, be deemed automatically to have become members (whether or not any Owner is occupying a residence on his Lot), and there shall be no other qualification for membership. There shall be only one membership per Lot. If any Lot is owned by more than one person or entity, all co-owners shall share the privileges of such a membership, subject to all provisions hereof, and in the Bylaws. The membership rights of any Owner which is not a natural person, may be exercised by any officer, director, partner or trustee, or by individual designated from time to time by the Owner in a written instrument provided to the Association. Membership shall be appurtenant to, and shall not be separated from, the ownership of any Lot.

2.2 Voting Rights. All members of the Association, so long as they shall qualify under this Article II, shall be entitled to vote on each matter submitted to a vote at a meeting of members. There shall be only one (1) vote for each Lot subject to the following exceptions and conditions:

A. When any such Lot is owned or held by more than one (1) Owner as tenants in common, joint tenancy or any other manner of undivided, joint or common ownership or interest, such Owners shall collectively be entitled to only one (1) vote relative to such Lot, and if such Owners cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Lot. Fractional votes shall not be permitted, and in no event shall more than one vote be cast with respect to any Lot.

B. In addition to any other penalties provided for in this Declaration, any Owner (other than Developer) who is in violation of this Declaration (including, but not limited to, the failure to timely pay assessments or other sums due hereunder) or any rules adopted by the Board as determined by the Board, shall not be entitled to vote during any period in which such violation continues. The Board shall be the sole judge of the qualifications of each Owner to vote and the right to participate in meetings and proceedings of the Association.

C. Notwithstanding the foregoing, Developer shall be entitled to ten (10) votes for each single Lot owned by it.

D. The Board shall adopt such Bylaws, consistent with the terms hereof, the Articles and the laws of the State of Kansas, as it deems advisable for any meeting of Owners with regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Owners for voting purposes, voting by proxy and such other matters concerning the conduct of meetings and voting as it shall deem proper. In the event of any conflict between the terms of the Declaration and the Bylaws, the terms hereof shall control.

2.3 Formation. Developer shall form the Association promptly following the recordation hereof and shall convey legal title to the Common Area to the Association. Developer shall convey the Common Area to the Association by special warranty deed, in an

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"AS IS" condition subject to all easements, rights-of-way, mortgages granted in connection with financing referenced in Section 9.1 below, encumbrances, and liens for non-delinquent ad valorem taxes and special assessments, and other matters of record. On or about the time that residences are occupied on five (5) Lots, Developer shall appoint residents to serve on the Board along with a representative of Developer. Promptly thereafter, the Board shall elect the officers and adopt the bylaws of the Association. The Board shall diligently carry on the duties of the Association as specified in this Declaration, but must engage a management company. The deed of the Common Area by Developer to the Association is a ministerial task that does not require acceptance by the Association.

ARTICLE III

LICENSE FOR THE COMMON AREA; ALTERATION; IMPROVEMENTS AND MAINTENANCE; AND MANAGE RESERVE AREAS

3.1 Owners' Enjoyment. Except as otherwise provided in this Article III, or elsewhere in this Declaration, every Owner shall have a nonexclusive license to use the Common Area, and such license shall be appurtenant to and shall pass every Lot, subject to the following provisions and to the other provisions of this Declaration:

- A. The right of the Board to establish rules, regulations and/or requirements regarding the activities on or uses of the Common Area, including, but not limited to, the recreational facilities thereon, and to restrict or eliminate some or all types of activities or uses thereof and limit the persons, and the number of persons, entitled to use the same. All Owners must strictly adhere to such rules, regulations and requirements;
- B. The borrowing money and mortgaging the Common Area by the Developer and/or Association as referenced in Section 9.1 below, and the right of the Board to otherwise borrow money on behalf of the Association for the purpose of improving the Common Area and facilities and to mortgage the Common Area. In the event of a default in the performance or payment of any financings secured by a mortgage on the Common Area, including those pursuant to Section 9.1 below, then among other rights and remedies, lender may terminate the license for the use of the Common Area established in this Section 3.1;
- C. The right of the Board to suspend the use of the Common Area and any recreational facilities thereon by an Owner and other persons authorized to use the same by reason of such Owner for any period during which any assessment against his or her Lot remains unpaid and delinquent or such Owner or family member otherwise violate the terms of this Declaration, or any other rules or regulations in effect from time to time;
- D. The right of the Board, on behalf of the Association, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Board; and

E. The covenants and restrictions contained herein.

3.2 Use by Family and Guests. An Owner's license in the Common Area shall automatically extend to such Owners' Immediate Family residing on a Lot with such Owner, subject to rules and regulations adopted by the Board from time to time. No guests shall be entitled to exercise such right of enjoyment or to any use of the Common Area except as provided in, and subject to, such rules and regulations as may be promulgated by the Board.

3.3 Waiver of Use. No Owner may exempt himself or herself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by the failure to occupy or the abandonment of his or her Lot.

3.4 Alteration of the Common Area. Notwithstanding anything to the contrary provided herein, the Developer or the Association may reconfigure, convey, eliminate, reduce, alter or reconfigure portions of the Common Area from time to time by replatting, lot split, boundary shift or other subdivision procedures or deeding land, for the purpose of adding land to, or removing land from, the Common Area. Automatically, without the necessity of amending this Declaration, upon the completion of any such reconfiguration, conveyance, elimination, reduction, alteration or reconfiguration, any land (a) removed from such area shall cease to be Common Area, and, thereupon, no Owner shall have any license or right of use or access thereto and (b) added to the Common Area shall become a part thereof, and thereupon each Owner shall have a nonexclusive license and right of use or access thereto as provided in Section 3.1 above.

3.5 Common Area, and Arterial Street Rights-of-Way, Other Amenities, Improvements and Maintenance. Developer shall finance (as referenced in Section 9.1 below) on behalf of the Association the cost of constructing or installing the improvements and amenities to the Common Area, and areas outside the Common Area, or fence and wall easements and the arterial street right-of-way green space areas adjacent to the Property (but not streets within the Property). Developer shall construct or install, **without any representations or warranties expressed or implied**, the improvements or amenities listed on Exhibit "A" attached hereto; provided, Developer and/or the Board on behalf of the Association may install additional amenities or improvements as either elects from time to time. Developer, the Association, their respective contractors and any subcontractors, and the employees thereof, shall have a perpetual, nonexclusive easement and right of access upon the Common Area for the inspection, construction, installation, maintenance, repair, replacement and/or modification of Common Area improvements and amenities. Following completion of the construction and installation by Developer of such amenities and improvements to the Common Area and/or the aforesaid street rights-of-way, and fence and wall easements, then, a representative of the Association or its management or any company shall inspect the same and provide Developer in writing no later than ten (10) days following Developer's request for such inspection, a detailed listing of any defects concerning any such amenities and improvements which were not constructed or installed in a reasonable condition. Other than any defects timely objected to in writing by the Association or its management company, such amenities and improvements shall be deemed to be unconditionally accepted by the Association. Developer shall promptly correct any defects

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identified on behalf of the Association and communicated to Developer within the time period specified above; provided, due to the timing of the occurrence of the inspection of the amenities or improvements, it may not be appropriate for Developer to make corrections at that time, particularly to lawn or landscaping items, in which case, Developer shall make the corrections and improvements during the next growing season or when such corrections are otherwise appropriate. *From and after the initial request to the Association's management company for inspection of the improvements and amenities installed or constructed by Developer, the Association shall, subject to the Developer's subsidy obligations under Section 4.14, be solely and fully responsible for all costs of maintaining, repairing, replacing and operating the Common Area, fence(s) and wall easements and arterial rights-of-way and all improvements and Structures on any of the foregoing, including, but not limited to, all fertilizing, watering and replacement of lawns, shrubs, flowers, plantings and trees following the initial planting thereof, the mowing of lawn areas, payment of taxes and assessments, payment of liability and property insurance premiums, lake and swimming pool operations, maintenance, repairs and replacements of the improvements, if applicable, and utility costs. The Developer will not mow or maintain the Common Area, fence or wall easements or the arterial street rights-of-way, as applicable, following the date of its initial request for inspection of improvements and amenities thereon by the management company.*

3.6 Damage to Common Area, Etc., Prohibited. No Owner shall do or allow to be done any act which causes or threatens to cause any damage, encroachment or disrepair to the Common Area, street rights-of-way, the residence, Lot of any other Owner. Specifically, each Owner shall repair any damage sustained to any other Lot, Common Area or street right-of-way in connection with the construction of Structures on such Owners' Lot, including, but not limited to, damage to Structures, lawn areas, concrete or paving, landscaping and sprinkler systems as a result of the installation of sanitary sewer or heat pump lines or other construction or excavation activities. Owners are hereby advised that DIG SAFE (a service which may be consulted in advance of excavation to locate existing utility lines) does not identify sprinkler system lines or other underground electrical or plumbing lines which have been installed.

3.7 Management Company. The Association shall engage the services of a management company. Initially that management company shall be Elsea & Petty Association Management, LLC.

ARTICLE IV

COVENANTS CONCERNING ASSESSMENTS; EXEMPTIONS; LIENS AND DEVELOPER'S SUBSIDY

4.1 General Assessments. For the purpose of providing funds for the operation of the Association, and for the operating, maintaining, caring, insuring, improving and conducting such other activities and taking such other actions pertaining to the Common Area as the Association shall deem appropriate, and to afford the Association the means and resources necessary to carry out its rights, duties and functions hereunder and under its Articles and Bylaws, the Board shall have the right, in each year, but subject to the exemptions provided below, to assess against each Lot and each Owner thereof, a general assessment, which general assessment shall subject each

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Lot to a lien to secure payment thereof. The annual general assessment may be paid bi-annually as specified by the Board from time to time; provided, at the time of the first sale of a Lot to a person or entity (other than a person or entity which is exempt from assessments under Section 4.2. below), whether or not a residence has been constructed thereon, at the closing of such sale, the purchaser shall pay in one lump sum to the Association the amount of the assessments due for the remainder of the calendar year in which the sale occurs. Initially, the annual amount of the general assessment shall be One Hundred Eighty and no/100 Dollars (\$180.00) to be paid on a bi-annual basis in the amount of Ninety and no/100 Dollars (\$90.00) per installment commencing January 1, 2009; assessments for any partial year shall be prorated.

