Deer Valley Home Owners Association

Governing Documents:

- Articles of Incorporation
- Declaration of Deer Valley
- Building Standards
- Stream Corridor Maintenance Agreement
- Bylaws of Deer Valley
- Deer Valley Home Owners Association Assessment Enforcement Policy

4-24-2018

COPY

ARTICLES OF INCORPORATION
OF
DEER VALLEY HOMEOWNERS ASSOCIATION, INC.

The undersigned, for the purpose of forming a not-for-profit corporation under the Kansas General Corporation Code, adopts the following Articles of Incorporation:

ARTICLE I - NAME

The name of the corporation is: Deer Valley Homeowners Association, Inc. (the "Corporation").

ARTICLE II - REGISTERED AGENT

The address, including street and number, of the Corporation's registered office in the State of Kansas is 14819 W. 95th Street, Lenexa, Kansas 66215. The name of the resident agent at such address is Janet Blair.

ARTICLE III - PURPOSE

The nature of the business or purposes to be conducted or promoted by the Corporation shall be:

A. The Corporation is formed to protect, maintain, improve, operate and administer a homes association in conjunction with the Declaration of Deer Valley to be recorded in the office of the Register of Deeds for Johnson County, Kansas, in (the "Declaration"), and do such things as are provided or contemplated in the Declaration;

B. To engage in any lawful act or activity for which corporations may be organized under the Kansas General Corporation Code.

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 or purposes of the Corporation.

ARTICLE IV - STOCK

The Corporation will not have authority to issue stock.

ARTICLE V - MEMBERSHIP

For the purpose of these Articles of Incorporation, the following definitions shall apply:

(a) "Assessments" shall mean any annual assessment, special assessment, maintenance assessment or installment thereof, which is levied on Lots by the Corporation in accordance herewith.

(b) "Developer" shall mean Deer Valley Development, LLC , a Kansas limited liability company, its successors and assigns.

(c) "Lot" means each separate parcel within the Neighborhood, as shown on any recorded plat of all or part of the Neighborhood, which is intended for individual ownership, except any such separate parcel included within the Common Facilities, provided however, that if an Owner other than the Developer, owns all or parts of one or more adjacent lots upon which only one residence has been, is being, or will be constructed, then such adjacent property under common ownership shall be deemed to constitute only one "Lot".

(d) "Neighborhood" means Lots 1-51 inclusive and Tract A-C of Deer Valley First Plat, a subdivision in the City Overland Park, Kansas filed for record on November 29, 2004 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200410 at Page 011240 and all future Lots platted in the Deer Valley Subdivision.

(e) "Owner" means each person or persons and/or entity or entities who may from time to time own fee simple title to any Lot, including the Developer, but excluding those having such interest merely as security for the performance of an obligation.

The conditions of membership are not fixed by the Bylaws. The conditions of membership are as follows:

A. Developer shall be a member of the Corporation by virtue of Developer's ownership of Lots within the Neighborhood. Developer shall have thirty (30) votes in the Corporation for each Lot for which Developer holds fee simple title. Each other Owner shall, upon acquisition of fee simple title to any Lot, automatically become a member of the Corporation. Each Owner shall be entitled to one (1) Corporation membership and shall have one (1) vote in the Corporation for each Lot in which the Owner holds the interest required for membership and upon which the member shall not be delinquent in the payment of Assessments. Each Owner shall give notice to the Corporation of the name and address of the individual who will hold the Corporation membership for such Owner. If an Owner (other than Developer) is comprised of more than one person and/or entity, they shall designate one of their number to hold the Corporation membership, and each member (other than Developer) must be (1) an individual who is an Owner, or (2) if the Owner is or includes a partnership, an individual who is a partner, or (3) if the Owner is or includes a corporation, an officer of the corporation, or (4) if the Owner is or includes a trust, an individual who is a trustee or beneficiary of the trust, or (5) if the Owner is or includes a limited liability company or an association, an individual who is a member or manager of the limited liability company or association.

B. A membership in the Corporation shall not be transferred, pledged or alienated in any way by any Owner other than Developer except as expressly provided in the Articles and the Declarations. Subject to the provisions concerning conditions of membership, membership in the Corporation shall automatically be transferred to the new Owner upon the transfer of fee simple title to the Lot to which the membership appertains, whether by sale, intestate succession, testamentary disposition, foreclosure of a mortgage or other legal process transferring fee simple title to such Lot; however, the Corporation shall not be responsible for providing notices to the new member under this Declaration until notice of the transfer and of the name and address of the new member has been given to the Corporation.

C. Notwithstanding the foregoing provisions, if an Owner has granted an irrevocable proxy or otherwise pledged the voting rights appurtenant to such Owner's membership in the Corporation to a mortgagee as additional security, the votes of such mortgagee shall be recognized if a copy of the proxy or other instrument pledging such voting right has been provided, the Corporation shall recognize the rights of the mortgagee under the instrument first provided.

D. If any lender to which Developer assigns as security all or substantially all of Developer's rights under this Declaration shall succeed to Developer's interest by virtue of such assignment, the voting rights of Developer as set forth herein shall not be terminated by such assignment, and such lender shall hold Developer's membership and voting rights on the same terms as they were held by Developer.

ARTICLE VI - POWERS AND DUTIES

A. In addition to the powers granted by law, the Corporation shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by the Board of Directors to carry out and effectuate the purposes of the Declaration and shall have the duties as provided in the Declaration.

ARTICLE VII - INCORPORATOR

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

Name	Address
Allen W. Blair	1201 Walnut, Suite 2800 Kansas City, Missouri 64106

ARTICLE VIII - INITIAL DIRECTORS

The property and affairs of the Corporation shall be managed by a board of directors. The number of directors of the Corporation shall be fixed by, or in the manner provided in, the Bylaws. The names and mailing addresses of the persons who are to serve as the initial directors of the Corporation until the first annual meeting of the members of the Corporation or until their successors are duly elected and qualified are as follows:

Name	Address
Clay C. Blair, III	14819 W. 95th Street Lenexa, Kansas 66215
Janet Blair	14819 W. 95th Street Lenexa, Kansas 66215
Frank Dean	14819 W. 95th Street Lenexa, Kansas 66215

ARTICLE IX - EXISTENCE

The duration of the Corporation shall be perpetual.

