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# **DECLARATION**

*of the*

*Williamsburg Townhome Association*

**Manhattan, Kansas 66502**

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# Declaration

## of the

### Williamsburg Townhome Association, Inc.

**THIS DECLARATION**, made on this 9 day of April, 2016 by the Williamsburg Townhome Association, Inc., hereinafter referred to as the "Association," pursuant to the provisions of the Kansas Townhouse Ownership Act for the purpose of submitting the real estate which is hereinafter described and the improvements located or to be located thereon to the provisions of the Kansas Townhouse Ownership Act, supersedes the Association Declaration of November 1995 and subsequent amendments.

1. **Submission of Real Estate to Kansas Townhouse Ownership Act**

The Association members are the recorded owners and spouses of the following described real estate located in the City of Manhattan, Kansas.

**See Exhibit A:** *Legal description of final plats one through eight is attached to this Declaration by the Association under provisions of the Kansas Townhouse Ownership Act.*

2. **Definitions of Terms used in this Declaration**

- 2.1 **Unit** - is one single-family townhouse residential building and the lot on which it is situated. The building may be joined together with one additional single family residential building by a common wall and/or roof and/or foundation. The lots are identified and described on the plats, which is by reference made a part hereof.
- 2.2 **Unit Owner** – the contract purchaser of the unit who has complied with provisions of this Declaration.
- 2.3 **Common Areas and Facilities** - includes all areas of land on the plat, other than the units, owned by the Association and hereinafter defined, together with the following:
- a. all recreational facilities, structures, trees, landscaping, and other improvements;
  - b. all installations of central services, if any, for the benefit of more than two owners (such as pipes, wires, conduits and other public utility lines and unit facilities);
  - c. all easements, rights and appurtenances thereto necessary for the existence, maintenance, and safety of the units; and
  - d. all property owned by the Association intended for use by the Association in the exercise of its powers as set forth in this Declaration.

- 2.4 Common Expenses - includes Association expenses for:
- a. administration; insurance; outside lighting and maintenance; expenses incurred incurred in the maintenance, operation, repair and replacement of the common areas and facilities maintained by the Association.
  - b. declared common expenses by the Association and assessed to unit owners.
- 2.5 Person(s)- a natural individual(s), corporation, partnership, trustee, or other legal entity capable of holding title to real property.
- 2.6 Plats - the plats of survey of the real estate described in Section 1, filed in the Office of the Register of Deeds of Riley County, Kansas.
- 2.7 Properties - all the land, property, space, improvements, easements and all rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit, or enjoyment of the unit owners, and which have been submitted to provisions of the Townhouse Ownership Act by this Declaration.

### 3. Association

The Williamsburg Townhome Association, Inc. is a Kansas not-for-profit corporation. Articles of Incorporation were filed in the Office of the Kansas Secretary of State on the 29th day of July, 2003.

- 3.1 Membership - Members shall be all unit owners and their spouses. When more than one person holds an interest in any unit, all such persons shall be members. The vote for such units shall be exercised as such persons shall among themselves determine, but in no event shall more than one vote be cast with respect to any unit. When a unit is owned by a corporation, trust or other such entity, then voting will be cast by the authorized representative of that entity.

Change of membership in the Association shall be established by recording a deed or other instrument in the Office of the Register of Deeds of Riley County, Kansas, and notification to the Association.

- 3.2 Governance - The affairs of the Association shall be governed by the Association By-laws, as implemented by the Board of Directors. The Board of Directors shall be elected by the membership.
- 3.3 Powers - Powers include, but shall not be limited to, the following:
- a. to fix, levy and collect assessments as common expenses or otherwise against each unit owner for the purpose of maintaining and repair of the common area properties and to replace items when necessary.
  - b. to adopt and publish, with membership approval, By-laws as well as rules

and regulations for the enjoyment of unit owners and for preservation of the quality and appearance of the properties.