4.2 Basis of Assessment; Exemption; Transfer Assessment; Proration.

A. All general assessments shall be made against the Owners on an equal basis for each Lot or fraction thereof owned by the Owner or Owners, the Developer, and any properly licensed general contractor owning a Lot for the purpose of constructing a residence thereon and offering the same for sale, shall be exempt from the imposition or assessment hereunder, whether general or special, with respect to any Lot on which a residence has not been completed so long as Developer or such contractor holds legal title thereto (provided, the assessment exemption for such general contractors shall not extend beyond twenty-four (24) months from the date an applicable Lot is conveyed to such contractor and shall cease if the contractor occupies the same as a residence).

B. At any time legal title to a Lot transfers, the transferee/buyer shall pay at the time of the closing of such transfer to the working capital of the Association an amount equal to Three Hundred and no/100 Dollars (\$300.00); provided the requirement to pay such a fee shall not apply to either:

(i) the transfer by Developer to an affiliated person or entity; a the transfer of Developer's interest as "developer" of the Property; and

(ii) the transfer of title to any Lot to a properly licensed general contractor for purposes of constructing a residence thereon for the purpose of offering the same for sale.

4.3 Increase of General Assessments. The amount of the general assessment during any year may be increased for any subsequent year by the Board without a vote of the membership of the Association.

4.4 Special Assessments. In addition to general assessments, the Association may, from time to time, at a regular meeting or a special meeting called upon notice for such purpose, establish a special assessment to be levied equally against each Lot for the purpose of providing additional funds (when funds through general assessments are insufficient) to carry out its duties and other functions and purposes contemplated hereunder; to pay the principal or interest concerning the amenity financing referenced in Section 9.1 below; to perform maintenance, repairs or replacements; to make improvements to the Common Area; and/or generally for the Association's operations. No such special assessment shall be valid except upon the approval of

Owners holding at least sixty percent (60%) of the votes represented, in person or by proxy, at the meeting duly called for the purpose of approving the same. Further, the Board shall have the authority to establish and fix a special assessment on any Lot to secure the liability of the Owner of such Lot to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach results in an expenditure by the Association for repair or remedy of such breach. Any special assessments shall be payable in full (unless a schedule for payment in installments is specified) on the first day of the second calendar month next following the date that the same shall be established by the Association.

4.5 Collection and Expenditures. The Association shall have the sole authority to collect and enforce the collection of all general and special assessments provided for in this Declaration, and may, in addition to such assessments, charge and assess costs and expenses, including reasonable attorneys' fees, and penalties and interest for the late payment or nonpayment thereof. The Association shall have the authority to expend all monies collected from such assessments, costs, penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Association as provided for in this Declaration and the Articles and Bylaws of the Association. However, the Association shall not be obligated to spend in any year all the sums collected in such year by way of assessments, or otherwise, and shall either carry forward, as surplus, in reserves, any balances remaining or repay any indebtedness of the Association; nor shall the Association be obligated to apply any such surpluses or reserves to the reduction of the amount of the assessments in the succeeding year, but may apply such surpluses or reserves to indebtedness of the Association or carry forward from year to year such reserve or surplus as the Board, in its absolute discretion, may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.6 Assessments and Liens; Delinquency. Thirty (30) days after any general or special assessment shall be due and payable, and unpaid or otherwise not satisfied, the same shall be and become delinquent and shall automatically constitute a lien on the applicable Lot and shall so continue until the amount of said charge and assessment, together with all costs, late fees, fines, penalties and interest as herein provided, has been fully paid or otherwise satisfied. The Association may cease to provide all and any of the services provided by or through the Association with respect to any Lot during any period that an Owner is delinquent in the payment of any sum due under this Declaration, or due to any other default hereunder, and no such cessation of services shall result in reduction of any amount due from the Owner before, during or after such cessation. No claim of the Association for assessments or other charges due hereunder shall be subject to setoffs or counterclaims made by any Owner.

4.7 Notice of Delinquency. At any time after any general or special assessment against any Lot has become a lien and delinquent, the Association may record in the office of the Register of Deeds, Sedgwick County, Kansas, a Notice of Delinquency as to such Lot, which Notice shall state therein the amount of such delinquency and that it is a lien, and the interest, costs (including attorneys' fees and expenses) fines and late fees, which have accrued thereon, a description of the Lot against which the same has been assessed, and the name of the Owner thereof, and such Notice shall be signed by an officer of the Association. Upon payment or other satisfaction of said assessment, interest, late fees, fines and costs and expenses in connection

with which notice has been recorded, the Association shall record a further notice stating the satisfaction and the release of the lien thereof.

4.8 Right of Association to Enforce Payment of Assessment. By the acceptance of title to a Lot, each Owner shall be held to vest in the Association, through the Board, with the right and power to prosecute all suits, legal, equitable, or otherwise, which may be necessary or advisable for the collection of assessments, charges or fines, and the Association shall have the right to sue for and collect a reasonable sum to reimburse it for its attorneys' fees and any other expenses reasonably incurred in enforcing its rights hereunder. Each Owner, to the extent permitted by law, hereby waives, any liens created pursuant to this Declaration or documentation associated therewith (whether such liens are now in existence or are created at any time in the future, the benefit of any redemption, homestead or exemption laws of the State of Kansas now in effect, or in effect from time to time hereafter.

4.9 Enforcement of Liens. Each lien established pursuant to the provisions of this Declaration and which is specified in a Notice of Delinquency as hereinabove provided, may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. Each current and future Owner hereby consents to the foreclosure procedures specified in this Article. In any action to foreclose any such lien, the Association shall be entitled to its costs and expenses, including reasonable attorneys' fees, and expenses, and such late fees, fines and accrued interest for delinquent charges and assessments as shall have been established by the Association. The Developer and/or the Association shall have the right to bid on a Lot at the foreclosure sale. The foreclosure proceedings with respect to liens established pursuant to this Declaration, may be foreclosed at anytime within fifteen (15) years following the filing of the Notice of Delinquency; provided, if at the expiration of such fifteen (15) year period suit shall have been instituted for collection of the assessment, the lien shall continue until payment in full or termination of the suit and sale of the applicable Lot.

4.10 Subordination of Assessment Lien. Each and every assessment and lien, together with any costs, penalties and interest reserved under this Declaration, shall be subordinate to the lien of any valid bona fide first mortgage which has been, or may hereafter be, given in good faith and for value by any bank, savings and loan association or other institution in the business of regularly conducting residential lending on a Lot. Any subsequent Owner of any Lot purchased at foreclosure shall be bound by the restrictions, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale. Such unpaid assessments shall be deemed to be common expenses collectible from general assessments made to all Lots. Nothing contained herein shall release a person or entity from his or its personal liability for any assessments assessed when such person or entity owned a Lot which becomes delinquent prior to any such foreclosure.

4.11 Personal Liability. In addition to the covenants and agreements heretofore set forth herein, each Owner of each Lot, by the acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to have agreed to be personally liable for the payment of each general and special assessment, late fee, interest and fine levied against such Lot during the period of ownership and for all other payment obligations specified in this Declaration.

4.12 Late Fee and Interest on Delinquent Assessments. In the event assessment charges (general or special), fine or other sums due under this Declaration shall remain due and unpaid thirty (30) days after the same are due the Owner shall be charged a late fee of fifteen percent (15%) of the unpaid amount and the unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum, or such other rate as may be established from time to time by the Board; provided, however, that such interest rate shall never exceed the maximum allowed by law.

4.13 Fines. The Board shall have the authority to assess fines for any violation of this Declaration, and rules adopted by the Board from time to time, by an Owner, which fines shall be determined in the sole discretion of the Board; provided, a fine may not exceed Fifty Dollars (\$50.00) per day of violation unless unanimously approved by all members of the Board. Prior to assessing such fine, the Board shall mail written notice to the last address known to the Board concerning the noncompliant Owner, specifying the violation. If the noncompliant Owner fails to cure the violation within twenty (20) days following the mailing of such notice by the Board, or if there is a reoccurrence of the violation during such twenty (20) day period, then in addition to any other liability or obligation arising under the Declaration, the Board may assess a fine against the noncompliant Owner and his Lot in an amount determined by the Board to be appropriate in its discretion, which shall be paid within ten (10) days following the date notice thereof is given to such Owner by written notice deposited in the mail to the Owner's address last known to the Board, or personal delivery thereof to the residence of such Owner. Until paid in full, the amount of such fine shall constitute a lien on the noncompliant Owner's Lot, and shall be subject to enforcement and foreclosure in the same manner as an assessment under this Article IV.

4.14 Subsidy of Common Area Operations. As of the date Developer conveys the Common Area to the Association, Developer will own many of the Lots. It is in the Developer's interest, as well as the Association's interest, that sufficient revenues be generated from assessments under Article IV of this Declaration, so that the Common Area, including improvements thereon, and arterial street rights-of-way, which are not the responsibility of the Owners individually, and other areas maintained or operated by the Association may be maintained and operated in a reasonable fashion for the use and benefit of the Owners, subject to the provisions hereof, and that sufficient funds are available to the Association for the payment of the regularly scheduled principal and interest payments required in connection with the financing referred to in Section 9.1 below. Developer hereby agrees to supplement the Association revenues by paying, upon reasonable notice, an amount equal to the difference between (a) the amount of the revenue required by the Approved Budget then in effect for the maintenance and operation of the Common Area, and the arterial street rights-of-way and other areas which are the responsibility of the Association for the applicable period, and (b) the aggregate amount of revenues to be received by the Association due to the payment of assessments by all non-exempt Owners during the applicable time period, plus the amount of revenue reasonably expected to be received during such time period as transfer assessments under Section 4.2 B of this Declaration. Promptly following appointment of the Board as referenced in Section 2.3 above, the Developer and the Board shall establish a budget of the Association for maintenance and operation of the Common Area and arterial street rights-of-way, for the portion of the calendar year following establishment of such budget, which budget is herein

referred to as the "Approved Budget." For each subsequent calendar year, the Association shall propose to Developer on or before December 1 a budget for the next ensuing calendar year. The intent of Developer and the Association is that the Approved Budget shall permit the reasonable maintenance and operation of the Common Area, the maintenance of the arterial street rights-of-way and other areas which are the responsibility of the Association as well as the ability to provide for the scheduled debt service payment for mortgage financing established by Developer, and renewed or refinanced by the Association, for construction of improvements within the Common Area as provided in Section 9.1 below. Developer shall respond as soon as reasonably possible to the each budget proposed by the Association, and, thereafter, the Association and Developer shall endeavor in good faith to mutually agree upon the Approved Budget for such year; provided, if such parties are unable to so agree by January 30 following submission of the proposed budget to Developer, the Approved Budget in effect for the immediately preceding calendar year shall be the Approved Budget for the new year. Notwithstanding anything appearing herein, Developer shall have no obligation to pay any portion of the costs incurred by the Association for the construction of improvements within the Common Areas or arterial street rights-of-way or for hiring or engaging third parties to manage or otherwise render services to the Association, other than for lawn/water sprinkler system care and the Association's management company. Developer and the Association hereby agree that Developer's obligation to supplement Association revenues as provided in this Section above shall discontinue as of the date within the calendar year during which the amount of revenues required by the Approved Budget will be generated due to the timely payment of assessments by non-exempt Owners during such calendar year, together with the reasonably anticipated transfer assessments referred to above.

