

by: *Jacque Roberts*

Date Recorded: 9/23/2024 12:14:50 PM

RTN:
City of Andover
1609 E Central
Andover, KS 67002



RESTRICTIVE COVENANT

THIS DECLARATION made this 2nd day of July, 2024, by Prairie Creek Homes, LLC, a Kansas limited liability company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

PRAIRIE CREEK ADDITION-SEVENTH PHASE

- Lots 1 through 2, Block A
- Lots 1 through 7, Block B
- Lots 1 through 8, Block C
- Lots 1 through 10, Block D
- Lots 1 through 12, Block E

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", and "C", Prairie Creek Addition-Seventh Phase, Andover, Butler County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Reserve "A" is hereby reserved for a public park and related facilities, parking, open space, gazebos, landscaping, sidewalks, drainage purposes, berms, pipelines as confined to easements, and utilities as confined to easements.

Reserves "B" is hereby reserved for open space, landscaping, drainage purposes, sidewalks/walking paths, utilities as confined to easements, and pipelines and related appurtenances as confined to easements.

Reserve "C" is hereby reserved for open space, landscaping, drainage purposes, and utilities as confined to easements.

Reserves "A", "B", and "C", shall be owned and maintained by the homeowners' association for the addition subject to the obligation to maintain the reserves in accordance with the General Provisions of the Prairie Creek PUD and City Code.

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2. That a Homeowners' Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes, at the Declarant's sole cost. Reserves "A", "B", and "C", as designated on the Final Planned Unit Development Plan for Prairie Creek Addition-Seventh Phase, shall be deeded to the Homeowners' Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Homeowners' Association being formed shall provide specific pertinent language requiring that the Homeowners' Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", and "C", Prairie Creek Addition-Seventh Phase, under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserve, as defined, for the purposes of maintaining such Reserve. This easement is conditioned upon the following event or events happening:

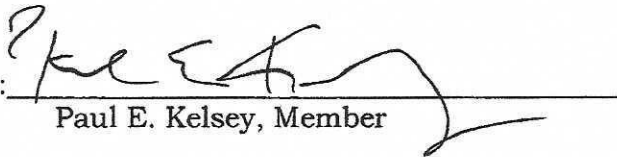
A. That the Declarant or the Homeowners' Association, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner; and,

B. That the appropriate governing body has given written notice to the Declarant or the Homeowners' Association and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Prairie Creek Addition-Seventh Phase, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots in Prairie Creek Addition-Seventh Phase, Andover, Butler County, Kansas.

EXECUTED the day and year first written.

Prairie Creek Homes, LLC

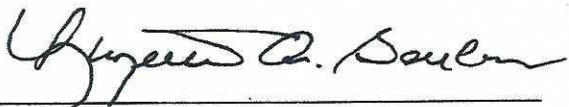
By: 
Paul E. Kelsey, Member

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

BE IT REMEMBERED that on this 2nd day of July, 2024, before me, the undersigned, a notary public in and for the County and State aforesaid, came Paul E. Kelsey, as Member of Prairie Creek Homes, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.




Notary Public

My Appointment Expires:

09/20/2026

RTN: City of Andover
(2) 1609 E. Central Ave.
Andover, KS 67002

BUTLER COUNTY, KS
REGISTER OF DEEDS
Jacque Roberts

Book: 2021 Page: 8200

Receipt #: 160543
Pages Recorded: 3

Total Fees: \$55.00

by: *Jacque Roberts*

Date Recorded: 7/29/2021 4:48:02 PM



RESTRICTIVE COVENANT

THIS DECLARATION made this 20th day of May, 2021, by Prairie Creek Homes, LLC, a Kansas limited liability company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

PRAIRIE CREEK ADDITION-SIXTH PHASE

Lots 1 through 17, Block A
Lots 1 through 28, Block B

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", "C", "D", "E", "F", "G", and "H", Prairie Creek Addition-Sixth Phase, Andover, Butler County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Reserve "A" is hereby reserved for open space, landscaping, drainage purposes, streets, berms, entry monuments, signage and utilities.

Reserves "B" and "C" are hereby reserved for open space, landscaping, drainage purposes, berms, entry monuments, signage, private screening/walls, and utility main lines and service lines shall be allowed to cross these reserves.

Reserve "D" is hereby reserved for open space, landscaping, drainage purposes, berms, private screening/walls, and utility main lines and service lines shall be allowed to cross this reserve.

Reserves "E" and "H" are hereby reserved for open space, landscaping, drainage purposes, sidewalks, utilities as confined to easements, and pipelines and related appurtenances as confined to easements.

Reserves "F" and "G" are hereby reserved for open space, landscaping, drainage purposes, berms, walking paths, lakes, and utilities as confined to easements.

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Reserves "A", "B", "C", "D", "E", "F", "G" and "H", shall be owned and maintained by the homeowners' association for the addition subject to the obligation to maintain the reserves in accordance with the General Provisions of the Prairie Creek PUD and City Code.

2. That a Homeowners' Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes, at the Declarant's sole cost. Reserves "A", "B", "C", "D", "E", "F", "G", and "H", as designated on the Final Planned Unit Development Plan for Prairie Creek Addition-Sixth Phase, shall be deeded to the Homeowners' Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Homeowners' Association being formed shall provide specific pertinent language requiring that the Homeowners' Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", "C", "D", "E", "F", "G", and "H", Prairie Creek Addition-Sixth Phase, under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserve, as defined, for the purposes of maintaining such Reserve. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Homeowners' Association, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner; and,

B. That the appropriate governing body has given written notice to the Declarant or the Homeowners' Association and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Prairie Creek Addition-Sixth Phase, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots in Prairie Creek Addition-Sixth Phase, Andover, Butler County, Kansas.

EXECUTED the day and year first written.

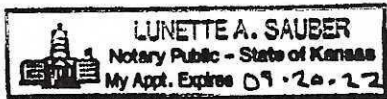
Prairie Creek Homes, LLC

By: *Paul E. Kelsey*
Paul E. Kelsey, Member

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

BE IT REMEMBERED that on this 20th day of May, 2021, before me, the undersigned, a notary public in and for the County and State aforesaid, came Paul E. Kelsey, as Member of Prairie Creek Homes, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Lunette A. Sauber
Notary Public

My Appointment Expires:

09-20-2022

Marcia McCoy

Book: 2020 Page: 10889

Receipt #: 152081
Pages Recorded: 3

Total Fees: \$55.00

Date Recorded: 11/12/2020 4:36:08 PM

RTN: T R McLemore Law Chtd.
550 N 159th E STE 106
Wichita, KS 67230



**2020 ANNEXATION OF ADDITIONAL LAND TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
PRAIRIE CREEK ADDITION
OF
ANDOVER, BUTLER COUNTY, KANSAS**

THIS 2020 ANNEXATION OF ADDITIONAL LAND TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PRAIRIE CREEK ADDITION ("2020 ANNEXATION") is made this 5th day of November, 2020 by Prairie Creek Homes LLC ("Declarant"), for itself, its successors, grantees and assigns *and runs with the land*.

