

Book: 865 Page: 7661



Riley County Scanning Label



Debra J. Register
Register of Deeds
Riley County, Kansas
Book: 865 Page: 7661
Receipt #: 198280 Total Fees: \$323.00
Pages Recorded: 29
Date Recorded: 03/25/2016 1:17:30 PM

**COURTYARDS AT LMH ADDITION
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
TO MANHATTAN, RILEY COUNTY, KANSAS**

THIS DECLARATION, made this 16th day of March, 2016 by Perfection Signature Properties, LLC, a Kansas Limited Liability Company, (hereinafter, together with its successors and assigns, called "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the real property located in Riley County, Kansas, described on Exhibit "A" attached hereto and made a part hereof (the "Property"); and,

WHEREAS, Developer desires to develop a residential community comprised of fee simple Home residential dwelling Lots on such real property to be known as "COURTYARDS AT LMH ADDITION", (hereinafter "Addition"); and,

WHEREAS, Developer desire to subject the Property to the provisions of this Declaration; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the community and to provide for the maintenance and upkeep of the exterior of all Homes and the Common Area, to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area; maintaining the exterior of the Homes and all other improvements which are the responsibility of the Association; administering and enforcing the covenants, conditions, and restrictions herein; collecting and disbursing the assessments and charges hereinafter created; and performing all other activities as required or permitted hereunder.

**COURTYARDS AT LMH ADDITION
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
TO MANHATTAN, RILEY COUNTY, KANSAS**

THIS DECLARATION, made this 16th day of March, 2016 by Perfection Signature Properties, LLC, a Kansas Limited Liability Company, (hereinafter, together with its successors and assigns, called "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the real property located in Riley County, Kansas, described on Exhibit "A" attached hereto and made a part hereof (the "Property"); and,

WHEREAS, Developer desires to develop a residential community comprised of fee simple Home residential dwelling Lots on such real property to be known as "COURTYARDS AT LMH ADDITION", (hereinafter "Addition"); and,

WHEREAS, Developer desire to subject the Property to the provisions of this Declaration; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the community and to provide for the maintenance and upkeep of the exterior of all Homes and the Common Area, to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area; maintaining the exterior of the Homes and all other improvements which are the responsibility of the Association; administering and enforcing the covenants, conditions, and restrictions herein; collecting and disbursing the assessments and charges hereinafter created; and performing all other activities as required or permitted hereunder.

NOW THEREFORE, Developer hereby declares that all of the Property and such additional property as may be hereafter made pursuant to Article XVIII hereof, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Lots and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I **DEFINITIONS**

The following words when used in this Declaration shall have the following meanings:

1.1 Association. COURTYARDS AT LMH HOA, INC. (hereinafter "Association"), a not-for-profit Kansas corporation, its successors and assigns. For purposes of this Declaration, references to the Association or its Board of Directors shall mean the Developer until the Turnover Date.

1.2 Board. The Board of Directors of the Association.

1.3 Common Areas. All fixtures, real property and personal property owned by the Association for the common use and enjoyment of the Owners. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of COURTYARDS AT LMH ADDITION recorded or to be recorded in the Office of the Register of Deeds of Sedgwick County and designated thereon as "Common Areas", but shall exclude all Lots as herein defined and all public streets shown thereon. "Common Area" shall include, but not be limited to, the (i) permanent detention or retention pond(s); (ii) all private streets shown on said plats as now recorded or shall be hereinafter recorded in the Office of the Register of Deeds of Riley County; and (iii) all Reserves depicted on the final plat. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is more particularly shown on the plat(s) of the Properties to be recorded in the Office of the Register of Deeds of Riley County.

1.4 Common Facilities. All improvements and fixtures situated on the Common Areas and all personal property owned by the Association.

1.5 Developer. Perfection Signature Properties, LLC, a Kansas Limited Liability Company, and its successors and assigns.

1.6 Eligible Mortgage Holder. A holder of a first mortgage on a Lot that has submitted a written request that the Association notify it on any proposed action.

1.7 Exteriors. The roofs, doors, windows, foundations, footings, steps, outer surfaces of exterior walls, courtyards, gutters, drains and downspouts of Homes plus fences between Lots.

1.8 First Mortgagee. The holder of any recorded first mortgage lien on one or more Lots.

1.9 Homes. A single family detached dwelling structure, including any garage.

1.10 Owner. The record owner, whether one or more persons or entities and including the Developer where applicable, of the fee simple title to any Lot situated in the Development. Owner shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title.

1.11 Property or Properties. The real estate legally described on Exhibit "A" attached hereto and made a part hereof.

1.12 Turnover Date. No later than ninety (90) days after a cumulative ninety percent (90%) of the deeds on the available Lots have been conveyed to Owners, at developer's discretion.

1.13 Lot. A platted lot containing a Home shall be a detached structure. The term "Lot" does not include any Reserves designated as a Common Area.

1.14 Occupant. The persons who occupy a Lot.

1.15 Areas of Common Responsibility. The Homes which are to be maintained by the Association for the benefit of the Owners and occupants, as well as sidewalks, exterior light fixtures and the landscaping throughout the Property including the improvements and landscaping located in the Common Areas. Areas of Common Responsibility include land and improvements owned by the Owners and not by the Association. Provided, however, any damages caused by fire, storm or other casualties are not to be repaired, replaced or maintained by the Association; the repair, replacement and/or maintenance of such damages shall be the sole responsibility of the Owner. Based upon such obligation, each Owner is hereby required to obtain and maintain insurance coverage for fire, storm or other coverage.

1.16 Commercial Vehicle. Any motor vehicle, including cars/trucks/vans over one (1) ton capacity, used primarily for commercial purposes, as determined by the Board.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

2.1 Purposes. Developer desires, by the imposition of the covenants, conditions, restrictions and easements hereinafter set forth, to create on the Property residential development for future Owners of Lots for the following general purposes:

(a) To provide a harmonious community of Homes for the benefit of the Property and the Owners;

(b) To enhance and protect the values of the Development;

- (c) To prevent the improper use of Homes which otherwise might depreciate the value of the other Homes on the Property;
- (d) To ensure adequate and reasonable development of the Property; and
- (e) To provide for the maintenance of the Common Areas, the Common Facilities and Areas of Common Responsibility.