ARTICLE V

USE, OCCUPANCY AND CONDUCT RESTRICTIONS

5.1 General. The Property is subject to the conditions, covenants, restrictions, reservations and easements hereby declared to ensure the best use and the most appropriate development and improvement of each Lot; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Property; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection thereon of poorly designed or proportioned improvements and improvements built of improper or unsuitable materials; to ensure the best development of the Property; to encourage and secure the erection of attractive homes of appropriate size and appearance thereon, with appropriate locations thereof on building sites; to secure and maintain proper setback from streets and adequate free spaces between Structures; and, in general, to provide adequately for proper drainage from each Lot onto adjacent Lots and Common Area.

5.2 Rules and Regulations. Each Owner shall obey and comply with all applicable public laws, ordinances, rules and regulations and all rules and regulations now or hereafter promulgated, as provided for in this Declaration. No activity which may be or become a nuisance to the neighborhood shall be carried on upon the Property.

5.3 Residences. No building shall be erected, altered, placed or permitted to remain on any Lot, other than one new single-family residence for private use, with a private garage and

5.9 Animals. No birds, animals or insects, except dogs, cats or other household pets, shall be kept, bred or maintained within the Property except a reasonable number of commonly accepted household pets approved from time to time by the Board. Under no circumstances shall any commercial or agricultural business enterprise involving the use or breeding of animals be conducted on the Property without the express written consent of the Board. The Board may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any Lot, if applicable, and the Owners shall strictly comply therewith. Dogs, cats and all other pets or animals shall be confined at all times to the Lot, and must be kept on a leash when outside the Lot. No dogs or other animals shall be continually or regularly staked or chained on any Lot. All domestic pets must be properly immunized as required by applicable ordinances, codes and laws. Owners must prevent such animals from barking or making other noises at any time which the Board determines are annoying or a nuisance to neighbors or those using the Common Area. Among other remedies available to the Board, it may fine the Owner(s) of Lots pursuant to Section 4.13 with regard to animals which are determined by the Board to be an annoyance or nuisance.

5.10 Signs. Except as (a) authorized by the Board and (b) except for those installed by Developer, its marketing representatives or builders or contractors as authorized by Developer, no signs, advertisements, billboards or advertising Structures of any kind may be erected or maintained on any of the Lots or Common Area; provided, however, that permission is hereby granted for the erection of unlighted, temporary, standard sized signs by real estate firms for the sole and exclusive purpose of advertising the sale of the Lot and residence upon which it is erected and improvements thereon, if any, and during the one hundred twenty (120) day period prior to any election, political signs may be placed in yards. Such political signs shall be removed no later than seven (7) days following the applicable election.

5.11 Sight Lines. Without the prior approval of the appropriate Design Committee, no fence, masonry wall or mass planting shall be permitted to extend beyond the minimum front building setback lines established on the plat of the Property.

5.12 Antennas. Except as authorized by the Association DRC, there shall not be erected on any Lot any external television, radio antennas, satellite dish or other antenna or similar devise; provided, notwithstanding the foregoing, an Owner may install within his or her Lot a television satellite dish having a diameter of not more than twenty-four inches (24"), so long as the location of such dish is satisfactory to the Association DRC. Should any part or all of the restrictions set forth in this Section be unenforceable because the same violate a statute or the First Amendment or any other provision of the United States Constitution, the Association DRC shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections within the Property and any such rules and regulations shall be binding upon all of the Lots and the Owners thereof.

5.13 Vehicles, Trailers and Boats. No truck (not including pickup-type vehicles), boat, house trailer, boat trailer or trailer, recreational vehicle/motor home or any other vehicle of any type or description as determined by the Board in its sole discretion may be (a) stored upon any of the Common Area or (b) **parked on any street or driveway for a period of time exceeding**

eight (8) consecutive days; provided, the foregoing shall not be construed to prevent contractors or others performing work or services on a Lot or Structures thereon from parking on the street or in a driveway in connection with performing work or services. No vehicle which is abandoned, wrecked, dismantled, inoperative, rusted, junked, in disrepair or neglect, or in a partially dismantled condition may be parked, stored or displayed in the open on any Lot or street located within the Property. Furthermore, no vehicle shall remain parked, stored or displayed on a street within the Property without being moved outside of the Property for a period of forty-eight (48) hours or more each eighty (8) consecutive day period, except with the written consent of the Developer or the Board. Nothing in this Section 5.13 (or elsewhere in this Declaration) shall prohibit the Developer, or its marketing firm, from placing a sales office trailer or other temporary office on a Lot or within the Common Area. So long as Developer owns a Lot, the Board or Association may not waive enforcement of, amend or modify this Section 5.13.

5.14 Requirement to Keep Lot, Structures and other Areas in Good Order and Repair. Each Owner other than Developer (provided it shall cause all Lot(s) owned by it to be mowed periodically) shall keep all Lot, and all Structures and improvements therein or thereon in good order, repair and appearance, including, but not limited to, the seeding, watering by an underground water sprinkler system and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all Structures and other improvements, all in a manner and with such frequency as is consistent with good property management in relation to a quality residential neighborhood such as will exist in the Property. If any portion of the Common Area is deeded to the Owner of an adjoining Lot, the Owner of such Lot shall maintain such area in the same manner as the Lot. Except as may be otherwise approved by the Association DRC, each Owner of a Lot which is contiguous to a street right-of-way (other than an arterial street right-of-way on the perimeter of a portion of the Property) or a Common Area reserve containing a pond or lake shall seed, water, install and operate an underground water sprinkler system, mow and otherwise maintain in good, sightly condition, a lawn area between the boundary of such Lot and the adjoining street within such right-of-way, or the pond/lake within the adjoining reserve, as applicable. If, in the opinion of the Board, any Owner fails to perform the duties imposed by this Section, the Board, after approval by a two-thirds (2/3) decision of the Board, and after fifteen (15) days written notice to Owner to remedy the condition in question, shall have the right, through its contractors and representatives, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot or such improvements, and such Owner shall pay the Association for the cost thereof, together with additional amount equal to twenty percent (20%) of such cost, within ten (10) days following demand therefor, which payment shall be a binding personal obligation of such Owner, and the Board may establish a special assessment and lien on such Lot, for such cost and charge, together with interest thereon at the rate specified in Section 4.12 above, and enforce the same as provided in Article IV hereof. The lien established as a result of this Section shall be superior to all other liens or encumbrances which may thereafter arise, excepting liens for taxes and other public charges as are by applicable law made superior.

5.15 Division of Lots Prohibited. Except as authorized by the New Construction DRC or the Developer, no platted Lot shall be split or divided into more than one Lot or building site, but more than one Lot may be used as a building site for one dwelling.

5.16 Lawn and Hardwood Trees. As soon as practicable, but in any event, no later than the planting season immediately following completion of a residence on a Lot, the Owner thereof shall plant a lawn over the entire Lot excluding the areas on which approved Structures are constructed. The initial landscaping installed on a Lot shall include a minimum of two (2) hardwood shade trees (two of which must be planted in the front yard of the Lot) of at least one inch (1") caliper.

5.17 Fences.

A. Developer may, and hereby reserves the right to, in its sole discretion, construct and install a fence, "living fence" (a combination of trees and other fencing or wall materials), wall or entrance treatment of a style and of materials satisfactory to the Developer, in its sole discretion, within any of the fence or wall easement areas, any entry areas shown on the plat of the Property, within other easement areas established by other easement instruments, or within Common Area. Such improvements shall be financed as referenced in Section 9.1 below. With respect to any Lot on which Developer has constructed an entry monument, fence, "living fence" or wall, the Owner(s) may not install or construct any fence or wall which is visible from adjacent streets without the approval of the Developer or the Association DRC.

B. Except as provided in subparagraph A immediately above and subject to subparagraphs C and D immediately below, all Lots, other than Metal Fence Lots as shown on Exhibit "A" hereto, may utilize fences made of black wrought iron, black aluminum or tubular steel, a Good Neighbor Fence, or other cedar fencing installed with the more attractive, "good side" installed facing the exterior, or a combination thereof; provided, the same shall not exceed six feet (6') in height. A "Good Neighbor Fence," is the type of wood privacy fence which appears substantially the same from both sides of the fence and is approved by the Association DRC. Fencing may not be installed to the front of a residence constructed on a Lot. No fences shall be constructed or maintained on Wrought Iron Fence Lots except for privacy fences immediately adjacent to patios which are appurtenant to a residence and except for black wrought iron, black aluminum or tubular steel fences which do not exceed six feet (6') in height and which are approved by the Association DRC.

C. All fences shall be approved by the appropriate DRC prior to construction or installation on any Lot.

D. All fences installed within drainageways established by the master drainage and grading plan referenced in Section 10.1 shall have a minimum of four inches (4") clearance above the ground level (other than posts installed in the ground) in order to not divert or disrupt water drainage from the Lot.

5.18 Model Homes and Real Estate Offices. Notwithstanding anything to the contrary appearing elsewhere in this Declaration, any Lot owned by Developer, or any person or entity so authorized by Developer, may be used for a model home or for a real estate or administrative office pertaining to the development of the Property (including temporary, mobile, modular,

prefabricated or a permanent Structure) until all the Lots have been sold to consumers for construction of residences thereon.

5.19 No Rights Beyond Property. Notwithstanding the proximity of lakes or other amenities to the Common Area and/or Property, but which are not located in such areas, no Owner shall have any right of access, use or enjoyment of any lakes or other amenities outside the Property.

5.20 Airport. The Property may be located in the vicinity of an airport. Each purchaser of a Lot assumes the risks associated with the proximity of such airport.

5.21 Artificial Vegetation. No artificial flowers, trees or other vegetation shall be permitted on the exterior of any residence or in the yard without the consent of the appropriate DRC.

5.22 View. While certain measures will be taken by the Developer, New Construction DRC and Association DRC to limit the construction of improvements which obstruct some views, no Owner is entitled to an unobstructed view beyond the boundaries of the Owner's Lot. No Owner shall be entitled to prevent the construction or location of any Structure, planting material or other item on any other part of the Property, which is permitted by this Declaration and the appropriate Design Committee, because such Structure, planting material or other item obstructs any view from such Owner's Lot.