ARTICLE X - BYLAWS

The original Bylaws of the Corporation shall be adopted in any manner provided by law. Thereafter, the bylaws of the Corporation may from time to time be altered, amended or repealed, or new bylaws may be adopted, in any of the following ways: (i) by a majority of the members of the Corporation; 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,

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 authorized or permitted by the laws (including, without limitation, the statutes, case law and principles of equity) of the State of Kansas.

ARTICLE XI - AMENDMENT

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 the members herein are granted subject to this reservation; provided, however, that any alteration, amendment, change or repeal of any provision contained in these Articles of Incorporation must be approved by not less than a majority of the members of the Corporation at a meeting thereof.

The undersigned declares, under penalty of perjury under the laws of the State of Kansas that the foregoing is true and correct. Executed this 14th day of April, 2005.

Allen W. Blair, Incorporator

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DECLARATION OF DEER VALLEY

THIS DECLARATION is made as of the 1st day of May, 2005, by DEER VALLEY DEVELOPMENT, L.L.C., a Kansas limited liability company ("the **Developer**").

RECITALS:

A. Developer owns the following described real property (together with any land which hereafter may be made subject to this Declaration, as herein provided, the "**Neighborhood**"):

Lots 1-51 inclusive and Tracts A-C inclusive of Deer Valley First Plat, a subdivision in the City Overland Park, Kansas filed for record on November 29, 2004 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200410 at Page 011240.

B. Developer intends (but shall not be obligated) to develop the Neighborhood or cause it to be developed by others as a single-family residential development.

C. Developer desires to create a community association, the members of which shall be the owners of individual lots within the Neighborhood, for the purposes of maintaining the appearance and quality of certain common facilities and amenities serving the entire Neighborhood, providing certain services to the lot owners and for the other purposes herein set forth.

D. Developer desires to establish easements, covenants, conditions, restrictions and obligations upon the Neighborhood, all for the purpose of enhancing and preserving the value, desirability and attractiveness of the Neighborhood.

NOW, THEREFORE, Developer hereby declares that all property within the Neighborhood shall hereafter be held, transferred, sold, conveyed, mortgaged, leased, occupied and used subject to the covenants, conditions, restrictions, assessments, liens, easements, privileges, rights and other provisions hereinafter set forth, all of which shall run with the land and be binding upon all property within the Neighborhood and all parties having or acquiring any right, title or interest in or to any property within the Neighborhood, and shall inure to the benefit of and be a burden upon each owner of land within the Neighborhood.

ARTICLE 1
DEFINITIONS

The following terms as used in this Declaration shall have the meanings set forth below unless the context clearly requires otherwise:

1.1 "**Assessable Lot**" means each Lot owned by a person or persons or entity or entities other than Developer or any Builder; provided, however, that a Lot conveyed by Developer to a Builder which is still owned by such Builder on the date which is 14 months after the recording of the deed from Developer to such Builder shall be an Assessable Lot.

1.2 "**Assessment**" shall mean any annual assessment, special assessment, maintenance assessment or installment thereof, which is levied on Lots by the Association in accordance herewith.

1.3 "**Association**" means the Deer Valley Homeowners Association, Inc., a Kansas not-for-profit corporation organized as herein provided.

1.4 "**Board"** shall mean the Board of Directors of the Deer Valley Homeowners Association.

1.5 "**Builder**" means Developer or any other person or entity that acquires fee title to one or more Lots from Developer for the purpose of constructing residences thereon for resale.

1.6 "**City**" means the City of Overland Park, Kansas.

1.7 "**Common Facilities**" means all land designated by Developer for the general use, benefit or enjoyment of all owners, tenants and occupants of the Neighborhood which is (a) designated as a tract on any plat of any portion of the Neighborhood, (b) deeded to the Association by or at the direction of the Developer, or (c) the subject of easements, leases, licenses or other rights of use granted to the Association by or at the direction of the Developer, together with all improvements, fixtures, equipment and other tangible personal property located on, used in connection with or forming a part of any of the foregoing land, including, without limitation: buildings and structures; plantings, irrigation systems and other landscape features; playgrounds,

picnic areas, parking areas, swimming pools and other recreational facilities and equipment; sidewalks, trails and walkways; lighting, signs, monuments, walls, fences and sculptures; and lakes, ponds, streams and drainage facilities, PROVIDED, HOWEVER, the foregoing does not constitute a representation or warranty that any Common Facility so enumerated will exist within the Neighborhood.

1.8 "**Declaration**" means this Declaration of Deer Valley, as it may be amended or supplemented from time to time.

1.9 "**Developer**" shall mean Deer Valley Development, L.L.C., a Kansas limited liability company, its successors and assigns.

1.10 "**Lot**" means each separate parcel within the Neighborhood, as shown on any recorded plat of all or part of the Neighborhood, which is intended for individual ownership, except any such separate parcel included within the Common Facilities, provided however, that if an Owner, other than the Developer, owns all or parts of one or more adjacent lots upon which only one residence has been, is being, or will be constructed, then such adjacent property under common ownership shall be deemed to constitute only one "Lot".

1.11 "**Owner**" means each person or persons and/or entity or entities who may from time to time own fee simple title to any Lot, including the Developer, but excluding those having such interest merely as security for the performance of an obligation.

1.12 "**Plat**" means, collectively, all subdivision plats of land within the Neighborhood, as approved by the City and recorded with the Register of Deeds, as the same may be amended from time to time.