2.2 Declaration. The Property described in Exhibit "A" attached hereto, is hereby specifically declared to be subject to the provisions of this Declaration effective upon the recording of this Declaration and upon recording of this Declaration, the Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

ARTICLE III **RESTRICTIONS**

3.1 Changes to Home Exteriors. No changes, alteration or additions may be made to Home Exteriors or to the landscaping on any Lot without the prior review and approval of the Board, which may condition its consent and approval upon the Owner's agreement, (a) to be solely responsible for the maintenance of such change, alterations or additions of or (b) to pay all additional costs incurred by the Association to maintain such changes, alteration or addition if part of the Home Exterior. The foregoing agreements shall be binding upon future Owners of such Home. The foregoing shall not apply to those changes, alterations or additions, which this Declaration already provides shall be maintained by the Association if, Board consent and approval is given for the making thereof. In the event changes, alterations, or additions are made without the prior consent and approval of the Board, the Board may: (a) require the Owner to remove all changes, alterations and additions and restore the Home Exterior or Home to its original condition, or (b) cause the Home Exterior or Home to be restored to its original condition at the Owner's cost and expense, or (c) ratify the actions taken subject to the Owner's compliance with any conditions that the Board may impose.

3.2 Use of Easement Areas. Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities are reserved in the locations within the Property as shown on the recorded plat(s) of subdivision for the Property. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement areas and all improvements therein shall be maintained by the Association, except for those improvements for which a public authority, a private or public utility companies is responsible.

3.3 Satellite Dishes/Antennae. No antenna, radio receiver, satellite dish or similar apparatus shall be attached to or installed on any portion of the exterior of any Home except in accordance with the rules and regulations of the Association as to location, size and method of installation.

3.4 Residential Use Only. Each Home shall be used only as a single family residence; provided that no Owner shall be precluded, with respect to his/her Home, from (i) maintaining a personal professional library, (ii) keeping his/her personal business records or accounts therein or (iii) handling his/her personal business or professional calls or correspondence therefrom.

3.5 Parking. No Commercial Vehicle, recreational vehicle, motorcycle or other motorized vehicle and no boat, trailer, or other similar personal property shall at any time be parked or stored on any portion of the Property other than in a garage. Pursuant to rules and regulations adopted by the Board, driveways may be used on a non-recurring basis to park Commercial Vehicles, recreational vehicles, boats, trailers, or other similar vehicle for not more than twenty-four (24) hours at a time and to park operable automobiles.

3.6 Animals. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Home or on the Common Areas. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Home, provided that: (i) the maintaining of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against Persons who do not clean up after their pets; and (ii) the right of an Occupant to maintain an animal in a Home shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Home or other Homes or occupants.

3.7 Fences. No perimeter fence or wall may be erected or installed within the Development except wrought iron fences approved in advance by the Board with respect to the style, location, and dimensions. This does not include courtyard screening, which must also be approved by the Board.

3.8 Landscaping. No Owner may add to or change the landscaping on the Property owned by such Owner without approval by the Board. Additional landscaping shall be maintained by the Association at such Owner's expense.

3.9 Signs; Commercial Devices. No sign, insignia, display, device, or form of external evidence of commercial advertising or use, of any kind, shall be displayed to the public view on the Property or on anything on the Property, except: (i) on the Common Areas, signs regarding and regulating the use of the Common Areas, provided they are approved by the Board; (ii) on the interior side of the window of a Home, one professionally prepared sign not in excess of nine square feet in size, advertising the Home for sale or rent; and (iii) on the Common Areas and model Homes, signs advertising the sale and/or rental of Homes by Developer during the period of its sale and rental of Homes shall be permitted, provided, if these limitations on use

of signs, or any part thereof, are determined to be unlawful, only the signs described in Subsection (i), above, shall be permitted after Developer's period of sales and rental of Homes.

3.10 Sports Equipment. No basketball equipment may be installed on the Property without the prior written approval of the Board. Nothing herein shall be construed as permitting the use of portable basketball equipment within driveways. Swings and other play structures may not be installed.

3.11 Clotheslines. The installation of clotheslines and clothes poles for the outdoor drying of clothes on the Property is prohibited.

3.12 Firearms. The discharge of firearms within the Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

3.13 Swimming Pools & Hot tubs. The installation of swimming pools on the Property is allowed with Board approval with appropriate screening and fencing requirements. Outdoor Jacuzzi and hot tubs located within patios and which are screened from view from neighboring Homes are allowed with the approval of the Board.

3.14 Storage Sheds. No storage sheds or greenhouses of any kind or similar accessory buildings shall be installed on any Lot.

3.15 Air-Conditioning Units. No window air conditioning units may be installed in any Home.

3.16 Holiday Lights. Except for seasonal holiday decorative lights and outdoor holiday decorations, which may be displayed between the period beginning December 1, and ending on January 10, of the next year, all additional exterior lights require Board approval.

3.17 Yard Improvements. All exterior sculpture, exterior fountains, and yard ornaments must be approved by the Board and maintained by the Association at the installing Owner's expense.

3.18 Gasoline. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Property except that up to two (2) gallons of fuel may be stored in each Home for emergency purposes.

3.19 Exterior of Homes. The exterior portions of Homes shall be kept in a neat, orderly, and aesthetically pleasing condition at all times. No debris, trash, or waste from pets and other animals shall be kept, stored, or allowed to accumulate thereon. The Association shall have the right to clean and remove debris, trash, pet and animal waste therefrom with the costs thereof charged the Owner.

3.20 Garbage. Garbage cans and other receptacles containing trash and other debris placed on the curb or outside for collection shall be returned to the interior Homes within twenty-four (24) hours.

3.21 Decks. No decks may be installed on Lots 1-12 decks are allowed on Lots 13-24.

3.22. Mailboxes. The Developer shall install lockable cluster mailbox units (CBU) for which the Developer shall charge \$175 at Closing to the Owners of each of such Homes. The Owners shall not be permitted to install or use other mailboxes.

3.23. Approved Builder. All buildings shall be constructed by Perfection Builders, LLC, its successors or assigns.

ARTICLE IV **THE ASSOCIATION**

4.1 Formation of Association. Developer shall form a Kansas not-for-profit corporation to be known as "COURTYARDS AT LMH HOA, INC." which shall own the Common Areas and Common Facilities and which shall provide for maintenance and operation of the Common Areas, Common Facilities and Areas of Common Responsibility and which shall adopt guidelines, rules and regulations, for use and operation of Homes, Common Areas, and Common Facilities which shall be binding on all Owners, Occupants and Homes.

