

**FOURTH AMENDMENT AND RESTATEMENT OF
DECLARATION OF RESTRICTIONS OF
WHISPERING HILLS AND WHISPERING HILLS ESTATES**

THIS AMENDMENT AND RESTATEMENT is made as of the 6th day of October, 2010 by Whispering Hills Homes Association, a Kansas nonprofit corporation, and the signatories of the counterpart signature pages attached hereto.

WHEREAS, Whispering Hills Sections I, 2, III and 5 and Whispering Hills Estates Plat and Whispering Hills Estates Second, Third, Fifth and 6th plats are restricted by that certain Second Amendment and Restatement of Declaration of Restrictions of Whispering Hills and Whispering Hills Estates dated March 10, 1998 and recorded in the Office of the Register of Deeds of Johnson County, Kansas on March 12, 1998 as Document No. 2802221 in Book 5497 at Page 1;

WHEREAS, the Second Amendment and Restatement of Declarations of Restrictions of Whispering Hills and Whispering Hills Estates was amended and restated by that certain Third Amendment and Restatement of Declaration of Restrictions of Whispering Hills and Whispering Hills Estates dated January 1, 2002, and recorded in the Office of the Register of Deeds of Johnson County, Kansas, on March 22, 2002, as Document No. 3390334 in Book 7716 at Page 282 (the "Declaration"); and

WHEREAS, the Association, those lot owners appearing on the counterpart signature pages attached hereto and the owner of the additional property subjected to the Declaration by this instrument desire to adopt, ratify, extend, combine, amend and restate the restrictions to combine the numerous restrictions into this one instrument for consistency of application and ease of administration by the Association.

NOW, THEREFORE, the Association, the lot owners and the owner of the additional property subjected to the Declaration by this instrument hereby adopt, ratify, extend, amend and restate the restrictions by the amendment and restatement thereof:

PREMISES. The premises are incorporated herein as a part of this instrument.

DEFINITIONS OF TERMS USED.

The words "additions to existing structures whether enclosed or open" shall refer to modifications that increase the finished or unfinished square footage of a residence by increasing the general footprint of the residence or by modifying the existing roof line. Improvements such as garages, decks, patios, sunrooms, and swimming pools shall be considered as additions.

The "Architectural Committee" shall consist of three residents of the District as it now or hereafter exists. The members shall be appointed for terms of one year each. The members shall be appointed by and may be removed or replaced by the Board of Directors of the Association.

The term "Association" shall refer to the Whispering Hills Homes Association, as created and defined in the Homes Association Declaration dated June 8, 1971, as amended.

The term "Board of Directors" shall refer to the Board of Directors of the Whispering Hills Homes Association.

The words "Common Area" means each private street, each park, and any similar area to be located upon Tracts, as described upon the recorded plats or as defined herein, including, without limitation, the following:

The Streets;

Lots 1, 2 and 3; and Tracts 1 and 2; Tract 3 except all that part of Tract 3, lying North of and adjoining Lot 22, WHISPERING HILLS - SECTION 1, a subdivision in the City of Lenexa, Johnson County Kansas. Being more particularly described as follows; Beginning at a point in the North line of Lot 22, said point being 24.59 feet Westerly from the Northeastern corner of Lot 22; thence North 85 degrees, 05 minutes, 40 seconds West, along the North line of Lot 22, a distance of 50.50 feet; thence North 0 degrees, 54 minutes, 20 seconds East 18.50 feet; thence South 89 degrees, 05 minutes, 40 seconds East 50.50 feet; thence South 05 degrees, 54 minutes, 20 seconds West 18 feet to the point of beginning; and Tracts 4 -7 of Whispering Hills, Section I;

Tracts 8-12; 13 except the following: Part of Tract 13, Whispering Hills, Section 2, subdivision in Lenexa, Johnson County, Kansas, more particularly as follows: Beginning at the Northeast Corner of Lot 39A of said Whispering Hills, Section 2; thence N 24°59'57"E along a projection of the Easterly Line of said Lot 39A, 38.57 feet; thence N 89°46'53" W 80.00 feet; thence S 24°59'57" W, 38.57 feet to the North line of said Lot 39A; thence S 89°46'53" E along the North line said Lot 39A, 80.00 feet to the Point of Beginning; and 14-19 of Whispering Hills, Section 2;

Tracts 2, 3 and 5-9 of Whispering Hills, Section 3;
Part of Lots 99, 100 and Tract 10 of Whispering Hills, Section 3, a subdivision in Johnson County, Kansas, more particularly described as follows:

Beginning at the S.W. corner of said Lot 100; thence N. 88°21'29" E., a distance of 254.74 feet to a point on a curve; thence on said curve to the left in a northeasterly direction, having a central angle of 26°27'52", a radius of 267.66 feet, and a length of 123.63 feet to a point; thence N. 64°10'39" E., a distance of 547.23 feet to a point on a curve; thence on said curve to the right in a easterly direction, having a central angle of 36°26'04", a radius of 425.00 feet, and a length of 270.26 feet to a point; thence S. 79°23'17" E., a distance of 96.45 feet to a point in the westerly right-of-way of Woodland Road, as now established; thence S. 0°31'43" W., along the said

westerly right-of-way, a distance of 60.94 feet to a point; thence N. 79°23'17" W., a distance of 107.12 feet to a point on a curve; thence on said curve to the left in a westerly direction, having a central angle of 36°26'02", a radius of 365.00 feet and a length of 232.10 feet to a point; thence S. 55°23'56" W., a distance of 113.13 feet to a point; thence S. 62°23'47" W., a distance of 372.43 feet to a point on a curve; thence on said curve to the right in a westerly direction, having a central angle of 42°28'14", a radius of 386.90 feet, and a length of 286.79 feet to a point; thence N. 75°07'58" W., a distance of 168.43 feet to a point on a curve; thence on said curve to the left in a northwesterly direction, having a central angle of 04°43'52", a radius of 353.16 feet, and a length of 29.16 feet to the Point of Beginning; but except that part of the forgoing described parcel which was conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North 88° 04' 12" East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North 01° 55' 48" West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South 81° 38' 34" East, a distance of 65.61 feet to a point; thence South 01° 43' 34" East a distance of 60.94 feet to a point; thence North 81° 38' 34" West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40° 42' 43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING.

Tract B of Plat of Whispering Hills Estates;

Tracts B, E, F and G, Plat of Whispering Hills, Section 6;

That part of Tract 7 of Whispering Hills, Section 3, legally described as follows:

Beginning at the Southwest corner of the Southeast Quarter of Section 26, Township 12, Range 23; thence North 0°13'12" East, 30.00 feet; thence South 89°40'31" East, 101.12 feet, to the true point of beginning of subject tract; thence South 20°33'34" West to a point on the South line of the Southeast Quarter of Section 26, Township 12, Range 23; thence South 89°40'31" East along said South line of the Southeast Quarter, to a point that bears South 38°7'59" East from the Southwest corner of Lot 133; thence North 38°27'59" West to the Southwest corner of Lot 133; thence North

89°40'31" West, 229.51 feet to the true point of beginning of subject tract; and

The word "District" shall mean all property now or hereafter subjected to these restrictions, and includes, without limitation, the following:

Lots 1-41 and Tracts 1-7 platted in Plat of Whispering Hills, Section I;

Lots 24-29, 31-40, 43, 45, 47, 34A-40A, 42A, 44A, 46A, 15C, 17C, 19C, 21C-33C, 10D-21D, and Tracts 8-19 platted in Plat of Whispering Hills, Section 2;

Lots 99-138 and 140-159 and Tracts 1-11 platted in Plat of Whispering Hills, Section III, but except that part of the forgoing described parcel which were conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North 88° 04' 12" East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North 01° 55' 48" West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South 81° 38' 34" East, a distance of 65.61 feet to a point; thence South 01° 43' 34" East a distance of 60.94 feet to a point; thence North 81° 38' 34" West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40° 42' 43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING;

Tracts 1-7 and Tract A platted in Plat of Whispering Hills, Section 5;

Lots 1-4, 17-19, 40-63 and Tracts A and B platted in Plat of Whispering Hills Estates;

Lots 20, 21 and 32-39 and Tract A platted in Whispering Hills Estates, Second Plat;

Lots 5-16 and Tract A platted in Plat of Whispering Hills Estates, Third Plat;

Lots 26 and 27 platted in Plat of Whispering Hills Estates, Fourth Plat, and Lots 22, 23, 24, 25, 28 and Tract A platted in Whispering Hills Estates, Fifth Plat;

The following described property:

The Northwest Quarter of Section 35, Township 12, Range 23, Johnson County, Kansas, except part platted as Section III, Whispering Hills, and except Beginning at a point 1,157.65 feet West of and 747.25 feet South of the Northeast corner of the Northwest Quarter of Section 35, thence North $37^{\circ} 35' 49''$ West a distance of 190.0 feet thence South $23^{\circ} 20' 54''$ West a distance of 102.96 feet thence South $17^{\circ} 45' 35''$ West a distance of 122.36 feet, thence South $82^{\circ} 53' 39''$ East a distance of 150.0 feet, thence in a Northeasterly direction along a curve to the right having a radius of 118.26 feet, a distance of 93.49 feet to the point of beginning, except part in roads. (Portions of the foregoing property have been platted as Whispering Hills Estates, Estates Second Plat, Estates Third Plat, Estates Fourth Plat, Estates Fifth Plat, all which were added to the District by Agreement recorded as Doc. No. 1629977 in Book 2400 at page 899.); and

Lots 1-11 and Tracts A-G, Plat of Whispering Hills, Section 6.

The word "Lot" shall mean any numbered lot as platted or one or more lots or part or parts of one or more numbered lots as platted, and upon which a residence may be created in accordance with the restrictions hereinafter set forth, which is now or hereafter within the District. The Lots in the District currently include, without limitation, the following:

Lots 4-21; Lot 22 and all that part of Tract 3, lying North of and adjoining Lot 22, WHISPERING HILLS - SECTION 1, a subdivision in the City of Lenexa, Johnson County Kansas. Being more particularly described as follows; Beginning at a point in the North line of Lot 22, said point being 24.59 feet Westerly from the Northeastern corner of Lot 22; thence North 85 degrees, 05 minutes, 40 seconds West, along the North line of Lot 22, a distance of 50.50 feet; thence North 0 degrees, 54 minutes, 20 seconds East 18.50 feet; thence South 89 degrees, 05 minutes, 40 seconds East 50.50 feet; thence South 05 degrees, 54 minutes, 20 seconds West 18 feet to the point of beginning; Lots 23-41 platted in Plat of Whispering Hills, Section I;

Lots 24-29, 31-40, 43, 45, 47 (together with and Tract A, Plat of Whispering Hills, Section 6, 34A-38A, 39A and the following: Part of Tract 13, Whispering Hills, Section 2, subdivision in Lenexa, Johnson County, Kansas, more particularly as follows: Beginning at the Northeast Corner of Lot 39A of said Whispering Hills, Section 2; thence N 24°59'57" E along a projection of the Easterly Line of said Lot 39A, 38.57 feet; thence N 89°46'53" W 80.00 feet; thence S 24°59'57" W, 38.57 feet to the North line of said Lot 39A thence S 89°46'53" E along the North line said Lot 39A, 80.00 feet to the Point of Beginning; 40A42A, 44A, 46A, 15C, 17C, 19C, 21C-33C, 10D-21D platted in Plat of Whispering Hills, Section 2;

Lots 99-138, 140, 141 (together with Tract C, Plat of Whispering Hills, Section 6, 142 (together with Tract D, Plat of Whispering Hills, Section 6), 143-145, 146 and Tract 4, and 147-159 platted in Plat of Whispering Hills, Section III;

Tracts 1-7 platted in Plat of Whispering Hills, Section 5;

Lots 1-4, 17-19, 40-63 platted in Plat of Whispering Hills Estates;

Lots 20, 21, 32-39 platted in Whispering Hills Estates, Second Plat;

Lots 5-16 platted in Plat of Whispering Hills Estates, Third Plat;

Lots 26 and 27 platted in Plat of Whispering Hills Estates, Fourth Plat;

Lots 22, 23, 24, 25 and 28 platted in Plat of Whispering Hills Estates, Fifth Plat; and

Lots 1-11, Plat of Whispering Hills, Section 6.

No Lot, however, as herein defined, shall have a width of less than 90 feet at the front building line, except with consent of the Board of Directors.

The words "modifications to existing site topography and landscaping" shall refer to changes in the overall lay of the land in a Lot and the general character of the landscaping in a Lot. This shall include, but not necessarily be limited to, modifications that change the volume or direction of storm runoff water, or both, construction of site modification structures such as

retaining walls, and modification to or replacement of septic systems. This shall not include selective removal and replacement of landscape elements that are overgrown, diseased or otherwise damaged due to weather or other environmental effects, removal of dead landscape elements, expansion of the general landscaping plan, reseeding or sodding of grass areas, and prudent and proper trimming and pruning of landscape elements.

The words "modifications to the exterior of existing structures" shall refer to changes in the exterior of any existing structure that alters the overall appearance of the structure. This shall include, but not necessarily be limited to, changes in the size, location and style of windows and doors, changes to the roofline, changes in the exterior covering material such as siding, stone, brick, stucco or shingles, changes to architectural features such as overhangs, dormers, and porches. Normal maintenance and repair of exterior features with like or similar materials shall not be considered as modifications.

The word "Outbuilding" shall mean a structure which is enclosed or covered and not directly attached to a residence.

The word "Street" shall mean the private streets, roads, avenues or terraces of whatever name as shown on the plats in the District which are recorded in the office of the Register of Deeds of Johnson County, Kansas (the "Plat"), and designated thereon as such, and shall include, without limitation the following Tracts:

Tract 7 of Whispering Hills, Section I;

Tract 17 (also labeled Trail "A", Trail "C", Trail "D" and "Whispering Dr.") of Whispering Hills, Section 2;

Part of Lots 99, 100 and Tract 10 of Whispering Hills, Section 3, a subdivision in Johnson County, Kansas, more particularly described as follows:

Beginning at the S.W. corner of said Lot 100; thence N. $88^{\circ}21'29''$ E., a distance of 254.74 feet to a point on a curve; thence on said curve to the left in a northeasterly direction, having a central angle of $26^{\circ}27'52''$, a radius of 267.66 feet, and a length of 123.63 feet to a point; thence N. $64^{\circ}10'39''$ E., a distance of 547.23 feet to a point on a curve; thence on said curve to the right in a easterly direction, having a central angle of $36^{\circ}26'04''$, a radius of 425.00 feet, and a length of 270.26 feet to a point; thence S. $79^{\circ}23'17''$ E., a distance of 96.45 feet to a point in the westerly right-of-way of Woodland Road, as now established; thence S. $0^{\circ}31'43''$ W., along the said westerly right-of-way, a distance of 60.94 feet to a point; thence N. $79^{\circ}23'17''$ W., a distance of 107.12 feet to a point on a curve; thence on said curve to the left in a westerly direction, having a central angle of $36^{\circ}26'02''$, a radius of 365.00 feet and a length of 232.10 feet to a point; thence S. $55^{\circ}23'56''$ W., a distance of 113.13 feet to a point; thence S. $62^{\circ}23'47''$ W., a distance of 372.43 feet to a point on a curve; thence on said curve to the right in a westerly direction, having a central angle of $42^{\circ}28'14''$, a radius of 386.90 feet, and a length of 286.79 feet to a point; thence N. $75^{\circ}07'58''$ W., a distance of 168.43 feet to a point on a curve; thence on said curve to the left in a northwesterly direction, having a central angle of $04^{\circ}43'52''$, a radius of 353.16 feet, and a length of 29.16 feet to the Point of Beginning but except that part of the forgoing described parcel which was conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North $88^{\circ}04'12''$ East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North $01^{\circ}55'48''$ West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South $81^{\circ}38'34''$ East, a distance of 65.61 feet to a point; thence South $01^{\circ}43'34''$ East a distance of 60.94 feet to a point; thence North $81^{\circ}38'34''$ West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North $40^{\circ}42'43''$ West, a radius of 686.62 feet

and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING;

Tract 11 (also labeled "Meadow Lane", "Old Trail Rd.", "Crickett Lane" and "Mill Road") of Whispering Hills, Section III;

Tract A (also labeled as "Bridle Dale") of Plat of Whispering Hills Section 5;

Tract A (also labeled as "Sunset Drive", "Meadow Lane" and "89th Terrace") of Plat of Whispering Hills Estates;

Tract A (also labeled as "Sunset Drive" and "90th Street") of Plat of Whispering Hills Estates, Second Plat;

Tract A (also labeled as "Redbud Lane") of Plat of Whispering Hills Estates, Third Plat;

Tract A (also labeled "Sunset Drive" and "90th Terrace") of Plat of Whispering Hills Estates, Fifth Plat; and

Tract F (also labeled Deer Run and Deer Run Terr.) of Plat of Whispering Hills, Section 6.