WITNESSETH:

WHEREAS on the 29th day of July, 2011, Declarant executed that certain Declaration of Covenants, Conditions and Restrictions of Prairie Creek Addition ("Declaration") and caused the same to be recorded on the 5th day of August, 2011 in the office of the Butler County Register of Deeds in Book 2012, commencing on Page 9203*, covering the following described real property, to wit:

Prairie Creek Addition
Andover, Butler County, Kansas

The above described property, the "Property" and subsequent additions to the Property are encumbered by and subject to the Declaration.

**Initially the Addition name was incorrectly recorded as "Prairie Creek Homes Addition". The word "Homes" was removed by a subsequent refile of the Declaration.*

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WHEREAS on the 1st day of May, 2013, Declarant executed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Prairie Creek Addition of Andover, Butler County, Kansas ("First Amendment") and caused the same to be recorded on the 28th day of June, 2013 in the office of the Butler County Register of Deeds in Book 2013, commencing on Page 22801.

WHEREAS on the 19th day of September, 2018, Declarant executed that certain 2018 Annexation of Additional Land to Declaration of Covenants, Conditions and Restrictions for Prairie Creek Addition of Andover, Butler County, Kansas ("2018 Annexation") and caused the same to be recorded on the 26th day of September, 2018 in the office of the Butler County Register of Deeds in Book 2018, commencing on Page 7603.

NOW, THEREFORE, THE UNDERSIGNED, PRESIDENT AND MANAGING MEMBER OF PRAIRIE CREEK HOMES LLC, ON BEHALF OF THE RECORD OWNERS HEREBY SUBJECTS THE FOLLOWING LOTS TO THE DECLARATION AS FOLLOWS:

- **THE FOLLOWING LOTS SHALL BE SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PRAIRIE CREEK ADDITION OF ANDOVER, BUTLER COUNTY, KANSAS, AS AMENDED:**

Lots 1 through 11 inclusive, Block A
And Lots 1 through 6 inclusive, Block B
along with
Reserves A, B and C
Prairie Creek Addition – Fourth Phase
Andover, Butler County, Kansas

and

Lots 1 through 10 inclusive, Block A
And Lots 1 through 12 inclusive, Block B
along with
Reserves A, B and C
Prairie Creek Addition – Fifth Phase
Andover, Butler County, Kansas

- **THE FOLLOWING LOTS SHALL BE ADDED TO THE DEFINITION OF "LAKESIDE LOTS" IN ARTICLE I, SECTION 1.07 OF THE DECLARATION:**

Lots 3, 4 and 5, Block B
Prairie Creek Addition – Fourth Phase
Andover, Butler County, Kansas

and

Lots 2, 3, 4, 7, 8 and 9 Block B
Prairie Creek Addition – Fifth Phase
Andover, Butler County, Kansas

RTN: City of Andover
(2) P O Box 295
Andover, KS 67002



RESTRICTIVE COVENANT

THIS DECLARATION made this 3rd day of April, 2019, by Prairie Creek Homes, LLC, a Kansas limited liability company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

PRAIRIE CREEK ADDITION-FIFTH PHASE

Lots 1 through 10, Block A
Lots 1 through 12, Block B

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", and "C", Prairie Creek Addition-Fifth Phase, Andover, Butler County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Reserve "A" is hereby reserved for open space, landscaping, drainage purposes, berms, lakes, sidewalks, gazebos and utilities as confined to easements.

Reserve "B" is hereby reserved for open space, drainage purposes, utilities as confined to easement, and pipelines and related appurtenances as confined to easement.

Reserve "C" is hereby reserved for open space, landscaping, drainage purposes, berms and sidewalks.

Reserves "A", "B", and "C", shall be owned and maintained by the homeowners' association for the addition subject to the obligation to maintain the reserves in accordance with the General Provisions of the Prairie Creek PUD and City Code.

2. That a Homeowners' Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes, at the Declarant's sole cost. Reserves "A", "B", and "C", as designated on the Final Planned Unit Development Plan for Prairie Creek Addition-Fifth Phase, shall be deeded to the Homeowners' Association upon its incorporation or within 30 days thereafter.

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[Handwritten initials]

3. That the declaration of covenants and other provisions of the Homeowners' Association being formed shall provide specific pertinent language requiring that the Homeowners' Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", and "C", Prairie Creek Addition-Fifth Phase, under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserve, as defined, for the purposes of maintaining such Reserve. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Homeowners' Association, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner; and,

B. That the appropriate governing body has given written notice to the Declarant or the Homeowners' Association and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Prairie Creek Addition-Fifth Phase, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots in Prairie Creek Addition-Fifth Phase, Andover, Butler County, Kansas.

EXECUTED the day and year first written.

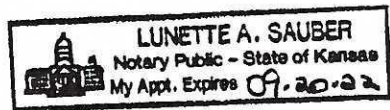
Prairie Creek Homes, LLC

By: Paul E. Kelsey
Paul E. Kelsey, Member

STATE OF KANSAS)
)ss:
COUNTY OF SEDGWICK)

BE IT REMEMBERED that on this 3rd day of April, 2019, before me, the undersigned, a notary public in and for the County and State aforesaid, came Paul E. Kelsey, as Member of Prairie Creek Homes, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Lunette A. Sauber
Notary Public

My Appointment Expires:

09-20-2022



RTN: TR McLemore Law
550 N 159th E Ste 106
Wichita, KS 67230

2018 ANNEXATION OF ADDITIONAL LAND TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
PRAIRIE CREEK ADDITION
OF
ANDOVER, BUTLER COUNTY, KANSAS

THIS 2018 ANNEXATION OF ADDITIONAL LAND TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PRAIRIE CREEK ADDITION ("2018 ANNEXATION") is made this 19th day of September, 2018 by Prairie Creek Homes LLC ("Declarant"), for itself, its successors, grantees and assigns **and runs with the land.**

WITNESSETH:

WHEREAS on the 29th day of July, 2011, Declarant executed that certain Declaration of Covenants, Conditions and Restrictions of Prairie Creek Addition ("Declaration") and caused the same to be recorded on the 5th day of August, 2011 in the office of the Butler County Register of Deeds in Book 2012, commencing on Page 9203*, covering the following described real property, to wit:

Prairie Creek Addition
Andover, Butler County, Kansas

The above described property, the "Property" and subsequent additions to the Property are encumbered by and subject to the Declaration.

**Initially the Addition name was incorrectly recorded as "Prairie Creek Homes Addition". The word "Homes" was removed by a subsequent refiling of the Declaration.*

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WHEREAS on the 1st day of May, 2013, Declarant executed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Prairie Creek Addition of Andover, Butler County, Kansas ("First Amendment") and caused the same to be recorded on the 28th day of June, 2013 in the office of the Butler County Register of Deeds in Book 2013, commencing on Page 22801.