5.23 Odors; Burning. No activity (other than reasonable and customary construction activity) which emits foul or obnoxious odors, fumes, dust, smoke, or pollution outside the Lot or which creates noise, unreasonable risk of fire or explosion, or other conditions which are a nuisance shall not be conducted within a Lot. No outside burning of trash, leaves, debris or other materials shall be permitted on a Lot.

5.24 Loudspeaker; Noise. The use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Lots, except alarm devices used exclusively for security purposes is hereby prohibited.

5.25 Clippings; Debris. Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any storm sewer, drainage ditch, any other component of the storm drainage system serving the Property, or any stream, pond, or lake, or elsewhere within the Property is prohibited.

5.26 Safety and Security. Each Owner and occupant of a Lot, and the respective guests and invitees thereof, shall be responsible for their own personal safety and the security of their property in the subdivision within the Property, including the Common Area. The Association may, but shall not be obligated to, maintain or support certain activities in the subdivision within the Property designed to enhance the level of safety or security which each person provides for himself and his property. Neither the Association nor Developer shall in any way be considered insurers or guarantors of security within the subdivision within the Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or

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ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the subdivision within the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing all occupants of a Lot that the Association, its Board and committees, and Developer are not guarantors of security or safety and that each person or entity using the subdivision in the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots improvements thereon, resulting from acts of third parties.

5.27 Building Setback Distances. Each Owner of each Lot shall comply with the platted building setback requirements and any other applicable setback requirements established under applicable laws, ordinances or regulations.

5.28 Possibility of Abandoned Wells. In the past, oil and gas wells were drilled in the are of the Subdivision. It is possible wells were drilled and abandoned within the Property and each Owner shall investigate such possibility to the extent it deems appropriate and Developer shall have no liability or responsibility therefore.

5.29 Trash Removal Services. The Board shall select a single trash removal service contractor to provide regular weekly trash removal and recycling services to all residences within the Property. Each Owner or occupant of a completed residence shall utilize such trash and recycling services exclusively for such weekly services.

5.30 Sex Offender Laws. Kansas law requires persons who are convicted of certain sexually violent crimes after April 14, 1994, to register with the sheriff of the county in which they reside. If any Owner desires information regarding those registrants, he may find information on the homepage of the Kansas Bureau of Investigation at <http://www.Kansas.gov/kbi> or by contacting the local sheriff's office.

5.31 Storage Pods and other Facilities. Except as otherwise permitted from time to time by the Board, temporary storage pods, containers or other similar storage facilities shall not be located in the open on a Lot, except on a temporary basis. A "temporary basis" as used in the proceeding sentence shall mean (a) usage by the building contractors during the initial construction of the residence, and (b) following the completion of the initial residence, then only by the Owner(s) in connection with their move into the residence or a move out of the residence for a period not to exceed thirty (30) consecutive days in connection with each move in or move out. Whether to allow exceptions to the prohibition contained in this Section is in the discretion of the Board, but Developer recognizes that in times of substantial remodeling of a residence, and possibly other circumstances, it would be appropriate for the Board to allow such items to be stored in the open for a short time.

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ARTICLE VI

THE ASSOCIATION AND MATTERS RELATED THERETO; OTHER MATTERS

6.1 Powers, Duties and Rights.

A. The Association shall have the rights and powers as set forth in its Articles and Bylaws and elsewhere in this Declaration, together with its general powers as a nonprofit corporation, and it shall perform each and every duty required of it by this Declaration.

B. The Association shall maintain, water, fertilize, mow, and keep clean the portions of the Common Area which are to be maintained by it hereunder and the portions of the green space within the arterial public street rights-of-way adjacent to the perimeter of Property. It further shall maintain, repair and/or replace the decorative entrance treatments, fence(s) and walls erected and installed by Developer or the Association.

C. The Association shall maintain such insurance on the Common Area, and facilities thereon, and liability and other types of insurance as the Board deems necessary and advisable.

D. The Association may improve the Common Area in any manner that it shall find to be necessary, desirable or beneficial to the interest of the Common Area and the Owners.

E. The Association shall have the right to create and establish reserves for the repair, restoration or replacement of the portion of the Common Area to be maintained by it hereunder and any improvements therein.

F. The Association, through the Board, shall have the right to adopt, and modify from time to time, such rules and regulations as it may deem advisable for the maintenance, use, conservation and beautification of the Property and for the health, comfort, safety, enjoyment and general welfare of the Owners and occupants of Lots and those using the Common Area.

G. The Association, through the Board, shall be empowered to determine the manner and extent of operating, maintaining, improving, restoring, mowing, trimming and keeping clean the Common Area to be maintained by it hereunder.

H. The Board shall have the authority to assess fines for any violation of the provisions contained in this Declaration. Prior to assessing any fine, the Board shall mail written notice to the last address known to the Board concerning the noncompliant Owner. If the noncompliant Owner fails to cure the violation within fifteen (15) days following the mailing of such notice by the Board or if there is a recurrence of the violation during that fifteen (15) day period, then in addition to any other liability or obligation arising under the Declaration, the Board may assess a fine against the noncompliant Owner and his or her Lot in an amount determined by the Board to be

appropriate in its discretion and until paid in full, the fine shall accrue interest at the rate of fifteen percent (15%) per annum, shall constitute a lien on the noncompliant Owner's Lot, and shall be subject to enforcement and foreclosure in the same manner as a special assessment as referenced in Article IV of this Declaration.

I. The Board shall have the right to employ on behalf of the Association third parties as security and/or enforcement personnel (which personnel shall have the right to determine whether violations of rules or regulations have occurred).

J. The Board shall have the obligation to enter into, renew or refinance, and perform the borrower's obligations under the amenity financing referred to in Section 9.1 below.

K. The Association, through the Board, may enforce violations of this Declaration. The decision to have the Association pursue enforcement action in any particular case shall be left to the Boards' discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or may be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interest, based upon hardship, expense, or other reasonable criteria to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

L. The Association shall engage a management company to manage the operations of the Association unless the Board determines that it cannot reach an economically advantageous contract with the management company or that no qualified management company is available.

6.2 Operations and Expenses. The Association shall establish such committees as may be provided for in its Bylaws, and the Board may engage accountants, legal counsel and other consultants as may be reasonably necessary for the discharge of its duties hereunder. So long as Developer is required to make subsidy payments pursuant to Section 4.14 hereof, the

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Board must obtain Developer's written consent prior to incurring any costs for such parties which are not included in the Approved Budget.

6.3 Repair and Restoration of Improvements on Common Area. Should any improvements on any portion of the Common Area, or any part or portion thereof, which is to be maintained by the Association hereunder, be damaged or destroyed by fire or other casualty or by intentional mischief, the Association shall be responsible for the cost and expense of repair and restoration, and, so long as there are sufficient insurance proceeds collected as a result of such damage or destruction, the same shall be done substantially in accordance with the original plans and specifications for the improvement of same. The repair and restoration work referred to in this Section shall be commenced promptly after the happening of the destruction or damage occasioning the same, and once commenced, the same shall be pursued diligently to completion. Notwithstanding the foregoing, in the event that any such improvements on the Common Area shall be damaged or destroyed through the intentional misconduct or negligence of an Owner, or such Owner's family members or invitees, including, but not limited to, failing to correct faulty drainage or improper use of weed killer, such Owner shall pay on demand the full cost of replacement or repair thereof.

6.4 Providing Grading Information to Owners. The Association shall designate a committee of Owners to meet with new Lot Owners for the purpose of informing them regarding grading and drainage matters concerning the Lots. Such educational process is vital in order to avoid water drainage problems within the Property. It is, however, the responsibility of the Owners and their contractors, not the Association, Board or their committees, to assure compliance with the grading and drainage plans.

6.5 Reconveyance of Common Area to Developer. Since the Developer will convey property to the Association as Common Area at no cost to the Association, the Association shall, upon Developer's written request, reconvey to Developer any portions of such Common Area which are unimproved by material building Structures, to the extent conveyed by Developer in error or required by Developer to make minor adjustments in property lines.

ARTICLE VII

EASEMENTS AND ACCESS CONTROL

7.1 Public Utility, Floodway and Drainage Easements Dedicated. Easements for the installation and maintenance of all public utilities and for floodway and drainage on Lots and in the Common Area are dedicated as shown on the recorded plat of the Property.

7.2 Some Easements Not Shown on Plat. Owners should not rely on the plat of the Property to determine the location of utility or other easements or rights-of-way. Such easements or rights-of-ways are often created by separate instruments not shown on the plat and are disclosed on each Owner's title insurance policy.

7.3 Easements in Favor of Developer and Association. Developer specifically reserves unto itself, its affiliated entities, designees, successors and assigns, and for the Association, and for the contractors and representatives of all of them, in connection with the

use, operation, construction of improvements and amenities, and maintenance of the portions of the Common Area to be maintained by it hereunder, together with arterial street rights-of-way, as provided herein and improvements thereon or therein, a perpetual, nonexclusive easement and right-of-way over the Lots and Common Area, and such street rights-of-way, for the purpose of inspecting, constructing, maintaining, mowing, repairing, replacing and rebuilding water sprinkler systems, including water lines and related equipment, water wells, sprinkler controls, and electric meters and lines, underground pipelines, drains and/or mains for the purpose of transporting gas, water, sewerage and electricity over, across and through such Lots and Common Area, together with the right to excavate and level ditches and/or trenches for the location of said wells, lines, pipes, drains and/or mains. Additionally, Developer specifically reserves unto itself, its successors and assigns, and for the Association, a perpetual, non-exclusive easement and right-of-way to enter upon any Lot as reasonably necessary in order to construct, install, erect, maintain, improve, repair and/or replace any entrance treatment, fence, wall, walkway, water sprinkler system (including water wells, sprinkler controls, and electric meters and lines associated therewith), or any signage pertaining to or serving the Common Area or the residential development within any wall, utility and/or drainage easement shown on the current or any future plat of the Property, or located on a Lot but, due to oversight, not actually located in the appropriate easement area. Developer may have installed a sign advertising the residential development on a Lot or within the Common Area prior to the sale of such Lot or transfer of the Common Area to the Association. Developer, its successors and assigns, hereby retain an easement for the placement, and replacement, of any such advertising sign until all Lots have been sold by Developer or its successors and assigns.

7.4 Easements of Encroachment. Developer grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than three feet (3'), as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the person claiming the benefit of such easement.