The word "Tract" is used to designate those areas on a Plat within the District identified as a Tract thereon, and any unplatted property within the District. The tracts presently include, without limitation, the following:

Tracts 1 and 2; Tract 3 and all that part of Tract 3, lying North of and adjoining Lot 22, WHISPERING HILLS - SECTION 1, a subdivision in the City of Lenexa, Johnson County Kansas. Being more particularly described as follows; Beginning at a point in the North line of Lot 22, said point being 24.59 feet Westerly from the Northeastern corner of Lot 22; thence North 85 degrees, 05 minutes, 40 seconds West, along the North line of Lot 22, a distance of 50.50 feet; thence North 0 degrees, 54 minutes, 20 seconds East 18.50 feet; thence South 89 degrees, 05 minutes, 40 seconds East 50.50 feet; thence South 05 degrees, 54 minutes, 20 seconds West 18 feet to the point of beginning; and Tracts 4-7 platted in Plat of Whispering Hills, Section I;

Tract 8-19 platted in Plat of Whispering Hills, Section 2;

Tracts 1-3 and 5-11 platted in Plat of Whispering Hills, Section III, but except that part of the forgoing described parcel which was conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North 88° 04' 12" East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North 01° 55' 48" West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South 81° 38' 34" East, a distance of 65.61 feet to a point; thence South 01° 43' 34" East a distance of 60.94 feet to a point; thence North 81° 38' 34" West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40°42'43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING; and except the Northwest 18.5 feet of Lot 146;

Tract A platted in Plat of Whispering Hills, Section 5;

Tracts A and B platted in Plat of Whispering Hills Estates;

Tract A platted in Whispering Hills Estates, Second Plat;

Tract A platted in Plat of Whispering Hills Estates, Third Plat;

Tract A platted in Plat of Whispering Hills Estates, Fifth Plat;

The following described property:

The Northwest Quarter of Section 35, Township 12, Range 23, Johnson County, Kansas, except (i) part platted as Section III, Whispering Hills; and (ii) except Beginning at a point 1,157.65 feet West of and 747.25 feet South of the Northeast corner of the Northwest Quarter of Section 35, thence North 37° 35' 49" West a distance of 190.0 feet thence South 23° 20' 54" West a distance of 102.96 feet thence South 17° 45' 35" West a distance of 122.36 feet, thence South 82° 53' 39" East a distance of 150.0 feet, thence in a Northeasterly direction along a curve to the right having a radius of 118.26 feet, a distance of 93.49 feet to the point of beginning; and (iii) except part platted as Whispering Hills Estates; and (iv) except part platted as Whispering Hills Estates Second Plat; and (v) except part platted as Whispering Hills Estates Third Plat; and (vi) except part platted as Whispering Hills Estates Fourth Plat; and (vii) except part platted as Whispering Hills

Estates Fifth Plat; and (viii) except part in Plat of Whispering Hills, Section 6; and (ix) except part in public roads; and

Tracts B, E, F, and G, Plat of Whispering Hills, Section 6.

The words "Tract originally reserved for commercial development" mean Tracts 1 and 10 of Whispering Hills, Section III, except part of Lots 99, 100 and Tract 10 of Whispering Hills, Section 3, a subdivision in Johnson County, Kansas, more particularly described as follows:

Beginning at the S.W. corner of said Lot 100; thence N. $88^{\circ}21'29''$ E., a distance of 254.74 feet to a point on a curve; thence on said curve to the left in a northeasterly direction, having a central angle of $26^{\circ}27'52''$, a radius of 267.66 feet, and a length of 123.63 feet to a point; thence N. $64^{\circ}10'39''$ E., a distance of 547.23 feet to a point on a curve; thence on said curve to the right in a easterly direction, having a central angle of $36^{\circ}26'04''$, a radius of 425.00 feet, and a length of 270.26 feet to a point; thence S. $79^{\circ}23'17''$ E., a distance of 96.45 feet to a point in the westerly right-of-way of Woodland Road, as now established; thence S. $0^{\circ}31'43''$ W., along the said westerly right-of-way, a distance of 60.94 feet to a point; thence N. $79^{\circ}23'17''$ W., a distance of 107.12 feet to a point on a curve; thence on said curve to the left in a westerly direction, having a central angle of $36^{\circ}26'02''$, a radius of 365.00 feet and a length of 232.10 feet to a point; thence S. $55^{\circ}23'56''$ W., a distance of 113.13 feet to a point; thence S. $62^{\circ}23'47''$ W., a distance of 372.43 feet to a point on a curve; thence on said curve to the right in a westerly direction, having a central angle of $42^{\circ}28'14''$, a radius of 386.90 feet, and a length of 286.79 feet to a point; thence N. $75^{\circ}07'58''$ W., a distance of 168.43 feet to a point on a curve; thence on said curve to the left in a northwesterly direction, having a central angle of $04^{\circ}43'52''$, a radius of 353.16 feet, and a length of 29.16 feet to the Point of Beginning, but except that part of the forgoing described parcel which was conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North $88^{\circ}04'12''$ East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North $01^{\circ}55'48''$ West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South $81^{\circ}38'34''$ East, a distance of 65.61 feet to a point; thence South $01^{\circ}43'34''$ East a distance of 60.94 feet to a point; thence North $81^{\circ}38'34''$ West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of

way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40°42'43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING;

Such Tract may be used for recreational or residential purposes with the approval of the Architectural Committee and, if residential, the developer or current owner will re-subdivide into lots, anything elsewhere herein contained to the contrary notwithstanding.

PERSONS BOUND BY THESE RESTRICTIONS. All persons and entities who now own or shall hereafter acquire any interest in the property within the District agree and covenant with the other owners of property within the District and with the Association and the successors, heirs and assigns of each, to subject their property hereto and to conform to and observe the following covenants, restrictions and stipulations as to the use thereof and the construction of a residence and improvements thereon for a period of time ending on December 31, 2025, except as the same may be amended by the provisions hereof, provided, however, that each of said restrictions shall be renewable by amendment in the manner hereinafter set forth.

SECTION 1. USE OF LAND. None of the Tracts except Tracts reserved for commercial development shall be improved or used for residential or commercial purposes. Such Tracts are Common Areas and shall only be improved and used for streets and other Association purposes, such as recreational purposes, as shall be approved by the Board of Directors of the Association. Each such Tract shall constitute a Common Area, as that term is defined herein, and all such "common areas" are dedicated to or set aside for the common use of all of the owners within the District, and such guests, permittees, and licensees of such owners as are permitted such use by the rules of the Association. Common Areas shall not be improved or used for residential purposes. All Lots shall be used and improved only for private residence purposes. No flat or apartment house, although intended for residential purposes, shall be

erected on any Lot. Any residence erected or maintained on any Lot herein shall be designed for occupancy by a single family.

The routine maintenance of drainage facilities, turf, shrubs, and trees in Common Areas located between a residence on a Lot and an abutting street is the primary responsibility of the owner of such Lot. No changes or landscaping work may be done to this Common Area, which will have an effect on the water runoff or drainage without prior written approval from the Board of Directors.

All Tracts and driveway easements shall be subject to utility easements; the precise location of lines, including septic laterals, shall be approved by the Architectural Committee. Such utility easements shall entail and permit the exercise of all the usual rights, powers, privileges and immunities appertaining to such easements, including, but not limited to, laying, constructing, maintaining and repairing.

No Lot may be replatted or subdivided into two or more separate Lots without the prior written approval of the Board of Directors of the Association.

All vehicles involved with the development of Whispering Hills Estates will use 91st Street as the primary entrance and exit and the developer or current owner shall use his best efforts to cause construction vehicles to use 91st Street for access to Whispering Hills Estates.

All vehicles involved with the development of roads and utilities in Plat of Whispering Hills, Section 6, will use Mill Road to Redbud Lane, then cross Lot 11 and Tract E of Plat of Whispering Hills, Section 6, as the entrance and exit routes.

SECTION 2. PRIOR APPROVAL OF PLOT AND BUILDING PLANS.

All plot and building plans, with detailed specifications and material lists, for new construction, modifications to the exterior of existing structures, additions to existing structures

whether enclosed or open, and modifications to existing site topography or landscaping, or both, must be submitted to and approved in writing by the Architectural Committee prior to the commencement of actual construction. These plans and specifications may be approved if, after satisfying all the other provisions of these restrictions and all municipal building codes, such plans shall be in general conformity with the size, design, quality and materials of the existing styles of residences in the District. Failure to provide plot and building plans for approval will result in a penalty in an amount of one and one-half times the amount of the required deposit amount. Failure to pay the assessed penalty will result in a lien filed against the residential property.

All submitted plans and specifications shall be in final form, complete in every detail, and no changes shall be made after approval by the Architectural Committee unless all said changes are also approved in writing by the Architectural Committee. Two sets of plans and specification are to be submitted. One set will be retained by the Architectural Committee and the other set shall be returned to the Lot owner, either approved or disapproved.

In no event shall any Lot owner construct a residence which is substantially identical to an existing residence in the District, nor shall two or more residences be built from the same plans without the written consent of the Architectural Committee. Modification to existing residences shall adhere to the same provisions in these restrictions as new construction. At the time of such submission, a non-refundable payment to the Association or a security deposit, or both, in amounts fixed by the Board of Directors, shall be made as compensation for and as security for damage to streets and other property that might be caused during the course of construction and to assure conforming completion of the construction. Such deposit or part thereof which as is not needed in order to remedy such damage or complete such construction

shall be refunded upon the completion of construction and landscaping. The fee and deposit shall be in such amounts as are fixed from time-to-time by the Board of Directors.

The Architectural Committee, the Board of Directors and the Association shall not be held liable for any damages resulting or claimed to result from its approval or disapproval or its failure or refusal to approve any plot or building plans submitted hereunder.

SECTION 3. SETBACK OF RESIDENCES FROM STREET. No part of any residence, except as hereinafter provided, may be erected or maintained on any of the Lots nearer to the street than is the building line or lines on the Plat thereof. Reference is made herein to building lines for the purpose of determining the location of any residence with reference to the adjoining street or streets, and in case of relocation of any said streets, changes may be made by the Board of Directors in any of said building lines, provided that such building lines shall in no case be established nearer to the new location of any of said streets than are the building lines shown on said Plat with reference to the present location of said streets, and provided, further, that the Board of Directors shall have and does hereby reserve the same privilege to changing the location of any such new building lines so established as it has in the case of those shown on said Plat, and provided, further, that the widening of any of said streets shall not, for the purposes of these restrictions, be deemed to be a relocation of such street.

Those parts of the residence that may project nearer to the front lot lines that are the setback lines to be hereinafter established, and the distance that each may project, are as follows:

(a) Window Projections: Bay, bow, or oriel, dormer and other projecting windows not exceeding one story in height may project beyond the building lines not to exceed three (3) feet.

(b) Miscellaneous Projections: Cornices, spoutings, chimneys, brackets, pilasters, grillwork, trellises, and other similar projections, and any other projections for purely ornamental purposes, may project beyond the building lines not to exceed three (3) feet.

(c) Vestibule Projections: Any vestibule not more than one (1) story in height, may project beyond the building lines not to exceed three (3) feet.

(d) Porch Projections: Unenclosed, covered porches, balconies and *porte cocheres* may project beyond the building lines not to exceed eight (8) feet.

SECTION 4. FREE SPACE REQUIRED. The main body of any residence, including attached garages, attached greenhouses, ells and porches, enclosed or unenclosed, covered or uncovered, but exclusive of all other projections set forth above in Section 3, erected or maintained on any of the Lots, or on any part or parts thereof, shall not occupy more than seventy-five percent (75%) of the width of the Lot on which it is erected, measured in each case on the building lines as shown on the applicable plat or as from time-to-time approved by the Board of Directors; and any such residence, exclusive of those projections specifically referred to in subparagraphs (a) and (b) of Section 3 hereof, shall be set back a distance equal to at least ten percent (10%) of the width of the Lot at the front building line from each of the side lines of the Lot on which such residence is erected. It is provided, however, that the maximum width of any residence which may be erected on any of the said Lots may, with the consent in writing of the Board of Directors, be increased by not to exceed ten percent (10%) of the width of any such Lot, measured as above provided. It is further provided that the required set back from the side lines of the Lot, as herein provided, may, with the consent in writing of the Board of Directors, be reduced by not to exceed twenty percent (20%) of the amount of such required set back;

provided, however, that this reservation shall in no way whatsoever affect the provision relative to the change in said building lines as set forth in Section 3 herein.

SECTION 5. SIZE OF NEW RESIDENCES. No residence shall be constructed or permitted to remain upon any Lot without the prior written consent of the Board of Directors unless it meets the following enclosed finished living area requirements:

(a) One (1)-story new residences must have a total enclosed finished living area of not less than (i) two thousand two hundred (2,200) square feet in the following Plats: Section I, Section 2, Section III and Section 5; (ii) two thousand three hundred fifty (2,350) square feet in the following Plats: Estates, Estates Second, Estates Third, Estates Fourth, Estates Fifth; and (iii) three thousand two hundred (3,200) square feet in Plat of Whispering Hills, Section 6, and all plats filed on a Tract or added to the District after the recording hereof.

(b) Two (2) story new residences must have a total enclosed finished living area of not less than (i) two thousand six hundred (2,600) square feet in the following Plats: Sections I, 2, III and 5, Estates, Estates Second, Estates Third, Estates Fourth, Estates Fifth; and (ii) three thousand two hundred (3,200) square feet in Plat of Whispering Hills, Section 6, and all plats filed on a Tract or added to the District after the recording hereof.

(c) One and one-half (1-1/2) story new residences must have a ground floor area of not less than (i) one thousand eight hundred (1,800) square feet and a total floor area of not less than two thousand six hundred (2,600) square feet; and (ii) three thousand two hundred (3,200) square feet in Plat of Whispering Hills, Section 6, and all plats filed on a Tract or added to the District after the recording hereof.

The term "enclosed finished living area" as used herein shall exclude all attached garages, carports, greenhouses, porches, breezeways and like annexed structures (whether or not

enclosed) and all detached structures including, but not limited to, those described in the following Section 6.

SECTION 6. OUTBUILDINGS, PERGOLAS AND DETACHED STRUCTURES PROHIBITED. No Outbuildings, pergolas or detached structures may be erected on any Lot without the prior written consent of the Architectural Committee.

(a) No pergolas or detached structures for purely ornamental purposes may be erected on any part of any Lot without the prior written consent of the Architectural Committee.

(b) No Outbuildings may be erected on any part of any Lot less than two (2) acres without prior written consent of the Architectural Committee.

(c) Outbuildings are permitted on Lots of two (2) acres or more, however, plans for such Outbuildings must be submitted to and approved by the Architectural Committee, including the size, location, screening and style, prior to construction. Outbuildings must conform to the exterior style, colors, roofing and materials of the residence. No Outbuildings are permitted on Lots without an existing residence unless approved by the Board of Directors of the Association.

SECTION 7. OVERHEAD UTILITY LINES PROHIBITED. No overhead utility lines may be constructed or maintained, nor may any right of way or easement therefore be granted, on any part of any Lot without the prior written consent of the Board of Directors.

SECTION 8. STORAGE OF CERTAIN ARTICLES IN YARDS PROHIBITED. No discarded, unused, junk or scrap parts of any automobile, inoperative motor vehicle or motor vehicle without a current state registration, or other vehicle, or any household appliance may be located or stored in any yard in any Lot for a period of more than seven (7) days without the written consent of the Board of Directors. Home outdoor cooking equipment shall be located in the back yard of a residence and screened from front street visibility.

SECTION 9. TYPES OF ROOFS AND FENCES. All residences and other structures on the Lots shall have roofs constructed of wood, tile or slate, or decorative metal and/or composite material made to resemble natural materials. All roof materials, whether on new construction or re-roofing existing structures, require approval in writing by the Architectural Committee prior to application.

No fence may be erected more than six (6) feet high between the established front building line and the front Lot line without the prior written approval of the Architectural Committee. All fences erected on Lots must be constructed of natural cedar, redwood, brick, stone, wrought iron and/or composite material made to resemble natural materials or similar materials, each as specifically approved in writing by the Architectural Committee in each case.

SECTION 10. MAINTENANCE OF EXISTING STRUCTURES. It is the responsibility of each owner of a Lot to maintain his or her Lot and residence in good repair and condition.

(a) Vacant Lots: Any part/portion of a Lot which has not been cleared or otherwise modified from its natural state may be maintained in its original natural state. Any part or portion of a Lot which has been cleared or otherwise modified from its original natural state shall be well maintained and neat in appearance. This shall include regular mowing of weeds and treatment of noxious plants, as well as removal of all trash and debris.

(b) Landscaping: The general style of landscaping of all Lots shall be consistent with the architectural characteristics of the residence, the site terrain, and the landscaping of neighboring Lots. All landscaping shall be properly maintained. Dead, diseased or damaged trees, bushes and ground cover shall be promptly removed, trimmed, pruned or treated as appropriate. Trees and bushes shall be properly trimmed and pruned. Grass shall be regularly

mowed and kept free of excessive weeds. Original natural areas that have been kept in the natural state may be maintained in their original natural state, subject to removal of dead, diseased, and/or damaged growths. Trash and debris shall not be stored or otherwise be allowed to remain on any Lot.