NOW, THEREFORE, THE UNDERSIGNED, PRESIDENT AND MANAGING MEMBER OF PRAIRIE CREEK HOMES LLC, ON BEHALF OF THE RECORD OWNERS HEREBY SUBJECTS THE FOLLOWING LOTS TO THE DECLARATION AS FOLLOWS:

- **THE FOLLOWING LOTS SHALL BE SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PRAIRIE CREEK ADDITION OF ANDOVER, BUTLER COUNTY, KANSAS, AS AMENDED:**

Lots 1 through 13 inclusive, Block A
And Lots 1 through 22 inclusive, Block B
Prairie Creek Addition – Third Phase
Andover, Butler County, Kansas

and

- **THE FOLLOWING LOTS SHALL BE ADDED TO THE DEFINITION OF "LAKESIDE LOTS" IN ARTICLE I, SECTION 1.07 OF THE DECLARATION:**

Lots 4, 5, 7, 8, 9, 10, 12 and 13, Block A
Prairie Creek Addition – Third Phase
Andover, Butler County, Kansas

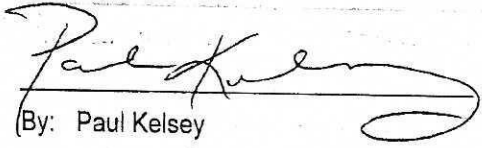
The undersigned hereby certifies that this 2018 ANNEXATION has been executed in accordance with Declarant's right, as Developer, to subject its Lots to the Declaration and is in effect and valid pursuant to all terms and provisions of the Declaration.

If any restriction, condition, covenant or reservation contained in this 2018 ANNEXATION shall at any time be held invalid or for any reason becomes unenforceable, no other restriction, condition, covenant, reservation or any part thereof, shall be affected or impaired. The failure of Declarant, its successors in interest, any Board of Directors of the Prairie Creek Addition homeowners association or of any Owner to enforce any of the restrictions, conditions, covenants 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 or reservation.

*** Signature Page Follows ***

Except as herein expressly amended, the Declaration (as refiled) and First Amendment are hereby ratified and confirmed. This 2018 Annexation shall be effective as of the date of recording.

Prairie Creek Homes LLC



By: Paul Kelsey

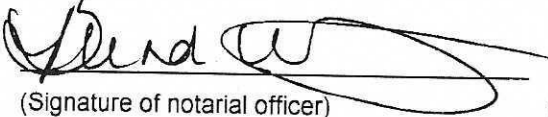
President and Managing Member, Prairie Creek Homes LLC

STATE OF KANSAS)

) ss:

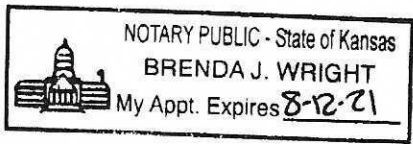
SEDGWICK COUNTY)

This instrument was acknowledged before me on September 19, 2018 by Paul Kelsey as President and Managing Member of Prairie Creek Homes LLC.



(Signature of notarial officer)

My appointment expires: 8-12-21





FIRST AMENDMENT TO
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PRAIRIE CREEK ADDITION
OF
ANDOVER, BUTLER COUNTY, KANSAS

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Amendment") is made this 1st day of May, 2013, by Prairie Creek Homes, L.L.C., ("Declarant") for itself, its successors, grantees and assigns.

WITNESSETH:

WHEREAS on the 29th day of July, 2011, Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions of Prairie Creek Addition ("Declaration") and caused the same to be recorded on the 5th day of August, 2011 in the office of the Butler County Register of Deeds, in Book 2012, commencing on Page 9203 and corrected and re-recorded on the 20th day of December, 2012 in the office of the Butler County Register of Deeds, in Book 2013, commencing on Page 15965 covering the following described real property, to wit:

PRAIRIE CREEK ADDITION
An Addition to Andover,
Butler County, Kansas,

The above described property being hereinafter referred to as the "Property" and subsequent additions to the Property are encumbered by and subject to the Declaration and this Amendment.

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[Handwritten initials and marks]

RTN: T R McLemore Law Office
105 S Broadway, Ste 460
Wichita, KS 67202

BUTLER COUNTY, KS
REGISTER OF DEEDS
Marcia McCoy
Book: 2012 Page: 9203
Receipt #: 72972 Total Fees: \$84.00
Pages Recorded: 20
Date Recorded: 8/5/2011 11:14:37 AM



**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF PRAIRIE CREEK HOMES ADDITION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PRAIRIE CREEK HOMES ADDITION ("Declaration") is made this 29 day of July, 2011, by Prairie Creek Homes, L.L.C. (hereinafter referred to as "Declarant"), a Kansas limited liability company, for itself and its successors, grantees and assigns.

WITNESSETH:

WHEREAS, Declarant is the owner of the following described real property, to wit:

PRAIRIE CREEK HOMES ADDITION
An Addition to Andover,
Butler County, Kansas

Such real property being hereinafter referred to as the "Property" or the "Land";
and

WHEREAS, Declarant deems it desirable to impose a general plan for the improvement and development of the Property and to adopt and establish covenants, conditions and restrictions upon the Property and each and every Lot and portion thereof, and upon the use, occupancy and enjoyment of the Property, all for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property; and

WHEREAS, The Prairie Creek Homes Homeowners' Association, Inc., a non-profit association formed hereby (the "Association"), will be incorporated under the laws of the State of Kansas for the purpose of exercising the powers and obligations of the Association set forth herein.

NOW, THEREFORE, Declarant does hereby subject all of Prairie Creek Homes Addition to the covenants, conditions, restrictions, assessments and limitations set forth and contained in this Declaration, and Declarant hereby specifies and declares that this Declaration shall constitute covenants running with

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the Land and shall be binding on Declarant, its successors, grantees and assigns, and on all current and subsequent owners of all or any part of The Prairie Creek Homes Property, together with their respective grantees, heirs, executors, administrators, devisees, mortgagees, successors or assigns. This Declaration shall cover the following real property commonly known as the "Prairie Creek Homes", as amended, currently described to wit:

Lots 1 through 13, Block A;
Lots 1 through 21, Block B;
Lots 1 through 15, Block C;
Lots 1 through 51, Block D;
Lot 1, Block E*; and
Reserves A, B, C, D, E, F, G and H
All in the Prairie Creek Homes Addition
An Addition to Andover,
Butler County, Kansas

*Ref Note on Plat re Butler County District Court Case No 07 CV 47.

ARTICLE I DEFINITION OF TERMS

The terms used in this Declaration are defined as follows:

1.01. "Association" shall mean and refer to Prairie Creek Homes Homeowners' Association, Inc. a non-profit association, to be incorporated under the laws of the State of Kansas, its successors and assigns.

1.02. "Building Site" shall mean any Lot or two or more contiguous Lots owned by a common Owner. An Owner may own a fraction of one Lot only if said fractional Lot is contiguous to one or more full Lots owned by a common Owner. All such contiguous Lots and fractional Lots owned by a common Owner shall be considered one building site.