1.13 "**Pool Area"** means the specific portion of the Common Facilities designated by Developer as a swimming pool facility, together with all improvements, fixtures, equipment and other tangible personal property located on, used in connection with or forming a part of said facility, including, without limitation: swimming or wading pools, surrounding decks and fencing, buildings containing restrooms, storage facilities and mechanical equipment, and related shelters, walkways, parking areas, landscaping, irrigation systems, lighting, plumbing and utilities.

1.14 **"Private Lake"** has the meaning set forth in Article 10 below.

1.15 "**Register of Deeds**" means the Register of Deeds of Johnson County, Kansas.

1.16 "**Residence**" means a building (together with related improvements) which is designated and used exclusively for single-family residential purpose located on any Lot in the Neighborhood.

1.17 **"Right -of-Way Amenities"** means irrigation systems, trees, shrubs, and other plantings and landscape improvements, fixtures and equipment which are located on cul-de-sac islands and public right-of-ways adjacent to Common Facilities.

ARTICLE 2
ASSOCIATION

2.1 **PURPOSE OF ASSOCIATION.** The Association shall protect, maintain, improve, operate and administer the Neighborhood, including Common Facilities and Right-of-Way Amenities, including taking necessary action to levy and collect the assessments herein provided for, pay expenses and losses and do such other things as are provided or contemplated in this Declaration and the Association's Articles of Incorporation and Bylaws. The Association shall not be deemed to be conducting a business of any kind, and shall hold and apply all funds it receives for the benefit of the Neighborhood in accordance with the provisions of this Declaration and the Association's Articles of Incorporation and Bylaws.

2.2 **MEMBERSHIP IN ASSOCIATION.**

1. Developer shall be a member of the Association by virtue of Developer's ownership of Lots within the Neighborhood as of the date of recording of this Declaration and any Lots acquired by Developer thereafter. Developer shall have thirty (30) votes in the Association for each Lot for which Developer holds fee simple title. Each other Owner shall, upon acquisition of fee simple title to any Lot, automatically become a member of the Association. Each Owner shall be entitled to one (1) Association membership and shall have one (1) vote in the Association for each Lot in which the Owner holds the interest required for membership and upon which the member shall not be delinquent in the payment of Assessments. Each Owner shall give notice to the Association of the name and address of the individual who will hold the Association membership for such Owner. If an Owner (other than Developer) is comprised of more than one person and/or entity, they shall designate one of their number to hold the Association membership, and each member (other than Developer) must be (1) an individual who is an Owner, or (2) if the Owner is or includes a partnership, an individual who is a partner, or (3) if the Owner is or includes a corporation, an officer of the corporation, or (4) if the Owner is or includes a trust, an individual who is a trustee or beneficiary of the trust, or (5) if the Owner is or includes a limited liability company or an association, an individual who is a member or manager of the limited liability company or association.

2. A membership in the Association shall not be transferred, pledged or alienated in any way by any Owner other than Developer except as expressly provided in this Declaration. Subject to the provisions of this Article 2.2, membership in the Association shall automatically be transferred to the new Owner upon the transfer of fee simple title to the Lot to which the membership appertains, whether by sale, intestate succession, testamentary disposition, foreclosure of a mortgage or other legal process transferring fee simple title to such Lot; however, the Association shall not be responsible for providing notices to the new member under this Declaration until notice of the transfer and of the name and address of the new member has been given to the Association.

3. Notwithstanding the foregoing provisions of Article 2.2, if an Owner has granted an irrevocable proxy or otherwise pledged the voting rights appurtenant to such Owner's membership in the Association to a mortgagee as additional security, the votes of such mortgagee shall be recognized if a copy of the proxy or other instrument pledging such voting right has been provided, the Association shall recognize the rights of the mortgagee under the instrument first provided.

4. If any lender to which Developer assigns as security all or substantially all of Developer's rights under this Declaration shall succeed to Developer's interest by virtue of such assignment, the voting rights of Developer as set forth herein shall not be terminated by such assignment, and such lender shall hold Developer's membership and voting rights on the same terms as they were held by Developer.

2.3 **INDEMNIFICATION.**

1. To the fullest extent permitted by law, the Association shall indemnify each officer and director of the Association, each member of the Design Review Committee (hereinafter defined) and Developer (to the extent a claim may be brought against Developer by reason of its appointment or removal of or control over any such other persons) (each, an "**Indemnified Party**") against all expenses and liabilities (including attorneys' fees) reasonably incurred by or imposed upon the Indemnified Party in connection with any action or proceeding, or any settlement thereof, to which the Indemnified Party may be a party or in which the Indemnified Party may become involved by reason of serving or having served in such capacity (or, in the case of Developer, by reason of having appointed, removed or controlled or failed to control any officer or director of the Association or member of the Design Review Committee), provided the Indemnified Party did not act, fail to act or refuse to act willfully, in a grossly negligent manner or with fraudulent or criminal intent in the performance of the Indemnified Party's duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which any Indemnified Party may be entitled at law or otherwise.

2. To the fullest extent permitted by law, neither Developer nor any officer or director of the Association nor any member of the Design Review Committee shall be liable to any Owner or any Association member or anyone claiming by, through or under any Owner or Association member for any damage, loss or prejudice suffered or claimed on account of any decision, course of action, inaction, omission, error or negligence taken or made in good faith and which Developer, such officer, director or Design Review Committee member reasonably believed to be within the scope of his, her or its duties.

2.4 **POWERS AND DUTIES OF THE ASSOCIATION.** The Association shall have the powers and duties set forth in its Articles of Incorporation and Bylaws, provided such powers and duties are not inconsistent with the provisions of this Declaration. In addition to and not in limitation of the powers and duties of the Association provided in its Articles of Incorporation and Bylaws, the Association shall have the following powers and duties:

1. **DISCRETIONARY POWERS.** The Association shall have and does hereby reserve the right, power and authority, in its discretion, to do any of the following, which it may exercise or perform whenever, in its discretion, it may deem necessary or desirable:

(a) Acquire and own title to or acquire by lease such real property as may be reasonably necessary in order to carry out the purposes of the Association.