(c) **Residence Exteriors:** The exteriors of residences shall be maintained in good repair and condition. The exterior condition of any residence shall be in general conformity with the quality and materials and shall conform to the aesthetic characteristics of the other residences within the District, and shall match the aesthetic characteristics of the District. Materials on the exterior of residences and other improvements shall receive regular and proper maintenance. Materials that have been damaged or have deteriorated due to environmental factors, insects, old age or lack of proper maintenance shall be properly repaired or replaced. Repair and replacement materials shall match existing materials unless the owner of the Lot receives written approval from the Architectural Committee for a change. Other exterior construction, including, but not limited to, decks, patios, sidewalks, driveways, tennis courts, and swimming pools shall be properly maintained and in functional condition. Materials for driveways and sidewalks shall be as approved by the Architectural Committee.

SECTION 11. OIL TANKS PROHIBITED. No tank for the storage of fuel may be maintained on any Lot.

SECTION 12. LIVESTOCK PROHIBITED. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, and other common household pets may be kept so long as they are not kept, bred, or maintained for commercial purposes. In no event, however, shall more than two (2) dogs be raised, bred, or kept on any Lot.

Horses will not be allowed on the Common Areas unless the Board of Directors has approved such use.

SECTION 13. BILLBOARDS PROHIBITED. No signs, other than ornamental signs erected to identify the development, sections thereof, or entrances thereto, and other than signs approved by the Architectural Committee for identification of streets, traffic control and directional purposes, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the Lots; provided, however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each Lot or Tract as sold and conveyed, which advertising board shall not be more than five (5) square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease the Lot or Tract upon which it is erected.

SECTION 14. ANTENNAS, ENERGY SYSTEMS, AND CLOTHES LINES. Communication and alternative or on-site energy collection or generation systems or equipment, and exterior clothes lines are permitted only with the prior approval of the Architectural Review Committee. The Committee has the exclusive right to determine the location, design, appearance, colors, and other aesthetic features of said items.

SECTION 15. OVERNIGHT PARKING OF TRUCKS, TRAILERS, BOATS OR DELIVERY VEHICLES PROHIBITED. No trucks larger than $\frac{3}{4}$ ton, recreational trailers, boats, buses, campers which cannot be licensed as passenger vehicles, or delivery trucks may be stored or parked overnight on any of the Lots or Tracts, except in enclosed garages. Small utility trailers may be stored or parked on a lot overnight if out of sight of the streets and neighbors.

SECTION 16. BURNING OF TRASH, LEAVES, OR OTHER WASTE PROHIBITED. No trash, leaves, or other waste may be burned on any of the Lots or Tracts without obtaining a City burning permit.

SECTION 17. LIMITED USE OF MOTOR VEHICLES. With the exception of maintenance and construction vehicles, the use of that portion of Common Areas used as private roads is limited to licensed vehicles driven by licensed operators. Except as provided above, no motorized vehicle may be operated at any time on any part of the Common Areas.

SECTION 18. GARAGE DOORS. All doors on garages located on the Lots shall be kept closed except when opened for the purpose of ingress or egress.

SECTION 18A. TRAFFIC AND SECURITY ENFORCEMENT. The Association may, but shall not be obligated to, maintain or support certain activities within the District designed to make the District safer than it otherwise might be. The Board shall have the right to authorize the officers to enter into any contract with any governmental law enforcement agency or private security service, or both, to enforce traffic and safety laws or Association rules or regulations, or restrictions, and to allow for fines or citations, or both, to be issued by law enforcement or security service. The Association shall not in any way be considered to be an insurer or guarantor of security within the District. The Association shall not be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken. All owners of any unit, tenants, guests, and invitees of any owner, as applicable, acknowledge that the Association and its Board of Directors and officers do not represent or warrant that any security or similar system or measures undertaken may not be compromised or circumvented, that any such systems or measures will prevent loss by fire, smoke, burglary, theft, robbery, or otherwise, nor that such systems or measures will in all cases

provide the detection or protection for which the system is designed or intended. Each owner and each guest and invitee of an owner, as applicable, acknowledges and understands that the Association, its Board of Directors and officers, are not insurers and that each owner and each tenant, guest, and invitee of any owner assumes all risks for loss or damage to persons, to units, and to the contents of units and further acknowledges that the Association, its Board of Directors and officers have made no representations or warranties nor has any owner, occupant, tenant, guest, or invitee relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any security systems recommended or installed or any security measures undertaken within the District.

SECTION 18B. RULES AND REGULATIONS. The Association, through its Board, shall have the authority from time-to-time to adopt and revise rules and regulations governing the use of Common Areas and, once adopted, the Association shall publish such rules and regulations to the Members by means determined by the Association to provide reasonable notice of the rules and regulations to the Members. The Association has the authority to suspend or curtail access to or use of the Common Areas and impose fines, citations, and other reasonable sanctions for the violation of the restrictions, or the rules and regulations. Whenever violations of restrictions, rules and regulations enacted by the Board, justify the imposition of sanctions, such sanctions shall be imposed only in accordance with the following procedure (and such further procedures as the Board may adopt):

(a) When an Owner has committed an offense justifying the imposition of sanctions, he or she shall be given written notice of the alleged offense(s), and the sanction to be imposed, by the Board.

(b) The Owner shall have twenty (20) days following date of the notice to request a hearing in front of the Board. Such request shall be made in writing to the Board. If such a hearing is not requested, ALL SANCTIONS SPECIFIED IN THE NOTICE SHALL BE EFFECTIVE UPON THE EXPIRATION OF THE TWENTY (20) DAY PERIOD.

(c) If a hearing before the Board is requested, it shall be held at the next scheduled meeting of the Board occurring after the receipt of the request by the Board. At the hearing, the Owner(s) shall be allowed to be present and may be represented by counsel. The Board may delegate the appeals duty to a committee.

(d) After the appellate hearing, the Board or committee shall make a decision to uphold or dismiss the alleged violation(s) and the appropriate sanctions to be imposed. This decision shall be in writing and forwarded to the Owner(s), by certified mail, within ten (10) days of the hearing. The decision shall specify the restrictions, rules, and regulations which have been violated, the acts constituting such violations, and the sanction(s) imposed, or dismissal of the case.

(e) If the initial appeal was to a committee, the Owner shall have twenty (20) days, following date of the decision of the committee in which to request a hearing before the Board. Such requests shall be made in writing to the Board. If a hearing before the Board is requested, the committee decision shall be stayed. If no hearing is requested, the committee decision shall become final, and the sanction(s) recommended therein shall be effective twenty (20) days after the date of the committee decision to the Owner(s).

(f) If a hearing is requested before the Board, it shall be held at the next regular meeting of the Board, or at a special meeting called before the next regular Board meeting. At such

hearing, the Board shall receive and consider the decision of the committee and any testimony or other evidence which the Owner(s) desire to present.

(g) Within ten (10) days of the hearing, the Board shall render a written and final decision and cause it to be served on the Owner(s) by certified mail. The decision shall specify the restrictions, rules, and regulations which have been violated, the acts constituting such violations, and the sanctions imposed, or dismissal of the case.

Failure to abide by sanctions may result in:

(x) A civil action in any Court of competent jurisdiction, and the recovery of costs and reasonable attorney's fees from the non-complying owner(s).

(y) Criminal prosecution for trespass or other appropriate offenses.

(z) Liens.

In addition to the methods enumerated in Section 18B, above, for enforcing sanctions, for each twenty (20) day period from the date the sanction is initially imposed, the sanction or fine will be doubled up to a maximum One Thousand Dollar (\$1,000) fine for each violation. This fine must be paid within twenty (20) days or a lien will be imposed upon the Lot.

SECTION 19. AMENDMENT AND TERMINATION. The terms and provisions of this instrument may be amended, modified, changed, extended or canceled, in whole or in part, by written agreement signed by the owner or owners of more than fifty percent (50%) of all of the Lots. Such instrument shall be effective on the date of its recording in the office of the Register of Deeds of Johnson County, Kansas.

SECTION 20. RIGHT TO ENFORCE. The restrictions herein set forth shall run with the land and bind the present owners, their successors and assigns, and all parties claiming by, through or under them shall be taken to hold agree and covenant with the owners of the Lots and

Tracts, and with their successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots and Tracts and the construction of improvements thereon, but no restriction herein set forth shall be personally binding on any persons or entity, except in respect of breaches committed during that person's or entity's seisin of title to said land; and said owners and, also, the Association, their successors and assigns, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observation of the restrictions set forth herein, in addition to ordinary legal actions for damages, which shall include, without limitation, attorney's and witnesses' fees and expenses, court costs and filing fees; and failure of said owners and, also, the Association, their successors and assigns to enforce any of the restrictions herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter. Said owners and, also, the Association, may assign or convey to any person or corporation all of the rights, reservations and privileges herein reserved by them, and upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign those rights, or any one or more of them at, any time or times, in the same way and manner as though directly reserved by them or it, in this instrument. In addition to the foregoing, the additional persons entitled enforce Section 22 as identified therein.

SECTION 21. GRANT OF EASEMENTS. Nothing herein shall preclude the Board of Directors from granting utility easements over, across, or upon property owned by the Association in order to implement the plan for development of the District.

SECTION 22. LAKEFRONT PROPERTY.

(a) All matters pertaining to the use, maintenance, preservation, improvements, dredging and shore-line stabilization of the lake adjacent to and, in part, located

on Lots 27 and 28 of Whispering Hills Estates Fifth Plat and 32, 33, 34 and 35 of Whispering Hills Estates, Second Plat shall be determined and resolved and the cost thereof shared by the present and future owners of said Lots and by the owners of any other platted or unplatted Tracts or Lots which are adjacent to or which include any portion of said lake.


(b) For the purpose of permanently establishing the percentage of control and the financial responsibility for such lake use, maintenance, preservation, improvement, dredging and shore-line stabilization, the owners of Lots 27 and 28 of Whispering Hills Estates Fifth Plat and 32, 33, 34 and 35 of Whispering Hills Estates, Second Plat reserve the privilege and may hereinafter cause to be filed in the office of the Register of Deeds of Johnson County, Kansas, a plat or other document applicable to said Lots which assigns such percentage of control and financial responsibility to the present and future owners of said Lots and to any other platted or unplatted tracts or lots which may be adjacent to or which include any portion of said lake.

(c) All decisions applicable to the use, maintenance, preservation, improvement, dredging and shore-line stabilization of said lake shall be determined by a majority vote of the percentage of such control as established and assigned by the owners of Lots 27 and 28 of Whispering Hills Estates Fifth Plat and 32, 33, 34 and 35 of Whispering Hills Estates, Second Plat.

(d) After ninety (90) days, any unpaid portion of any cost of such maintenance, preservation, improvement, dredging and/or shore-line stabilization, subject to the lien of any valid first mortgage, shall become a foreclosable lien against the lot or tract of the owner thereof who has not paid his, her, their or its determined and appropriate share of such cost. This lien shall inure to and be foreclosable by the owners of Lots 27 and 28 of Whispering Hills Estates Fifth Plat and 32, 33, 34 and 35 of Whispering Hills Estates, Second Plat.

IN WITNESS WHEREOF, the Whispering Hills Homes Association has caused this Amendment and Restatement to be executed by an authorized officer and the parties executing counterpart signature pages have adopted this Amendment and Restatement as of the day and year appearing first above.

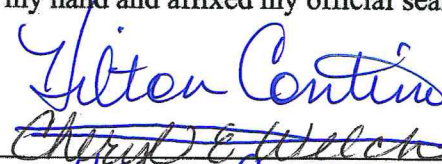
**WHISPERING HILLS
HOMES ASSOCIATION**

By 
MICHAEL REA
President

STATE OF Kansas)
) ss.
COUNTY OF Johnson)

On this 24th day of December, 2010, before me appeared Michael Rea, to me personally known, who, being by me duly sworn, did say that he is the president of Whispering Hills Homes Association, a Kansas nonprofit corporation, and that such instrument was executed for the purposes stated therein in behalf of the corporation by authority of its board of directors, and acknowledged such instrument to be the free act and deed of the corporation.

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


NAME: Hilton Contino
Notary Public

My Commission Expires:

Sept 20, 2011
12/1/14




SEE ATTACHED COUNTERPART SIGNATURE PAGES,
WHICH ARE INCORPORATED HEREIN.



**SIGNATURE PAGE FOR FOURTH AMENDMENT
AND RESTATEMENT OF DECLARATION OF RESTRICTIONS
OF WHISPERING HILLS AND WHISPERING HILLS ESTATES**

The Whispering Hills Homes Association, a Kansas nonprofit corporation, is the owner of Lots 1, 2 and 3, Section I, WHISPERING HILLS. This signature page is to be attached to and become part of the Fourth Amendment and Restatement of Declaration of Restrictions of Whispering Hills and Whispering Hills Estates.


**WHISPERING HILLS
HOMES ASSOCIATION**

By 
MICHAEL REA
President

STATE OF Kansas)
) ss.
COUNTY OF Johnson)

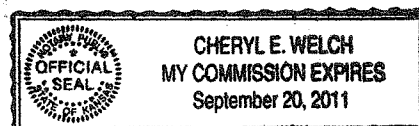
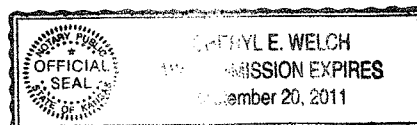
On this 20th day of October, 2010, before me appeared Michael Rea, to me personally known, who, being by me duly sworn, did say that he is the president of Whispering Hills Homes Association, a Kansas nonprofit corporation, and that such instrument was executed for the purposes stated therein in behalf of the corporation by authority of its board of directors, and acknowledged such instrument to be the free act and deed of the corporation.

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


Notary Public

My Commission Expires:

Sept. 20, 2011



THIS FORM OF THE HOMES ASSOCIATION DECLARATION IS A REFORMATTED, WORDPROCESSED DOCUMENT. IT IS NOT A COPY OF THE SIGNED AND RECORDED ORIGINAL. THE SIGNED AND RECORDED ORIGINAL IS ON FILE WITH THE COUNTY REGISTER OF DEEDS AND A COPY IS AVAILABLE FROM THE HOMES ASSOCIATION. THE DOCUMENT BELOW IS PROVIDED FOR CONVENIENCE AND REFERENCE ONLY. HOME OWNERS ARE BOUND BY AND WILL BE EXPECTED TO COMPLY WITH THE TERMS OF THE SIGNED, RECORDED DOCUMENT.

AMENDMENT AND RESTATEMENT OF HOMES ASSOCIATION DECLARATION

THIS AMENDMENT AND RESTATEMENT, made as of the ____ day of _____, 2000, by Whispering Hills Homes Association,

a Kansas nonprofit corporation.

WITNESSETH:

WHEREAS, on June 10, 1971, Rich Eckel Construction Co., Inc. caused to be recorded a Homes Association Declaration, recorded as Document No. 880860 in Book 220 at Page 87 of the Register of Deeds of Johnson County, Kansas;

WHEREAS, the 1971 Homes Association Declaration has been amended and extended from time to time by the following documents:

Homes Association Declaration recorded May 31, 1973 as Document No. 953072 in Book 909 at Page 673;

Amendment to Homes Association Declaration recorded November 3, 1981 as Document No. 1345961 in Book 1719 at Page 839;

Amendment to Homes Association Declaration recorded August 6, 1986 as Document No. 1628873 in Book 2398 at Page 381;

Amendment to Homes Association Declaration, Whispering Hills, and Agreement regarding Whispering Hills Estates, recorded August 6, 1986 as Document No. 1628874 in Book 2398 at Page 404;

Amendment to Whispering Hills Homes Association Declaration and Agreement regarding Tract 1 and Tract 10, Whispering Hills Section III, recorded on July 31, 1991 as Document No. 2044929 in Book 3400 at Page 58;

Amendment to Whispering Hills Homes Association Declaration and Agreement regarding Whispering Hills, Section 5, recorded July 31, 1991 as Document No. 2044930 in Book 3400 at Page 65; and

Amendment to Homes Association Declaration recorded March 12, 1998 as Document No. 2802220 in Book 5496 at Page 941.

WHEREAS, the Association, as hereinafter defined, and its Members, as hereinafter defined, desire to amend, consolidate and update the homes association declarations applicable to its District, as hereafter defined, for ease of application.

NOW, THEREFORE, in order to assist it and its grantees in providing the means necessary to bring this about, the Association and its Members do now and hereby subject all land in the District, as hereafter defined, to the covenants, charges and assessments set forth and contained in this Declaration.

DEFINITIONS OF TERMS USED.

The term "Association", as used in this Declaration, shall mean the Whispering Hills Homes Association, a Kansas nonprofit corporation, or its successors.

The term "Board", as used in this Declaration, shall mean the Board of Directors of the Association.

The term "Common Area", as used herein, means each Street, each park and any similar areas, as may be described from time to time in the Restrictions.