1.03. "Common Area" shall mean any portion of the Property and all Improvements or Structures located thereon designated by the Developer or the Association for the common use and enjoyment of the Owners, specifically including all areas designated as Reserve areas on the recorded plat for the Property or any plat recorded in connection with any property added by Developer in the manner hereinafter provided. The Common Areas, once conveyed by Developer, shall be owned by the Association.

1.04. "Developer" shall mean and refer to Prairie Creek Homes, L.L.C., its successors and assigns.

1.05. "Declaration" shall mean the covenants, conditions, restrictions, assessments and limitations set forth and contained in this instrument and all attachments and amendments thereto.

- 1.06. "Development" shall mean Prairie Creek Homes Property.
- 1.07. "Lakeside Lots" shall mean Lots 6 through 26, 36, 37, 38, 45, 46 and 47 of Block D.
- 1.08. "Lot" shall mean and refer to each Lot as platted on the plat of Prairie Creek Homes Addition to Andover, Butler County, Kansas.
- 1.09. "Member" shall mean and refer to every person or entity that is the Owner of all or any portion of a Lot and thereby holds membership in the Association.
- 1.10. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or Lots, including contract sellers, but excluding persons or entities having an interest merely as security for the performance of an obligation.
- 1.11. "Property" or "Land" shall mean and refer to "Prairie Creek Homes" property (as set forth above) within the PRAIRIE CREEK HOMES ADDITION, an Addition to Andover, Butler County, Kansas, as well as any property added to the Development in the manner hereinafter provided.
- 1.12. "Structure" or "Improvement" shall mean and refer to any thing or device the placement of which upon any Lot or Building Site may affect the appearance of such Lot including, by way of illustration and not limitation, any building, garage, porch, shed, greenhouse, bathhouse, covered or uncovered patio, swimming pool, tennis court, basketball court/goal, clothes line, radio or television antenna, satellite dish, fence, arbor, trellis, pergola, gazebo, statuary, curbing, paving, wall, hedge, shrubbery, trees, signboard, or any temporary or permanent improvement to any Lot. The term "Structure" or "Improvement" shall also mean any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface water from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot, and any change in the grade of any Lot from that existing at the time of purchase of the Lot by each Owner.
- 1.13. "Single-Family Residential Dwelling" or "Residential Dwelling" shall mean a Structure or Improvement erected and maintained in conformance with this Declaration for private residential purposes and designed for occupancy by a single family. It shall not mean or refer to any apartment, flat, duplex or other multi-family dwelling even though intended for residential purposes.

ARTICLE II
MEMBERSHIP IN THE ASSOCIATION

2.01. The Owners of all the Property together with the Owners of any other property that may from time to time be added to the Development in the manner hereinafter provided, shall be Members of the Association.

2.02. At a time within the sole discretion of Developer, the Association will be incorporated under the laws of the State of Kansas as a corporation not for profit.

2.03. Membership in the Association shall be limited to the Developer or Owners of Property within the boundaries of the Development as it exists from time to time, as hereinafter set forth.

ARTICLE III DEVELOPER ACTING AS AND FOR ASSOCIATION

3.01. Until the Association is incorporated and thereafter until relinquished as set forth below, Developer shall have the right at its sole and exclusive option to perform the duties and assume the obligation of, levy and collect the assessments for, and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such powers or duties were hereby given directly to the Developer.

3.02. The Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the consent of the Developer and its relinquishment in writing of all or any portion of such rights or as otherwise provided in this Declaration.

3.03. The Developer may, by appropriate written instrument made expressly for that purpose, assign or convey to a third party or the Association any portion of or all of the rights, reservations and privileges reserved by it in this Article III and upon such assignment or conveyance being made, such third party or the Association shall exercise and assume such rights assigned in writing by the Developer.

ARTICLE IV VOTING RIGHTS

4.01. The Association shall have two (2) classes of voting membership, as follows:

Class A. Each Owner of a Lot in the Development (other than a Class B Member) shall be in a Class A Member of the Association. Each Class A Member shall be entitled to one vote for each Lot owned by him, her or it in fee simple title; provided, however, that until a Residential Dwelling is completed and occupied in good faith on a Lot, Developer shall be entitled to the vote of the Owner, and purchase of a Lot subject to this Declaration shall constitute the purchaser's proxy to Developer for the aforesaid purpose. When more than one person holds such interest in any Lot, all such persons shall be members and the vote for such Lot

shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Developer shall be a Class B member. The Developer shall have the right to appoint a majority of the governing body of the Association and shall have the right to approve and the power to veto any and all actions of the Association. Class B membership of the Developer shall continue until Developer and each Approved Builder own no Land in the Development (including Land added as set forth below) or until Developer relinquishes its Class B membership, whichever first occurs. For purposes of voting requirements herein, the Class B Member shall have twenty (20) votes for each Lot owned by it, in addition to the right to approve and the power to veto set forth above.

4.02. The voting rights of a Class A Member regarding issues of assessments and fees shall be suspended for any period during which any assessment described in this Declaration, including interest and fees, remains unpaid for that Class A Member.

(a) At any regular or special meeting of the Association, Members may cast their vote in person or by proxy.

(b) Except as provided in Articles IX and XV, issues presented by the Board of Directors to the Members for a vote, shall be ratified by an affirmative vote of a simple majority (51%) of the Members present in person or by proxy at a meeting specifically called for such purpose.

(c) Unless the context clearly indicates to the contrary, decisions by the Association described herein shall require approval of the requisite percentage of Class A and Class B votes combined and not separate requisite percentages of each Class.

4.03. Notwithstanding the foregoing, the provisions of this Article IV shall be subject and subordinate to the provisions of Article III herein.

ARTICLE V LAND ENTITLED TO BENEFITS

5.01. No Land shall be entitled to any of the benefits, improvements, or services provided by the Association unless the Owner thereof shall have subjected his, her, or its Land to the terms of the Declaration and to the assessments herein provided for.

5.02. For purposes hereof, accepting title to Land within the Development after the recording of this Declaration shall satisfy the foregoing requirements.

ARTICLE VI USE OF COMMON AREAS

6.01. The Owners of Land within the Development shall have the exclusive right of the use of all Common Areas within the Development as it from time to time exists.

6.02. The Association shall have the right and the power to charge reasonable fees for the use of any recreational facility located within a Common Area and to make reasonable rules and regulations which shall govern the use of the Common Areas and implement the terms of this Declaration as the context requires.

ARTICLE VII USE, OCCUPANCY AND CONDUCT RESTRICTIONS

7.01. Purpose. This Declaration is designed to insure the most appropriate development and improvement of the Property and each Lot therein, to protect the Owners of Lots against uses tending to depreciate or lower the value of the Property or any portion thereon; to prevent the erection of poorly designed or proportioned Structures or Improvements in the Property; to insure that all Structures and Improvements are built with proper and suitable materials; to encourage and insure the erection of attractive Residential Dwellings, maintain proper building setback from streets and adequate free spaces between Structures and Improvements; and generally to provide a high quality residential development on the Property.