4.2 Directors and Officers.

(a) The Association shall have a Board of at least three (3) directors, who need not be members of the Association, who shall be elected by the members of the Association at such intervals as the Articles of Incorporation and By-Laws of the Association shall provide, except that the first Board shall be appointed by the Developer and hold office until the Turnover Date. One of the Directors shall be the designee of the Developer until the Developer has sold all of its Lots in the Property.

(b) The Association shall have such officers as shall be appropriate from time to time, which shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board.

The directors and officers of the Association shall not be liable to the Owners or any others for any mistake of judgment or any acts or omissions made in good faith as such directors or officers.

4.3 Turnover. The Developer shall exercise control over all Association matters until the Turnover Date. Prior to the Turnover Date, the Developer shall have all of the rights and powers herein granted to the Association and shall be authorized and empowered to exercise all power and authority of the Board.

4.4 Membership. Every person or entity who is an Owner in the Development shall be a member of the Association and said membership shall be appurtenant to said Lot, and each

purchaser of any Lot by acceptance of a deed therefor covenants and agrees to be a member of the Association.

4.5 Membership. Each Member shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 4.4. When more than one person holds such interest in any Lot, all such persons shall constitute one member. The vote for such Lot shall be exercised by such persons as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. Notwithstanding any provision herein to the contrary, the Developer shall be entitled to three (3) votes for each Lot owned by the Developer.

4.6 Transfer of Membership. Membership held by any Owner of a Lot is an appurtenance to such Lot and shall not be transferred, alienated, or pledged in any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser of such Lot. Any attempt to make a transfer except by the sale or encumbrance of a Lot is void. Reference to the transfer of membership need not be made in an instrument of conveyance or encumbrance of such Lot for the transfer to be effective, and the same shall automatically pass with title to the Lot.

4.7 Powers and Duties of the Association. The Association, in addition to its other powers, rights and duties as set forth in this Declaration and in its Articles of Incorporation, By-Laws and any rules and regulations which the Association may promulgate as hereinafter provided, and as any of the same may be amended, have the power and duty to:

- (a) Maintain, operate and manage all the Common Areas, Common Facilities, and Areas of Common Responsibility (whether such Common Areas or Common Facilities are dedicated to public bodies or not unless such public bodies expressly accept responsibility therefor). The Association may delegate one or more of such duties to one or more independent contractors including, without limitation, Developer and entities affiliated with Developer, or agents or employees of the Association.
- (b) Employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.
- (c) Pay all real estate taxes, personal property taxes or other charges which may be assessed against or levied upon the Common Areas and Common Facilities including debt service for common amenities.
- (d) Maintain, replace and manage all landscaping on the Property as part of the Area of Common Responsibility plus additional landscaping installed with Board approval by individual Owners. The foregoing includes the cutting of grass, the trimming of trees, the application of fertilizers and pesticides, and watering to the extent the Board elects to provide watering for the landscaping. The Board may elect to make Owners responsible for watering the landscaping installed on their respective Lots. The Association shall have the right to obtain

water from exterior water faucets installed on Lots for watering performed by the Association. No Owner shall be entitled to reimbursement for water used by the Association.

(e) Maintain, repair and replace Areas of Common Responsibility, which include the Home Exteriors, including painting portions of Home Exteriors.

(f) The Common Areas shall be used in common by Owners and occupants and their agents, servants, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Homes. Unless expressly provided otherwise herein, no Common Area shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Owners and occupants.

(g) In addition to adopting and enforcing rules and regulations in the instances specifically herein mentioned, the Board may, from time to time, pursuant to Section 4.1, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable to promote harmony, to serve the best interests of the Owners, as a whole, and the Association, and to protect and preserve the nature of the Homes and the Property, including, but not limited to, fines, and amenity use sanctions against Owners failing to pay assessments or violating this Declaration. A copy of all rules and regulations shall be furnished by the Board to the Owners of each Home prior to the time when the same shall become effective.

The extent and frequency of the activities of the Association in carrying out the duties of maintenance and management set forth above shall be decided by the Board, and the Board may also promulgate rules and regulations to aid in carrying out of said maintenance and management duties, and may amend said rules and regulations from time to time.

4.8 Duties of Owners.

(a) Owners shall be responsible for maintenance, which includes periodic washing of windows, repairs and replacements of the roof, windows, doors (including storm and garage doors) and screens on all Homes. All policies of liability insurance shall designate the Association as an additional insured and shall cover full replacement cost of the dwelling. Owners shall be responsible for all costs incurred for garbage collection and trash removal, but the Board may contract for such services and include such costs as a part of the homeowners' dues.

(b) If the Board determines that an Owner is failing to perform Home maintenance required to be performed by Owners, or is failing to keep the exterior portions of the Home free and clear of debris, trash, and waste from pets and other animals to the extent that a Home is not in good condition or repair or is in such

appearance as to detract from the appearance of other Homes or is not in compliance with Development rules and regulations adopted by the Board or this Declaration, then the Board shall (i) advise the Owner of the work that needs to be done and allow the Owner at least twenty (20) days (or less if an emergency or if there is an accumulation of debris, trash, or waste from pets or other animals) to have the work done, or (ii) if not done or not done to the Board's satisfaction, to seek injunctive relief, levy a fine, and/or cause the work to be done with the costs thereof to be paid by the Owner to the Association upon demand.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) a prorated portion of annual assessments or charges for each Home, and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs and reasonable attorney's fees, shall be a charge on the Lots and shall be a continuing lien upon the Lots against which each such assessment is made. No offsets against the annual or special assessments shall be permitted for any reason. Each assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them, If the Association should be dissolved or cease to exist, then in that event, every Owner of a Lot at the time of required maintenance shall be jointly and severally liable for any and all costs attendant thereto.

5.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and in particular for: (1) the improvement, maintenance, repair and reconstruction of the Common Areas and Areas of Common Responsibility, including landscaping; (2) the maintenance, repair and reconstruction of (a) private water and/or sewer lines (and any meters or life stations associated therewith), (b) any pond (detention or retention), (c) any pool and clubhouse, (d) private streets, (e) street lights, driveways, walks and parking areas and such maintenance to include the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other maintenance; (3) the use and enjoyment of the Common Area, including, but not limited to, the cost of repairs, replacements and additions; (4) the cost of labor, equipment, materials, management and supervision; (5) the payment of taxes and public assessments assessed against the Common Area; (6) the employment of attorneys to represent the Association when necessary; and (7) such other needs as may arise.