7.5 Inspection Easement. Developer grants to the Board, its members, and the employees, representatives and contractors thereof, and the Developer hereby retains for itself and its members, representatives and contractors, a perpetual easement over the Property as necessary to enable the Association to fulfill its responsibilities under this Declaration, including entry upon any Lot for emergency, security, and safety reasons, to perform maintenance, repairs and changes to any Lot or the improvements thereon which are not in compliance with this Declaration and to inspect for the purpose of ensuring compliance with and to enforce the Declaration, Articles, Bylaws and rules and regulations in effect from time to time. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

7.6 Easements to Additional Land. Developer hereby reserves for itself and its affiliates and designees, and its successors, assigns, and mortgagees, a perpetual, nonexclusive easement over the Common Area for the purposes of access, and development of additional land,

whether or not such land is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing any and all utilities to such other land. Developer or such affiliate, successor or assign shall restore any damage to the Common Area resulting from the use of such easement.

ARTICLE VIII

DESIGN COMMITTEES; ARCHITECTURAL CONTROL

8.1 Committees. Two Design Committees shall have the rights and responsibilities for the review, approval or disapproval of plans relating to the construction of Structures on each Lot. One committee shall be the New Construction DRC, which shall review, approve or disapprove all matters pertaining to the construction and completion of the initial residence and related Structures on each Lot. The second committee, the Association DRC, shall review, approve or disapprove all specifications, plans and other matters pertaining to fencing; drainage matters as referenced in Section 10.1 below and elsewhere; and (on a Lot by Lot basis) following completion of the initial residence and related Structures on a Lot, all specifications, plans and other matters for remodeling, re-roofing, additions, and the repainting of the initial residence and related Structures, including landscaping, and any additional new Structures to be constructed on such Lot.

8.2 Membership.

A. The original members of the New Construction DRC shall be up to three (3) persons, to be appointed by Developer. Upon the death or resignation of any member of the New Construction DRC, or in the event Developer desires to remove any member, Developer shall appoint a successor. The decision of a majority of the New Construction DRC shall be binding; provided, the New Construction DRC may delegate its rights and responsibilities hereunder to one or more of its members from time to time. Developer may relinquish its rights under this paragraph by executing and recording in the real estate records a written instrument giving notice of its intent to do so, and providing a copy thereof to an officer of the Association; in such event, the Association shall have the authority of Developer under this paragraph. The New Construction DRC may delegate its rights and responsibilities on a limited basis to the Association DRC from time to time without relinquishing its rights and powers hereunder beyond the terms of such limited delegation.

B. The original members of the Association DRC shall be up to three (3) persons, to be appointed by the Board following its establishment pursuant to Section 2.3 above. On the death or resignation of any member of the Association DRC, or in the event the Board desires to remove any member, the Board shall appoint a successor. The decision of the majority of the Association DRC shall be binding; provided the Association DRC may delegate its rights or responsibilities hereunder to one or more of its members from time to time.

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8.3 Construction Requirements. Unless approval is otherwise given in writing by the appropriate Design Committee, the following construction guidelines shall be complied with as to each Lot by the Owner(s) thereof:

A. *Roof and Window Frames.* As to all Lots, but subject to such waivers or modifications as are permitted by the New Construction DRC, the applicable construction requirements shall be as follows:

i. The roofing materials for all roofs on all building improvements on any Lot shall be composition shingles or such other roofing materials as are approved in writing by the New Construction DRC from time to time. No flat roof shall be permitted, except with the written permission of the New Construction DRC.

ii. Window frames shall be wood or vinyl or other composition materials as approved from time to time by the New Construction DRC.

B. *Lawn Area.* Front yard areas, exclusive of improvements, shall be at least eighty percent (80%) grass.

C. *Retaining Wall Materials.* In the event of the construction of any retaining walls the plan and materials utilized must be approved in writing by the appropriate Design Committee.

D. *Basketball.* All basketball backboards shall be either white or glass and shall be placed or installed only in the rear yard. All basketball backboards and supports shall be approved by the Association DRC prior to installation. *No recreation and play equipment, shall be placed or allowed to the front of the residence, whether on the driveway, street, or patio area or in the yard.*

E. *Vegetable Gardens.* All vegetable gardens in Lots shall be in the back yards only and may not utilize more than fifteen percent (15%) of the ground area in the back of the residence.

F. *Dog Runs.* No dog runs may be constructed on any Lot.

G. *Exterior Wood Surfaces.* All exterior wood surfaces on homes (excluding decking) must be painted, or stained and sealed.

H. *Coverings.* No temporary covering of a swimming pool, tennis court, patio, or otherwise, of a rigid or "bubble" type shall be permitted on a Lot without the approval of the applicable Design Committee. No tennis or similar court may be constructed on a Lot.

I. *Firewood Stacks.* All firewood stacks in excess of two cords of wood shall be screened from view from neighboring Lots and not located within the front of the

residence or rear yard building set back area, and no stack shall exceed five feet (5') in height.

J. *Yard Art.* All forms of sculpture or "yard art" must first be approved by the Association DRC.

K. *Trash.* Trash and refuse container storage areas shall be installed at a location approved by the appropriate Design Committee and shall be screened in a manner approved by the appropriate Design Committee.

L. *Prohibition of Sheds and Other Outbuildings.* No building improvements may be erected, constructed, placed or installed on a Metal Fence Lot, other than the residence and attached garage approved as required by this Declaration. The prior sentence shall prohibit, without limitation, the following: pool buildings, gazebos, any shed, storage facility, playhouse or other improvement which may obstruct the views from other Lots.

8.4 Approval Required of Plans and Specifications and Other Matters. Except as otherwise specifically provided in this Declaration, prior to construction of the initial residence and related Structures on a Lot, no Structure shall be commenced, placed, installed, erected or permitted to remain on such Lot unless plans and specifications, grading elevations, square footage, exterior materials, exterior lighting, location, general landscaping plans, and exterior color scheme, therefor shall have been submitted to and approved in writing by the New Construction DRC. **The initial residence constructed on a Lot shall contain not less than eight hundred and sixty square feet (860') of finished floor area, exclusive of the basement, porch and garage unless otherwise approved in writing by the New Construction DRC, in its discretion.** Subsequent to construction and completion of the initial residence and related Structures, no existing Structure upon any Lot may be remodeled, altered or added onto in any manner which changes the exterior appearance thereof (including, but not limited to, the exterior color scheme and lighting) or Lot drainage and grading plan, nor shall any new Structure be placed on such Lot, unless plans therefor shall have been submitted and approved in writing by the Association DRC. No approval shall be required to repair the exterior of any Structure in accordance with previously approved color scheme. The plans and specifications shall be in such form and shall contain such information as may be required by the applicable Design Committee, including, as requested by such committee, (i) a site plan of the Lot or Lots, showing the nature, exterior color scheme, kind, shape, size, height, materials and location with respect to the particular Lot or Lots (including proposed front, rear and side setbacks) of all Structures, the location thereof with reference to Structures on adjoining portions of the Property, and the number and location of all parking spaces and driveways on the Lot or Lots; (ii) a completed Lot Grading Plan and the City of Wichita, Kansas, Subdivision Lot Plan Certification, as referenced in Section 10.1 below, at the Owner's expense, in accordance with the then-current master drainage and grading plan for the Property; and (iii) a landscaping plan for the Lot, which landscaping plan shall comply with Section 5.16 hereof. Plans and specifications shall be deemed to be submitted to the applicable Design Committee at such time as the Owner requesting such approval shall deliver the same to a member of such committee and shall have obtained a written receipt from such member acknowledging receipt of the same. Except as

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Section 9.1 hereof, or for any defect in any Structure constructed from any approved plans and specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Developer, the Association, the Design Committees, the Board, or the officers, directors, members, employees, and agents of any of them to recover any of the aforesaid damages and hereby releases, quitclaims, and covenants not to sue for any claims, demands, and causes of action arising out of or in connection with any judgment, negligence, nonfeasance, performance, nonperformance, approval, disapproval or failure to approve and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

8.10 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the architectural guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Structure until the Structure is completed, in which case it may be unreasonable to require changes to the improvements involved, but the applicable Design Committee may refuse to approve similar proposals in the future. Approval of applications or plans for any Structure completed or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

8.11 Variances. The applicable Design Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; or (b) prevent the applicable Design Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

ARTICLE IX

NOTICE OF AMENITY FINANCING; SPECIAL ASSESSMENTS

9.1 Amenity Mortgage Financing. *Notice is hereby given that Developer and/or Association will obtain, and renew and refinance from time to time, a mortgage secured loan or loans in order to pay the cost of installing or constructing amenities, such as, but not limited to, improvements listed on Exhibit "A" hereto within the Common Area for the use and benefit of the Owners. After Developer and/or Association initially obtains such loan(s), the Association shall continue to renew such loan(s), or obtain a different loan(s). All or any portion of the Common Area shall be mortgaged from time to time to secure such loan(s), as required by the lender(s). Assessments or funds collected by the Association under Article IV hereof (including transfer fees), along with Developer's subsidies paid under Section 4.14 hereof, shall be utilized for repayment of the interest and principal arising from any such loan(s) in accordance with the terms of such financing. Upon obtaining such loan(s) (and the*

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renewal and refinancing thereof from time to time), neither the Developer nor the Association shall be required to give notice thereof to the members of the Association. The Association shall indemnify, defend and hold Developer, and its members, harmless from any proceedings, judgments, claims, liabilities, costs and expenses, including attorney's fees, arising out of any such loan or mortgage, and any guaranties thereof, including the failure to repay any amounts due thereunder, except to the extent the Developer fails to pay its subsidy obligations under Section 4.14 hereof.

9.2. Assessments. Notice is hereby given to each purchaser of a Lot that special assessments will be spread by the City of Wichita, Kansas, or other government bodies, to Lots in the future, due to the installation of arterial streets, lakes, ponds, sanitary and storm sewers, sidewalks, waterlines, other utilities, etc. Additionally, from time to time, the Lots may become subject to special assessments by reason of work performed by the City of Wichita, Kansas, or other government bodies, to major arterial streets in the vicinity of the Property. Special Assessments may extend for a period of fifteen (15) to twenty (20) years. Each Owner must independently obtain such information as such Owner desires or deems sufficient concerning the amount of special assessments which currently, and in the future will, affect such Owner's Lot.

ARTICLE X

DRAINAGE; OTHER WATER RELATED MATTERS

10.1 Drainage. Developer has caused its engineering firm to prepare a master drainage and grading plan for the Lots, which plan may be revised by such firm from time to time, and each Owner shall strictly comply with the same. No Owner shall place or install any Structures, including, but not limited to, trees, shrubbery, landscaping, sand boxes, gardens, retaining walls or playground equipment in any drainage easement or channel.