The term "District", as used in this Declaration, shall mean all property now or hereafter subjected to this Declaration, and includes, without limitation, the following:

Lots 1-41 and Tracts 1-7 platted in Plat of Whispering Hills, Section I;

Lots 24-29, 31-40, 43, 45, 47, 34A-40A, 42A, 44A, 46A, 15C, 17C, 19C, 21C-33C, 10D-21D, and Tracts 8-19 platted in Plat of Whispering Hills, Section 2;

Lots 99-138 and 140-159 and Tracts 1-11 platted in Plat of Whispering Hills, Section III, but except that part of the forgoing described parcel which were conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows:

Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North 88E 04' 12" East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North 01E 55' 48" West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South 81E 38' 34" East, a distance of 65.61 feet to a point; thence South 01E 43' 34" East a distance of 60.94 feet to a point; thence North 81E 38' 34" West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40E 42' 43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING;

Tracts 1-7 and Tract A platted in Plat of Whispering Hills, Section 5;

Lots 1-4, 17-19, 40-63 and Tracts A and B platted in Plat of Whispering Hills Estates;

Lots 20, 21 and 32-39 and Tract A platted in Whispering Hills Estates, Second Plat;

Lots 5-16 and Tract A platted in Plat of Whispering Hills Estates, Third Plat;

Lots 26 and 27 platted in Plat of Whispering Hills Estates, Fourth Plat, and Lots 22, 23, 24, 25, 28 and Tract A platted in Whispering Hills Estates, Fifth Plat;

The following described property:

The Northwest Quarter of Section 35, Township 12, Range 23, Johnson County, Kansas, except part platted as Section III, Whispering Hills, and except Beginning at a point 1,157.65 feet West of and 747.25 feet South of the Northeast corner of the Northwest Quarter of Section 35, thence North 37E 35' 49" West a distance of 190.0 feet thence

South 23E 20' 54" West a distance of 102.96 feet thence South 17E 45' 35" West a distance of 122.36 feet, thence South 82E 53' 39" East a distance of 150.0 feet, thence in a Northeasterly direction along a curve to the right having a radius of 118.26 feet, a distance of 93.49 feet to the point of beginning, except part in roads. (Portions of the foregoing property have been platted as Whispering Hills Estates, Estates Second Plat, Estates Third Plat, Estates Fourth Plat, Estates Fifth Plat, all which were added to the District by Agreement recorded as Doc. No. 1629977 in Book 2400 at page 899.); and

Lots 1-11 and Tracts A-G, Plat of Whispering Hills, Section 6.

The term "Improved Property", as used herein, shall be deemed to mean a single Lot or Tract under a single ownership and use, and on which Lot or Tract a residence has been erected or is in the process of erection, or on which any other building not in violation of the Restrictions then of record thereon is erected or is in the process of erection. Any such Lot or Tract may consist of one or more contiguous Lots or part thereof. Any other land covered by this Declaration shall be deemed to be vacant and unimproved.

The word "Lot" shall mean any numbered lot as platted or one or more lots or part or parts of one or more numbered lots as platted, and upon which a residence may be created in accordance with the Restrictions, which is now or hereafter within the District. The Lots in the District currently include, without limitation, the following:

Lots 4-21; Lot 22 and all that part of Tract 3, lying North of and adjoining Lot 22, WHISPERING HILLS - SECTION 1, a subdivision in the City of Lenexa, Johnson County Kansas. Being more particularly described as follows; Beginning at a point in the North line of Lot 22, said point being 24.59 feet Westerly from the Northeastern corner of Lot 22; thence North 85 degrees, 05 minutes, 40 seconds West, along the North line of Lot 22, a distance of 50.50 feet; thence North 0 degrees, 54 minutes, 20 seconds East 18.50 feet; thence South 89 degrees, 05 minutes, 40 seconds East 50.50 feet; thence South 05 degrees, 54 minutes, 20 seconds West 18 feet to the point of beginning; Lots 23-41 platted in Plat of Whispering Hills, Section I;

Lots 24-29, 31-40, 43, 45, 47 (together with and Tract A, Plat of Whispering Hills, Section 6, 34A-38A, 39A and the following: Part of Tract 13, Whispering Hills, Section 2, subdivision in Lenexa, Johnson County, Kansas, more particularly as follows: Beginning at the Northeast Corner of Lot 39A of said Whispering Hills, Section 2; thence N 24E59'57" E along a projection of the Easterly Line of said Lot 39A, 38.57 feet; thence N 89E46'53" W 80.00 feet; thence S 24E59'57" W, 38.57 feet to the North line of said Lot 39A thence S 89E46'53" E along the North line said Lot 39A, 80.00 feet to the Point of Beginning; 40A42A, 44A, 46A, 15C, 17C, 19C, 21C-33C, 10D-21D platted in Plat of Whispering Hills, Section 2;

Lots 99-138, 140, 141 (together with Tract C, Plat of Whispering Hills, Section 6, 142 (together with Tract D, Plat of Whispering Hills, Section 6), 143-145, 146 and Tract 4, and 147-159 platted in Plat of Whispering Hills, Section III;

Tracts 1-7 platted in Plat of Whispering Hills, Section 5;

Lots 1-4, 17-19, 40-63 platted in Plat of Whispering Hills Estates;

Lots 20, 21, 32-39 platted in Whispering Hills Estates, Second Plat;

Lots 5-16 platted in Plat of Whispering Hills Estates, Third Plat;

Lots 26 and 27 platted in Plat of Whispering Hills Estates, Fourth Plat;

Lots 22, 23, 24, 25 and 28 platted in Plat of Whispering Hills Estates, Fifth Plat; and

Lots 1-11, Plat of Whispering Hills, Section 6.

The term "Members", as used herein, means the Owners, who are members of the Association.

The term "Owners", as used herein, shall mean those persons or entities who may from time to time own the land within the District.

The word "Restrictions", as used herein, means the declaration of restrictions currently applicable to the District from time to time. The current restrictions are evidenced by that certain

Second Amendment and Restatement of Declaration of Restrictions of Whispering Hills and Whispering Hills Estates dated March 10, 1998 and recorded in the Office of the Register of Deeds of Johnson County, Kansas on March 12, 1998 as Document No. 2802221 in Book 5497 at Page 1.

The word "Street" shall mean the private streets, roads, avenues or terraces of whatever name as shown on the plats in the District which are recorded in the office of the Register of Deeds of Johnson County, Kansas, and designated thereon as such, and shall include, without limitation the following Tracts:

Tract 7 of Whispering Hills, Section I;

Tract 17 (also labeled Trail "A", Trail "C", Trail "D" and "Whispering Dr.") of Whispering Hills, Section 2;

Part of Lots 99, 100 and Tract 10 of Whispering Hills, Section 3, a subdivision in Johnson County, Kansas, more particularly described as follows:

Beginning at the S.W. corner of said Lot 100; thence N. 88E21'29" E., a distance of 254.74 feet to a point on a curve; thence on said curve to the left in a northeasterly direction, having a central angle of 26E27'52", a radius of 267.66 feet, and a length of 123.63 feet to a point; thence N. 64E10'39" E., a distance of 547.23 feet to a point on a curve; thence on said curve to the right in a easterly direction, having a central angle of 36E26'04", a radius of 425.00 feet, and a length of 270.26 feet to a point; thence S. 79E23'17" E., a distance of 96.45 feet to a point in the westerly right-of-way of Woodland Road, as now established; thence S. 0E31'43" W., along the said westerly right-of-way, a distance of 60.94 feet to a point; thence N. 79E23'17" W., a distance of 107.12 feet to a point on a curve; thence on said curve to the left in a westerly direction, having a central angle of 36E26'02", a radius of 365.00 feet and a length of 232.10 feet to a point; thence S. 55E23'56" W., a distance of 113.13 feet to a point; thence S. 62E23'47" W., a distance of 372.43 feet to a point on a curve; thence on said curve to the right in a westerly direction, having a central angle of 42E28'14", a radius of 386.90 feet, and a length of 286.79 feet to a point; thence N. 75E07'58" W., a distance of 168.43 feet to a point on a curve; thence on said curve to the left in a northwesterly direction, having a central angle of 04E43'52", a radius of 353.16 feet, and a length of 29.16 feet to the Point of Beginning but except that part of the forgoing described parcel which was conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North 88E 04' 12" East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North 01E 55' 48" West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South 81E 38' 34" East, a distance of 65.61 feet to a point; thence South 01E 43' 34" East a distance of 60.94 feet to a point; thence North 81E 38' 34" West, a distance of

15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40E42'43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING;

Tract 11 (also labeled "Meadow Lane", "Old Trail Rd.", "Crickett Lane" and "Mill Road") of Whispering Hills, Section III;

Tract A (also labeled as "Bridle Dale") of Plat of Whispering Hills Section 5;

Tract A (also labeled as "Sunset Drive", "Meadow Lane" and "89th Terrace") of Plat of Whispering Hills Estates;

Tract A (also labeled as "Sunset Drive" and "90th Street") of Plat of Whispering Hills Estates, Second Plat;

Tract A (also labeled as "Redbud Lane") of Plat of Whispering Hills Estates, Third Plat;

Tract A (also labeled "Sunset Drive" and "90th Terrace") of Plat of Whispering Hills Estates, Fifth Plat; and

Tract F (also labeled Deer Run and Deer Run Terr.) of Plat of Whispering Hills, Section 6.

The word "Tract" is used to designate those areas on a plat within the District identified as a Tract thereon, and any unplatted property within the District. The tracts presently include, without limitation, the following:

Tracts 1 and 2; Tract 3 except all that part of Tract 3, lying North of and adjoining Lot 22, WHISPERING HILLS - SECTION 1, a subdivision in the City of Lenexa, Johnson County Kansas. Being more particularly described as follows; Beginning at a point in the North line of Lot 22, said point being 24.59 feet Westerly from the Northeastern corner of Lot 22; thence North 85 degrees, 05 minutes, 40 seconds West, along the North line of Lot 22, a distance of 50.50 feet; thence North 0 degrees, 54 minutes, 20 seconds East 18.50 feet; thence South 89 degrees, 05 minutes, 40 seconds East 50.50 feet; thence South 05 degrees, 54 minutes, 20 seconds West 18 feet to the point of beginning; Tracts 4-7 platted in Plat of Whispering Hills, Section I;

Tract 8-19 platted in Plat of Whispering Hills, Section 2;

Tracts 1-3 and 5-11 platted in Plat of Whispering Hills, Section III, but except that part of the forgoing described parcel which was conveyed to the City of Lenexa for Woodland Road right-of-way, more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of Section 26; thence North 88E 04' 12" East, along the South line of said Quarter Section, a distance of 1204.05 feet; thence North 01E 55' 48" West, a distance of 1006.94 feet to the existing Westerly right of way of Woodland Road and the TRUE POINT OF BEGINNING; thence South 81E 38' 34" East, a distance of 65.61 feet to a point; thence South 01E 43' 34" East a distance of 60.94 feet to a point; thence North 81E 38' 34" West, a distance of 15.23 feet to a point on the existing Westerly right of way of Woodland Road; thence along the said Westerly right of way of Woodland Road and a curve to the right having an initial Tangent Bearing of North 40E42'43" West, a radius of 686.62 feet and an arc length of 85.65 feet to the TRUE POINT OF BEGINNING; and except the Northwest 18.5 feet of Lot 146;

Tract A platted in Plat of Whispering Hills, Section 5;

Tracts A and B platted in Plat of Whispering Hills Estates;

Tract A platted in Whispering Hills Estates, Second Plat;

Tract A platted in Plat of Whispering Hills Estates, Third Plat;

Tract A platted in Plat of Whispering Hills Estates, Fifth Plat;

The following described property:

The Northwest Quarter of Section 35, Township 12, Range 23, Johnson County, Kansas, except (i) part platted as Section III, Whispering Hills; and (ii) except Beginning at a point 1,157.65 feet West of and 747.25 feet South of the Northeast corner of the Northwest Quarter of Section 35, thence North 37E 35' 49" West a distance of 190.0 feet thence South 23E 20' 54" West a distance of 102.96 feet thence South 17E 45' 35" West a distance of 122.36 feet, thence South 82E 53' 39" East a distance of 150.0 feet, thence in a Northeasterly direction along a curve to the right having a radius of 118.26 feet, a distance of 93.49 feet to the point of beginning; and (iii) except part platted as Whispering Hills Estates; and (iv) except part platted as Whispering Hills Estates Second Plat; and (v) except part platted as Whispering Hills Estates Third Plat; and (vi) except part platted as Whispering Hills Estates Fourth Plat; and (vii) except part platted as Whispering Hills Estates Fifth Plat; and (viii) except part in Plat of Whispering Hills, Section 6; and (ix) except part in public roads; and

Tracts B, E, F, and G, Plat of Whispering Hills, Section 6.

SECTION 1. MEMBERSHIP IN ASSOCIATION.

The Owners, together with the owners of any other land that may from time to time be made subject to all of the terms and provisions of this Declaration in the manner hereinafter provided for, shall be the members of the Association, which is hereby authorized. Membership in the Association shall be limited to the Owners as they exist from time to time. The Association, through its Board of Directors, shall be the sole judge of the qualification of Members and of their rights to participate in its meetings and proceedings.

SECTION 2. LAND ENTITLED TO BENEFITS.

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

SECTION 3. OTHER LANDS - HOW THEY MAY BE ADDED.

Additional lands may be added to the District by (1) the affirmative vote of a majority of the Members present at a special meeting of the Association called in the manner prescribed in the Bylaws of the Association and (2) the written approval of at least seventy percent (70%) of the Board, which approval shall be evidenced by an instrument duly executed and acknowledged by at least seventy percent (70%) of the Board and recorded in the office of the Register of Deeds of Johnson County, Kansas; provided, however, that any and all land so added to the District shall at the time of its addition be subjected to all of the terms of this Declaration and all future modifications or amendments hereof. The Bylaws of the Association shall also control with respect to voting rights and the requirements of a quorum at any special meeting called pursuant to this Section.

SECTION 4. POWERS AND DUTIES OF THE ASSOCIATION.

The Association shall have the following powers and duties, which it may exercise and perform whenever, in its discretion, it may deem them necessary or desirable, to-wit:

(1) To enforce, either in its own name or in the name of any Owner, this Declaration, the Restrictions and any restrictions which may have been heretofore or may hereafter be imposed upon any of the land in the District, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of this Declaration, the Restrictions or any restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, declarations, contracts or plats in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist.

The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association unless the Association prevails in such proceedings, in which event the expenses and costs of enforcement shall be charged to the party against whom enforcement was attained. Nothing herein contained shall be deemed or construed to prevent any Owner having the contractual right to do so from enforcing in his or her own name any such restrictions or reservations.

(2) To manage and control all Common Areas and the improvements located thereon in the District, provided that

such management and control of said area and improvements shall at all times be subject to that had and exercised by any City, County and State, or any of them, in which the land within the District is located.

(3) To provide for the collection and disposal of rubbish and garbage, when adequate services of that type are not available from any public source.

(4) To care for, spray, trim, protect and replant trees on all Streets and in the Common Areas where trees have once been planted, when such services are not available from any public source; and to care for, protect and replant shrubbery, and resow grass and replace sod in the parks which are in the Streets and in any Common Areas or parks set aside for the general use of the Owners, or to which the Owners have access and the use thereof.

(5) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the Association to keep any vacant and unimproved property and the parking in front of any property in the District neat in appearance and in good order.

(6) To provide for the plowing and removal of snow from sidewalks and Streets, when such services are not available from any public source.

(7) To provide for the maintenance of any tennis courts, playgrounds, bridle paths, pedestrian ways, gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected or created in the District in any Common Area or park, or on any land set aside for the general use of the Owners, or to which all of the Owners have access and the use thereof; and also to provide for the maintenance of any streams and natural water-courses within the District.

(8) To provide for the operation and maintenance of swimming and beach facilities for the exclusive use and enjoyment of Members and members of their families who reside in the District, and establish rules for the use and management of such facilities.

(9) To provide such lights as the Association may deem advisable on streets, parks, parkings, pedestrian ways, gateways, entrances or other features, and in other Common Areas when such facilities are not available from any public source.

(10) To provide for the cleaning of Streets, gutters, catch basins, sidewalks and pedestrian ways, and for the repair and maintenance of Streets, storm sewers and appurtenant drainage facilities when such services are not available from any public source.

(11) To erect and maintain signs for the marking of Streets, and safety signs for the protection of children and other persons, when such signs are not available from any public source.

(12) To employ duly qualified security officers for the purpose of providing such security protection as the Association may deem necessary or desirable in addition to that rendered by public authorities; however, the Association shall not be required to provide any security.

(13) To exercise control over such easements as it may acquire from time to time.

(14) To acquire by lease or own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned or leased by it; and to pay such taxes as may be assessed against land in Common Areas.

(15) To levy and collect the assessments which are provided for in this Declaration, including without limitation, the filing of liens and the enforcement thereof.

(16) To convey by sale, lease or easement such real estate as may not be necessary in order to carry out the purposes of the Association.

SECTION 5. METHOD OF PROVIDING GENERAL FUNDS.

(1) For the purpose of providing a general fund to enable the Association to exercise its powers, maintain the improvements and render the services herein provided for, all land within the District shall be subject to an annual assessment which may be levied by the Association from year to year and shall be paid to the Association annually in advance by the Owners of the assessable land subject thereto, which assessable land shall be deemed to be all of the Lots, except as herein provided, together with such other land as may from time to time be added to the District. The Association shall from year to year fix and determine the total amount required in its general fund.

(a) The Association may levy and collect an annual assessment of \$350 or less for each assessable Lot within the District provided that, at a meeting of the Members, a majority vote of the Members present at such meeting authorize such assessment by an affirmative vote therefor.

(b) The Association may levy and collect an annual assessment of between \$351 and \$700 for each assessable Lot within the District provided that, at a meeting of the Members specially called for that purpose, a two-thirds (2/3rds) vote of the Members present at such meeting authorize such an assessment by an affirmative vote therefor.