7.02. Use of the Property; Compliance with Plat. No Structure or Improvement shall be erected, altered, placed or permitted to remain on any Building Site other than a Residential Dwelling designed for private use and occupancy, along with a private garage and other Structures or Improvements incidental to single-family residential use. No portion of the Property shall be used for other than residential use except sales and development activities by Developer and its successors, assigns, agents, employees, representatives and contractors. Each Structure and Improvement shall comply with the minimum front, back and side setback requirements and all other requirement shown on the recorded plat of the Property, or as otherwise specified by Developer and shall comply with the requirements of any applicable law, code, ordinance, rule or regulation.

7.03. Minimum Size of Dwellings. Each Residential Dwelling constructed upon a Building Site shall conform to the minimum square footage requirements, as are determined from time to time by the Developer and/or Architectural Control. These requirements shall be exclusive of garages, open porches, eaves, steps, and basements, except as otherwise approved by Developer.

7.04. Garage. Each Residential Dwelling shall include an attached garage suitable for two or more automobiles.

7.05. Building Sites. No Lot shall be divided into more than one Building Site, but two or more contiguous full Lots or at least one full Lot along with a contiguous fractional Lot may be used as one Building Site for one Residential Dwelling. No Lot shall be split, divided, subdivided for sale, resale, gift, transfer or otherwise, except by Developer or with Developer's prior written approval and all necessary governmental approval.

7.06. Landscaping. Upon completion of a Residential Dwelling on a Lot or as soon as practicable and appropriate thereafter, Owner shall;

(a) plant or sod a grass lawn on the entire Building Site excluding the areas on which approved Structures are constructed;

(b) plant a minimum of two (2) trees with a minimum caliper of two (2) inches at the time of planting, with at least one (1) of the trees planted on the street side of the Lot; and

(c) plant at least ten (10) perennial shrubs or bushes provided, however, no hedge, shrub, mass planting or tree shall be allowed by to obstruct site lines at any corner. Trees, shrubs and other plantings that die shall be promptly removed from the Lot by Owner. No tree shall be removed from any Lot without the prior written consent of Developer.

7.07. Drainage. Upon completion of any Residential Dwelling, Structure or Improvement on a Lot, Owner shall cause such Lot to be graded so as to strictly comply with drainage guidelines, standards and plans concerning water drainage from such Lot to other Lots and/or the Common Area as such guidelines, standards and plans are established by the City of Andover and/or Butler County.

7.08. Maintenance. Each Owner (other than Developer who shall have only the obligation to mow all unsold Lots owned by Developer) shall keep and maintain all Lots and all Improvements therein or thereon, in good order and repair including, by way of illustration and not by way of limitation, the seeding/sodding, watering and mowing of all lawns, the pruning and cutting of all trees, shrubbery and plantings, and the painting (or other appropriate external care) of all Structures and Improvements, all in a manner and with such frequency as is consistent with good property management in relation to the high quality residential neighborhood to be developed on the Property. Each Owner (other than Developer) shall landscape and maintain the public easements and rights-of-way abutting said Owner's Lot. Public easements and rights-of-way shall be landscaped with grass and trees only unless alternative landscape methods or materials are specifically approved by the Developer or the Architectural Control Committee.

7.09. Excavations. No excavations, except such as are necessary for the construction of a Residential Dwelling or Improvements, shall be permitted on any

Lot without the prior written consent of Developer or the Architectural Control Committee.

7.10. Prohibited Improvements and Uses. No trailer, trailer house, mobile home, modular home, used home, secondhand home or previously constructed building or outbuilding may be moved, placed, parked or used, upon the Property nor permitted to remain upon the Property. No garage, tent, shack, temporary structure, outbuilding or other Improvement, except a Residential Dwelling, may be used at any time for human habitation nor converted into apartments, rental or living quarters. No external antennas, satellite dishes (except digital satellite system discs not to exceed 30 inches in diameter which are permitted), permanent clothes lines, poles, towers or wires shall be erected or maintained on the Property. All utility and phone lines shall be underground.

7.11. Trash; Storage. No trash, ashes, dirt, sand, rock, brick, lumber or other construction material or refuse shall be thrown, dumped or maintained on any Lot or Building Site in the Property. All trash containers shall be stored out of sight except on days when trash pick up is scheduled. No machinery shall be placed or operated upon any Lot, except such machinery as is usual in the maintenance of a private residence or as is appropriate to and during construction of Improvements or Structures on the Property in accordance with this Declaration.

7.12. Animals. No livestock, chickens, fowl, insects, reptiles or other animal except the usual and ordinary number of family pets may be kept or maintained on the Property and no commercial or agricultural business enterprises, including breeding, involving the use of birds, animals, reptiles or insects may be conducted on the Property. The Association may, from time to time, publish and impose reasonable regulations regarding the type and number of animals that may be kept on the Property and the control of animal noise and odor. All animals shall be confined at all times within the Residential Dwelling or a fence or enclosure approved by the Architectural Control Committee unless such animal is upon a leash or other appropriate restraint and in the presence and control of the Owner.

7.13. Signs. No sign, advertisement, billboard or other advertising device of any nature may be erected, placed or maintained on any Lot in the Property without Developer's or the Architectural Control Committee's prior written consent; provided, however, Developer or its representatives, agents, employees and contractors may erect signs advertising Lots and Residential Dwellings in the Development for sale and promoting the Property during the development thereof.

7.14. Model Homes and Real Estate Offices. Notwithstanding any other provision herein to the contrary, any Lot, Building Site or Residential Dwelling owned by Developer or others so authorized by Developer may be used for a model home or for a real estate sales office.

7.15. Home Professions and Businesses. No retail, wholesale, manufacturing or repair business shall be conducted or permitted on any Lot or in any Residential Dwelling, Structure or Improvement erected thereon except as authorized in Section 7.14.

7.16. Approved Builder. All Residential Dwellings, Improvements and Structures constructed upon a Lot or Building Site shall be constructed by a contractor licensed by the City of Wichita or Andover and expressly approved in writing by Developer ("Approved Builder") prior to or at the time of approval of plans therefore by Developer.

7.17. Vehicles. No automobile, truck, motorcycle, boat, trailer of any type, camper, recreational vehicle or any other vehicle of any type or description ("Vehicle") may be stored or permanently, continually or regularly parked in or on any street or in the open on any Lot or driveway; provided, however, boats (other than pontoon boats which are specifically excluded) may be continually or regularly parked in an area enclosed by a fence located in the rear yard of at least six (6) feet in height which conceals such boat from the view of all other Lots and is constructed in accordance with the requirements of this Declaration. Vehicle repairs other than ordinary light maintenance are not permitted on the Property. For purposes of this paragraph 7.17 "stored, or permanently, continually or regularly parked" shall mean parking or storing a Vehicle on a Lot or street for more than forty-eight (48) continuous hours, or a consistent, cumulative presence of a Vehicle contrary to the intent of this restriction.