(b) Provide for the design, construction, installation, maintenance, replacement, protection and operation of Right-of Way Amenities and any improvements the Association may deem advisable on any Common Facilities which are intended for the use, benefit or enjoyment of Owners in the Neighborhood.

(c) Install, maintain and use, or authorize the installation, maintenance and use of sanitary and storm sewers, storm drains, gas and water pipelines, underground electric, cable television and telephone conduits and related appurtenances, and grant permits, licenses, easements or right-of-ways for such public and private utilities, roadways or other purposes over, under, upon and through all easements and rights-of-way shown on any recorded plat of the Neighborhood or any Common Facilities as may be reasonably necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Neighborhood or any part thereof or the preservation of the health, safety, convenience and welfare of the Owners. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, without limitation, the Johnson County Unified Wastewater District, for purposes of installing, maintaining or moving any utility lines or services, and shall inure to the benefit of the Developer, all Owners and the Association as a cross easement for utility line or service maintenance.

(d) Clean streets, gutters, catch basins, sidewalks, storm sewers, irrigation and drainage facilities, including, without limitation, any such facilities or improvements located within public right-of-ways which serve the Neighborhood.

(e) Erect and maintain signs for purposes of identification, traffic control and public safety.

(f) Employ duly qualified security officers to provide protection for the Neighborhood or any part thereof.

(g) Obtain and maintain property insurance on the Common Facilities against loss or damage by fire, hazard or other casualty; comprehensive liability insurance with respect to the Common Facilities covering all claims for personal injury and/or property damage; and/or adequate fidelity coverage to protect against dishonest acts by officers, directors and employees of the Association and all others who handle or are responsible for handling funds of the Association, all in such forms and amounts and with such insurance companies as the Association may deem appropriate, naming as insureds the Association, the Developer and its agents and employees (so long as Developer owns any land within the Neighborhood or controls the Association), each director of the Association, any management company under any management contract with respect to the Common Facilities and its agents and employees, and any other persons or entities designated by the Association in its discretion.

(h) Borrow money in such amounts, at such rates of interest, upon such terms and security and for such periods of time as the Association may deem necessary or appropriate, in its sole discretion.

(i) Establish reserve accounts for repair and maintenance of Association property, periodically review the adequacy thereof, and maintain such reserve funds in interest-bearing accounts until expended for the benefit of the Association.

(j) Adopt and enforce reasonable rules, regulations and restrictions which shall govern the use of the Common Facilities and Lots; preserve or enhance the quality or appearance of the Neighborhood, or the safety, convenience, benefit and enjoyment of the users thereof; or otherwise to promote the interests of Owners, tenants and occupants of land within the Neighborhood; and revoke, amend or supplement such rules, regulations and restrictions at any time and from time to time.

(k) Obtain an injunction to prevent the breach of, or to enforce the observance of, and/or sue for damages as a result of the violation of, either in its own name or in the name of any Owner, any and all terms, provisions, covenants, conditions, restrictions, licenses and easements imposed upon the land in the Neighborhood by this Declaration, provided that failure to do so at the time of violation shall in no event be deemed to be a waiver of the right to do so thereafter. To the extent permitted by law, the party against whom such enforcement or damages are sought shall pay all costs and expenses (including reasonable attorneys' fees) of the Association with respect to any such action or proceeding, and the Lot owned by such Owner may be subject to a lien for payment. Any such costs and expenses not paid by such party shall be paid out of the general fund of the Association herein provided for. Nothing herein shall be deemed to prevent any Owner having the right to do so from enforcing, in such Owner's own name, any of the terms, provisions, covenants, conditions, restrictions and easements established by this Declaration, nor shall any Owner have any liability for the failure to do so.

(l) If any vacant or unimproved Lot is not maintained by the Owner thereof, mow, care for, maintain and remove loose material, trash and rubbish from such Lot and do anything else the Association deems necessary or desirable to keep such Lot neat in appearance and in good order.

(m) Exercise any other powers elsewhere provided to the Association in this Declaration.

2. **DUTIES.** The Association shall have the duty to do or cause to be done the following:

(a) Levy and collect the assessments and charges provided for in this Declaration.

(b) Care for, trim, protect, remove and replant trees, shrubbery, flowers, and groundcovers and grass which are part of the Common Facilities and Right-of-Way Amenities, and install and maintain sprinkler systems on portions of the Common Facilities and Right-of-Way Amenities where irrigation is deemed necessary by the Association.

(c) Provide for the collection and dispose of trash and garbage.

(d) Exclusively manage, control, maintain, repair and replace all Common Facilities for the benefit of the Owners, including exercise of control over such easements, leases, licenses, usage rights and other rights and property as the Association may acquire from time to time.

(e) Pay all taxes and assessments levied or assessed against the Common Facilities and any other property owned or leased by the Association.

(f) Keep true and correct records of account in accordance with generally accepted accounting principles, and have available for inspection by any Owner, at reasonable times during regular business hours, books which specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise.

(g) Upon reasonable request and during reasonable business hours, make available for inspection by any Owner or Association member of the books, records and financial statements of the Association, together with current copies, as amended from time to time, of this Declaration, the Articles of Incorporation and Bylaws of the Association and the Design Standards (hereinafter defined).

(h) Perform any other duties required of the Association as provided elsewhere in this Declaration.