(c) The Association may levy and collect an annual assessment of between \$701 and \$1,050 for each assessable Lot within the District provided that, at a meeting of the Members specially called for that purpose, three-fourths (3/4ths) of the Members present at such meeting authorize such an assessment by an affirmative vote therefor.

(d) The base assessment provided in Subsection (a), above, and the assessments described in Subsections (b) and (c), above, shall increase automatically, annually to account for inflation. The assessment limits shall be increased by a percentage equal to the percentage increase in the Consumer Price Index from December 31, 2000, to September 1st of the year during which the assessment amount is determined, which assessment would be applicable to the next calendar year. The specific Consumer Price Index used shall be Consumer Price Index for Urban Wage Earners and Clerical Workers for Kansas City, All Items, not seasonally adjusted, (1967 = 100), published by the Bureau of Labor Statistics of the United States Department of Labor. If the Consumer Price Index shall be revised or shall cease to be compiled and published during the term of this Declaration, then the Bureau of Labor Statistics shall be requested to furnish a

statement converting the index to a figure that would be comparable in another index, and such index shall be used in computing the adjustment provided for herein. In no event shall the aforesaid maximum annual assessment be reduced by an adjustment described herein.

(2) Commencing in December 2000, assessments shall be paid in advance and be due on or before December 31st of that year. The Association shall notify all Owners whose address is listed with the Association on or before November 15th annually, giving the amount of the assessment owed by them and the date when such assessment is due. Failure of the Association to levy the assessment on or before November 15th of each year for the next succeeding year shall not invalidate any such assessment made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. In the event the assessment is made subsequent to November 15th of any year, it shall become due and payable not later than forty-five (45) days from the date of levying the assessment. For years prior to calendar year 2001, assessments were for such periods as determined by the Board.

(3) If any Lot shall be divided into one or more building sites, each of which building sites being for a single residence and consists of a part or parts of one or more Lots, then for the purpose of levying this assessment, each of such building sites shall constitute one separate assessment unit and shall be liable for each annual assessment in the same way and manner as one platted Lot under a single ownership. For the purpose of levying this assessment, the Association shall be the sole judge as to what may from time to time constitute a building site under the provisions of this Section.

(4) Any Lot in the following portions of the District shall not be subject to any assessments until the earlier to occur of (a) one (1) year following the first sale of a Lot by Michael S. Hales and Marlene S. Hales to any builder involved in the residential construction business who is building a speculative residence thereon, or (b) the sale of any Lot to any person other than a builder involved in the residential construction business who is building a speculative residence thereon: Whispering Hills Estates plat; Whispering Hills Estates, Second Plat; Whispering Hills Estates, Third Plat; Whispering Hills Estates, Fourth Plat; Whispering Hills Estates, Fifth Plat; and Whispering Hills, Section 6. Upon the first to occur of (a) or (b) above, the Lot shall become subject to one hundred percent (100%) of the assessments (both general and special) then being levied in the District.

(5) Without limiting anything herein which specifies another method of providing notices, a written or printed notice, deposited in the United States Post Office, with postage thereon prepaid, and addressed to an Owner at the last address listed with the Association, shall be deemed to be sufficient and proper notice for purposes in this Declaration where notices are required.

(6) In the event that payment on an assessment is not received within thirty-one (31) days after it was due, the amount of such assessment shall be increased by interest at the rate of one and one-half percent (1.5%) per month, or part thereof, or such lower rate as permitted by law, compounded monthly. All payments shall be applied first to collection expenses and fees, then to interest, and then to assessments overdue.

SECTION 6. LIEN ON REAL ESTATE.

(1) The assessment, any interest and collection costs and fees shall become a lien on the real estate against which it is levied on April 1st of the assessment year (the "Lien Date"). Such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate securing the payment of a loan which is insured or guaranteed by any agency of the United States government.

(2) The lien on said real estate may be enforced in proceedings in any court in Johnson County, Kansas, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may, at its discretion, file certificates of nonpayment of assessments in the Office of the Register of Deeds on or after the Lien Date. For each certificate so filed, the Association shall be entitled to collect from the Owner a fee of twenty-five percent (25%) of the outstanding assessment, which fee may be included in the lien upon the real estate so described in said certificate.

SECTION 7. EXPENDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR.

The Association shall at no time expend more money within any one year than the total amount of the assessment for that particular year, plus any surplus which it may have on hand; nor shall said Association enter into any contract for the payment of money which binds the assessments of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the Association, except for contracts for utilities; it being the intention that the assessment for each year shall be applied as far as practicable toward payment of the obligations of that year.

SECTION 8. ASSOCIATION TO NOTIFY MEMBERS OF ADDRESS.

The Association shall notify all Owners, insofar as the addresses of the Owners are listed with the Association, of the address of the officers of the Association, of the place and time of the regular meetings of the Board, and the place where payments shall be made and any other business in connection with the Association may be transacted, and in the case of any change of such address, the Association shall notify all the Owners, insofar as their addresses are listed with the Association, of the new address.

SECTION 9. DELETED.

SECTION 10. TO OBSERVE ALL LAWS.

The Association shall at all times observe all State, County, City and other laws, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby. The Association shall have the right to (1) make such reasonable rules and regulations, through the Board; and (2) provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration, subject, however, to the limitations of its rights to contract as are herein provided for.

SECTION 11. AMENDMENT.

This Declaration may be modified and amended by (1) the affirmative vote of a majority of the Members present at a special meeting of the Association; and (2) the written approval of at least seventy percent (70%) of the Board, which written approval shall be evidenced by an instrument duly executed and recorded in the office of the Register of Deeds of Johnson County, Kansas. Notice of any special meeting of the Association called for the purpose of amending this Declaration shall be sufficient and effective if given in the manner prescribed in the Bylaws of the Association, the provisions of which shall also control with respect to voting rights and the requirement of a quorum.

SECTION 12. HOW TERMINATED.

This Declaration may be terminated by seventy-five percent (75%) of the Members executing and acknowledging an appropriate agreement for that purpose and filing the same for record in the office of the Register of Deeds of Johnson County, Kansas. Notice of any special meeting of the Association called for the purpose of terminating this Declaration shall be sufficient and effective if given in the manner prescribed in the Association's Bylaws, the provisions of which shall also control with respect to voting rights and the requirement of a quorum.

SECTION 13. COVENANTS RUNNING WITH THE LAND.

All of the provisions of this Declaration shall be deemed to be covenants running with the land within the District, and shall be binding thereupon.

IN WITNESS WHEREOF, the Association, by authority of its Board, has caused this instrument to be executed by its President, the day and year first above written.

SECTION 11 STATEMENT

To satisfy Section 11(1) of the Declaration, the undersigned Secretary of the Association executes this Statement to document that the Association held a special meeting of the Association called by written notice from the Board to the

Members, given in the manner prescribed by the Bylaws of the Association, and at such meeting the Amendment and Restatement of Homes Association Declaration to which this Statement is attached received the affirmative vote of a majority of the Members of the Association present at such meeting.

To satisfy Section **11(2)** of the Declaration, the undersigned, representing at least seventy percent (70%) of the Board, execute this Statement to document their written approval of the Amendment and Restatement of Homes Association Declaration to which it is attached.

Certain words used in this Statement are defined in the Declaration to which it is attached.

D-35914

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FILED
ERNEST N. SHANAHAN
SECRETARY OF STATE
KANSAS

ARTICLES OF INCORPORATION

OF

WHISPERING HILLS HOMES ASSOCIATION

FIRST. The name of the corporation is:

WHISPERING HILLS HOMES ASSOCIATION ✓

SECOND. The address of its registered office in the State of Kansas is 8601 Deer Run, Whispering Hills, Lenexa, Kansas 66220. The name of its registered agent at such address is Robert Fox. (Johnson County)

THIRD. The nature of the business or objects or purposes to be conducted, transacted, promoted or carried on by the Association is:

(a) To provide for the creation, development, management, control, care, security, improvement, maintenance, preservation of the residential nature, value, and architectural and structural integrity of the individual residential units, public and private streets, sidewalks, common areas and parking areas within that certain plat of real property known as Whispering Hills, a subdivision of land in Johnson County, Kansas, as the same may from time to time be established pursuant to declarations filed with the Register of Deeds, Johnson County, Kansas (said real estate being hereinafter referred to as the "district").

(b) To enforce, either in its own name or in the name of any owner within the district, any or all building restrictions which may have been heretofore or may hereafter be imposed upon any of the land in such district, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, declarations, contracts or plats in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association. Nothing herein contained shall be deemed or construed to prevent any owner having the contractual right to do so from enforcing in his own name any such restrictions.

(c) To manage and control as trustee for its members

(e) To care for, spray, trim, protect and replant trees on all streets and in other common areas where trees have once been planted, when such services are not available from any public source; and to care for, protect, and replant shrubbery, and resew grass and replace sod in the parks which are in the streets and in any common areas or parks set aside for the general uses of the owners in the district, or to which such owners have access and the use thereof.

(f) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the district neat in appearance and in good order.

(g) To provide for the plowing and removal of snow from sidewalks and streets, when such services are not available from any public source.

(h) To provide for the maintenance of any tennis courts, playgrounds, bridle paths, pedestrian ways, gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected or created in said district in any common area in the district, or the park, or on any land set aside for the general use of the owners in the district, or to which all of such owners have access and the use thereof; and also to provide for the maintenance of any streams and natural water-courses within the district.

(i) To provide for the operation and maintenance of swimming and beach facilities for the exclusive use and enjoyment of members of the Association and members of their families who reside in the district, and establish rules for the use and management of such facilities.

(j) To provide such lights as the Association may deem advisable on streets, parks, parkings, pedestrian ways, gateways, entrances or other features, and in other common areas when such facilities are not available from any public source.

(k) To provide for the cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways, and for the repair and maintenance of streets, storm sewers and appurtenant drainage facilities, when such services are not available from any public source.

(l) To erect and maintain signs for the marking of streets, and safety signs for the protection of children and other

(o) To acquire by lease or own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay such taxes as may be assessed against land in common areas within the district.

(p) To levy and collect the assessments which are provided for in the Homes Association Declaration applicable to the district.

(q) To accept the conveyance of and to transfer, convey, mortgage or otherwise dispose of any and all of the private streets and common areas within the district, subject to the rights of the property owners in the district in and to the same.

(r) To make such reasonable rules and regulations, and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of the above-mentioned Homes Association Declaration, as amended, subject, however, to the limitations of its rights to contract as are provided therein.

(s) To engage in any lawful act or activity for which not-for-profit corporations may be organized under the General Corporation Code of the State of Kansas.

In addition to the powers and privileges conferred upon the corporation by law and those incidental thereto, the corporation shall possess and may exercise all the powers and privileges which are necessary or convenient to the conduct, promotion or attainment of the business, objects or purposes of the corporation.

FOURTH. The Association shall not have authority to issue capital stock.

FIFTH. Every person or entity who or which may from time to time own land within the district shall be the members of the Association. Membership in the Association shall be limited to the owners of land within the boundaries of the district as it exists from time to time. The Association shall be the sole judge of the qualifications of its members and of their rights to participate in its meetings and proceedings.

SIXTH. The name and mailing address of the incorporator are as follows:

<u>Name</u>	<u>Address</u>
James W. Starnes	20901 Pebble Lane Whispering Hills Lenexa, Kansas 66220

<u>Name</u>	<u>Address</u>
Sharon Brockman	8509 Deer Run Whispering Hills Lenexa, Kansas 66220
James R. Fowler,	20806 Pebble Lane Whispering Hills Lenexa, Kansas 66220
Robert Fox	8601 Deer Run Whispering Hills Lenexa, Kansas 66220
Thomas K. Frye	8308 Pebble Lane Whispering Hills Lenexa, Kansas 66220
Byron D. Gash	8400 Pebble Lane Whispering Hills Lenexa, Kansas 66220
Frank M. McHugh	21102 Bittersweet Drive Whispering Hills Lenexa, Kansas 66220
Ingrid Pintard	21002 Whispering Drive Whispering Hills Lenexa, Kansas 66220
Mary E. Ruf	8319 Bittersweet Drive Whispering Hills Lenexa, Kansas 66220
James W. Starnes	20901 Pebble Lane Whispering Hills Lenexa, Kansas 66220
Susan A. Tozier	8408 Meadow Lane Whispering Hills Lenexa, Kansas 66220
Lewis H. Wiens	8311 Bittersweet Drive Whispering Hills Lenexa, Kansas 66220

SEVENTH. The corporation is to have perpetual existence.

a quorum is present provided that written notice of said amendment or other proposed change shall have been given in the manner provided by the bylaws, or (ii) by a majority of the full board of directors; and any change so made by the members may thereafter be further changed by a majority of the directors; provided, however, that the power of the board of directors to alter, amend or repeal bylaws, or to adopt new bylaws, may be denied as to any bylaws or portion thereof by the members if at the time of enactment the members shall so expressly provide.

ELEVENTH. The corporation may agree to the terms and conditions upon which any director, officer, employee or agent accepts his office or position and in its bylaws, by contract or in any other manner may agree to indemnify and protect any director, officer, employee or agent of the corporation, or any person who serves at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, to the extent permitted by the laws of the State of Kansas.

TWELFTH. Meetings of members may be held within or without the State of Kansas, as the bylaws may provide. The books of the corporation may be kept (subject to any provision contained in the statutes of Kansas) outside the State of Kansas at such place or places as may be designated from time to time by the board of directors or in the bylaws of the corporation.


THIRTEENTH. The corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation in the manner now or hereafter prescribed by statute, and all rights conferred upon members herein are granted subject to this reservation.

FOURTEENTH. Upon dissolution of this corporation and after payment of all debts and satisfaction of all liabilities and obligations of the corporation, and after the return, transfer or conveyance of all assets requiring return, transfer or conveyance thereof because of the dissolution of the corporation, any remaining assets of this corporation shall be distributed in accordance with a plan of dissolution approved by a majority of the members of the corporation present and voting at a meeting of the members called for the purpose of considering such plan of dissolution; provided, however, that any earnings of the corporation shall be distributed on dissolution exclusively for charitable, educational or recreational purposes.

The undersigned, for the purpose of forming a corporation under the General Corporation Code of the State of Kansas, does hereby execute these Articles, and does hereby declare and certify that this is his act and deed and the facts herein stated are true, and accordingly has executed these Articles this 10th day of *October*.

County and State, personally appeared James W. Starnes who duly acknowledged before me that he executed the same.

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


Notary Public in and for said County
and State

[NOTARIAL SEAL]

My commission expires:

April 30, 1975.

THIS FORM OF THE HOMES ASSOCIATION DECLARATION IS A REFORMATTED, WORDPROCESSED DOCUMENT. IT IS NOT A COPY OF THE SIGNED AND RECORDED ORIGINAL. THE SIGNED AND RECORDED ORIGINAL IS ON FILE WITH THE COUNTY REGISTER OF DEEDS AND A COPY IS AVAILABLE FROM THE HOMES ASSOCIATION. THE DOCUMENT BELOW IS PROVIDED FOR CONVENIENCE AND REFERENCE ONLY. HOME OWNERS ARE BOUND BY AND WILL BE EXPECTED TO COMPLY WITH THE TERMS OF THE SIGNED, RECORDED DOCUMENT.

BY-LAWS **OF** **WHISPERING HILLS HOMES ASSOCIATION**

Offices

1. Registered Office and Registered Agent. The location of the registered office and the name of the registered agent of the corporation in the State of Kansas shall be such as shall be determined from time to time by the board of directors and on file in the appropriate public offices of the State of Kansas pursuant to applicable provisions of law.
2. Corporate Offices. The corporation may have such other corporate offices and places of business anywhere within or without the State of Kansas as the board of directors may from time to time designate or the business of the corporation may require.

Seal

3. Corporate Seal. The corporate seal shall have inscribed thereon the name of the corporation and the words "Corporate Seal, Kansas." The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Members' Meetings

4. Place of Meetings. All meetings of the members shall be held at the offices of the corporation in the city of Lenexa, Johnson County, State of Kansas, State of Kansas, or at such other place either within or without the State of Kansas as shall be designated from time to time by the board of directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof.
5. Annual Meeting. An annual meeting of the members of the corporation shall be held on the third Friday in September of each year, if not a legal holiday, and if a legal holiday, then on the next secular day following, at 7:00 p.m., or at such other date and time as shall be designated from time to time by the board of directors and stated in the notice of the meeting, at which the members shall elect directors to serve until the next annual meeting of the members and until their successors are elected and qualified, or until their earlier resignation or removal, and shall transact such other business as may properly be brought before the meeting. In order to be eligible for election as a director, the name of each nominee shall have been submitted in writing by a member of the association to the chairman of the nominating committee or the president of the association not less than five days prior to the annual meeting at which such nominee is proposed to be elected. At the annual meeting the members may transact such other business as may be desired, whether or not the same was specified in the notice of the meeting, unless the consideration of such other business without its having been specified in the notice of the meeting as one of the purposes thereof is prohibited by law.
6. Special Meetings. Special meetings of the members may be held for any purpose or purposes, unless otherwise prescribed by statute or by the articles of incorporation, and may be called by the president, by the secretary, by the board of directors, or by the holder of, or by any officer or member upon the written request of not less than twenty-

five per cent (25%) of the members entitled to vote at such meeting, and shall be called by any officer directed to do so by the board of directors or requested to do so in writing by a majority of the board of directors. Any such written request shall state the purpose or purposes of the proposed meetings.