7.18. Pipes, Water Wells. No water wells shall be drilled or maintained nor shall any pipe, gas pipe, sewer pipe or drainage pipe be installed or maintained on any Lot above the surface of the ground, except hoses used for irrigation purposes. No portion of the Property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth, nor shall any other Structure or activity relating thereto be permitted or allowed to remain in or on any portion of the Property.

7.19. Fencing-General. No chain link or wire fences shall be permitted on the Property, except for use specifically for a dog run or kennel which shall be located in the rear yard and in the area enclosed by a fence which conceals such dog run or kennel from the view of all other Lots and which shall be constructed, placed and maintained in accordance with this Declaration, including approval by the Architectural Control Committee. All other fences and fencing shall be approved by Architectural Control Committee prior to installation on all Lots.

Any fence erected or maintained on any part of the Property (other than wrought iron fences on Lakeside Lots) shall be constructed, placed and maintained in accordance with this Declaration, including any rules, regulations and requirements established from time to time and at any time by the Architectural Control Committee, and: shall be at least four (4) inches above ground level along its entire length, except posts; shall be no less than six (6) feet

nor more than six and one-half (6-1/2) feet in height above ground level along its entire length; shall provided for adequate drainage under such fence along its entire length; and shall be constructed such that the rails and stringers shall be concealed by the pickets when viewing the fence from any other Lot, commonly known as a "good neighbor" fence.

7.20. Fencing-Lakeside Lots. Notwithstanding any other provisions herein to the contrary, only wrought iron fencing shall be allowed on any Lakeside Lot. Any dog run, kennel or like facility on a Lakeside Lot shall be constructed only of wrought iron. Wrought iron fencing, dog runs and the like shall be approved by the Architectural Control Committee before installation.

7.21. Roof Construction. Roofs shall be constructed with composition shingles, weathered wood or similar in color.

7.22. Storage Buildings. All storage buildings shall be constructed of a siding and roofing material similar in composition and quality to the siding and roofing material used on the home on the Lot. No plastic, metal, or concrete block storage buildings shall be erected or placed on any Lot without the prior written consent of the Association.

7.23. Use of Lakes. No motorized craft of any type shall be used or maintained on the lakes in the Property. Use of the lakes shall otherwise be controlled by rules and regulations adopted from time to time and at any time by the Developer or the Association.

7.24. Exterior Color Schemes. All initial exterior color schemes and all changes to existing color schemes shall be approved in advance by the Developer and/or the Architectural Control Committee. Pre-approved exterior colors and color schemes may be established from time to time and at any time by Developer and may be maintained at Developer's office. All changes to exterior colors and color schemes must be authorized and approved by the Developer or the Architectural Control Committee in accordance with the terms and provisions of Article XI.

7.25. Nuisances: Noxious or Dangerous and Offensive Activities Prohibited. Each Owner, occupant and their agents, guests and licensees shall obey and comply with all applicable laws, ordinances, rules and regulations now in effect or hereafter enacted and all terms and provisions now or hereafter established by this Declaration. No Owner or occupant shall do or allow to be done any act which causes or threatens to cause any damage or encroachment to the Residential Dwelling or Lot of any Owner or the Developer. No noxious, dangerous or offensive activity or thing shall be carried on or permitted on the Property, nor shall anything be done which may be or may become an annoyance or nuisance to any other Owner in the Property or to the neighborhood.

7.26. Restrictions Not Exclusive. The covenants, conditions and restrictions contained in this Declaration shall not be taken as permitting any

action or thing prohibited by applicable zoning laws, or the laws, rules or restrictions imposed by any deed or the recorded plat of the Property. In the event of any conflict, the most restrictive provision of any such law, rule, regulation, deed, plat or this Declaration shall be taken to govern and control.

**ARTICLE VIII
THE ASSOCIATION**

8.01. Powers and Duties.

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

(b) The Association shall own, maintain, improve, landscape, mow and keep clean the Common Areas.

(c) The Association may maintain such insurance on the Common Areas and all Improvements thereon as deemed necessary and advisable.

(d) The Association shall have the right to create and establish reserves for the repair, restoration, or replacement of any Improvement it has the duty to repair, restore or replace hereunder.

(e) The Association, through its Board of Directors, shall have the right to adopt 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 and general welfare of the Owners and occupants of Lots in the Property.

(f) The Association, through its Board of Directors, shall have the right to create an Architectural Control Committee which shall have at least three (3) and no more than five (5) members. The Board of Directors may delegate to the Architectural Control Committee such duties as the Board of Directors sees fit so long as those duties are in keeping with the role of architectural control.

8.02. Operations and Expenses. The Association, through its Board of Directors, shall establish such committees as it deems appropriate or advisable may engage a manager, management company, secretaries, engineers, auditors, accountants, legal counsel, and other employees, independent contractors, agents or consultants as may be reasonably necessary for the discharge of its duties hereunder. The expenses of committees, the salaries of a manager and other employees, and charges for management companies, independent contractors, agents and the fees of consultants shall be established and paid for by the Association. The Association shall pay for all other expenses necessary or incidental to the conduct or carrying on of its duties hereunder.

8.03. Developer's Rights. The terms and provisions of this Article shall be subject and subordinate to the rights of Developer as set forth in Article III of this Declaration.

ARTICLE IX METHOD OF PROVIDING GENERAL AND SPECIAL FUNDS

9.01. For the purpose of providing a general fund to enable the Association to exercise the powers and maintain the improvements and render the services herein provided for, each Lot within the Development owned by a Class A Member shall be subject to an annual general fund assessment which may be levied by the Association from year to year, which assessment shall be paid to the Association annually or at such other times as the Association may determine in advance. Anything to the contrary herein notwithstanding, Developer, its successors or assigns in their sole discretion, shall fix the amount of annual assessments for the Association, for so long as Developer, its successors or assigns own at least one (1) Lot in the Development (including land added to the Development). Thereafter, the Association, through its Board of Directors, shall from year to year fix and determine the total amount required in its general fund and may levy and collect an annual assessment for each Lot owned by a Class A Member. Assessments shall commence upon acceptance of title to a Lot. The assessment for the year in which the title is transferred shall be determined on the basis of date of closing and prorated on a 365-day year basis.

9.02. The annual assessments upon each Lot may be increased by the Association, through its Board of Directors, on all Lots by either:

(a) an amount not exceeding fifty percent (50%) of the previous year's annual assessment at the reasonable discretion of the Board of Directors; or

(b) an amount in excess of fifty percent (50%) of the previous year's annual assessment, provided that at a meeting of the Members, seventy-five percent (75%) of the votes of the Class A members present in person or by proxy at such meeting authorize such increase by an affirmative vote.

9.03. The Association, through its Board of Directors, shall be empowered to levy and collect special assessments for capital improvements or repairs in such amounts as the Board of Directors deems reasonably necessary.

9.04. Unless the increases provided for in paragraph 9.02 of this Article IX are specifically limited by the resolutions in which they are contained to be for a specified period, they shall continue to be effective until rescinded by the Association, at a meeting specifically called for such purpose, by an affirmative vote of seventy-five percent (75%) of the Members present in person or by proxy, or by action taken under the terms of paragraph 9.06 of this Article IX and in either

such event the rescission shall be effective commencing on the first day of the next succeeding year.