2.6 **MANAGING AGENT; CONTRACTS AND SERVICES.** Any powers, rights and duties of the Association may be delegated to a managing agent under a management contract; provided that no such delegation shall relieve the Association from its obligations to perform any such delegated duty. Any contract entered into by the Association for professional management or other services shall not exceed a term of three years, which term may be renewed by agreement of the parties for successive one-year periods, and any such contract shall permit termination by either party upon thirty (30) days' notice with or without cause and without payment of any termination fee. Subject to the foregoing limitations, the Association is specifically authorized to enter into a management contract with a management company owned in whole or in part by Developer or any affiliate of Developer. The Association shall also have the right, in its discretion, to enter into such contracts and transactions with others, including Developer and its affiliates, as the Association may deem necessary or desirable for the purposes herein set forth, and shall have the right to engage and dismiss such agents and employees as will enable the Association to adequately and properly carry out the provisions of this Declaration and the Association's Articles of Incorporation and Bylaws. No such contract or transaction shall be invalidated or in any way affected by the fact that one or more directors of the Association may be employed by or otherwise associated with Developer or its affiliates, provided the fact of such interest is disclosed or known to the other directors acting upon such contract or transaction, and provided further that the contract or transaction is on commercially reasonable terms. Any such interested director may be counted in determining the existence of a quorum at the meeting of the Association's Board of Directors at which such contract or transaction is authorized, and such interested director may vote thereon with the same force and effect as if he were not interested.

2.7 **ACCEPTANCE OF EASEMENTS, ETC.** The Association shall accept all easements, leases, licenses and other usage rights and title to all property and improvements that may be granted, conveyed or assigned to the Association by or at the direction of Developer in Developer's sole discretion.

2.8 **CONTROL OF ASSOCIATION BY DEVELOPER.** Notwithstanding anything in this Declaration to the contrary, Developer shall have and maintain absolute and exclusive control of the Association and the Design Review Committee until the date (the "**Turnover Date**") which is the earlier of (a) the first day of the next fiscal year of the Association following that date on which Developer no longer owns any Lot in the Neighborhood., or (b) the effective date designated by Developer in a notice to the members of the Association stating that Developer relinquishes control. Until the Turnover Date, (a) Developer will be entitled to cast controlling votes with respect to the election and removal of all officers and directors of the Association and members of the Design Review Committee and with respect to any other matter requiring the vote or approval of members of the Association or the

Design Review Committee as set forth herein or in the Association's Articles of Incorporation or Bylaws, (b) Developer shall perform the duties, assume the obligations, levy and collect Assessments, and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such powers and duties were hereby given directly to the Developer, and (c) the Developer may, by appropriate agreement made expressly for that purpose, assign or convey to the Association any or all of the rights, reservations and privileges herein provided, and upon such assignment or conveyance being made, the Association shall exercise and assume such rights. The Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the consent of Developer and its written relinquishment of such rights. Until the Turnover Date, Developer may, at its discretion, make cash advances to the Association to meet its net operating cash requirements. The Developer may also, at its discretion, require that such advances be considered borrowings of the Association and further require the Association to evidence such borrowings by executing promissory notes, bearing interest at a rate satisfactory to Developer.

ARTICLE 3
ASSESSMENTS

3.1 **CREATION OF LIEN AND PERSONAL OBLIGATION.** Each Owner of an Assessable Lot, by acceptance of the deed or other conveyance thereof or interest therein, is deemed to covenant and agree to pay all Assessments provided for in this Declaration. Each Assessment, together with interest thereon as hereinafter provided, filing fees, attorneys' fees, court costs and other costs of collection thereof (such interest and all of such fees and costs being herein sometimes collectively called "**Costs**") shall be a continuing lien upon the Assessable Lot against which such Assessment is made, which lien shall be enforceable as provided in Article 3.9. Each Assessment, together with Costs relating thereto, shall also be the personal obligation of the Owner of the Assessable Lot against which the Assessment is made. Such personal obligation shall not pass to an Owner's successor unless expressly assumed by the successor. If an Owner consists of more than one person and/or entity, the obligations of the Owner for the payment of such Assessments and Costs shall be joint and several.

3.2 **PURPOSE OF ASSESSMENTS.** The Assessments levied by the Association shall be used to provide funds to enable the Association to exercise the powers and perform the duties herein set forth, including (by way of example only and not by way of limitation) (a) the costs of construction, installation, maintenance, management, operation, repair and replacement of the Common Facilities and Right-of-Way Amenities; (b) the costs of management and administration of the Association, such as compensation paid by the Association to managers, accountants, attorneys, other professionals and employees; (c) the costs of utilities (including water, electricity, gas, sewer and trash removal services provided directly to the Association and not individually metered or billed by the service providers directly to the Lots) and other services provided by the Association which generally benefit and enhance the value and desirability of the Neighborhood; (d) the costs of any insurance maintained by the Association; (e) reasonable reserves for major items, contingencies, replacements and other proper purposes as deemed appropriate by the Association; (f) the costs of bonding any persons handling funds of the Association; (g) taxes, assessments and other governmental impositions paid by the Association; and (h) the costs of any other items or services to be provided or performed by the Association as set forth in this Declaration or in the Association's Articles of Incorporation or Bylaws, or in furtherance of the purposes of the Association.

3.3 **METHOD OF ALLOCATION.** The total amount of each annual Assessment and each special Assessment levied by the Association shall be divided equally among all of the Assessable Lots included within the Neighborhood at the time such Assessment is levied. Each Assessable Lot shall be subject to assessment in accordance with the method provided above, regardless of whether any two or more Assessable Lots have been combined into a single Lot as permitted by Article 1.9 hereof (except that the Assessments for such single Lot shall include only one charge for trash removal).

3.4 **ANNUAL ASSESSMENTS.**

1. Each Assessable Lot 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 Owner of such Assessable Lot. If the amount collected from annual Assessments for any year exceeds the Association's costs and expenses for such year, such excess shall be taken into consideration in preparing the budget and determining the annual Assessment to be levied for the following year. If the amount collected from annual Assessments for any year is inadequate to meet the Association's actual or projected costs and expenses for such year, special Assessments may be levied at any one or more times during such year as provided in Article 3.5. A portion of the annual Assessments for each year may be allocated to reserves to provide required funds for repair or replacement of major items and for other contingencies and proper purposes. The responsibility of the Association shall be only to provide for such reserves as the Association in good faith deems reasonable, and neither the Developer nor the Association shall have any liability to any Owner or member of the Association if such reserves are inadequate.