5.3 Reserves. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and Areas of Common Responsibility and those other portions of the Properties, which the Association may be obligated to maintain, and for unusual and unforeseen expenses of the

Association. Such reserve fund is to be established, insofar as is practicable, out of annual assessments for common expense. Further, the reserve fund may be applied to operational deficits provided adequate reserves are maintained.

5.4 Maximum Annual Assessment.

(a) The initial annual assessment shall be One Thousand Eight Hundred Dollars (\$1,800.00).

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Board effective January 1 of each year without a vote of membership, but subject to the limitation that any such increase shall not exceed twenty percent (20%).

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the increase permitted in subsection (b) of Section 5.4 above by a vote of two-thirds (2/3) of Owners who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Board may fix a quarterly assessment at an amount which shall not exceed one-fourth (1/4) of the maximum annual assessment.

(e) Each Owner shall, at the closing on the purchase of a Lot, pay a non-refundable assessment of Five Hundred Dollars (\$500); such assessment shall not be considered as an advance of the annual assessment to be paid by such Owner. This will also apply each time a Lot is resold.

5.5 Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year for the purpose of supplying adequate reserve funds for the replacement of capital improvements; for defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area or Area of Common Responsibility, or upon a Home, and in connection with exterior maintenance, including fixtures and personal property related thereto; for insurance costs of the Association; or for unusual, unforeseen and nonrecurring expenses of the Association, provided that any such assessment shall have the assent of the Board.

5.6 Notice and Quorum for any Action Authorized Under Section 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.4 shall be sent to all members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Such notice shall comply with the provisions of K.S.A. 58-4611(c). At the first such meeting called, the presence of members or of proxies entitled to cast twenty percent (20%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the

required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the proceeding meeting.

5.7 Rate of Assessment. Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at the same rate for all Lots. Provided, however, that there is no assessment for Lots owned by Developer which are not occupied as a residence.

5.8 Date of Commencement of Annual Assessments: Due Dates. The development may consist of up to seventy six (76) proposed Lots, which may be added to this Declaration in phases. Commencing on the first day of the first month after the closing on the sale of a Lot to an Owner, a portion of the annual assessment shall be due and payable by the Owner for the fractional remainder of such calendar year. Developer shall have the following option: (i) Developer shall commence paying twenty-five percent (25%) of the regular assessments for all Lots it owns upon such conveyance or (ii) Developer may elect not to pay any assessments whatsoever provided it funds any deficiency in the operational budget of the Association until it commences payment of the assessments in (i) above. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Non-related entity means an entity, which is not owned, managed, or operated by any common individuals.

5.9 Effect of Nonpayment of Assessments; Remedies of the Association. A late charge of Twenty-Five Dollars (\$25.00) shall be added to any assessment not paid within fifteen (15) days after the due date, together with interest from the due date at eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and in either event: interest, costs and reasonable attorney's fees of any such action shall be added to the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot.

5.10 Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI
EXTERIOR MAINTENANCE

6.1 Maintenance Obligations. In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon the Areas of Common Responsibility of each Home as follows: repair of gutters/downspouts (not chimney), snow/ice removal, paint and/or stain the exterior of the Home; repair, replace and care for exterior building surfaces, trees, shrubs (excluding those planted by an Owner), grass, walks, mailboxes, fences installed by Developer or the Association, exterior post lights, and other exterior improvements. Such exterior maintenance shall not include glass surfaces, driveways, or roofs. Further, the Owner of any Home may, at his or her election, plant flowers in beds established by Developer in developing the Home provided that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the residential Home and the remaining yard spaces. No Maintenance by an Owner shall reduce the assessment payable by him or her to the Association. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his or her family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject, which is not subject to any maximum. The Association is hereby granted an easement right of access to go upon any Lot for performance of repairs or maintenance, the responsibility of which is the Association's hereunder.

Subject to the provisions of this Declaration as expressly set forth in the obligations of the Association, all maintenance, repair, or replacement of the Home and all structures, and other improvements located within the Lot shall be the sole responsibility of the Owner thereof who shall perform such maintenance in a manner consistent with the community and the applicable provisions of this Declaration.

6.2. Setbacks. Pursuant to Developer's Agreement between the City of Manhattan and the Developer, such property shall hereafter be exempt from the "setback", "building setback" and "yard setback" requirements as set forth in the Zoning Code of the City of Manhattan as adopted by the Governing Body of the City of Manhattan, and any updates or modifications of such Zoning Code (Zoning Code). All applicable setbacks shall be as set forth in such Developer's Agreement as filed with the Register of Deeds of Riley County, Kansas, and enforcement of such established setbacks shall be subject to the provisions and penalties of the Zoning Code against the Developer, the Developer, its successors and assigns, and is a Covenant running with the land, binding on all successors in title to the Property.

ARTICLE VII
USE AND RIGHTS IN COMMON AREAS AND EASEMENTS

7.1 Use and Rights of Owners and the Association. Each Owner, at the time he/she becomes an Owner and for so long as he/she is an Owner, is hereby granted a non-exclusive right of easement for ingress and egress over and across, and use of, enjoyment in and access to all of the Common Areas subject to the rules and regulations of the Association. Such easements shall be deemed to be appurtenant to such Owner's Lot, shall run with the land and shall pass with the

title to such Lot. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Areas will be void unless said Owner (excluding the Developer) receives the consent of at least two-thirds (2/3) of the Owners.

If construction, reconstruction, repair, shifting, settlement or other movement of any portion of improvements results either in the Common Areas encroaching on any Lot or in a Lot encroaching on a Common Area or another Lot, an easement is hereby granted for both the encroachment and its maintenance for the period during which the encroachment exists. Except as provided in Article VI hereof, there shall be no absolute liability imposed on an Owner for damage to the Common Areas or other Lots. An Owner shall be liable for any damage caused by that Owner to the Common Areas or another Lot in accordance with Kansas law. The Association shall have the right to grant permits, licenses, or easements over or dedicate all or portions of the Common Areas owned by the Association and/or Common Facilities to any public body, agency, authority or utility for utilities, roads and other purposes necessary for the proper operation of the Development, provided that each Owner shall continue to have ingress and egress to his/her Lot. Any Owner may delegate in accordance with the By-laws of the Association, his/her right of enjoyment to the Common Areas to the members of his/her family, his/her tenants or contract purchasers who reside on such Lot.