9.05. Whenever the Association may deem it advisable, at a meeting of the Members, to submit a proposal under paragraph 9.02 (b) of this Article IX to vote upon an increase in the assessment in excess of fifty percent (50%) of the previous year's annual assessment, notice of such meeting shall be deposited in the United States mail not less than ten (10) days prior to the date of such meeting.

9.06. The assessments hereunder shall be due and payable on January 1st of each year unless otherwise determined by the Association. Upon levying of each assessment, the Association shall notify all Owners of assessable Lots who are Class A Members of the Association of the amount of such assessment. Failure of the Association to levy the assessment prior to January 1st of each year for the next succeeding fiscal year beginning of January 1st or delay in notice of the assessment shall not invalidate any such assessment subsequently made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is levied subsequent to the 1st day of December which precedes such fiscal year then such assessment shall become due and payable not later than thirty (30) days from the date of levying the assessment. The Developer shall, for the purpose of carrying out the terms of this Declaration, have the right to make a partial assessment within the limits herein provided for and on a prorated basis. The Association may elect to permit collections in monthly, quarterly or semi-annual payments in lieu of the annual payments provided for herein.

9.07. A written or printed notice, deposited in the United States Post Office, with postage prepaid thereon, and addressed to the respective Members at the last address listed with the Association, shall be deemed to be sufficient and proper notice for these purposes or for any other purpose of this Declaration where notices are required, unless otherwise provided herein.

9.08. The Owner of each Lot subject to an annual assessment or special assessments as herein provided shall, by acceptance of a Deed to such Lot, be taken to have agreed and does by these presents agree to pay to the Association all assessments placed against such Lot in accordance herewith and the Association is hereby granted the power to proceed against such Owner personally for the collection of said assessments, said right to be in addition to and not to be constructed as a limitation upon remedies and rights of the Association otherwise herein granted.

9.09. The Association shall be empowered to levy and collect an initiation fee in an amount not greater than one-half of the then annual assessment from each purchaser of a Lot, due upon conveyance of the Lot out of the proceeds of the closing of the conveyance. Such fee shall be defined as an assessment pursuant to K.S.A. Chapter 58, Section 58-3821(a)(2)(G), payable to the

Association and not to the Declarant and as such, shall not be subject to the prohibition against "transfer fees" set forth in subsection (b) therein.

ARTICLE X LIEN ON REAL ESTATE

10.01. The assessments provided for herein shall become a lien on the Lot against which they can be levied as soon as payable as above set forth provided, however, that such liens shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said Lot. In the event of the failure of any Owner to pay assessments within thirty (30) days from the date same are levied, then such assessments, from the thirtieth (30th) day after levy shall bear interest at the maximum rate of interest then allowed in Kansas on judgments.

10.02. Within thirty (30) days from the date of levying the assessments for the calendar year during which and for which the assessments are levied, the assessments shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate in proceedings in any court in Butler County, Kansas, having jurisdiction of suits for the enforcement of such liens. The Association may in its discretion file certificates of nonpayment of assessments in the office on the Register of Deeds whenever any such assessments are delinquent. For each certificate so filed the Association shall be entitled to collect from the Owner or Owners of the property described therein a fee of the greater of One Hundred Fifty Dollars (\$150.00) or one year's annual assessment as described in Article IX above, which fee is hereby declared to be a lien upon the Lot so described in said certificate, provided that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. Such fee shall be collectable in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

10.03. Such liens shall continue for a period of five (5) years from the date of delinquency or the maximum time allowed by law, whichever is longer, unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment establishing same.

ARTICLE XI ARCHITECTURAL CONTROL

11.01. Architectural Control Function. In order to assure the development and continued maintenance and operation of the Property as a first-class residential neighborhood, no Structure or Improvement shall be commenced, erected, placed, maintained, moved onto or permitted to remain on any Lot, nor shall any existing Structure or Improvement upon any Lot be changed or altered in

any manner, nor shall any new use be commenced on any Lot, unless plans and specifications (including a site plan and a grade plan and drainage plan) therefore shall have been submitted to and approved in writing by Developer, who shall have complete control of all such matters and may approve or withhold approval on any basis deemed proper in Developer's sole and absolute discretion. Once Developer has relinquished its interest in the Development to the Association, the Architectural Control Committee of the Association shall succeed to these duties.

11.02. Required Information. Such plans, specifications, site plan, grade plan, and drainage plan shall be in such form and shall contain such information as may be required by Developer in Developer's sole discretion. Developer shall have the absolute right at any time and from time to time to delegate such architectural control function to any other person(s) or entity(ies).

11.03. No Liability. Neither Developer, nor any successor, assign, agent, employee, representative or other person or entity to whom such architectural control function has been delegated by Developer nor the Association or Architectural Control Committee, shall be liable to any Owner or other person or other entity for any claims, damages or causes of action arising from or in any way out of performance or nonperformance of the architectural control function including, by way of illustration and not limitation, the failure, refusal or neglect to approve any plans and specification submitted. Any architectural control decision shall be final and conclusive.

11.04. Noncompliance. If any Improvement or Structure shall be altered, erected, placed or maintained upon any Lot, or any use or new use commenced or maintained on any Lot, without architectural control approval or otherwise than in accordance with the plans and specification approved pursuant to the provisions of this Article, such alteration, erection, maintenance, use or new use shall be deemed to have been undertaken in violation of this Declaration and without the approval required herein, and upon written notice, any such Improvements or Structure so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or re-altered, and any such use or new use shall be terminated so as to extinguish such violation. If fifteen (15) days after the notice of such violation the Owner of the Lot upon which such violation(s) exist shall not have taken reasonable steps toward the removal or termination of the same, Developer, the Association or any other Owner shall have the right to take such steps as may be necessary to extinguish such violation.

ARTICLE XII ENFORCEMENT

12.01. Right to Enforce. Developer, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions and restrictions now or hereafter imposed by the provisions of this Declaration including the authority to commence and maintain an action to enjoin any breach or threatened breach of any of the provisions hereof, and to pay all

costs, subject to reimbursement, of any such action or other enforcement procedure. Developer, its successors or assigns in their sole discretion, shall determine compliance with this Declaration, for so long as Developer, its successors or assigns own at least one (1) Lot in the Development (including land added to the Development), and in the event a Lot is not in compliance within fifteen (15) days of notice of non-compliance to the Owner of such Lot, said Owner shall pay Damages in accordance with Section 12.05 below.

12.02. Waiver. Failure by Developer, the Association, or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.03. Attorneys' Fees and Costs. The Developer, the Association, or any Owner shall have the right to include in such claim for relief a reasonable sum for attorney's fees and all other expenses reasonably incurred in enforcing the rights, terms, provisions, covenants, conditions and restrictions hereunder.