2. Until further action by the Board, the initial annual Assessment for each Assessable Lot for the year 2005 shall be Two Hundred Sixty Dollars ($260.00), provided, however that: (a) if and when the Private Lake is substantially completed (as determined by the Developer), the annual assessment for each Assessable Lot shall automatically increase by Thirty Five Dollars ($35.00) which amount shall be allocated to the "Reserve Fund for Private Lake Maintenance" provided for in Article 3.4, Section 4 below, and (b) if and when the Pool Area is substantially completed and available for use (as determined by the Developer), the annual Assessment for each Lot shall automatically increase by Two Hundred Sixty Dollars ($260.00). Notwithstanding anything herein to the contrary, the annual Assessment upon each Lot shall not be increased by action of the Developer or the Board by an amount exceeding twenty percent (20%) of the preceding year's annual Assessment, unless such increase is authorized by fifty percent (50%) of the votes of Owners in the Neighborhood, exclusive of the Developer.

3. The first annual Assessment with respect to each Assessable Lot shall be due as of the earlier of (a) the date fee simple title to such Assessable Lot is transferred from a Builder to a subsequent purchaser, or (b) the date which is

fourteen (14) months after the recording of the deed whereby Developer conveys title to the Assessable Lot to a Builder or to another Owner (provided that if on said date the Builder still holds title to such Assessable Lot, the Assessments against such Assessable Lot shall not include any charge for trash removal service unless such service is requested). Such first annual Assessment shall be prorated on a per diem basis in accordance with the number of days remaining in such year from and after the date the Assessment is due. The annual Assessment with respect to each Assessable Lot for each subsequent year shall be due as of January first of such year, provided however, that: (a) the portion of the annual Assessment for each Assessable Lot allocated to the "Reserve Fund for Private Lake Maintenance" provided for in Article 3.4, Section 4 below, if any, shall be due only upon substantial completion of the Private Lake (as determined by the Developer), and (b) the prorated share of any remaining portion of the annual Assessment for each Assessable Lot shall be due and payable only upon the initial occupancy of the Lot as a residence. If the effective date of any increase in the rate of assessment is other than January first, a proper portion (as determined by the directors of the Association) of the amount of such increase for the remainder of such year shall be due and payable on such effective date. No Assessable Lot shall be entitled to receive any services to be provided by and through the Association until such time as a completed residence on the Lot is occupied and the prorated share of the total annual Assessment has been paid with respect thereto.

4. The Association shall maintain the Private Lake (including, but not limited to periodic dredging and maintenance of the shoreline, dam, spillway and water control structures) in a good state of repair and shall effect such repairs and maintenance as are necessary to do so from time to time. In order to assure the availability of funds to pay for such repairs and maintenance, the Association shall establish on its books a separate "Reserve Fund for Private Lake Maintenance" to be used solely for such purpose. No later than January 1, 2011, and at least each five years thereafter, the Association, in consultation with such engineering consultants and contractors as it may deem advisable, shall establish a reasonable projected Private Lake maintenance schedule and the projected cost thereof for the ensuing ten years, a proportional share of which costs (less reserves, if any) shall be included in the Association's annual budget. All assessments collected which are attributable to such projected costs shall be deposited in said reserve fund, and such assessments, along with the interest earned thereon, if any, shall be used solely for such purposes and no other.

5. Failure of the Association to levy an annual Assessment prior to January first of any year shall not invalidate any such Assessment subsequently levied for that particular year, nor shall failure of the Association to levy an annual Assessment for any one year in any way affect the right of the Association to do so for any subsequent year.

3.5 **SPECIAL ASSESSMENTS.**

1. The Association may at any time or times during any year, if necessary in its discretion to enable the Association to carry out the purposes herein set forth, levy against any, or each and every Assessable Lot a special Assessment over and above the annual Assessment for such year authorized by Article 3.4.

2. The Association shall at any time or times during any year, if necessary to enable the Association to properly maintain the Right-of-Way Amenities and the Private Lake and otherwise satisfy its and the Owners' obligations with respect thereto as specified in Articles 9 and 10 hereof, levy against each and every assessable Lot a special Assessment over and above the annual Assessment for such year.

3. Special Assessments may be levied by the Association only if fifty percent (50%) of the votes cast by Owners shall be in favor of such special Assessments.

3.6 **NOTICE.** The Association shall give at least thirty (30) days' advance notice to each Owner of an Assessable Lot whose address is then listed with the Association of the amount of any Assessment for such Assessable Lot and the date on which such Assessment is due.

3.7 **NO WAIVER OF OFFSET.** No Owner of an Assessable Lot shall be exempt from payment of the Assessments and costs imposed under this Declaration by waiver of the use or enjoyment of the Common Facilities or Right-of-Way Amenities or by nonuse thereof or by abandonment of such Owner's Assessable Lot. All Assessments shall be payable in the amounts specified in the notices thereof given by the Association, and there shall be no offsets against such amounts for any reason.

3.8 **DELINQUENCY; ENFORCEMENT OF LIENS**.

1. If any Owner of an Assessable Lot fails to pay any Assessment on or before the 30th day following the date on which such Assessment is due, then such Assessment shall bear interest from the due date until paid at the highest rate allowable under Kansas law.

2. Each Assessment shall become delinquent on the 30th day after the date on which such Assessment is due, and payment of the Assessment and Costs (including interest) may then be enforced as a lien on such Assessable Lot in proceedings in any court in Johnson County, Kansas having jurisdiction of suits for the enforcement of such liens. The Association may, whenever any Assessment is delinquent, file a certificate of nonpayment of Assessments with the Register of Deeds, and for each certificate so filed, the Association shall be entitled to collect from the Owner of the Lot described therein a fee of $100.00 plus the costs of recording such certificate, which fee shall be part of the Costs included in the lien.