The “call” and the “notice” of any such meeting shall be deemed to be synonymous.

Provided, further, special meetings of the members may be held at an annual meeting of the members in accordance with the provisions of Section Five (5), hereof, as long as the requirements of this Section Six (6) have also been met.

7. Voting. For purposes of voting at all meetings of the members, except as provided below in the case of election of directors, each member shall be entitled to one vote for each platted lot in which such member possesses record fee simple title, and for which all dues and assessments not otherwise waived by the Board have been paid to date; provided, however, if a member owns a vacant lot adjacent the member’s residence or two or more building lots for the purpose of building a single residence, and that member, by agreement of the Board is paying annual dues and assessments on only one lot, said member shall be entitled to one vote, unless otherwise provided by agreement with the Board. If more than one person, or other legal entity or any combination thereof, hold record fee simple title to any such lot or parcel, they shall be collectively deemed a single member by virtue of such ownership. At all meetings of the members, every member having the right to vote shall be entitled to vote in person, or by proxy through an instrument in writing subscribed by such member and bearing a date not more than three years prior to said meeting, unless the instrument provided for a longer period. At all elections of directors, each member shall be entitled to as many votes as shall equal the number of directors to be elected, and he may cast all such votes for a single director or may distribute them among the number to be voted for, or any two or more of them. At all meetings of the members, the voting may be otherwise than by ballot, including the election of directors, except that, unless otherwise provided by the articles of incorporation, any member entitled to vote may demand a vote by ballot on any matter, in which event such vote shall be by ballot.

8. Quorum. Twenty per cent (20%) of the members entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the members for the transaction of any business, except as otherwise provided by law, by the articles of incorporation, or by these bylaws. Every decision of a majority in amount of stock of such quorum shall be valid as a corporate act, except in those specific instances in which a larger vote is required by law or by the articles of incorporation or by these bylaws. Notwithstanding anything to the contrary stated herein, where the vote of the members is required with respect to any matter in which written notice to the members has been given, specifying such matter and that a vote will be taken thereon, and where such notice has been given pursuant to the provisions of Sections Ten (10), Thirty-nine (39) and Forty (40), hereof, no quorum shall be necessary, and such matter may be approved by an affirmative vote of a majority of those members entitled to vote who are present at such meeting.

If ten per cent (10%) of the members entitled to vote at any meeting are present in person or by proxy at a meeting at which a quorum shall not be present, a majority of the members present in person or by proxy at such meeting shall have power successively to adjourn the meeting from time to time to a specified time and place, without notice to anyone other than announcement at the meeting, until a quorum shall be present in person or by proxy. At such adjourned meeting at which a quorum shall be present in person or by proxy, any business may be transacted which might have been transacted at the original meeting which was adjourned. If the adjournment is for more than thirty (30) days, or if after adjournment a new record date is fixed for the adjourned meeting, a notice of the adjournment meeting shall be given to each member of record entitled to vote at the meeting.

9. Membership List. The secretary or assistant secretary or designee, who shall have charge of the Membership List, shall, if requested in writing by any member at least twenty (20) days prior to any meeting of members or if ordered to do so by the board of directors, prepare and make, at least ten (10) days before such meeting of members, a complete list of the members entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each member, and the number of shares registered in the name of each member. Such list shall be open to the examination of any members, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the township where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any member who is present.
10. Notice. Written or printed notice of each meeting of the members, whether annual or special, stating the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes thereof, shall be given to each

member of record of the corporation entitled to vote at such meeting, either personally or by mail, not less than ten (10) days nor more than fifty (50) days prior to the meeting. The board of directors may fix in advance a date, which shall not be more than sixty (60) days nor less than to (10) days preceding the date of any meeting of the members, as a record date for the determination of the members entitled to notice of, and to vote at, any such meeting and any adjournment thereof; provided, however, that the board of directors may fix a new record date for any adjourned meeting.

11. Consent of Members in Lieu of Meeting. To the extent, if any, and in the manner permitted by statute and unless otherwise provided in the articles of incorporation, any action required to be taken at any annual or special meeting of members of the corporation, or any action which may be taken at any annual or special meeting of such members, may be taken by written consent without a meeting.

Board of Directors

12. Management. The management of all the affairs, property, and business of the corporation shall be vested in a board of directors, consisting of eleven persons who are members. In addition to the powers and authorities by these bylaws and the articles of incorporation expressly conferred upon it, the board of directors may exercise all such powers of the corporation, and do all such lawful acts and things as are not by statute or by the articles of incorporation or by these bylaws directed or required to be exercised or done by the members.
 13. Terms of Office. At the first annual meeting of the members, three (3) directors shall be elected for terms expiring at the annual meeting of 1975, four (4) directors shall be elected for terms expiring at the annual meeting in 1976, and four (4) directors shall be elected for terms expiring at the annual meeting in 1977. Thereafter, at each succeeding annual meeting of the directors, that number of directors shall be elected as shall equal the number of directors whose terms expire thereat and all such directors shall be so elected for a term of three (3) years and until their successors are duly elected and qualified. No director who shall have been in office for two consecutive three-year terms immediately preceding an election of directors shall be eligible for reelection as a director at such election.
 14. Vacancies and Newly Created Directorships. Vacancies and newly created directorships resulting from an increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, unless it is otherwise provided in the articles of incorporation or bylaws, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, or until their earlier resignation or removal. If there are no directors in office, then an election of directors may be held in the manner provided by statute.
 15. Meetings of the Newly Elected Board – Notice. The first meeting of the members of each newly elected board of directors shall be held (i) at such time and place either within or without the State of Kansas as shall be suggested or provided by resolution of the members at the meeting at which such newly elected board was elected, and no notice of such meeting shall be necessary to the newly elected directors in order legally to constitute the meeting, provided a quorum shall be present, or (ii) if not so suggested or provided for by resolution of the members or if quorum shall not be present, at such time and place as shall be consented to in writing by a majority of the newly elected directors, provided that written or printed notice of such meeting shall be given to each of the other directors in the same manner as provided in section 18 of these bylaws with respect to the giving of notice for special meetings of the board except that it shall not be necessary to state the purpose of the meeting in such notice, or (iii) regardless of whether or not the time and place of such meeting shall be suggested or provided for by resolution of the members, at such time and place as shall be consented to in writing by all of the newly elected directors.
- Every director of the corporation, upon his election, shall qualify by accepting the office of director, and his attendance at, or his written approval of the minutes of, any meeting of the board subsequent to his election shall constitute his acceptance of such office; or he may execute such acceptance by a separate writing, which shall be placed in the minute book.
16. Regular Meetings. Regular meeting of the board of directors may be held without notice at such times and places either within or without the State of Kansas as shall from time to time be fixed by resolution adopted by the full board of directors. Any business may be transacted at a regular meeting.
 17. Special Meetings. Special meetings of the board of directors may be called at any time by the president, any vice president or the secretary, or by any two (2) or more of the directors. The place may be within or without the State of Kansas as designated in the notice.

18. Notice of Special Meetings. Written or printed notices of each special meeting of the board, stating the place, day and hour of the meeting and the purpose or purposes thereof, shall be mailed to each director addressed to him at his residence or usual place of business at least three (3) days before the day on which the meeting is to be held, or shall be sent to him by telegram, or delivered personally, at least two (2) days before the day on which the meeting is to be held. The "Notice" and "call" with respect to such meetings shall be deemed to be synonymous. Any meeting of the board of directors shall be a legal meeting without any notice thereof having been given if all directors shall be present thereat.
19. Meetings by Conference Telephone or Similar Communications Equipment. Unless otherwise restricted by the article of incorporation or these bylaws, members of the board of directors of the corporation, or any committee designated by such board, may participate in a meeting of such board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting.
20. Quorum. Unless otherwise required by law, the articles of incorporation or these bylaws, a majority of the total number of directors shall be necessary at all meetings to constitute a quorum for the transaction of business, and, except as may be otherwise provided by law, the articles of incorporation or these bylaws, the act of a majority of directors present at any meeting as which there is a quorum shall be the act of the board of directors.

If at least two (2) director or one third (1/3) of the whole board of directors, whichever is greater, is present at any meeting at which a quorum is not present, a majority of the directors present at such meeting shall have power successively to adjourn the meeting from time to time to a subsequent date, without notice to any director other than announcement at the meeting. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting which was adjourned.

21. Standing or Temporary Committees. The board of directors may, by resolution or resolutions passed by a majority of the whole board, designate one (1) or more committees, each committee to consist of one (1) or more directors of the corporation. The board may designate one (1) or more director as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified members. Any such committee, to the extent provided in said resolution or resolutions or in these bylaws, shall have and may exercise all of the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have power or authority in reference to amending the articles of incorporation, adopting an agreement of merger or consolidation, recommending to the members the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommending to the members a dissolution of the corporation or a revocation of a dissolution, or amending the bylaws of the corporation. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the board of directors. All committees so appointed shall, unless otherwise provided by the board of directors, keep regular minutes of the transactions of their meetings and shall cause them to be recorded in books kept for that purpose in the office of the corporation and shall report the same to the board of directors at its next meeting. The secretary or an assistant secretary of the corporation may act as secretary of the committee if the committee so requests.
22. Resignations. Any director may resign at any time by giving a written notice to the president or the secretary of the corporation. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
23. Indemnification and Liability of Directors and Officers. Each person who is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director or officer of another corporation (including heirs, executors, administrators and estate of such person) shall be indemnified by the corporation as of right to the full extent permitted or authorized by the laws of the State of Kansas, as now in effect and as hereafter amended against any liability, judgment, fine, amount paid in settlement, cost and expense (including attorneys' fees) asserted or threatened against and incurred by such person in his capacity as or arising out of his status as a director or officer of the corporation or, if serving at the request of the corporation, as a director or officer of another corporation. The indemnification provided by this bylaw provision shall not be exclusive of any other rights to which those indemnified may be entitled under any other bylaw or under any agreement, vote of stockholders or disinterested director or otherwise, and shall not limit in any way any right which the corporation may have to make different or further indemnifications with respect to the same or different persons or classes of persons.

No person shall be liable to the corporation for any loss, damage, liability or expense suffered by it on account of any action taken or omitted to be taken by him as a director or officer of the corporation or of any other corporation which he serves as a director or officer at the request of the corporation, if such person (i) exercised the same degree of care and skill as a prudent man would have exercised in the circumstances in the conduct of his own affairs, or (ii) took the corporation, or for such other corporation, or upon statements made or information furnished by directors, officers, employees or agents of the corporation, of such other corporation, which he had no reasonable ground to disbelieve.

24. Actions Without a Meeting. Unless otherwise restricted by the articles of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors or any committee thereof may be taken without a meeting if written consent thereto is signed by all members of the board of directors of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the board or committee.

Officers

25. (a) Officers – Who Shall Constitute. The officers of the corporation shall be a president, one or more vice presidents, a secretary and a treasurer, each of whom shall be elected by the board of directors at their first meeting after the annual meeting of the members. The board of directors may also designate additional assistant secretaries and assistant treasurers. Any two (2) or more offices may be held by the same person.

An officer shall be deemed qualified when he enters upon the duties of the office to which he has been elected or appointed and furnishes any bond required by the board; but the board may also require of such person his written acceptance and promise faithfully to discharge the duties of such office.

(b) Term of Office. Each officer of the corporation shall hold his office at the pleasure of the board of directors or for such other period as the board may specify at the time of his election or appointment, or until his death, resignation or removal by the board, whichever first occurs. In any event, each officer of the corporation who is not reelected or reappointed at the annual meeting of the board next succeeding his election or appointment and at which any officer of the corporation is elected or appointed shall be deemed to have been removed by the board, unless the board provides otherwise at the time of his election or appointment.

(c) Other Officers and Agents. The board from time to time may also appoint such other officers and agents for the corporation as it shall deem necessary or advisable, each of whom shall serve at the pleasure of the board or for such period as the board may specify, and shall exercise such powers, have such titles and perform such duties as shall be determined from time to time by the board or by an officer empowered by the board to make such determinations.

26. The President. Unless the board otherwise provides, the president shall be the chief executive officer of the corporation with such general executive powers and duties of supervision and management as are usually vested in the office of the chief executive officer of a corporation and he shall carry into effect all directions and resolutions of the board. The president shall preside at all meetings of the members and directors.

The president may execute all bonds, notes, debentures, mortgages, and other instruments for and in the name of the corporation, and may cause the corporate seal to be affixed thereto.

Unless the board otherwise provides, the president, or any person designated in writing by him, shall have full power and authority on behalf of this corporation (i) to attend and to vote or take action at any meeting of the holders of securities of corporations in which this corporation may hold securities, and at such meetings shall possess and may exercise any and all rights and powers incident to being a holder of such securities and which as the holder thereof this corporation may have possessed and exercised if present, and (ii) to execute and deliver waivers of notice and proxies for and in the name of the corporation with respect to any such securities held by this corporation.

He shall, unless the board otherwise provides, be ex officio a member of all standing committees.

He shall have such other or further duties and authority as may be prescribed elsewhere in these bylaws or from time to time by the board of directors.

27. Vice President. In the absence of the president or in the event of his disability, inability or refusal to act, the vice president (or in the event there be more than one vice president, the vice president in the order designated by the board, or in the absence of any designation, then in the order of their election) shall perform the duties and exercise the powers of the president, serve as the chair of the Architectural Review Committee, unless excused by the president, and shall perform such other duties as the board of directors may from time to time prescribe.

28. Secretary and Assistant Secretaries. The secretary may attend all sessions of the board and all meetings of the members, and shall record or cause to be recorded all votes taken and the minutes of all proceedings in a minutes book of the corporation to be kept for that purpose. He shall perform like duties for the executive and other standing committees when requested by the board or any such committee to do so.

It shall be the principal responsibility of the secretary to give, or cause to be given, notice of all meetings of the members and of the board of directors, but this shall not lessen the authority of others to give such notice as is authorized elsewhere in these bylaws.

The secretary shall see that all books records, lists and information, or duplicates, required to be maintained in Kansas, or elsewhere, are so maintained.

The secretary shall keep in safe custody the seal of the corporation, and shall have authority to affix the seal to any instrument requiring it, and when so affixed, he shall attest the seal by his signature. The board of directors may give general authority to any other officer to affix the seal of the corporation and to attest the affixing by his signature.

The secretary shall also keep in safe custody the official records of the corporation including but not limited to all current documents, land transactions, legal papers and other as required.

The secretary shall perform such other duties and have such other authority as may be prescribed elsewhere in these bylaws or from time to time by the board of directors or the chief executive officer of the corporation, under whose direct supervision he shall be.

In the absence of the secretary or in the event of his disability, inability or refusal to act, the assistant secretary (or in the event there be more than one assistant secretary, the assistant secretaries in the order designated by the board, or in the absence of any designation, then in the order of their election) may perform the duties and exercise the powers of the secretary, and shall perform such other duties as the board of directors may from time to time prescribe.

29. The Treasurer and Assistant Treasurers. The treasurer shall have responsibility for the safekeeping of the funds and securities of the corporation, shall keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the corporation and shall keep, or cause to be kept, all other books of account and accounting records of the corporation. He shall deposit or cause to be deposited all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the board of directors or by any officer of the corporation to who such authority has been granted by the board of directors.

He shall disburse, or permit to be disbursed, the funds of the corporation as may be ordered, or authorized generally, by the board, and shall render to the chief executive officer of the corporation and the director whenever they may require it, an account of all his transactions as treasurer and of those under his jurisdiction, and of the financial condition of the corporation.

He shall perform such other duties and shall have such other responsibility and authority as may be prescribed elsewhere in these bylaws or from time to time by the board of directors.

He shall have the general duties, powers and responsibility of a treasurer of a corporation.

The treasurer shall give the corporation a bond in the sum and with one or more sureties satisfactory to the board, for the faithful performance of the duties of his office, and for the restoration to the corporation, in the case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control which belong to the corporation. The cost of the bond will be paid out of the general funds of the corporation.

In the absence of the treasurer or in the event of his disability, inability or refusal to act, the assistant treasurer (or in the event there be more than one assistant treasurer, the assistant treasurers in the order designated by the board, or in the absence of any designation, then in the order of their election) may perform the duties and exercise the powers of the treasurer, and shall perform such other duties and have such other authority as the board of directors may from time to time prescribe.

30. Duties of Officers May be Delegated. If any officer of the corporation be absent or unable to act, or for any other reason that the board may deem sufficient, the board may delegate for the time being, some or all of the functions,

duties, powers and responsibilities of any officer to any other officer, or to any other agent or employee of the corporation or other responsible person, provided a majority of the whole board concurs therein.

31. Removal. Any officer or agent elected or appointed by the board of directors, and any employee, may be removed or discharged at any time by the affirmative vote of a majority of the board of directors, but such removal or discharge shall be without prejudice to the contract rights, if any, of the person so removed or discharged.
32. Delegation of Authority to Hire, Discharge and Designate Duties. The board from time to time may delegate to the president or other officer or executive employee of the corporation, authority to hire, discharge and fix and modify the duties, salary or other compensation of employees of the corporation under their jurisdiction, and the board may delegate to such officer or executive employee similar authority with respect to obtaining and retaining for the corporation the services of attorneys, accountants and other experts.