- c. to employ a responsible contractor to restore, reconstruct, replace or repair any common areas that have been damaged or destroyed by fire or any other hazard or occurrence and to pay for any such work from the insurance proceeds and to collect any excess of the cost of any such work over the said insurance proceeds.
- d. to employ a management company or manager, at such compensation as shall be established by the Board of Directors, to perform such duties and services authorized by the Board. No contract or agreement shall be for a period longer than three (3) years from the date of execution, and all such contracts and agreements shall contain a provision allowing termination by the Board of Directors at any time, with or without cause, on ninety (90) days prior written notice.
- e. to establish committees for such purposes as it shall deem advisable.
- f. to borrow money to meet requirements from time to time for working capital, common expenses, and emergencies, provided that no single loan shall exceed \$10,000, by vote of 66% of unit owners.
- g. 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 agreed to by 66% of the members.
- h. to reserve easements to supply utilities and various services to the units and common areas. It may authorize the location, construction, maintenance and use of such portions of the properties as designated for drains and drainage, sanitary and storm sewers, gas and water mains, and other utility, communication, or safety cables, conduits and lines for any and all purposes.
- i. to reserve an easement and right on, over and under the properties, for the purpose of maintaining and correcting drainage and surface water in order to avoid erosion and ensure standards of health and safety. Such easement includes the right to cut trees, bushes or shrubbery, grade the soil, or to take any other similar action necessary for purposes, following which the Association shall restore the affected property to its original condition to the extent reasonably practicable. The Association shall give reasonable notice of its intent to take any such action to all affected unit owners unless, in their sole discretion, an emergency exists which must be remedied before such notice could reasonably be given.
- j. to negotiate, in the event of condemnation or the exercise of the power of eminent domain over the common areas or facilities, with any level of government or authority. The Board of Directors may execute and deliver the appropriate

conveyance in return for the agreed consideration, to convey, sell, lease, sublease, mortgage, or otherwise deal with any such unit so acquired or leased.

- k. to have the right of emergency access, by the manager or any other person authorized by the Board of Directors, to correct any condition originating in such unit and/or threatening another unit or the common areas and facilities and for the purpose of performing installations, alterations or repairs even though the unit owner may not be present.

3.4 Duties - the duties include, but shall not be limited to, the following:

- a. to improve, maintain and repair the common area and to replace items therein when necessary, all of which includes but is not limited to grass areas, trees, plants, sidewalks, retaining walls, drainage, and to remove snow and ice from the sidewalks, driveways and porches.
- b. to maintain the lawns and landscaping on the properties including the regular mowing, irrigating, fertilizing, maintenance and trimming of shrubs and the removal of all debris and unsightly objects from such lawns. The Association shall not, however, be obligated to maintain gardens, trees and plantings established by the unit owner.
- c. to pay all real estate taxes, including special assessments, levied against the common area.
- d. to obtain and provide public liability, casualty and other insurance for the common area.
- e. to keep detailed accurate records, in chronological order, of receipts and expenditures affecting the common areas and facilities. These records shall specify and itemize the maintenance and repair expenses of the common areas and any other expenses incurred. Such records and any vouchers authorizing payments shall be available for examination by unit owners at convenient hours of weekdays.
- f. to maintain accurate accounts of all assessments collected. All sums may be commingled in a single fund but shall be credited to the accounts from which shall be paid the expenses for the respective assessments. These shall include, but not be limited to: common expenses, a reserve account for working capital, general operations, prior year deficits, replacements and maintenance.
- g. to provide unit owners with a written statement of all unpaid common expenses and special assessments due from such unit owner. Such statements shall be furnished within fifteen (15) days after receipt of said request.
- h. to schedule annual and special meetings to transact business of the Association.

### 3.5 Assessments

The Board of Directors shall adopt a budget for each calendar year to be presented for approval at the annual members' meeting, preceding the year for which the budget is made. It shall contain estimates of costs of performing the duties and obligations of the association and consider overages, shortages from previous years, and reserves. Concurrently the Directors shall prepare the proposed general assessment against each unit owner on the basis of the estimated costs, other than those for special assessments, to be borne equally by the unit owners. A copy of the annual budget, with the proposed assessment, will be provided to each unit owner.