7.2 Utility Easements. The Common Areas owned by the Association, and the Developer's conveyance thereof to the Association, shall be subject to utility easements granted or to be granted for sewer, water, drainage, cable television, gas, electricity, telephone and any other necessary utilities. If such utilities are not installed, or easements therefore are not granted or reserved prior to the conveyance of the Common Areas, such easements shall be granted later by the Association at the request of the Developer. As a part of its program of development of the Development into a residential community and to encourage the marketing thereof, the Developer shall have the right to use the Common Areas and Common Facilities thereon, without charge during the sales and construction period for the Property.

7.3 Use and Rights of Public Authorities. The duly designated officials, employees and contractors of governmental bodies having jurisdiction over the Development, shall have an easement to enter upon on, and over the Common Areas in the Development for the purpose of providing police and fire protection and enforcing the applicable laws, ordinances, rules and regulations of the said governmental bodies.

7.4 Condemnation. Destruction and Liquidation. In the event of condemnation or destruction of any Common Areas, and in the event of liquidation or termination of the Association, all losses, awards or proceeds resulting therefrom shall be shared equally by the Owners. The Association is hereby designated to represent the members thereof in any proceedings, negotiations, settlements or agreements regarding the same, and each Owner, by acceptance of a deed for a Lot appoints the Association as its attorney-in-fact for the foregoing purposes. Any proceeds from a settlement shall be payable to the Association for the benefit of the Owners and their mortgage holders.

7.5 Rights of Access in Favor of the Association. Each Owner hereby grants to the Association and to any other person authorized by the Association a right of access to all

portions of the Property owned by such Owner for the purposes of furnishing the services required to be furnished hereunder or enforcing its rights and powers hereunder, which include, without limitation:

- (a) Making inspections of, or removing violations noted or issued by any governmental authority against, the Lot or Area of Common Responsibility;
- (b) Curing defaults hereunder, or violations of the Rules and Regulations, committed by such Owner;
- (c) Correcting any conditions originating in or on a Lot which threaten another Lot or any portion of the Area of Common Responsibility;
- (d) Installing, operating, maintaining, repairing, altering, rebuilding, restoring and/or replacing Home Exteriors and improvements within the Area of Common Responsibility;
- (e) Performing the duties and obligations herein imposed upon the Association; and
- (f) Exercising the rights herein granted to the Association, including the right to use water drawn from the exterior water faucets located on Lots without making reimbursement to the Owners.

7.6 Exercise of Any Rights of Access. The rights of access granted in Section 7.5 above shall be exercised in such a manner as shall not unreasonably interfere with the use of the respective Lots by the Owners thereof. Except for an entry to obtain water from the exterior faucet, entry shall be permitted on reasonable notice to the Owner in question, except that no such notice shall be necessary in the event of Home Exterior repairs or replacements that shall be immediately necessary or required for the preservation or safety of the Lots or any part thereof, for the safety of the occupants, or to avoid the suspension of any necessary service at the Property or any part thereof. In connection with any such entry, the Association shall repair, or cause to be repaired, any resulting damage to the Lot, restoring it to substantially the condition that it was in prior to the exercise of the right of entry.

ARTICLE VIII **EASEMENTS**

All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power line and other public utilities as shall be established by the Developer. In addition, there is hereby reserved in the Developer and its agents and employees an easement and right in ingress, egress and regress across all Common Areas, now or hereafter owned by the Association, for the purpose of construction of

improvements within the Properties, including the right of temporary storage of construction materials on said Common Areas.

So long as Developer owns any property described on Exhibit "A", Developer reserves blanket easements and the right to grant such specific easements over all the Property, including Lots and Common Areas, as may be necessary in conjunction with the orderly development of the Property for use, enjoyment, access, construction and maintenance of public or private utilities and storm drainage. No such easements may be located within the area beneath any building located thereon.

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Developer to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves and walls.

Developer reserves access easements over all Lots for construction, either for that Lot or any adjacent property and easements for the installation of public or private utilities and storm drainage.

There are reserved cross-easements in favor of Owners of Lots that include a Home for access to and from each Lot and Common Area adjacent to the Lots, including, but not limited to, the transportation of roll-out garbage containers; however, this does not include access to approved decks, patios, or areas with approved fences.

ARTICLE IX **DEVELOPER'S RIGHTS**

The right is reserved by Developer, or its agents, to place and maintain on the Property all model homes, sales offices, advertising signs and banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by Developer. There is also reserved unto Developer, its agents and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Property for such sales purposes. Developer also reserves the right to maintain on the Property without charge (a) a general construction office for Developer's contractors and (b) appropriate parking facilities for the employees of Developer's agents and contractors. Notwithstanding any other provision to the contrary, no annual or special assessment shall be due for any models of the Developer. Notwithstanding any provision herein to the contrary, the rights and easements created under this Declaration are subject to the right of Developer to execute all documents and do all other acts and things affecting the Properties, which in the Developer's opinion, are required to implement any right of Developer set forth in this Declaration (including the making of any dedications or conveyances to public use) provided any such document or act is not inconsistent with the then existing property rights of any Owner.

In any event and notwithstanding any provision in this Declaration to the contrary, Developer reserves the right and power, and each Owner by acceptance of a deed to a Lot is deemed to and does give and grant to Developer a power of attorney, which right and power is

coupled with an interest and runs with the title to a Lot and is irrevocable (except by Developer), without the consent, approval or signature of each Owner, to (i) amend the Declaration and all attachments, to the extent necessary to conform to the requirements then governing the purchases or insurance of mortgages by any agency or organization, (ii) induce any such agencies or entities to make, purchase, sell insure or guarantee first mortgages covering Lot ownership, (iii) to correct typographical errors, surveyor errors in descriptions or otherwise, or obvious factual errors or omissions, the correction of which would not impair the interest of any Owner or mortgagee, (iv) bring this Declaration into compliance with all applicable laws, (v) to amend any Exhibits, or (vi) to exercise any Developer rights or development rights; and further provided that if there is an Owner other than the Developer, the Declaration shall not be amended to increase the scope or the period of control of the Developer. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power of Developer to vote in favor of, make execute and record any of the foregoing amendments. The rights of Developer under this Section shall terminate at such time as Developer no longer holds or controls title to a Lot and the right of Developer to add the Additional Land has expired.