Record Date

33. Fixing Record Date. In order that the corporation may determine the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or (if permitted by stature) to express consent to corporate action in writing without a meeting, or entitled to receive payment of any distribution or allotment of any rights, or entitled to exercise any rights for the purpose of any other lawful action, the board of directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of members of record entitled to notice of or to vote at a meeting of members shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting.

Finance

34. Creation of Reserves. The directors may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose or may abolish any such reserve in the manner in which it was created.
35. Moneys. The moneys of the corporation shall be deposited in the name of the corporation in such bank or banks or trust company or trust companies as the board of directors shall designate, and shall be drawn out only by check signed by persons designated by resolution adopted by the board of directors, except that the board of directors may delegate said powers in the manner hereinafter provided in this bylaw 36. The board of directors may by resolution authorize an officer or officers of the corporation to designate any bank or banks or trust company or trust companies in which moneys of the corporation may be deposited, and to designate the persons who may sign checks drawn on any particular bank account or bank accounts of the corporation, whether created by direct designation of the board of directors or by an authorized officer or officers as aforesaid.
36. Fiscal Year. The board shall have the power to fix and from time to time change the fiscal year of the corporation. In the absence of action by the board of directors, however, the fiscal year of the corporation shall run from October 1 through September 30 each year.
37. Directors' Annual Statement. The board of directors may present at each annual meeting of the members, and when called for by vote of the members shall present to any annual or special meeting of the members, a full and clear statement of the business and condition of the corporation.

Books and Records

38. Books, Accounts and Records. The books, accounts and records of the corporation, except as may be otherwise required by the laws of the State of Kansas, may be kept outside of the State of Kansas, at such place or places as the board of directors may from time to time determine. The board of directors shall determine whether, to what extent and the conditions upon which the accounts and books of the corporation, or any of them, shall be open to the inspection of the members, and no member shall have any right to inspect any account or book or document of the corporation, except as conferred by law or by resolution of the members or directors.

Notices

39. Statutory Provisions. Whenever the provisions of the statutes of the State of Kansas, the articles of incorporation or these bylaws require notice to be given to any director, officer or members, they shall not be construed to require actual personal notice. Notice by mail may be given in writing by depositing the same in a post office or letter box, in a post-paid, sealed wrapper, addressed to such director, officer or member at his or her address as the same

appears in the books of the corporation, and the time when the same shall be mailed shall be deemed to be the time of the giving of such notice. If notice be given by telegraph, such notice shall be deemed to be given when the same is delivered to the telegraph company.

40. Waiver. Whenever any notice is required to be given under the provisions of the statutes of Kansas, or of the articles of incorporation or of these bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the members, director, or members of a committee of directors need be specified in any written waiver of notice unless so required by the articles of incorporation or these bylaws.

Miscellaneous

41. Contracts. The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.
42. Amendments. These bylaws may be altered, amended, or repealed by the affirmative vote of a majority of members entitled to vote thereon, or, if the articles of incorporation so provide, by the affirmative vote of a majority of the board of directors at any meeting of the board; provided, however, that notice of any such amendment adopted by the board of directors shall be given to the members of the association within a reasonable period of time after the adoption of such amendment.

CERTIFICATE

The undersigned, Cara Gentry, the Secretary of Whispering Hills Homes Association, a Kansas corporation, hereby certifies that the foregoing bylaws are the bylaws of said corporation adopted by the board of directors of said corporation this _____ day of _____..

Secretary: _____

IN WITNESS WHEREOF, the undersigned members of the Board have executed these Bylaws on the date and year written above.

WHISPERING HILLS HOMES ASSOCIATION BOARD OF DIRECTORS.

AMENDED AND RESTATED
BYLAWS
OF
WHISPERING HILLS HOMES ASSOCIATION
ARTICLE I
Offices

1. **Registered Office and Registered Agent.** The location of the registered office and the name of the registered agent of the corporation in the State of Kansas shall be such as shall be determined from time-to-time by the board of directors and on file in the appropriate public offices of the State of Kansas pursuant to applicable provisions of law.

2. **Corporate Offices.** The corporation may have such other corporate offices and places of business within Lenexa, Kansas as the board of directors may from time-to-time designate or the business of the corporation may require.

ARTICLE II
Seal

1. **Corporate Seal.** The corporation shall have no seal.

ARTICLE III
Members' Meetings

1. **Place of Meetings.** All meetings of the members shall be held at the offices of the corporation in the City of Lenexa, Johnson County, State of Kansas.

2. **Annual Meeting.** An annual meeting of the members of the corporation shall be held on the third Friday in September of each year, if not a legal holiday, and if a legal holiday, then the next secular day following, at 7:00 p.m., or at such other date and time as shall be designated from time-to-time by the board of directors and stated in the notice of the meeting, at which the members shall elect directors to serve until the next annual meeting of the members and until their successors are elected and qualified, or until their earlier resignation or removal, and shall transact such other business as may properly be brought before the meeting. In order to be eligible for election as a director, the name of each nominee shall have been submitted in writing by a member of the corporation to the chairman of the nominating committee or the president of the corporation not less than five (5) days prior to the annual meeting at which such

nominee is proposed to be elected. At the annual meeting, the members may transact such other business which is reserved to the members, whether or not the same was specified in the notice of the meeting, unless the consideration of such other business without its having been specified in the notice of the meeting as one of the purposes thereof is prohibited by law. Members will be given a reasonable opportunity at the annual meeting to comment regarding any matter affecting the corporation.

3. **Special Meetings.** Special meetings of the members may be held for any purpose or purposes, unless otherwise prescribed by statute or by the articles of incorporation, and may be called by the president, by the secretary, by a majority of the board of directors, or by the secretary upon the written request of not less than ten percent (10%) of the members entitled to vote at such meeting, and shall be called by any officer or requested to do so in writing by a majority of the board of directors. If the corporation does not notify members of a special meeting within thirty (30) days after the requisite percentage of members request the secretary to do so, the requesting members may directly notify all the members of the meeting. Only matters described in the meeting notice required by Article III Section 7, below, may be considered at a special meeting. Any such written request shall state the purpose or purposes of the proposed meeting. Members will be given a reasonable opportunity at any special meeting to comment regarding any matter affecting the corporation.

The “call” and the “notice” of any such meeting shall be deemed to be synonymous.

Provided, further, special meetings of the members may be held at an annual meeting of the members in accordance with the provisions of this Article, as long as the requirements of this Article have been met.

4. **Voting.** For purposes of voting at all meetings of the members, except as provided below in the case of election of directors, each member shall be entitled to one vote for each platted lot in which such member possesses record fee simple title, and for which all dues and assessments not otherwise waived by the Board have been paid to date; provided, however, if a member owns a vacant lot adjacent to the member’s residence or two or more building lots for the purpose of building a single residence, and that member, by agreement of the board of directors is paying annual dues and assessments on only one lot, said member shall be entitled to one vote, unless otherwise provided by agreement with the board of directors. If more than one person, or other legal entity or any combination thereof, hold record fee simple title to any such lot or parcel, they shall be collectively deemed a single member by virtue of such ownership. At all meetings of the members, every member having the right to vote shall be entitled to vote in person, or by proxy through an instrument in writing subscribed by such member and bearing a date not more than three years prior to said meeting, unless the instrument provided for a longer period. At all elections of directors, each member shall be

entitled to as many votes as shall equal the number of directors to be elected, and such member may cast all such votes for a single director or may distribute them among the number to be voted for, or any two or more of them however, if at the time of the election of directors a member is currently an elected director, such member may not vote in the election of a new director. At all meetings of the members, the voting may be otherwise than by ballot, including the election of directors, except that, unless otherwise provided by the articles of incorporation, any member entitled to vote may demand a vote by ballot on any matter, in which event such vote shall be by ballot.

5. **Quorum.**

(a) Notwithstanding anything to the contrary stated herein, where the vote of the members is required with respect to any matter in which written notice to the members has been given, specifying such matter and that a vote will be taken thereon, and where such notice has been given pursuant to the provisions of Article III, Section 7; or Article VIII, 1 or 2 hereof, no quorum shall be necessary, and such matter may be approved by an affirmative vote of a majority of those members entitled to vote who are present at such meeting.

(b) When the provisions of Subsection (a) are inapplicable because written notice to members has not been given, twenty percent (20%) of the members entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the members for the transaction of any business, except as otherwise provided by law, by the articles of incorporation, or by these bylaws. Every decision of a majority of such quorum shall be valid as a corporate act, except in those specific instances in which a larger vote is required by law or by the articles of incorporation or by these bylaws. If ten percent (10%) of the members entitled to vote at any meeting are present in person or by proxy at a meeting at which a quorum shall not be present, a majority of the members present in person or by proxy at such meeting shall have power successively to adjourn the meeting from time-to-time to a specified time and place, without notice to anyone other than announcement at the meeting, until a quorum shall be present in person or by proxy. At such adjourned meeting at which a quorum shall be present in person or by proxy, any business may be transacted which might have been transacted at the original meeting which was adjourned. If the adjournment is for more than thirty (30) days, or if after adjournment a new record date is fixed for the adjourned meeting, a notice of the adjournment meeting shall be given to each member of record entitled to vote at the meeting.

6. **Membership List.** The secretary or assistant secretary or designee, who shall have charge of the Membership List, shall, if requested in writing by any member at least twenty (20) days prior to any meeting of members or if ordered to do so by the board of directors, prepare and make, at least ten (10) days before such meeting of members, a complete

list of the members entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each member, and the number of shares registered in the name of each member. Such list shall be open to the examination of any members, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the township where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any member who is present.

7. **Notice.**--Written or printed notice of the time, date, and place of each annual and special member meeting shall be provided to each member not less than ten (10) days or more than sixty (60) days before the meeting date. Notice shall be delivered to any mailing or electronic mail address a member designates. Otherwise, the corporation may deliver notices by: (i) hand delivery to a member's residence; (ii) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each member; (iii) electronic means, if the member has given the corporation an electronic address; or (iv) any other method reasonably calculated to provide notice to the member. The notice for any meeting must state the time, date, and place of the meeting and the items on the agenda, including (i) a statement of the general nature of any proposed amendment to the homes association declaration, deed restrictions, articles of incorporation, or bylaws; (ii) any budget proposals or changes; and (iii) any proposal to remove an officer or member of the board of directors. The minimum ten (10) day notice may be reduced or waived for a meeting called to deal with an emergency.

8. **Consent of Members in Lieu of Meeting.** Any action required or permitted at any annual or special meeting of members may be taken by written consent without a meeting, to the extent such consent is permitted by law, unless otherwise provided in the articles of incorporation.

9. **Conduct of Meetings.** Meetings of the members must be conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised, except as determined otherwise or as supplemented by the board of directors prior to a meeting of members.

10. **Removal of Directors.** Members present in person or by proxy at any meeting of the members, may remove any member of the board of directors, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal. However, the members may not consider whether to remove a member of the board of directors at a meeting of the members unless that subject was listed in the notice of the meeting. Furthermore, at any meeting at which a vote to remove a member of the board of directors is to

be taken up, the member being considered for removal must have a reasonable opportunity to speak to the members before the vote.

ARTICLE IV

Board of Directors

1. **Management.** The management of all the affairs, property, and business of the corporation shall be vested in a board of directors, consisting of eleven persons who are members. In addition to the powers and authorities by these bylaws and the articles of incorporation expressly conferred upon it, the board of directors may exercise all such powers of the corporation, and do all such lawful acts and things as are not by statute or by the articles of incorporation or by these bylaws directed or required to be exercised or done by the members. In the performance of their duties, directors shall exercise the degree of care and loyalty to the corporation required of a director of a corporation as required by existing Kansas corporate law.

2. **Limitations.** The board of directors may not determine the qualifications, powers, duties, any compensation to, or the terms of office of the board of directors' members, except as consistent with the articles of incorporation and these bylaws.

3. **Budget.** The board of directors shall propose and, after member approval, adopt a budget for the corporation at least annually. Notice of any board meeting at which a budget will be proposed for approval as a whole must be given to members of the corporation at least ten (10) days prior to the board meeting date and a copy of the proposal must be made available to any member who requests it. At any board meeting at which a budget or material budget amendment is considered by the board of directors, in accordance with Art. IV, Section 8, members of the corporation must be given a reasonable opportunity to comment on the proposal prior to the board taking action. This notice and reasonable opportunity shall be considered given if the schedule of board meetings is published to the members of the association, due the fact that budget amendments are considered at each meeting of the board of directors.

4. **Special Assessment.** To the extent authorized in the homes association declaration or deed restrictions, the board of directors, at any time, may propose a special assessment. Except as provided below, notice and consideration of any proposed special assessment shall follow the procedures set out in Art. IV, Section 3. If the board of directors determines by a two-third (2/3) vote of the members of the board that a special assessment is necessary to respond to an emergency: (1) the special assessment shall become effective immediately in accordance with the terms of the vote; (2) notice of the emergency assessment must be provided promptly to all members; and (3) the board of directors may use the funds paid on account of the emergency assessment only for the purposes described in the vote.

5. **Terms of Office.** At each annual meeting of the members, that number of directors shall be elected as shall equal the number of directors whose terms expire thereat and all such directors shall be so elected for a term of three (3) years and until their successors are duly elected and qualified. No director who shall have been in office for two consecutive three-year terms immediately preceding an election of directors shall be eligible for re-election as a director at such election. No former director, having been in office for two consecutive three-year terms, may be appointed to a vacancy on the board of directors within twelve (12) months after his or her last term expired.

6. **Vacancies and Newly Created Directorships.** Vacancies and newly created directorships resulting from an increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, unless it is otherwise provided in the articles of incorporation or bylaws, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, or until their earlier resignation or removal. If there are no directors in office, then an election of directors may be held at a special meeting of members.

7. **Meetings of the Newly Elected Board – Notice.**

(a) The first meeting of the board of directors following the annual meeting of members at which new directors were elected shall be held at such time and place as is agreed by all the directors; and notice of such meeting shall be given to the members.

(b) Every director of the corporation, upon his or her election or appointment, shall qualify by accepting the office of director, and his or her attendance at, or his or her written approval of the minutes of, any meeting of the board subsequent to his or her election shall constitute his or her acceptance of such office; or he or she may execute such acceptance by a separate writing, which shall be placed in the minute book.

8. **Regular Meetings.** Regular meetings of the board of directors may be held at such times and places as shall from time-to-time be fixed by resolution adopted by the board of directors. The board of directors shall meet at least one (1) time each year. Unless the meeting is included in a schedule published to the members, or the meeting is called to deal with an emergency, the secretary shall give notice of each board of directors meeting to each board member and to the members. The notice must state the time, date, place, and agenda of the meeting and be given at least five (5) days prior to the meeting date. Any business may be transacted at a regular meeting. Regular meetings of the board of directors shall be open to the members except during executive sessions. The board of directors shall provide a reasonable opportunity for members to comment regarding any matter affecting the common interest of the

corporation. If any materials are distributed to the board of directors before the meeting, the board at the same time shall make copies of those materials reasonably available to members whom attend the meeting or whom request the information for a specific meeting, except that the board need not make available copies of unapproved minutes or materials that are to be considered in executive sessions.

9. **Executive Sessions.** The board of directors may hold an executive session during a regular or special meeting of the board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to: (i) consult with the association's attorney concerning legal matters; (ii) discuss existing or potential litigation or mediation, arbitration, or administrative proceedings; (iii) discuss labor or personnel matters; (iv) discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the corporation at a disadvantage; or (v) prevent public knowledge of the matter to be discussed if the board of directors or committee determines that public knowledge would violate the privacy of any person. Final votes of the board of directors on a matter which was recommended at an executive session shall be made by the board of directors, to include such confidentiality restrictions as the board of directors may determine to be appropriate due to the matters involved.

10. **Special Meetings.** Special meetings of the board of directors may be called at any time by the president, any vice president, or the secretary, or by any two (2) or more of the directors. The place shall be as designated in the notice.

11. **Notice of Special Meetings.** Written or printed notices of each special meeting of the board, stating the place, day, and hour of the meeting and the purpose or purposes thereof, (i) shall be mailed to each director addressed to him at his residence or usual place of business at least three (3) days before the day on which the meeting is to be held, or (ii) shall be delivered personally, at least two (2) days before the day on which the meeting is to be held. The "Notice" and "call" with respect to such meetings shall be deemed to be synonymous. Any meeting of the board of directors shall be a legal meeting without any notice thereof having been given if all directors shall be present thereat.

12. **Meetings by Conference Telephone or Similar Communications Equipment.** Unless otherwise restricted by the articles of incorporation or these bylaws, members of the board of directors of the corporation, or any committee designed by such board, may participate in a meeting of such board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

13. **Quorum.**

(a) Unless otherwise required by law, the articles of incorporation or these bylaws, a majority of the total number of directors shall be necessary at all meetings to constitute a quorum for the transaction of business, and, except as may be otherwise provided by law, the articles of incorporation or these bylaws, the act of a majority of directors present at any meeting as which there is a quorum shall be the act of the board of directors.