If an annual budget or proposed assessment is not made as required, a payment in the amount required by the last prior assessment shall be due from each unit owner upon each assessment payment date until changed by a new assessment made by the Board of Directors.

- a. Assessment (General) - common area expenses charged to unit owner include, but not be limited to: maintenance, repair and replacement of common area and facilities; real estate taxes; and, liability and casualty insurance.
- b. Emergency Assessment- expenses resulting from emergencies which cannot be paid from an appropriate expense account.
- c. Special Assessment - other assessments may be made in accordance with the provisions of the Declaration, the By-laws and as otherwise required by the lawful resolution of the Board of Directors.

### 3.6 Insurance

Cost for all insurance on the Common Area shall be included as Common Expenses of the Association. Coverage obtained by the Board of Directors shall be in the name of the Association as Trustee for the respective benefited parties.

All insurance proceeds available to the Association shall first be applied to payment of the actual Common Areas and Facilities repair or restoration costs. If such insurance proceeds are not sufficient to cover the actual costs, then an assessment shall be made against the unit owners by the Association. Any reconstruction or repair shall be substantially in accordance with the plans and specifications for the original build or, if not, according to plans and specifications approved by the Board of Directors.

Notwithstanding the duty of the Association to maintain and repair common areas, the Association shall not be liable to unit owners for injury or damage.

- a. Common Area Fire and Extended Coverage - may include, but not be limited to, all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief. The insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction required.
- b. Common Area Liability - may include, but not be limited to, a policy covering the Common Area for all damage or injury caused by the negligence of the Association or

any of its members or agents. The public liability policy shall have at least a one million (\$1,000,000.) single person limit for bodily injury per occurrence, and Three Hundred Thousand Dollar (\$300,000) minimum property damage limit. The policy may contain a reasonable deductible, and that amount shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

#### 4. Unit Owners

Upon recording of this Declaration, including the attached plats, the properties shall become subject to the provisions of the Townhouse Ownership Act, this Declaration and the By-laws, rules and regulations of the Association.

The unit owner rights, easements, responsibilities and restrictions, will include, but will not be limited to the following:

##### 4.1. Rights

- a. to be capable of ownership in fee simple or lesser estate and may thereafter be conveyed, leased, mortgaged or otherwise dealt with in the same manner as other real property.
- b. to use the units for living accommodations for the unit owners, and for related uses and enjoyment.
- c. for the enjoyment of the common area, which shall be appurtenant to and shall pass with the title to every unit.
- d. to have available for inspection, at reasonable times, at the office of the Association, assessment rolls of the units which shall indicate for each unit the name and address of the owner or owners, the assessments, and the amounts of all assessments paid and unpaid.
- e. whenever the decision of a unit owner is required upon any matter, such decision shall be expressed by the same person who would cast the vote of such unit owner, if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.
- f. subject to this Declaration, the sale of a unit shall otherwise be unrestricted.

##### 4.2 An Easement

- a. is created in favor of each unit owner to that portion of the common area shown on the plat as limited common area, which limited common area shall consist of a driveway and sidewalk appurtenant to each unit owner and as such shall be perpetual for the benefit and use of the unit owner and to members of his family, guests, tenants, invitees and licensees.
- b. is reserved for utility services for benefit of each unit that is a part of a building which contains two units joined together by a common or party wall, as dominant tenement, over, under, and through the properties of each unit in such building.

- c. is established for a party wall over that part of a unit in which any part of a common wall between units is constructed, together with the right to restore any such party wall, and such party wall may contain plumbing lines, vent stacks for plumbing and heating, electricity pipes and conduits as well as fireplace flues, serving improvements using such party wall. The party wall easement shall be a cross easement in favor of each unit located in a common or party wall.