Prior to the commencement of construction of the initial residential improvements and/or landscaping on a Lot, the Owner shall hire the subdivision's engineering firm (currently Baughman Company, P.A. 316-262-7271) at its expense to prepare a Lot Grading Plan for the Lot in a manner similar to the Lot Grading Plan attached hereto as Exhibit "B." Each Owner shall comply with the specific drainage plan which is prepared by such firm. Promptly following the completion of construction of the initial residential improvements on such Lot, the Owner shall hire the same engineering firm to determine the grading of the Lot at that time and complete the City of Wichita, Kansas, Subdivision Lot Plan Certification form, which is also attached hereto as Exhibit "B-1." Upon request, the Owner shall provide a copy thereof to the Association. Each Owner shall provide a copy of the Lot Grading Plan and the City of Wichita, Kansas, Subdivision Lot Plan Certification pertaining to such Owner's Lot to any person installing a lawn, landscaping, fencing or other lawn improvements and require them to maintain the grade levels shown therein. Developer, and the Association, shall have no liability or responsibility to any Owner due to the failure of the builder which constructs the residence on the Lot (whether or not such builder is a participant in the Builder's Program for the development); adjoining property Owner(s); or the lawn, landscaping or fencing contractor to comply with the aforementioned grading and drainage requirements, or for any resulting affect on the Lot or

Owner's improvements, whether or not the appropriate Design Committee shall have approved any plans for such work.

The Association DRC or persons designated by the Association DRC (including the management company engaged by the Association) shall have the right to enter upon any Lot upon a minimum of five (5) days advance notice to the Owner thereof for the purpose of determining whether the Lot is in compliance with such drainage guidelines, standards and plans and the specific grading and drainage plan which each Owner is to have prepared by the subdivision's engineering firm (currently Baughman Company, P.A. 316-262-7271) as referred to above. A determination by the Association DRC concerning whether or not a Lot is in compliance with such guidelines, standards and plans, shall be final and binding on all Owners and; provided, so long as Developer owns a Lot, the Developer (due to the unique expertise of its owners, managers, and/or officers) shall have the right to override any decision of the Association DRC under this Section 10.1 upon the specific request of any Owner and, in the event Developer so overrides a specific decision of the Association DRC, any subsequent reference in this Section 10.1 to the Association DRC shall refer to the Developer in lieu of the Association DRC as to the specific decision in question. In the event at any time the Association DRC determines that a Lot is not in compliance with the aforesaid guidelines, standards and plans, the Association DRC shall give notice to the Owner thereof and demand that such corrective action be taken as is necessary to achieve compliance. If fifteen (15) days after the notice of such violation, or such additional time as may be specified by the Association DRC, the Owner of such Lot has not taken reasonable steps to correct the same, the Board on behalf of the Association DRC shall have the right, through its agents and contractors, to enter the Lot and to take such steps that may be necessary to bring the same into compliance. The Owner of the Lot so corrected shall reimburse the Association for the costs of such compliance and pay the Association a fee equal to twenty percent (20%) of such amount. In the event such Owner fails to pay such reimbursement in full within ten (10) days following demand thereof, the Board may thereafter establish a special assessment applicable to such Owner and his Lot for the costs thereof and enforce the same as provided in Article IV hereof. It is not the Developer's or the Associations' responsibility or obligation to enforce compliance with the master drainage and grading plans. The Association, appropriate Design Committees and the Developer shall have no liability or responsibility to any builder, Owner or other party for the failure of a builder or Owner to final grade or maintain any Lot in accordance with the master drainage and grading plan or any approved lot drainage and grading plan or for the Association, the appropriate Design Committee or the Developer not requiring a lot drainage and grading plan or compliance therewith or for the quality or compaction of any soil. The rights of the appropriate Design Committees, the Board and the Association hereunder are cumulative and in addition to any right and remedies otherwise available at law or equity.

If, within one hundred and eighty (180) days following the initial construction and occupancy of a residence on a Lot purchased from Developer, the Owner completes the installation of landscaping on such Lot in compliance with this Declaration, has met with the Association DRC and obtained its approval for the full compliance with all drainage requirements contained in this Declaration, then the Association shall refund to Owner Fifty

Dollars (\$50,000) out of the initial payment paid by such Owner to the Association under Section 4.2(B) above.

10.2 Water Encroachment; Flood Insurance. Notice is hereby given to anyone acquiring a Lot that due to the grading and drainage of such Lot (which is necessary to enhance the views from residences, particularly those with "walk-out" or "view-out" basements) at times following considerable amounts of rainfall, water may encroach into the yard areas within such Lot. Water may accumulate in areas of the Lot which has been graded at lower elevations to provide drainage, or if the Lot is adjacent to a lake, stream or other waterway, water from such areas may spill over into the Lot as a result of such rainfall. Depending upon how much water accumulates on the Lot and how long it remains, damage could occur to the residence, yard, trees, vegetation, fences, gazebos, patios, playground equipment or other improvements or installations of Structures. Some Lots may have previously been located in a designated flood plain, in which situations the Developer, or another party, has caused the same to be removed from the flood plain by increasing the elevation thereof with fill as required by the City of Wichita, Kansas, Sedgwick County, the Kansas Department of Water Resources, the Federal Emergency Management Agency and any other agency having jurisdiction thereof. Prior to construction of a residence or other structures on any such Lot, the Owner thereof is encouraged to verify, through its contractor, compliance with the requirements of such City and the other applicable agencies, consider inherent risks and determine whether to obtain and maintain flood insurance. Neither Developer nor the Association, building contractor or brokers involved in the development of the residential area, sale of the Lot, or construction of a residence on a Lot shall have any liability or responsibility for any such damage resulting from such water encroachment.

10.3 Water For Irrigation. Developer may drill a well or wells for water to irrigate the Common Area. If Developer is unsuccessful in obtaining appropriate permits or authorizations for such well(s) or the same terminate for any reason; is unable to complete a satisfactory well or wells; or if the well or wells cease to produce sufficient water, then water from the City in which the Property is located may be used for such irrigation, at a higher cost.

10.4 Erosion; Water Pollution Control Permit and Related Matters; Compliance With Laws. Each Owner shall comply strictly with any law or ordinance regarding erosion or runoff, including, if applicable, a Stormwater Pollution Prevention Ordinance, the Kansas Water Pollution Control General Permit And Authorization To Discharge Stormwater Run-Off From Construction Activities Under the National Pollutant Discharge Elimination System or similar ordinance or law adopted by the city or other governing body having jurisdiction over the Property. Such permit, laws, and regulations, together with laws and ordinances of the city and county in which the Property is located, require that erosion and sediment control measures be implemented in connection with construction activities on such Lot, including, but not limited to, site work such as clearing, excavating, and grading the Lot in order to eliminate or substantially reduce stormwater discharge, the discharge of pollutants and water quality violations. Significant penalties may be imposed in the event activities on any Lot are not conducted in full compliance with the aforementioned permit, laws, regulations and ordinances. Each Owner agrees to conduct activities, including construction activities, on his or her Lot strictly in accordance with this Declaration, all laws, rules, regulations, and ordinances now or hereafter in effect, including,

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stating an intention to so annex and describing such additional property to be so annexed. From and after the expiration of such twenty (20) year period, such additional land may be annexed; provided that such annexation is approved by a majority vote of the Owners in attendance at a special or annual meeting of the Association.

During the twenty (20) year period referenced above, Developer reserves the right to amend this Declaration (which right of amendment shall be in addition to and not limited by Section 14.10 below) for the purpose of withdrawing and removing from the coverage of this Declaration any portion of the Property which has not yet been improved with building Structures. Such amendment shall not require the consent of the Association or any Owner other than the Owner(s) of the land to be withdrawn and removed, if not the Developer. If the withdrawn land is Common Area, the Association shall promptly take whatever action is necessary to convey such land to Developer, free from any rights, easements or encumbrances which are not in existence at the time of the conveyance of such land by Developer to the Association.

ARTICLE XIII

ENFORCEMENT AND ARBITRATION

The covenants set forth herein shall run with the land and bind each Owner, its successors and assigns, and all parties claiming by, through or under each Owner, and shall be taken to hold, agree and covenant by the Owner of each Lot, its successors and assigns, to conform and observe this Declaration and each and every term and condition hereof (but no restrictions herein set forth shall be personally binding upon any corporation, person or persons, except in respect to breaches committed during the term of its, his or their ownership of a Lot).

The Developer, the Owner or Owners of any of the Property and the Association shall have the right to seek enforcement of and/or to prevent the breach of the terms and conditions set forth herein and any rules or regulations established as permitted herein. Any action relating to any rights and obligations arising under, or in connection with, (a) this Declaration, any rules adopted by the Board from time-to-time, including, but not limited to, an action to seek enforcement of and/or to prevent the breach of any of the covenants and restrictions contained herein, (b) pertaining to a Lot, or all or any portion of the Common Area, or the condition thereof, and (c) any claim asserted by the Association, an Owner or Owners, former Owner(s), and contract purchasers, against Developer for any reason and/or any real estate broker, agent or sales person participating in the sale of a Lot, shall be resolved solely and exclusively by arbitration in accordance with the Kansas Uniform Arbitration Act (the "Act"), as modified from time to time, in accordance with the procedure set out below. However, the provisions of this Article XIII shall not either prevent a party from obtaining a temporary injunction (whether prohibitive or mandatory) from a court of general jurisdiction pending designation of the arbitrators, from foreclosure or enforcement of any liens established pursuant to this Declaration or from enforcement of any order or decision of the arbitrators as provided herein. After the arbitrators have been selected and accepted such appointment, any temporary injunction order by the court of general jurisdiction shall be dissolved, and the arbitrators shall have exclusive power to resolve the subject matter of such injunction. The arbitration procedure is as follows:

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A. Any of the aforementioned parties may request arbitration of any matter in dispute. The party requesting arbitration shall do so by giving written notice to the other party/parties, specifying in the notice the name and address of the person designated to act as arbitrator on the first party's behalf. Within ten (10) days after the service of this notice, the other party/parties shall give notice to the first party, specifying the name and address of the person designated to act as arbitrator on the second party's/parties' behalf. If the second party/parties fails to notify the first party of the appointment of such party's arbitrator within the time specified, then the first arbitrator appointed shall appoint the second arbitrator. The two arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed and the two arbitrators shall together appoint a third arbitrator. If the two arbitrators are unable to agree upon that appointment within twenty (20) days after the appointment of the second arbitrator, then the parties to such dispute may apply, upon notice to the other party, to the Kansas District Court located in the County in which the Property is located for the appointment of the third arbitrator. In rendering their award, the arbitrators shall have no power to modify any of the covenants, conditions and restrictions contained herein.