3. Such liens shall continue for the maximum amount allowed by law, and no longer, unless, within such time, suit shall have been instituted for the collection of the Assessment, in which case the lien shall continue until the termination of the suit or until the sale of the Lot under execution of the judgment therein.

4. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration, the benefit of any redemption, homestead or exemption laws of the State of Kansas now or hereafter in effect.

5. Any lien which arises against any Assessable Lot by reason of the failure or refusal of an Owner to make timely payment of any Assessment shall be subordinate to the lien of a prior recorded first mortgage on such Assessable Lot acquired in good faith and for value securing the payment of a loan made by a bank, savings and loan association or other institutional lender ("**First Mortgage**"), except for any unpaid Assessments and Costs which accrue from and after the date on which

the holder of such First Mortgage ("**First Mortgagee**") (a) comes into possession of the Assessable Lot, or (b) acquires title to the Assessable Lot, whichever occurs first. If any lien for any unpaid Assessments and Costs which accrued prior to the date a First Mortgagee comes into possession of or acquires title to the Assessable Lot has not been extinguished by the process whereby the First Mortgagee came into possession or acquired title, the First Mortgagee shall not be liable for such unpaid Assessments or Costs arising or accruing prior to such date and, upon request by the First Mortgagee to the Association, the Association shall release such lien of record; provided, however, that (a) any unpaid Assessments and Costs which are so extinguished shall continue to be the personal obligation of the delinquent Owner, and the Association may seek to collect them from such Owner even after such Owner is no longer the Owner of the Lot or a member of the Association; and (b) if the Owner against whom the original Assessment was made is the purchaser of or redeems the Assessable Lot, the lien shall continue in effect and may be enforced for the Assessments and Costs which were due prior to the final conclusion of any such foreclosure or equivalent proceeding. Any such unpaid Assessments and Costs which are not collected within a reasonable time may be reallocated by the Association among all other Owners of Assessable Lots, irrespective of whether collection proceedings have been commenced or are then pending against the defaulting Owner.

3.9 **CERTIFICATE OF NONPAYMENT.** Upon request, any party acquiring title to or any interest in an Assessable Lot shall be entitled to a certificate from the Association setting forth the amount due for unpaid Assessments and Costs pertaining to such Assessable Lots, if any, and such party shall not be liable for, nor shall any lien attach to the Assessable Lot in excess of, the amount set forth in the certificate, except for Assessments and Costs which arise or accrue after the date of the certificate.

3.10 **PLEDGE OF ASSESSMENT RIGHTS AS SECURITY.** The Association may pledge the right to exercise its assessment powers as security for any obligation of the Association; provided, however, that after the Turnover Date any such pledge shall require the prior affirmative vote of a majority of all members of the Association.

ARTICLE 4
EASEMENTS AND LICENSES

4.1 RESERVATION BY DEVELOPER; GRANT TO ASSOCIATION

1. Developer hereby reserves to itself and its successors and assigns, and grants to the Association, the right, privilege and easement to enter upon the Common Facilities and Lots to the extent necessary for the purposes of (a) constructing, maintaining, relocating, repairing and replacing improvements on the Common Facilities and Right-of-Way Amenities which the Developer or the Association reasonably believes will enhance the beauty and function of the Common Facilities, Right-of-Way Amenities or the Neighborhood; (b) planting, replanting, maintaining and replacing grass and landscaping on the Common Facilities; and (c) doing all other things which the Developer or the Association shall be obligated to do as set forth in this Declaration or shall deem desirable for the neat and attractive appearance and beautification of the Common Facilities and Right-of-Way Amenities.

2. The foregoing rights, privileges and easements of Developer shall automatically terminate as of the Turnover Date; provided, however, that Developer may at any time and from time to time relinquish any or all of the foregoing rights, privileges or easements by recording an instrument to such effect with the Register of Deeds. The foregoing rights, privileges and easements of the Association shall be perpetual and shall survive termination of this Declaration. The rights granted to the Association herein shall not be affected or impaired by the Association's failure to be formed as of the date of the filing of this Declaration, but said rights shall pass upon the date of such formation.

4.2 USE OF COMMON FACILITIES; GRANT TO OWNERS.

1. Developer hereby grants to each Owner the non-exclusive, perpetual right, privilege and easement to use and enjoy the Common Facilities for the respective purposes for which the Common Facilities are constructed, designed and intended, subject to all of the provisions of this Declaration, the provisions of the Association's Articles of Incorporation and Bylaws, any reasonable rules and regulations of general application within the Neighborhood which the Association may adopt from time to time, and the rights of any governmental authority or utility therein or thereto, which right, privilege and easement shall be appurtenant to and shall automatically pass with the title to each Lot and shall survive the termination of this Declaration.

2. Developer covenants and agrees to convey by special warranty deed all of its rights, title and interest in the Common Facilities (except any part thereof that is within any Lot or outside of the Neighborhood) to the Association, without any cost to the Association and free and clear of any mortgages or similar liens at such time(s) as Developer, in its absolute discretion, may determine, but in all events not later than thirty days after the Turnover Date.

3. Any ownership by the Association of any Common Facility and the right and easement of enjoyment of the Owners as to any Common Facility shall be subject to the right of the Developer to convey sewage, water, drainage, pipeline, maintenance, electric, telephone, television and other utility easements over, under, upon and through such Common Facility, as provided in Article 2.4.1, Section (a) above.

4.3 **LICENSE TO ENTER.** During the term of this Declaration and thereafter as long as any of the easements created by this Declaration survive, the Developer, the Association and their respective members, partners, officers, employees, agents and contractors shall have a temporary license to enter upon and use such portions of any Lot as may be reasonably necessary to permit the Developer or the Association to exercise or perform all or any of the rights, powers and obligations reserved, given to or imposed upon the Developer or the Association by the provisions of this Declaration; provided, however, that the Developer's rights under this Article 4.3 shall automatically terminate as of the Turnover Date.