ARTICLE X

DISPUTE RESOLUTIONS AND LIMITATIONS ON LITIGATION

10.1 Agreement to Avoid Costs of Litigation and to Limit Rights to Litigate Disputes. The Association, Developer, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties in order to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties including, without limitation, claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles (collectively, "Claim"), except for those Claims authorized in Section 10.2, shall be resolved using the procedures set forth in Section 10.3 in lieu of filing suit in any court or initiating proceedings before any administrative tribunal seeking redress or resolution of such Claim.

10.2 Exempt Claims. The following Claims ("Exempt Claims") shall be exempt from the provisions of Section 10.3:

- (a) Any suit by the Association against any Bound Party to enforce the provisions of Article V (Covenant for Maintenance Assessments);
- (b) Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration;

- (c) Any suit arising out of any written contract between Owners, or between the Developer and any builder, which would constitute a cause of action under the laws of the State of Kansas in the absence of the Declaration, By-Laws and Articles of the Association; and
- (d) Any suit in which all parties are not Bound Parties.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 10.3, but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of Section 10.3 shall require the approval of the Association.

10.3 Mandatory Procedures for All Other Claims. All claims other than Exempt Claims shall be resolved using the following procedures:

- (a) Notice. Any Bound Party having a claim ("Claimant") against any other Bound Party ("Respondent"), other than an Exempt Claim, shall notify each Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:
 - (i) The nature of the Claim, including date, time, location, persons involved and respondent's role in Claim;
 - (ii) The basis of the Claim ("Claimant") (i.e., the provisions of this Declaration, the By-Laws, the Articles or rules or other authority out of which the claim arises);
 - (iii) What Claimant wants Respondent to do or not to do to resolve the Claim; and
 - (iv) The Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.
- (b) Negotiation.
 - (i) Each party to a dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by negotiation.
 - (ii) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.

(c) Final and Binding Arbitration.

(i) If the Parties are unable to resolve the Claim, the Claimant shall have fifteen (15) additional days to submit the Claim to arbitration.

(ii) This subsection (c) is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration laws of the State of Kansas. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Kansas.

10.4 Allocation of Costs of Resolving Claims.

(a) Each Party shall bear its own costs incurred prior to and during the proceedings described in Section 10.3.

10.5 Enforcement of Resolution. If the Parties agree to a resolution of any Claim through negotiation in accordance with Section 10.3 and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with the terms of any Award following arbitration, then any other Party may file suit to enforce such agreement or Award. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorney's fees and court costs.

10.6 Commencement of Litigation. Any litigation by the Association other than the "Exempt Claims" set out in Section 10.2, shall require an affirmative vote of fifty percent (50%) of the members of the Association prior to the institution of such litigation.

ARTICLE XI
DOCUMENTS AND RECORDS

11.1 Records. The Association shall maintain the following records and make them available for inspection and copying during normal business hours by Owners or by holders, insurers and guarantors of first mortgages secured by Lots:

(a) Current copies of the recorded Declaration, Articles of Incorporation and By-Laws of the Association, and any amendments thereto, guidelines, rules and regulations adopted by the Association, as well as the Association's books, records, and financial statements;

(b) Detailed and accurate records in chronological order of the receipts and expenditures affecting the Areas of Common Responsibility, specifying and itemizing the maintenance and repair expenses incurred and all other expenses

incurred, including those for Common Areas and Common Facilities and copies of all contracts, leases, or other agreements entered into by the Association;

(c) The minutes of all meetings of the Owners and Directors of the Association for not less than seven (7) years; and,

(d) Ballots and proxies related thereto, if any, for any election held for the Board of the Association and for any other matters voted on by the Owners, for not less than thirty (30) days.

ARTICLE XII

MEETINGS AND FINANCES

12.1 Annual Budget. Each Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board, a copy of the proposed annual budget. The Board shall, within one hundred twenty (120) days of the Association's fiscal year-end make internally prepared financial statements for the preceding fiscal year available to all Owners, upon request, an itemized accounting of the expenses for the preceding year actually incurred or paid, together with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves. The Board may determine to have such financial statements reviewed by an accounting firm or determine to have audited financial statements. Each Owner shall receive written notice mailed or delivered no less than ten (10) and no more than thirty (30) days prior to any meeting of the Board concerning the adoption of the proposed annual budget or any increase in the budget, or establishment of an assessment.

12.2 Meetings of the Board. Meetings of the Board shall be open to any Owner, except for the portion of any meeting held:

(a) To discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable imminent;

(b) To consider information regarding appointment, employment, or dismissal of an employee; or

(c) To discuss violation of rules and regulations of the Association or unpaid assessments owned to the Association.

Any vote on the foregoing matters shall be taken at a meeting or portion thereof open to any Owner. Any Owner may record the proceeding at meetings required to be open by this Section 12.2 by tape, film, or other means; the Board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of meetings shall be mailed or delivered at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the persons entitled to notice before the meeting is convened. Copies of notice of

meetings of the Board shall be posted in entrance ways, elevators, or other conspicuous places in the Development project at least forty-eight (48) hours prior to the meeting of the Board.

ARTICLE XIII
ADMINISTRATION OF PROJECT PRIOR TO
ELECTION OF INITIAL BOARD OF DIRECTORS

13.1 Association. Until the election by Owners of the Board, the same rights, titles, powers, privileges, trusts, duties, and obligations that are vested in or imposed on the Board by this Declaration shall be held and performed by the Developer.

13.2 Election of Initial Board. The election of the initial Board by the Owners shall be held not later than the Turnover Date. Developer shall give at least ten (10) days notice of the meeting to elect the initial Board and shall upon request provide any Owner within three (3) working days of the request, the names, addresses, and weighted vote of each Owner entitled to vote at the meeting. Any Owner shall upon request be provided with the same information, within three (3) working days of the request, with respect to each subsequent meeting to elect members of the Board.

13.3 Delivery of Records. Within sixty (60) days after the election of a majority of the Board other than Developer by Owners, Developer shall deliver to the Board;

(a) All original documents as recorded or filed pertaining to the community, its administration, and the Association, such as this Declaration, the Articles of Incorporation, other instruments, annual reports, minutes, rules, and regulations and contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Developer, or an officer or agent of Developer as being a complete copy of the actual document recorded or filed.

(b) A detailed accounting by Developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance, and operation of the community, copies of all insurance policies, and a list of any loans or advances to the Association which are outstanding.

(c) Association funds, which shall have been at all times segregated from any other moneys of the Developer.

(d) A schedule of all real or personal property, equipment, and fixtures belonging to the Association, including documents transferring the property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills.