B. The arbitrators so selected must be at least thirty-five (35) years old; may not be an Owner or occupant of a Lot; and shall have a minimum of five (5) years of experience in the residential real estate business, as either a sales agent, a residential developer or home builder.

C. The arbitrators may grant any remedy or relief the arbitrators deem just and equitable (including the granting of temporary or permanent injunction, whether prohibitive or mandatory) and within the scope of the agreement of the parties. The arbitrators shall specifically have the power to order equitable relief, including, but not limited to, injunctions or specific performance. The award resulting from any arbitration hereunder shall be final and binding on the parties and judgment may be entered on the award and shall be enforced in accordance with the laws of the State of Kansas. If as part of any award any party is ordered to pay another party money, the amount to be so paid shall accrue interest at the rate of fifteen percent (15%) per annum from fifteen (15) days following the date of the award until the same is paid in full.

D. The losing party in any such arbitration proceeding, as determined by the arbitrators, shall pay the prevailing party's costs and expenses of such arbitration, including, without limitation, reasonable attorneys' fees and costs. If no party is determined to have prevailed in such arbitration proceeding, then each party shall pay the fees and expenses of the original arbitrator appointed by that party; the fees and expenses of the other arbitrator and all other expenses of the arbitration shall be borne equally by the parties, and each party shall bear the expense of his own counsel, experts, and preparation and presentation of proof and the costs and expenses related thereto.

ARTICLE XIV

MISCELLANEOUS

14.1 Provisions Binding on Grantees. The Association and each grantee hereafter of any part or portion of the Property covered by this Declaration, and any purchaser under any grant, contract of sale or lease covering any part or portion of such Property, accepts the same subject to all of the restrictions, liens and charges and the jurisdiction rights and powers of the Association and Developer provided for in this Declaration.

14.2 Interpretations of Restrictions; Time of Essence. In interpreting and applying the provisions of this Declaration, they shall be held to be minimum requirements adopted for the promotion of the health, safety, comfort, convenience and general welfare of the Owners. It is not the intent of this Declaration to interfere with any provisions of any law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the construction, use or occupancy of buildings or premises; nor is it the intention of this Declaration to interfere with or abrogate or annul easements, covenants or other agreements between parties; provided, however, that where this Declaration imposes a greater restriction upon the construction, use or occupancy of any residence site or upon the construction of buildings or Structures, or in connection with any other matters that are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, or by such covenants, easements and agreements, then, in that case, the provisions of this Declaration shall control. Time is the essence of the performance of the obligations by Owners (other than the Developer).

14.3 Construction and Validity of Restrictions. All of the restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together, but if it shall at any time be held that any one or more of such restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, are invalid or for any reason become unenforceable, no other restriction, condition, covenant, reservation, lien or charge, or any part thereof, shall be affected or impaired.

14.4 Assignment of Powers. Any and all rights and powers of Developer provided for in this Declaration and any modification or amendment hereof may be delegated, transferred, assigned, conveyed or released by Developer to any third party and/or to the Association. The Developer's assignee shall accept the same upon the recording of a notice thereof, and the same shall be effective for the period and to the extent stated therein. Upon the effective date of such assignment, the assigning party shall be released of any and all liabilities of whatever nature arising out of acts or omissions subsequent to the effective date of the assignment.

14.5 Non-Waiver and Exceptions. The failure by the Association, Developer, any Owner or any other person to enforce any of the restrictions, conditions, covenants, reservations, liens or charges to which the Property or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, reservation, lien or charge.

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14.6 Titles. All titles used in this Declaration are intended solely for convenience of reference, and the same shall not affect that which is set forth in the terms and conditions of this Declaration nor the meaning thereof.

14.7 Singular and Plural, Masculine and Feminine. The singular shall include the plural and the plural the singular, unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter, as the context requires.

14.8 Successors-in-Interest. Reference herein to either the Association or Developer shall include its respective successor, and each such successor shall succeed to the rights, powers and authority hereunder of its predecessor, whether by appointment or otherwise.

14.9 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, Developer, and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date hereof, after which time the covenants, conditions and restrictions hereof shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by Owners of not less than seventy-five percent (75%) of the Lots, has been recorded, agreeing to abolish or change these covenants, conditions and restrictions, in whole or in part.

14.10 Amendments. Amendments, including restatements, waivers, modifications, deletions, alterations, removals, changes and additions hereto, to this Declaration (collectively called an "amendment") may be made by Developer, or its successors and assigns, in its sole discretion, from time to time, so long as Developer (or its successors and assigns) retains ownership of a sufficient number of Lots so that the number of votes attributable to Developer's Lots under Section 2.2 of this Declaration constitutes a majority of the total authorized number of votes attributable to all Lots within the Property pursuant to such Section 2.2. Following the date Developer, or its successors and assigns, no longer has the right to unilaterally amend this Declaration as provided above, any provision contained in this Declaration may be amended, restated, repealed, or additional provisions added to this Declaration, as follows:

A. Notice. Notice of the subject matter of the proposed amendment shall be included in a notice to the Owners of a meeting of the Association, at which the proposed amendment shall be considered.

B. Resolution. A resolution adopting a proposed amendment may be proposed by the Board or Developer. Unless otherwise specified in this Declaration, any proposed amendment must be approved by the Owners casting not less than two-thirds (2/3) of the aggregate number of votes cast by the Owners present at such meeting. Such votes may be cast in person or by proxy as provided for herein and in the Bylaws of the Association.

A copy of each amendment provided for in this Section shall be filed of record in the Register of Deeds for the County in which the Property is located. With respect to amendments,

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following the date the Developer, or its successors and assigns, no longer has the unilateral right to amend this Declaration, the Secretary of the Association shall file a certificate along with such amendment, certifying that the meeting at which the vote was taken was either the annual meeting of the Association or a special meeting of the Association, duly called in accordance with the Bylaws of the Association, and that the proper number of votes approving the amendment was obtained. Such certificate will be filed as part of or with such amendment.

Notwithstanding the foregoing, so long as Developer, or any assignee thereof, owns one (1) Lot, any such amendment (including, but not limited to, those modifying any "Construction Requirements" contained in Section 8.3 above) shall require the prior written consent of Developer in order to be effective.

14.11 Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any mortgage made in good faith and for value, but all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure sale or deed in lieu thereof.

14.12 Exclusion of Applicability. The Developer and its assigns shall have the power at any time to waive any or all of the restrictions or covenants contained herein as to the Lots which are unimproved and under its ownership or the ownership of its assigns or licensed residential construction contractors at the time of such waiver. The Developer specifically reserves the right to carry on its business in the Property, so long as it owns a Lot, including, but not limited to, maintaining sales offices, model homes, business offices and other facilities necessarily convenient for the business of Developer.

14.13 Subdivision Disclosure And Purchaser Acknowledgment. Developer has prepared a Subdivision Disclosure And Purchaser Acknowledgment Concerning Meadowlake Beach ("Disclosure"), which discloses important information concerning the Property. The Disclosure is subject to change from time to time by the Developer or the Association. **At the time any Owner transfers legal title to a Lot, such Owner shall, as part of the transaction, cause its transferee to execute the Disclosure and return the same to the Developer or the Association.**

14.14 Information Concerning Zoning and Land Use; Opposition to Zoning and Other Matters. Developer does not have any responsibility to advise the Owners or the Association concerning any actual or proposed zoning or other land use proceedings relating to any real property located within or outside of the Property. The Board, any member thereof and the Owners shall not express any opinion on behalf of the Board or the Association pertaining to any applications or requests concerning rezoning, community unit plan approval or amendment, variances, or other land use activity relating to any land in the vicinity of the Property. This prohibition is necessary due to the fact that not all Board members or Owners will have the same opinions concerning the applicable request or application. Nothing herein is intended to restrict any Owner or member of the Board from expressing his or her personal opinions without indication that such opinions represent the opinion of the Association or the Board. Information concerning the zoning status and land use alternatives applicable to the Property and any other

real estate in the vicinity of the Property may be obtained from the Metropolitan Area Planning Department in Wichita, Kansas, at (316) 268-4421. Each Owner must independently obtain any and all information such Owner desires regarding such zoning and potential land use alternatives, including development of commercial, office, apartment or other multifamily uses within the Property or the vicinity thereof.

14.15 Limitation on Liability.

A. Notwithstanding anything to the contrary contained herein, it is expressly agreed that neither the Developer (including without limitation any assignee of the interest of Developer hereunder) nor any member in Developer (or any assignee) or any officer, employee, or consultant of Developer shall have any personal liability to the Association or any Owner or other person or entity, arising under, in connection with, or resulting from (including, without limitation) any action or failure to act with respect to this Declaration, the Articles or Bylaws, the rules of the Association, the design guidelines of the applicable Design Committee, or for any action taken, or not taken, pursuant to authority granted Developer, thereunder or with respect thereto. To the fullest extent permitted by law, neither the Developer, its members, the Association, the officers, employees, consultants or directors thereof or any Design Committee member, nor any other members of committees of the Association, shall be liable to the Association or any Owner or other person or entity for damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval or plans and specifications (whether or not defective), course of action, inaction, omission, negligence or the like made in good faith and which the Developer or the Association, any member, director, officer, consultant or employee thereof, or member of any such committee is reasonably believed within the scope of his duties.

B. TO THE EXTENT ALLOWED BY LAW AND EQUITY, NEITHER THE DEVELOPER NOR THE ASSOCIATION SHALL HAVE ANY LIABILITY HEREUNDER TO ANY OWNER, FORMER OWNER OR PROSPECTIVE OWNER, LOT OCCUPANT, OR ANY LICENSEE OR INVITEE FOR CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES IN ANY EVENT.