#### 4.3 Responsibilities of Unit Owners

- a. to pay assessments due and payable quarterly in such amounts and dates as determined by the Board of Directors.
  - 1) Assessments shall commence on the day a deed is delivered to the new owner. If the deed to a unit is not delivered on the first day of the month, the first monthly assessment shall be prorated on a daily basis so that an assessment shall be made only for the part of the month following the delivery of the deed to the new owner.
  - 2) Unit owners and their grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance of the unit. Such liability may not be avoided by a waiver of the use and enjoyment of the common area or by abandonment of the unit for which the assessment was made.
  - 3) Any assessment or charge not paid within ten (10) days following the due date shall be delinquent, and the delinquent unit owner shall be considered in default in the obligation to make such payments.
  - 4) All sums assessed by the Association but unpaid for the share of common expenses chargeable to any unit shall constitute a lien on such unit and the lot on which it is situated. This lien shall be prior to all other liens except (1) tax liens on the unit and lot in favor of any political subdivision, (2) municipal corporation, (3) special benefit district, (4) other state and federal taxes which are by law a lien on the interest on such unit owner prior to previously recorded encumbrances, and (5) all sums unpaid on the first mortgage of record.

Such lien may be foreclosed by suit by the Board of Directors of the Association in like manner as mortgage on real property. Suit to recover a monetary judgment for unpaid common expense shall be maintainable without foreclosing or waiving the lien securing the same.
- b. to be liable for any special assessments for association insurance premiums, maintenance, repair or replacement costs incurred with respect to their unit, prior to sale, transfer, or conveyance of the unit, even though the special assessment for such premiums or costs shall not have been made on or before such transfer, sale, or conveyance.

- c. to maintain homeowners insurance appropriate to indemnify the Association and guarantee replacement of the structure.
- d. to maintain the unit in good condition and repair. Any flues, ducts, conduits, wires, pipes, sewer lines, other apparatus or portion thereof lying partially within and partially outside of the interior of a unit and which serve only that unit shall be deemed to be part of the unit and shall be maintained by the unit owner thereof.

Any flues, ducts, conduits, wires, pipes, sewer lines, other apparatus or any portion thereof lying partially within and partially outside of a unit which serves two units, both of which are located in the same building, shall be maintained by unit owner(s) of such building in the same manner and subject to the same rules and obligations, as pertain to party walls.

- e. for routine sweeping and leaf removal from driveways, sidewalks, decks and patios which are appurtenant to the unit.
- f. to pay bills for utility services consumed in the unit from utility services supplied by the public utility companies serving the area directly to each unit through a separate meter.
- f. to report promptly to the Association any defect or need for repairs for which the Association is responsible
- g. to cooperate with the Association in order that the owner's lot will be well-maintained.
- h. to exercise reasonable efforts to prevent the common areas from accumulating debris, litter or other unsightly objects.

#### 4.4 Restrictions

- a. no nuisances shall be allowed upon the properties, nor any use or practice which is the source of annoyance to other owners or which interferes with the peaceful possession and proper use of a lot or unit by its owner.

No noxious or offensive activity shall be carried on within the properties, nor shall any trash, ashes, or other refuse be thrown, placed, or dumped upon exposed areas nor shall anything ever be done which may be or may become an annoyance or nuisance to the other unit owners.

All trash or refuse shall be stored by each unit owner within the unit and shall be placed in closed containers or plastic bags, securely covered or tied, and delivered at such times, and to such locations, as may be determined by the Board of Directors for trash pickup by contractor.