(e) A list of all litigation, administrative action, and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken concerning the Association, engineering and architectural drawings and specifications as approved by any governmental authority, other documents filed with any governmental authority, all governmental certificates, correspondence involving enforcement of any association requirements, copies of any documents relating to disputes involving Owners, and originals of all documents relating to everything listed in this subsection (c).

ARTICLE XIV **RIGHTS OF FIRST MORTGAGEES**

14.1 Payments. A First Mortgagee of a Lot may, either singly or jointly with First Mortgagees of other Lots, on behalf of the Association (i) pay taxes or other charges which are in default and which may become or have become a lien or charge against the Common Areas, the Common Facilities or both, and (ii) pay overdue premiums on one or more hazard insurance coverages of the Common Areas and Common Facilities upon the failure of the Association to timely pay such premiums. The First Mortgagees making such payment on behalf of the Association shall be entitled to be reimbursed therefor from the Association upon written demand therefor.

14.2 Insurance Proceeds and Condemnation Awards. No Owner of a Lot, or any other party, shall have priority over any rights of First Mortgagees of Lots pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of any of the Common Areas, the Common Facilities or both; provided, however, that nothing in this subsection (b) shall be deemed to create, or imply the existence of, any rights of Owners of Lots, or their Mortgagees, or both, in and to any such insurance proceeds and condemnation awards.

ARTICLE XV **RESALE OF LOTS**

15.1 Document Delivery. In the event of any resale of a Lot by an Owner other than Developer, the Owner may obtain from the Board and shall make available for inspection by the prospective purchaser, upon demand, the following:

- (a) A copy of this Declaration and any rules and regulations applicable to the Development.
- (b) A statement of any liens, including a statement of the account of the Lot setting forth the amounts of unpaid capital contributions, assessments and other charges due and owing.

- (c) A statement of the status and amount of all reserves for replacement and other reserves and any portions thereof earmarked for any specific project by the Board.
- (d) A copy of the statement of financial condition of the Association for the last fiscal year for which such a statement is available.
- (e) A statement of the status of any pending suits or judgments in which the Association is a party.
- (f) A statement setting forth what insurance coverage is provided by the Association.

The principal officer of the Association or such other officer as is specifically designated shall furnish the above information when requested to do so in writing within thirty (30) days of receiving the request. A reasonable fee covering the direct out-of-pocket costs of copying and providing such information may be charged by the Association to the selling Owner.

ARTICLE XVI

ERRORS AND OMISSIONS

16.1 Omissions or Errors. If there is an error or omission in this Declaration or other instrument of the Association, the Association may correct the error or omission by an amendment to this Declaration or other instrument, as may be required to conform it to any other applicable statute or to this Declaration. The amendment shall be adopted by vote of two-thirds (2/3) of the members of the Board or by a majority vote of the members at a meeting called for that purpose, unless the Declaration specifically provides for greater percentages or different procedures.

16.2 Ratification. If an error or omission in this Declaration or other instrument is corrected by vote of two-thirds (2/3) of the members of the Board pursuant to the authority established in Section 16.1, the Board, upon written petition by Owners with twenty percent (20%) of the votes of the Association, received within thirty (30) days of the board action, shall call a meeting of the Owners within thirty (30) days of the filing of the petition to consider the board action. Unless a majority of the votes of the Owners are cast at the meeting to reject the action, it is ratified whether or not a quorum is present.

16.3 Affected Owners' Consent. The procedures for amendments to correct errors or omissions set forth in Sections 16.1 and 16.2 of this Article cannot be used if such an amendment would materially or adversely affect property rights of the Owners unless the affected Owners consent in writing. This Section shall not restrict the powers of the Association to otherwise amend this Declaration, the By-Laws, or other instruments, but authorizes a simple process of amendment requiring a lesser vote for the purpose of correcting defects, errors, or omissions when the property rights of Owners are not materially or adversely affected.

16.4 Correction by Court Action. If there is an error or omission in this Declaration or other instruments that may not be corrected by an amendment procedure set forth above, then the District Court of Riley County shall have jurisdiction to hear a petition of one or more Owners therein or of the Association, to correct the error or omission. The court may require that one or more of the methods of correction be submitted to the Owners to determine the most acceptable correction. All Owners must be joined as parties to the action.

ARTICLE XVII

GENERAL PROVISIONS

17.1 Enforcement. The covenants, condition easements and restriction herein contained (the "Covenants") shall run with, and be binding upon the Property and shall inure to the benefit of and shall be binding upon the Association and all persons owning, leasing, subleasing, or occupying any such land and their heirs, executors, administrators, personal representatives, successors, and assigns. These Covenants may be enforced by the Association, which shall have the right to expend Association monies in pursuance thereof, and may also be enforced by the Owner of any Lot in the Development or any one or more of the aforesaid persons benefitted thereby. If these Covenants are enforced by appropriate proceedings by any such Owner(s), such Owner(s), if successful in such enforcement and if the Association had theretofore refused such enforcement, shall be reimbursed by the Association for all or any part of the cost incurred, but such reimbursement shall be solely in the discretion of the Board. Enforcement of these Covenants shall be by any proceeding at law, equity, or otherwise against any person or persons violating or attempting to violate any of these Covenants either to restrain violation or to recover damages, and against the land to enforce any lien created by these Covenants and failure by the Association or any Owner to enforce any of the Covenants herein contained shall in no event be deemed a waiver of the right to do so thereafter.

17.2 Duration, Termination and Amendment. Subject to the provision hereof, these Covenants shall remain in full force and effect for a period of thirty-five (35) years from the date hereof, and thereafter they shall be deemed to have been automatically renewed for successive terms of ten (10) years except that at any time, and from time to time, they may be amended or terminated by the vote of the Owners of not less than sixty-seven percent (67%) of the Lots then in the Association. Any amendment or termination shall be effected by recording in the Office of the Register of Deeds of Riley County, a document executed by the required number of Owners, setting out such amendment(s) or stating that this Declaration shall be terminated or amended as provided therein.