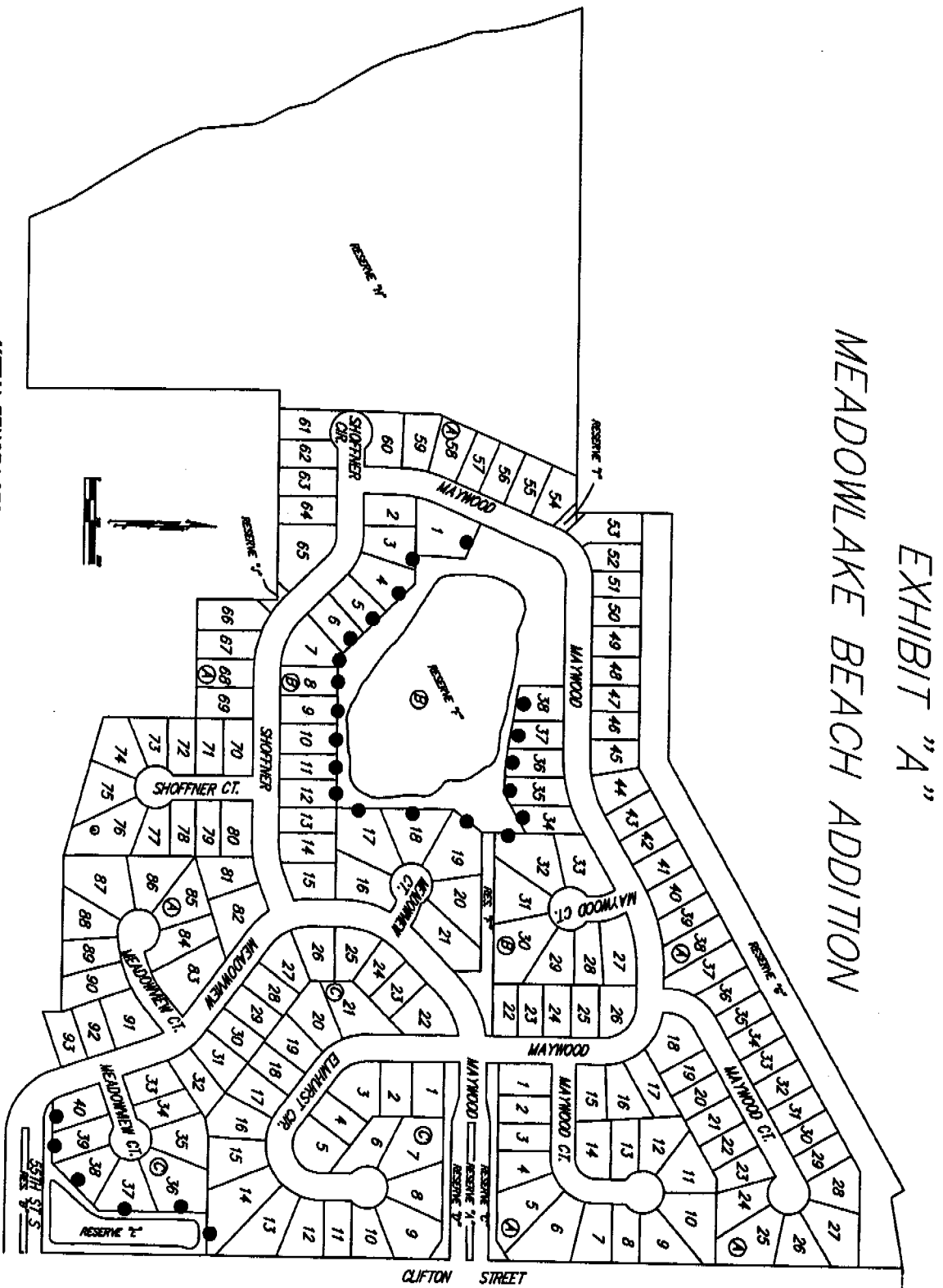
14.16 No Liability For Drafting. Developer has, using good faith, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by the Association or an Owner (or any other person or entity), Developer shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot or possession of a Structure, acknowledges that Developer shall have no such liability.

14.17 Perpetuities; Alienation. It is expressly provided that the rule of property known as the rule against perpetuities and the rule of property restricting unreasonable restraints against alienation shall not be applied to defeat any provisions of this Declaration.

[Signature page follows.]

EXHIBIT "A"

MEADOWLAKE BEACH ADDITION

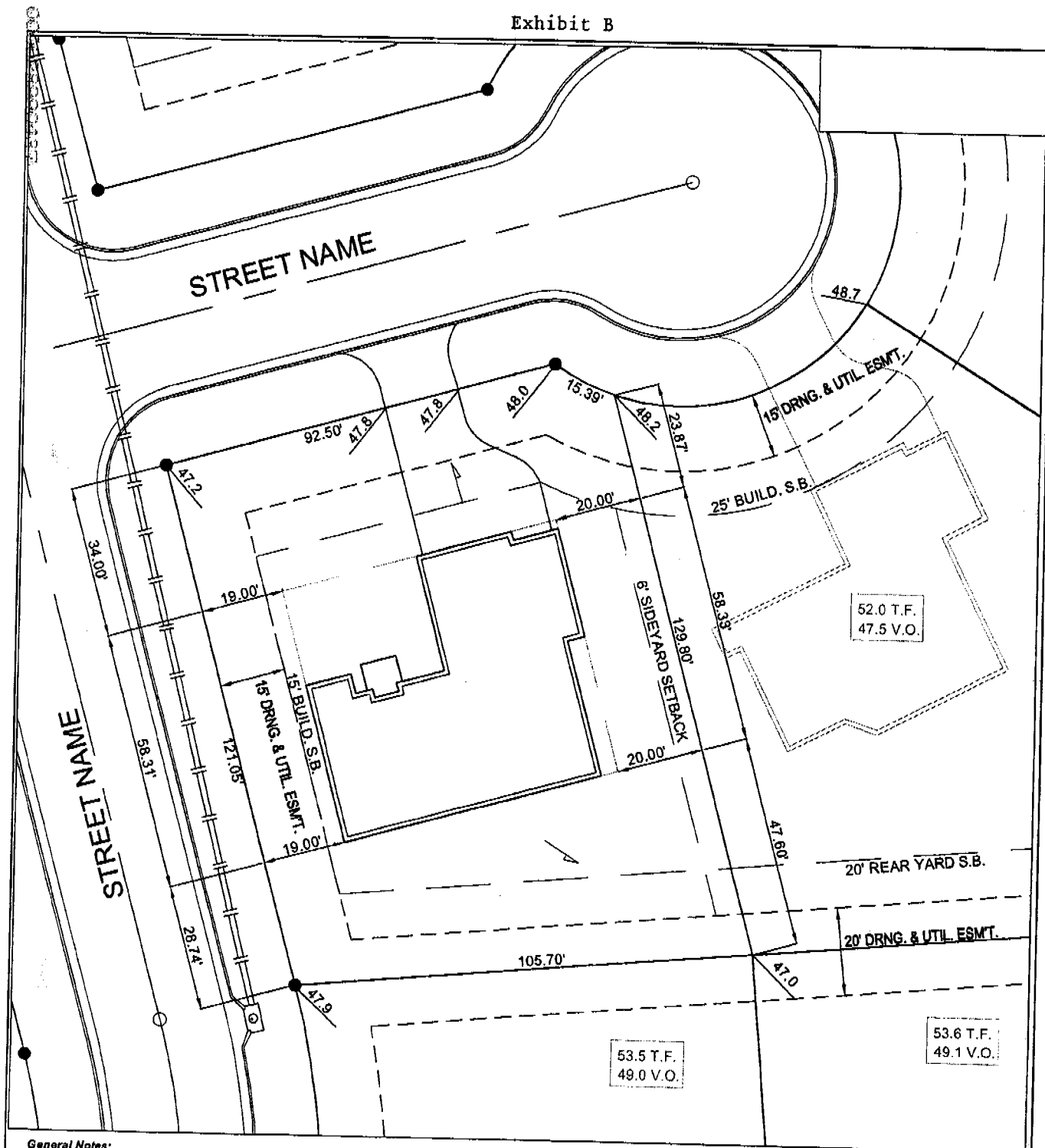


- METAL FENCE LOTS
- ALL MINIMUM SQUARE FOOTAGES FOR RESIDENTIAL CONSTRUCTION TO BE DETERMINED BY NEW CONSTRUCTION DESIGN REVIEW COMMITTEE (DRC)

Amenities of Meadowlake Beach Addition

- (1) Reserves A,B Shall contain a entry monument with signage, lighting, be seeded, irrigated and landscaped as per the discretion of the Developer.
- (2) Reserves C,D,E Shall be landscaped, irrigated and seeded as per the discretion of the Developer.
- (3) Reserves F,G,H,I,J Shall remain at its existing state and shall be maintained as needed.





General Notes:

1. Staking dimensions are shown for representation only.
2. This drawing does not represent a boundary survey or mortgage title inspection (MTI). Easements and setbacks shown have been taken from the recorded plat or other known sources. It shall be the Builder's responsibility to ensure that the final location of the house conforms to all applicable setbacks.
3. Any changes in elevations shown on this plan must be approved by the Developer or his Authorized Representative.
4. The Builder or their subcontractor(s) shall contact the Engineer immediately with any discrepancies.

Legend:

VO	View-Out	BF	Basement Floor
PVO	Partial View-Out	FL	Flow Line
WO	Walk-Out	FG	Finished Grade
TF	Top of Foundation	FA	Flow Arrow

LOT GRADING PLAN

Benchmark:

Location:
Lot __, Block __
Addition

Prepared For:
Builder

Phone: N/A Fax: N/A

File Location:

Drawn By:

Date Drawn:

Project Number:

Reviewed By:

Approved By:



1" = 30'

Baughman
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000028880437

CITY OF WICHITA, KANSAS
SUBDIVISION LOT GRADING PLAN CERTIFICATION
INDIVIDUAL LOT GRADING AND FOUNDATION ELEVATION COMPLIANCE

This Compliance Certificate must be completed and returned to the Office of Central Inspection (OCI), 7th Floor of City Hall, 455 N. Main Street, Wichita, Kansas 67202 upon completion of foundation wall installation and prior to completion of any required underground plumbing inspection(s) by OCI. Phone: (316) 268-4460 Fax: (316) 268-4663

NOTE: If street curbs and/or public utility easements have not been installed prior to the scheduling of an underground plumbing inspection, a compliance certificate for these items must be submitted to OCI before scheduling of a temporary or final certificate of occupancy inspection for the building.

Supporting documents or survey exhibits may be attached to this certificate.

Building Permit Number: _____

Address: _____

Legal Description: Lot(s): _____ Block: _____

Addition: _____

Lot Owner: _____

A "Professional Land Surveyor", "Professional Engineer", or "Professional Architect", licensed by the Kansas Board of Technical Professions to practice in the State of Kansas, shall complete the following certification.

I certify that the following elevations reflect the actual site grades as compared to the grades proposed by the City-approved detailed grading plan for the subdivision.

Certifier's Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Signature: _____ Title: _____

Date: _____ (SEAL)