- b. no offensive or unlawful use shall be made of the properties, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the properties shall be observed
- c. no building, fence, wall or other structure, landscape or streetscape, whether temporary or permanent, shall be commenced, erected or maintained upon the properties, and no additions, changes or alterations to the exterior of any building (including roofing, siding, lighting and painting) may be made without the approval of the Board of Directors or its appointed architecture/landscape committee, composed of three or more representatives.
  - 1) Requests for changes, in writing, should include detailed plans, specifications and location in relation to the surrounding area.
  - 2) In the event the Board or a designated committee fails to approve or disapprove the request within 30 days after the request is officially received, approval will not be required and the request will be deemed to be fully complied.
- d. no building or structure of any sort may be placed, erected or used for business, professional, trade or commercial purposes on the properties; provided, however, this prohibition shall not apply to any building or structure that is to be used exclusively by a public utility company in connection with furnishing public utility services to the properties.
- e. no solar panels, external antennas or other visible equipment or structures may be erected on or about any lot or building without the written approval of the Board of Directors and the architecture/landscape committee.
- f. clotheslines, clothes' racks, or clothes' hangers should be completely concealed within enclosed areas of a lot or unit.
- g. no part of the properties, including driveways, parking areas on a lot, private streets or access roads shall be used for habitual or long-term parking of trailers, mobile homes, boats, boat trailers, equipment, machinery, or trucks.
- h. no storage of any kind shall be allowed at any time on a lot except within the private enclosed unit.
- i. no major repair, rebuilding, or maintenance of any vehicle shall be permitted except within the private enclosed garage of a unit owner. This restriction shall include, but is not limited to, automobiles, trucks, campers, trailers and boats.
- j. no sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet, advertising the property for sale or rent.
- k. no animals, livestock or poultry of any kind, other than household pets, shall be raised or kept on the properties by any owner or occupant of a unit. All dogs

shall be leashed when outside of the unit. No such pet will be kept, bred, or maintained for commercial purposes.

- l. refrain from interference with the established drainage pattern over owners or adjoining and other units and to make adequate provisions for proper drainage from any such other unit in the event the established drainage over owner's unit is changed or altered.
- m. no unit shall be rented for transient purposes, or without the prior written approval of the Board of Directors, for any period of less than twelve (12) months or to more than four persons. All leases or rental agreements shall contain a provision to the effect that the rights of the tenant to use and occupy the unit shall be subject and subordinate in all respects to the provisions of this Declaration.
- n. no unit shall be left unoccupied for a period greater than three (3) months; provided, however, that the Board of Directors shall ~~consent to~~ <sup>approve</sup> a unit being left unoccupied for a period greater than three (3) months if the unit owner has made provisions for regular inspection and interior maintenance of such living unit.

## 5. General

### 5.1 Amendments

- a. Resolution of Adoption - A resolution of adopting proposed amendments may be proposed by either the Board of Directors of the Association or by any four (4) members of the Association. Directors and members present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided any amendment of this declaration shall require the approval of sixty-six (66 %) percent of the unit owners.
- b. Execution and Recording - A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted. Certificates shall be executed by the officers of the Association with all the formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded in the Office of the Register of Deeds of Riley County, Kansas.

### 5.2 Validity

Invalidity in whole or part of this declaration shall not affect the validity of the remaining portions of the Declaration.

### 5.3 Conflict

In the case of conflicts with Bylaws or rules and regulations, the applicable provisions of this Declaration shall control decisions and actions.

*Sherlund D. Prawl*

Sherlund D. Prawl  
President  
Williamsburg Townhome Owners Association

State of Kansas  
Riley County, Kansas

This instrument was acknowledged before me on 08/08/16 by  
Sherlund D. Prawl, President, Williamsburg Townhome Association.

Name Laurie Knudson

Title Notary

My appointment expires 8/21/18

*Laurie Knudson*



## EXHIBIT A

### Legal Description of Final Plats One through Eight *NINE*

1. Final Plat, Williamsburg Unit One (Lots 5, 6, 7, 8) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
2. Final Plat, Williamsburg Unit Two (Lots 10, 11) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
3. Final Plat, Williamsburg Unit Three (Lots 13, 14) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
4. Final Plat, Williamsburg Unit Four (Lots 16, 17) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
5. Final Plat, Williamsburg Unit Five (Lots 19, 20) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
6. Final Plat, Williamsburg Unit Six (Lots 22, 23, 25, 27, 28, 29, 30) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
7. Final Plat, Williamsburg Unit Seven (Lots 31, 32) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
8. Final Plat, Williamsburg Unit Eight (33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45) a Residential Planned Unit Development, Manhattan, Riley County, Kansas
9. Final Plat, Williamsburg Unit Nine (39A) a Residential Planned Unit Development, Manhattan, Riley County, Kansas