(b) If at least three (3) directors are present at any meeting at which a quorum is not present, a majority of the directors present at such meeting shall have power successively to adjourn the meeting from time-to-time to a subsequent date, with notice to each director of the reconvened meeting. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting which was adjourned.

14. **Standing or Temporary Committees.** The board of directors may, by resolution or resolutions passed by a majority of the whole board, designate one (1) or more committees, each committee to consist of one (1) or more directors of the corporation. The board may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified members. Any such committee, to the extent provided in said resolution or resolutions or in these bylaws, shall have and may exercise all of the powers and authority of the board of directors in the management of the business and affairs of the corporation; but no such committee shall have power or authority in reference to amending the articles of incorporation, adopting an agreement of merger or consolidation, recommending to the members the sale, lease, or exchange of all or substantially all, of the corporation's property and assets, recommending to the members a dissolution of the corporation or a revocation of a dissolution, or amending the bylaws of the corporation. Meetings of standing, temporary, *ad hoc*, or event committees shall be open to the members of the corporation. Such committee or committees shall have such name or names as may be determined from time-to-time by resolution adopted by the board of directors. All committees so appointed shall, unless otherwise provided by the board of directors, keep regular minutes of the transactions of their meetings and shall cause them to be recorded in books kept for that purpose in the office of the corporation, and shall report the same to the board of directors at its next meeting. The secretary or an assistant secretary of the corporation may act as secretary of the committee if the committee so requests.

15. **Resignations.** Any director may resign at any time by giving a written notice to the president or the secretary of the corporation. Such resignation shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

16. **Indemnification and Liability of Directors and Officers.** Each person who is or was a director or officer of another corporation, or is or was serving at the request of the corporation as a director or officer of another corporation (including heirs, executors, administrators, and estate of such person), shall be indemnified by the corporation as of right to the full extent permitted or authorized by the laws of the State of Kansas, as now in effect and as hereafter amended, against any claim, liability, judgment, fine, amount paid in settlement, cost and expense (including attorneys' fees) asserted or threatened against and incurred by such person in his or her capacity as or arising out of his or her status as a director or officer of the corporation or, if serving at the request of this corporation, as a director or officer of another corporation. The indemnification provided by this bylaw provision shall not be exclusive of any other rights to which those indemnified may be entitled under any other bylaw or under any agreement, vote of members, or disinterested directors or otherwise, and shall not limit in any way any right which the corporation may have to make different or further indemnifications with respect to the same or different persons or classes of persons. The corporation shall maintain a policy of directors and officers liability insurance on terms, with coverage and limits as the board of directors may determine from time-to-time to be appropriate. Any current or former director or officer of the corporation shall have the right to request and be provided with a copy of the certificate of insurance for the policy of directors and officers insurance maintained by the corporation.

No person shall be liable to the corporation for any loss, damage, liability, or expense suffered by it on account of any action taken or omitted to be taken by him or her as a director or officer of the corporation or of any other corporation which he or she serves as a director or officer at the request of the corporation, if such person (i) exercised the same degree of care and skill as a prudent man would have exercised under the circumstances in the conduct of his or her own affairs, or (ii) acted or failed to act, in good faith, upon statements made or information furnished by directors, officers, employees, or agents of the corporation, of such other corporation, which he or she had no reasonable ground to disbelieve.

17. (a) **Actions Without a Meeting, By Unanimous Written Consent.** Any action required or permitted to be taken at any meeting of the board of directors or any committee thereof may be taken without a meeting, without prior notice and vote, if written consent thereto is signed by all members of the board of directors or such committee, as the case may be. Such written consent shall be filed with the minutes of the board or committee.

(b) **Actions Without a Meeting By Less Than Unanimous Written Consent.** Any action required or permitted to be taken at any meeting of the board of directors or any committee thereof may be taken without a meeting, without prior notice and vote, if a consent or consents in writing, setting forth the action so taken, are signed by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members having a right to vote were present and voted. The consent or consents shall be delivered to the corporate Secretary and shall be filed with the minutes of the board or committee. The consent or consents must bear the signatures of the members. Consent shall not be effective unless it is received within sixty (60) days of the earliest dated consent delivered to the corporate secretary. An electronic transmission consenting to an action which is transmitted by a member, or by a person authorized to act for a member, shall be deemed to be written, signed and dated if the corporate Secretary can determine that it was sent by the member or by a person authorized to act for the member and the date of the transmission can be determined. The date of transmission is deemed to be the date which the consent was signed. The consent is not deemed delivered until it is printed in paper form. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those members who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting. The use of the term "member" in this section is intended to refer to members of the board of directors or committee, as appropriate.

18. **Conduct of Meetings.** Meetings of the board of directors must be conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised, except as determined otherwise by the board.

19. **Conflicts of Interest Transactions.**

(a) No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other entity in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board or committee which authorizes the contract or transaction, or solely because his or her votes are counted for such purpose, if:

(1) The material facts as to his or her relationship or interest and as to the contract or transaction are disclosed to or are known to the board of directors or committee, and the board of directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; and

(2) The contract or transaction is fair as to the corporation as of the time it is authorized or approved by the board of directors or a committee thereof.

(b) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee which authorizes the contract or transaction.

ARTICLE V

Officers

1. **Officers – Who Shall Constitute.** The officers of the corporation shall be a president, one or more vice presidents, a secretary, and a treasurer, each of whom shall be elected by the board of directors at their first meeting after the annual meeting of the members. The board of directors may also designate additional assistant secretaries and assistant treasurers. Any two (2) or more offices may be held by the same person.

An officer shall be deemed qualified when he or she enters upon the duties of the office to which he or she has been elected or appointed; but the board of directors may also require of such person his or her written acceptance and promise faithfully to discharge the duties of such office. In the performance of their duties, officers shall exercise the degree of care and loyalty to the corporation required of an officer of a corporation under existing Kansas corporate law.

2. **Term of Office.** Each officer of the corporation shall hold his or her office at the pleasure of the board of directors or for such other period as the board may specify at the time of his or her election or appointment, or until his or her death, resignation, or removal by the board of directors, whichever first occurs. In any event, the term of each officer of the corporation who is not re-elected or reappointed at the annual meeting of the board next succeeding his or her election or appointment and at which any officer of the corporation is elected or appointed shall be deemed to have terminated, unless the board of directors provides otherwise at the time of his or her election or appointment.

3. **Other Officers and Agents.** The board of directors from time-to-time may also appoint such other officers and agents for the corporation as it shall deem necessary or advisable, each of whom shall serve at the pleasure of the board or for such period as the board may specify, and shall exercise such powers, have such titles and perform such duties as shall be determined from time-to-time by the board or by an officer empowered by the board to make such determinations.

4. **The President.** Unless the board of directors otherwise provides, the president shall be the chief executive officer of the corporation, with such general executive powers and duties of supervision and management as are usually vested in the office of the chief executive officer of a corporation, and shall carry into effect all directions and resolutions of the board of directors. The president shall preside at all meetings of the members and directors.

The president may execute all bonds, notes, debentures, mortgages, deeds, easements, and other instruments for and in the name of the corporation.

Unless the board of directors otherwise provides, the president, or any person designated in writing by him or her, shall have full power and authority on behalf of this corporation (i) to attend and to vote or take action at any meeting of the holders of securities of corporations in which this corporation may hold securities, and at such meetings shall possess and may exercise any and all rights and powers incident to being a holder of such securities and which as the holder thereof this corporation may have possessed and exercised if present, and (ii) to execute and deliver waivers of notice and proxies for and in the name of the corporation with respect to any such securities held by this corporation.

The president shall, unless the board otherwise provides, be *ex officio*, a member of all committees.

5. **Vice President.** In the absence of the president or in the event of a disability, inability, or refusal to act, the vice president (or in the event there be more than one vice president, the vice president in the order designated by the board of directors, or in the absence of any designation, then in the order of their election) shall perform the duties and exercise the powers of the president, serve as the chair of the Architectural Review Committee, unless excused by the president, and shall perform such other duties as the board of directors may from time-to-time prescribe.

6. **Secretary and Assistant Secretaries.** The secretary may attend all sessions of the board of directors and all meetings of the members, and shall record or cause to be recorded all votes taken and the minutes of all proceedings in a minute book of the corporation to be kept for that purpose. The secretary shall perform like duties for the executive and other standing committees when requested by the board of directors or any such committee to do so.

It shall be the principal responsibility of the secretary to give, or cause to be given, notice of all meetings of the members and of the board of directors, but this shall not lessen the authority of others to give such notice as is authorized elsewhere in these bylaws.

The secretary shall see that all books, records, lists, and information, or duplicates, required to be maintained in Kansas, or elsewhere, are so maintained.

The secretary shall also keep in safe custody the official records of the corporation including, but not limited to, all current documents, land transactions, legal papers, and other as required.

The secretary shall perform such other duties and have such other authority as may be prescribed elsewhere in these bylaws or from time-to-time by the board of directors or the chief executive officer of the corporation, under whose direct supervision he shall be.

In the absence of the secretary or in the event of the secretary's disability, inability, or refusal to act, the assistant secretary (or in the event there be more than one assistant secretary, the assistant secretaries in the order designated by the board, or in the absence of any designation, then in the order of their election) may perform the duties and exercise the powers of the secretary, and shall perform such other duties as the board of directors may from time-to-time prescribe.

7. **The Treasurer and Assistant Treasurers.** The treasurer shall have responsibility for the safekeeping of the funds and securities of the corporation, shall keep or cause to be kept, full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall keep, or cause to be kept, all other books of account and accounting records of the corporation. The treasurer shall deposit, or cause to be deposited, all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the board of directors or by any officer of the corporation to who such authority has been granted by the board of directors.

The treasurer shall disburse, or permit to be disbursed, the funds of the corporation as may be ordered, or authorized generally, by the board, and shall render to the chief executive officer of the corporation and the director whenever they may require it, an account of all his or her transactions as treasurer and of those under his or her jurisdiction, and of the financial condition of the corporation.

The treasurer shall perform such other duties and shall have such other responsibility and authority as may be prescribed elsewhere in these bylaws or from time-to-time by the board of directors.

The treasurer shall have the general duties, powers, and responsibility of a treasurer of a corporation.

The treasurer shall give the corporation a bond in the sum and with one or more sureties satisfactory to the board, for the faithful performance of the duties of the treasurer's office, and for the restoration to the corporation, in the case of his or her death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in his or her possession or under his or her control which belong to the corporation. The cost of the bond will be paid out of the general funds of the corporation.

In the absence of the treasurer or in the event of his or her disability, inability, or refusal to act, the assistant treasurer (or in the event there be more than one assistant treasurer, the assistant treasurers in the order designated by the board, or in the absence of any designation, then in the order of their election) may perform the duties and exercise the powers of the treasurer, and shall perform such other duties and have such other authority as the board of directors may from time-to-time prescribe.

8. **Duties of Officers May be Delegated.** If any officer of the corporation be absent or unable to act, or for any reason that the board may deem sufficient, the board may delegate for the time being, some or all of the functions, duties, powers, and responsibilities of any officer to any other officer, or to any other agent or employee of the corporation or other responsible person, provided a majority of the board of directors concurs therein.

9. **Removal.** Any officer or agent elected or appointed by the board of directors, and any employee, may be removed or discharged at any time by the affirmative vote of a majority of the board of directors, but such removal or discharge shall be without prejudice to the contract rights, if any, of the person so removed or discharged.

10. **Delegation of Authority to Hire, Discharge, and Designate Duties.** The board from time-to-time may delegate to the president or other officer or executive employee of the corporation, authority to hire, discharge, and fix and modify the duties, salary, or other compensation of employees of the corporation under their jurisdiction, and the board may delegate to such officer or executive employee similar authority with respect to obtaining and retaining for the corporation the services of attorneys, accountants, and other experts.

ARTICLE VI

Record Date

1. **Fixing Record Date.** In order that the corporation may determine the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or (if permitted by statute) to express consent to corporate action in writing without a meeting, or entitled to receive payment of any distribution or allotment of any rights, or entitled to exercise any rights for the purpose of any other lawful action, the board of directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of members of record entitled to notice of or to vote at a meeting of members shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting.

ARTICLE VII

Finance

1. **Creation of Reserves.** The directors may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose or may abolish any such reserve in the manner in which it was created.

2. **Monies.** The monies of the corporation shall be deposited in the name of the corporation in such bank or banks or trust company or trust companies as the board of directors shall designate, and shall be drawn out only by check signed by persons designated by resolution adopted by the board of directors, except that the board of directors may delegate said powers in the manner hereinafter provided in these bylaws. The board of directors may by resolution authorize an officer or officers of the corporation to designate any bank or banks or trust company or trust companies in which monies of the corporation may be deposited, and to designate the persons who may sign checks drawn on any particular bank account or bank accounts of the corporation, whether created by direct designation of the board of directors or by an authorized officer or officers of the corporation.

3. **Fiscal Year.** The board shall have the power to fix and from time-to-time change the fiscal year of the corporation. In the absence of action by the board of directors, however, the fiscal year of the corporation shall run from October 1 through September 30 each year.

4. **Directors' Annual Statement.** The board of directors may present at each annual meeting of the members, and when called for by vote of the members, shall present to any annual or special meeting of the members, a full and clear statement of the business and condition of the corporation.

5. **Books, Accounts, and Records.** The books, accounts, and records of the corporation, except as may be otherwise required by the laws of the State of Kansas, may be kept outside of the State of Kansas, at such place or places as the board of directors may from time-to-time determine. The board of directors shall determine whether, to what extent and the conditions upon which the accounts and books of the corporation, or any of them, shall be open to the inspection of the members, and no member shall have any right to inspect any account or book or document of the corporation, except as conferred by law or by resolution of the members or directors.

ARTICLE VIII

Notices

1. **Statutory Provisions.** Whenever the provisions of the statutes of the State of Kansas, the articles of incorporation, or these bylaws require notice to be given to any director, officer, or member, they shall not be construed to require actual personal notice. Notice by mail may be given in writing by depositing the same in a post office or letter box, in a post-paid envelope addressed to such director, officer, or member at his or her address as the same appears in the books of the corporation, and the time when the same shall be mailed shall be deemed to be the time of the giving of such notice. Specific provisions of these bylaws may contain notice provisions applicable to those specific circumstances.

2. **Waiver.** Whenever any notice is required to be given under the provisions of the statutes of Kansas, or of the articles of incorporation, or of these bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the members, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the articles of incorporation or these bylaws.

3. **Legal Proceedings.** The corporation shall promptly provide notice to the members of any legal proceedings in which the corporation is a party other than proceedings involving enforcement of rules, covenants or declarations of restrictions, or to recover unpaid assessments or other sums due the corporation.

ARTICLE IX

Miscellaneous

1. **Contracts.** The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of, and on behalf of, the corporation, and such authority may be general or confined to specific instances.

2. **Amendments.** These bylaws may be altered, amended, or repealed by the affirmative vote of a majority of members entitled to vote thereon. The board of directors shall give all members of the corporation notice of: (1) its intention to adopt, amend, or repeal the bylaws and provide the text of the bylaws or the proposed change; and (2) a date on which the board of directors will act on the proposed rule or amendment after considering comments from

Members. Following the adoption, amendment, or repeal of the bylaws, the corporation shall notify the members of its action and publish on its website, delivery by e-mail, or mail a copy of any new or revised rule to the members of the association within a reasonable period of time after the adoption of such amendment.

3. **Recordkeeping.** The corporation, or its agents, must retain the following for five (5) years unless otherwise provided: (i) detailed records, in chronological order, of receipts and expenditures affecting the operation and administration of the corporation and other appropriate accounting records, receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred; (ii) minutes of all meetings of its members and board of directors other than executive sessions, a record of all actions taken by the members or board of directors without a meeting, and a record of all actions taken by a committee in place of the board of directors on behalf of the corporation; (iii) the names of members in a form that permits preparation of a list of the names of all members and the addresses at which the corporation communicates with them, in alphabetical order showing the number of votes each owner is entitled to cast; (iv) the original or restated organizational documents, if required by law, bylaws and all amendments to them, and all rules currently in effect; (v) all financial statements and tax returns for the past three years; (vi) a list of the names and addresses of the current board of directors' members and the officers; (vii) the most recent annual report delivered to the Secretary of State; (viii) financial and other records sufficiently detailed to enable the corporation to comply with other requirements of law; (ix) copies of current contracts to which the corporation is a party shall be retained and completed contracts shall be retained for the longer of any warranty period or ten (10) years after complete performance under the contract; (x) records of board of directors or committee action to approve or deny any requests for design or architectural approval from members; and (xi) ballots, proxies, and other records related to voting by members for one year after the election, action, or vote to which they relate. All records retained by the corporation must be available for examination and copying by a member or the member's authorized agent: (i) during reasonable business hours or at a mutually convenient time and location; and (ii) upon ten (10) days written notice reasonably identifying the specific records of the corporation requested. The member shall bear any reproduction costs.

CERTIFICATE

The undersigned, Denise Kappelman, the Secretary of Whispering Hills Homes Association, a Kansas corporation, hereby certifies that the foregoing Amended and Restated Bylaws are the Bylaws of said corporation, adopted by the board of directors of said corporation as of the _____ day of _____, 2011.

DENISE KAPPELMAN

Secretary