17.3 Retained by Developer. A power coupled with an interest is hereby retained by and granted to the Developer (acting by and through its duly authorized members), its successors, assigns or designees, as attorney-in-fact, to amend this Declaration, the By-laws of the Association, or the Articles of Incorporation of the Association, for any of the following purposes: (a) compliance with requirements of any federal, state or local governmental entity or agency; (b) to induce any agencies and entities to make, sell, purchase, insure, guarantee or otherwise deal with first mortgages on Lots; (c) correcting any typographic or scrivener's error and inconsistencies in the Declaration; (d) to comply with applicable federal, state, and local law;

and (e) meeting requirements of the Internal Revenue Code as now, or hereafter amended, (i) relating to organizations exempt from tax or (ii) specifically exempting homeowners' associations from any Federal income tax; provided that Developer shall have no obligation to cause any such amendment to be made. The acceptance of each deed, mortgage or other instrument with respect to any Lot which is subject to this Declaration shall be deemed to be a confirmation of such power to such attorney-in-fact and shall be deemed to constitute a consent and agreement to and acceptance, confirmation and ratification of all such amendments, which shall be effective upon the recording in the Office of the Register of Deeds of Riley County an appropriate instrument, setting forth the amendment, and its authorization pursuant to this Section 17.3, which instrument shall be executed and acknowledged by Developer. The foregoing power shall terminate when Developer no longer owns any Lots.

17.4 Assignment of Developer's Rights. Notwithstanding anything herein to the contrary, Developer hereby reserves the right to transfer, assign, mortgage or pledge any and all of its privileges, rights, title and interest hereunder, or in the Property, by means of recording an assignment of such with the Office of the Register of Deeds of Riley County. Upon recording of such assignment, Developer shall be relieved of any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording or such assignment. No such successor assignee of the rights of Developer shall have or incur any liability for the obligations or acts of any predecessor in interest.

17.5 Leases. Any lease or rental agreement affecting any Lot must be in writing, and shall be subject to the requirement of this Declaration, and the Articles of Incorporation and By-Laws of the Association. No portion of a Lot which is less than the entire Lot shall be leased.

17.6 Severability. Invalidation of any one or more of the provisions of these Covenants or portions thereof by judgment or court order shall in no way affect the validity of any of the other provisions or portions thereof, which shall remain in full force and effect.

17.7 Notices. Any notice or other communication required to be sent to any Owner or First Mortgagee under the provisions of this instrument shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner or First Mortgagee on the records of the Association at the time of such mailing. Notice to the Association shall be sent in the manner addressed to its President or Secretary at 11828 W. Central, #124, Manhattan, Kansas 67212, or to such other address of which the Association shall have notified the Owners in the aforesaid manner.

17.8 Captions. The paragraph captions in this instrument are for convenience only and do not in any way define, limit, describe, or amplify the terms and provisions of this instrument or the scope or intent thereof.

ARTICLE XVIII
ANNEXATION OF ADDITIONAL LAND

18.1 Annexation without Approval of Class "A" Membership. Developer shall have the unilateral right, privilege, and option, from time to time and at any time within seven (7) years from the date this Declaration is recorded, to subject to the provisions of this Declaration and the jurisdiction of the Association additional adjacent real property. Such annexation shall be accomplished by filing in the Office of Register of Deeds for Riley County, Kansas, Declarations amending this Declaration. Such Declaration shall not require the consent of the members. Any such annexation shall be effective upon the filing for record of such Declaration. Developer shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex the Additional Land which is herein reserved to Developer, provided that the transfer is memorialized in a written instrument executed by the Developer and recorded in the Office of Register of Deeds for Riley County. Each Lot annexed and subjected to the provisions hereof shall be entitled to one vote and shall be subject to assessments and capital contributions which are equal in size to the assessments and capital contributions levied against Lots already subject to the provisions hereof. It is the intent of this Declaration that the assessments and capital contributions levied against all Lots be of equal size except that Lots which first become subject during a year shall be assessed only for a pro-rated share of the year's annual assessment and the unpaid portion of previously levied special assessments and capital contributions.

18.2 Annexation with Approval of Class "A" Membership. Following the expiration of the right in Section 18.1, any land may be annexed to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of a majority of the Members present at a meeting duly called for such purpose and of the Developer, so long as Developer owns Property subject to this Declaration or which may become subject hereto in accordance with Section 18.1 above.

18.3 Amendment. This Article XVIII shall not be amended without the prior written consent of Developer, so long as Developer owns any of the real property described in Exhibit "A" hereof.

ARTICLE XIX **INSURANCE AND CASUALTY LOSSES**

19.1 Insurance.

(a) Hazard and Flood Insurance. Each Owner shall obtain and thereafter maintain insurance for his/her/its Lots and all improvements thereon against loss or damage by fire and such other hazards, including flood, as may be required under applicable requirements as the Board may deem desirable, or as reasonably required by First Mortgagees, for the full insurable replacement cost of the Lots. All policies shall designate the Association as an additional insured with respect to liability coverage.

(b) Waiver of Subrogation. The Association and each Owner hereby waive and release any and all claims which it or he/she may have against any other Owner, the Association, its directors and officers, the Developer, the manager and

the managing agent if any, and their respective employees and agents, for damage to the Lot or to any personal property located in a Lot caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.

(c) The Board shall have the authority to, and shall obtain on behalf of the Association comprehensive public liability insurance, including liability for injuries to, and the death of persons and property damage in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Developer, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with the Common Area and Areas of Common Responsibility, which include the Home Exteriors. The Board may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities. Such insurance coverage shall include cross liability claims of one or more insured parties.


(d) Fidelity bonds indemnifying the Association, the Board, and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association, may be obtained by the Association in such amounts as the Board may deem desirable.

(e) The premiums for any insurance obtained by the Association under this Article shall be included in the assessments as defined in Section 5.4.

19.2 Damage and Destruction. In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to its natural state and maintained by the Association in a neat and attractive condition.

IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal this 16th day of March, 2016.

PERFECTION SIGNATURE PROPERTIES, LLC
a Kansas Limited Liability Company

By: 
Scott A. Lehner
Its Member

By: [Signature]
Jason R. Ronk
Its Member

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

I, Bryce O. Bissell, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Scott A. Lehner, personally known to me as a Member of Perfection Signature Properties, LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the same instrument pursuant to authority given by said corporation as its free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 16 day March, 2016.

My appointment expires:

5/22/2019

[Signature]
Notary Public



STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

I, Bryce O. Bissell, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Jason R. Ronk, personally known to me as a Member of Perfection Signature Properties, LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the same instrument pursuant to authority given by said corporation as its free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 16 day March, 2016.

My appointment expires:

5/22/2019

[Signature]
Notary Public



EXHIBIT "A"

THE "PROPERTY"

Lots 1 - 24; Courtyards at LMH Addition, an Addition to MANHATTAN, RILEY COUNTY, Kansas and all Reserves depicted on the final plat.