12.04. Notice of non-compliance and hearing. Once Developer has relinquished its interest in the Development to the Association, the Board of Directors of the Association shall have the authority to determine compliance with this Declaration. Upon receipt of an allegation of a Lot's non-compliance under Article VII, USE, OCCUPANCY AND CONDUCT RESTRICTIONS, (excluding Sections 7.11, 7.12 and 7.13) the Board of Directors shall review the allegation and determine if action is necessary. If the Board of Directors determines that action is necessary, the Owner of the Lot shall be notified in writing of the allegation and the Owner shall have fifteen (15) days to request a hearing with the Board of Directors to dispute the allegation. If the Owner fails to respond to the notification, or after a hearing, the Board of Directors determines the Owner's dispute of the allegation is without merit, the Board of Directors shall notify the Owner in writing of the Board of Directors' determination of non-compliance. If the allegation of non-compliance is under Sections 7.11, 7.12 or 7.13, no hearing shall be available, it being in the Board of Directors' sole discretion to determine non-compliance based on the Board of Directors' independent review, and the Board of Directors shall notify the Owner in writing if the Board of Directors determines the Lot is not in compliance with the Declaration. Owner shall have fifteen (15) days from the date of the notice of non-compliance to bring the Lot into compliance, determination of compliance to be in the Board of Directors' sole discretion.

12.05. Damages for breach of Declaration. In the event the Lot is not in compliance within fifteen (15) days of the notice of non-compliance, the Owner shall pay the Association an amount equal to \$50 multiplied by the number of days of non-compliance from the date of the notice of non-compliance, not to exceed \$500 per month of non-compliance, not as a penalty but as liquidated damages for the Owner's breach of the Declaration. Such amount due shall become a lien on the Lot as soon as it is due and payable; provided, however, such lien shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on the Lot. In the event of Owner's failure to pay the

amount due within thirty (30) days from the date levied, then such amount due, from the thirtieth (30th) day after levy shall bear interest at the maximum rate of interest then allowed in Kansas on judgments. The liquidated damages provisions of this Section 12.05 shall be in addition to, not in lieu of, the right of Developer, the Board of Directors, the Association or any Owner to enforce, by any proceeding at law or in equity, all covenants, conditions and restrictions per Section 12.01 of this Declaration.

ARTICLE XIII RIGHTS AND POWERS OF DEVELOPER

13.01. Assignment and Delegation. Developer shall have all rights and powers granted to the Association, its Board of Directors or the Architectural Control Committee for so long as Developer, its successors or assigns own at least one (1) Lot in the Development, and shall have the absolute right and power to assign and/or delegate, at any time and from time to time, all or any part of any of the rights, powers and authority contained in this Declaration.

13.02. Addition of Other Land. Developer, at its discretion, shall have the right from time to time to add additional land to the Development including but not limited to, the right to plat additional land which may include patio homes, provided that:

- (a) Developer owns a Lot or Lots in the Development; and
- (b) The land so added to the Development shall at the time of addition be subject to and bound by all of the terms of this Declaration and any amendments thereto; and
- (c) Developer executes and records a document with the office of the Register of Deeds of Butler County, Kansas, describing the land added and subjecting the same to the terms of this Declaration.

13.03. Removal of Land. Developer shall have the absolute right at any time and from time to time to waive or modify any or all of the covenants, conditions and restrictions of this Declaration as to any undeveloped Lot or Lots owned by Developer by executing and filing a document of record with the office of the Register of Deeds of Butler County, Kansas describing such waiver or modification and describing the Lot or Lots to which such waiver or modification applies.

13.04. Development Activities. Developer specifically reserves the right to carry on Developer's business in the Development so long as Developer owns land in the Development or new Residential Dwellings or Improvements are being constructed in the Property, including by way of illustration and not limitation, maintaining sales offices, model homes, business offices and other facilities necessary or convenient for the business of Developer.

13.05. Easements in Favor of Developer. Developer specifically reserves to itself, its successors and assigns, a perpetual, nonexclusive easement and right-of-way over the Common Areas for the purposes of constructing, maintaining, repairing, replacing and rebuilding pipes, drains, mains and/or utilities for the purpose of conveying gas, water and sewage through the Property, together with the right to excavate and level ditches and/or trenches for the location of such pipes, drains, mains and utilities.

ARTICLE XIV COVENANTS RUNNING WITH THE LAND

14.01. The covenants, conditions and restrictions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon and run with the Property and shall be binding upon all Owners of any part or portion thereof, along with all successors, assigns, grantees or purchasers of any part or portion of the Land, including under any deed, grant, escrow, contract of sale, device, or lease.

ARTICLE XV AMENDMENT

15.01. Amendment by Developer. Until such time as Developer owns no Lot in the Property, Developer shall have the absolute right to amend this Declaration by recording a written Amendment in the office of the Register of Deeds of Butler County, Kansas; provided, however, that no such Amendment shall materially affect any rights of the then existing mortgage holders.

15.02. Other Amendment. After Developer owns no Lot in the Property, this Declaration may be amended only upon the affirmative vote of seventy-five percent (75%) of the votes of Class A Members of the Association, in person or by proxy at a meeting called for such purpose, evidenced by an Amendment to the Declaration duly executed and acknowledged by the Board of Directors and recorded in the office of the Register of Deeds of Butler County, Kansas; provided, however, that the Developer retains the right to amend this Declaration, in its sole discretion as it may relate to any Land added pursuant to the provisions hereof.

ARTICLE XVI MISCELLANEOUS

16.01. 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 Developer, the Association, or the Owner of any Lot and their respective legal representatives, heirs, successors, assigns and grantees, for a term of thirty-five (35) years from the date of recording hereof, after which time the covenants, conditions and restrictions hereof shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Owners of a majority of the Lots by number according to the recorded plat and any

amendments thereto, has been recorded, agreeing to abolish or change these covenants, conditions and restrictions in whole or in part.

16.02. Severability. All of the restrictions, conditions and covenants 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 or covenants, or any part thereof, is invalid or for any reason becomes unenforceable, no other restriction, condition, covenants, reservation or any part thereof, shall be affected or impaired.

16.03. Construction and Interpretation. In constructing, 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 of the Property. 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 use 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 use or occupancy of any Lot or Building 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.

16.04. Waiver and Exceptions. The failure by Developer, the Association, or of any Owner to enforce any of the restrictions, conditions, covenants or reservations 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 or reservation.

16.05. Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained nor the enforcement of any 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.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

PRAIRIE CREEK HOMES, L.L.C.

By: Paul Kelsey
Paul Kelsey, as its Managing Member

STATE OF KANSAS)
) ss:
SEDGEWICK COUNTY)

BE IT REMEMBERED that on this 29 day of July 2011 before me the undersigned, a Notary Public in and for the County and state aforesaid, came Paul Kelsey, on behalf of Prairie Creek Homes, L.L.C. as its Managing Member who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Wichita, Kansas, on the day, month and year first above written.

Courtney Ballenger
Notary Public

My Appointment Expires: 10/29/2014