4.4 **PERFORMANCE OF WORK; INDEMNIFICATION.** The Developer and the Association, in entering upon any Lot in the exercise of the rights, privileges and easements granted to them by this Article 4, shall (a) perform all work with due diligence; (b) take all safety measures reasonably required to protect persons and property; (c) perform the work so as to avoid, to

the extent practical, interference with the use or quiet enjoyment of the Lot; (d) after the work is completed, restore the Lot to the condition existing prior to the work (to the extent consistent with the performance of such work); and (e) indemnify and hold harmless the Owner of the Lot from and against all claims for bodily injury or property damage which may be asserted against such Owner by reason of the exercise of rights by the Developer or the Association under this Article 4.

ARTICLE 5
OWNERS' INSURANCE; DAMAGE TO IMPROVEMENTS

5.1 **OWNERS' INSURANCE.** Each Owner shall obtain and maintain property insurance insuring all improvements on such Owner's Lot against loss by fire and such other perils as are covered by a standard fire insurance policy with a so-called "extended coverage" endorsement, and such personal liability and other insurance as such Owner desires, the premiums for which shall be paid by such Owner.

5.2 **DAMAGE TO IMPROVEMENTS.** If improvements on a Lot are damaged or destroyed by casualty or other cause, such improvements shall be repaired and restored with due diligence and any insurance proceeds shall be applied to restoration or repair; provided, however, that the Owner may elect not to restore or repair if (a) the improvements are subject to a First Mortgage and the First Mortgage requires, because restoration or repair is not economically feasible or because the security of the First Mortgage is threatened, that insurance proceeds be applied to sums secured by the First Mortgage; or (b) the Association consents to Owner's election not to restore or repair. Should an Owner elect not to restore or repair as permitted by the preceding sentence, the Owner shall at its sole expense demolish the damaged improvements (including foundations), clear away all debris and take all other action (including filling to grade, sodding and landscaping) required so that the area formerly occupied by the demolished improvements shall be neat and attractive in appearance and compatible with a high quality residential development.

ARTICLE 6
ADDITIONAL COVERAGE

6.1 **MAINTENANCE BY OWNERS.** Except as otherwise expressly provided in this Declaration, each Owner, at such Owner's expense shall provide and be responsible for all maintenance, repairs, replacements and approved construction on such Owner's Lot.

6.2 **TAXES AND OTHER ENCUMBRANCES.** Each Owner shall promptly pay, before delinquency, all taxes, assessments, liens, encumbrances or charges of every kind levied against or imposed upon such Owner or such Owner's Lot which may, as a matter of law, be or become a lien on any part of the Common Facilities which lien is prior to the easements granted and reserved in this Declaration. In the event of a breach of this covenant, the Association shall have, in addition to all other rights or remedies, the right (but not the obligation) to obtain the discharge of any such lien by payment or otherwise, and collect from such Owner all costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

ARTICLE 7
DESIGN CONTROL

7.1 **DESIGN REVIEW COMMITTEE.** The Association shall have a Design Review Committee consisting of three persons appointed (and removed) from time to time (a) by Developer in its sole discretion (with no requirement of Lot ownership or other criteria) until the Turnover Date (as defined in Article 2.8), and (b) by the Board after the Turnover Date.

7.2 MEETINGS. The Design Review Committee shall meet as necessary to consider applications with respect to any matters that require the approval of the Design Review Committee and any other matters within the authority of the Design Review Committee as provided in this Declaration. A majority of the members of the Design Review Committee shall constitute a quorum for the transaction of business at a meeting and every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Design Review Committee.

7.3 APPROVAL OF IMPROVEMENTS, ALTERATIONS AND REPLACEMENTS.

1. No building or other structure; fence or wall; driveway, walkway, patio or deck; exterior lighting, sign, apparatus or fixture; swimming pool or other recreational facility or equipment; landscaping or alteration of grade or drainage; or changes, alterations or additions to the exterior portions of any of the foregoing (including color changes), either temporary or permanent (collectively referred to as "**Improvements**"), shall be constructed, erected, installed, placed, undertaken or maintained in or upon any part of the Neighborhood except in compliance with plans and specification thereof which have been submitted to and prior approved in writing by the Design Review Committee.
2. Replacements of any exterior portions of any Improvements because of age, deterioration, casualty loss or other reason, shall be of the same design, material and color as the original Improvement unless plans and specifications thereof have been submitted to and prior approved in writing by the Design Review Committee.
3. Until the Turnover Date, any and all Improvements or replacements erected, installed, placed, undertaken or maintained by the Developer shall be deemed approved by the Design Review Committee.

7.4 **DESIGN STANDARDS.** In order to achieve uniformity and coordination within the Neighborhood and carry out the purposes of the Design Review Committee, design standards ("**Design Standards**") shall be established by the Design Review Committee. The Design Standards may, from time to time, be amended, supplemented or repealed by the Design Review Committee upon unanimous vote. Initially, all Improvements within the Neighborhood shall conform to the Design Standards set forth in **Exhibit A** attached hereto and incorporated herein by reference.

7.5 **DESIGN CONSIDERATIONS.** In connection with the approval or disapproval of plans and specifications, the Design Review Committee shall consider appearance; quality of design and workmanship; harmony of design, materials and colors in relation to surrounding structures and landscape and the Neighborhood as a whole; and location and finished grade elevations with respect to surrounding topography. The Design Review Committee may reject plans and specifications, without citing specifics, for the following reasons, among others: (a) insufficient information to adequately evaluate the design or its intent; (b) poor overall design quality; (c) incompatible design elements; (d) inappropriate design concept or design treatment; or (e) a design or intended use found to have an adverse effect on the character of the Neighborhood or its residents. In recognition of the fact that the overall impact of Improvements involves issues of taste and judgment which cannot be completely reduced to Design Standards, the Design Review Committee shall also have the right, in its sole discretion, to reject plans and specifications conforming to the Design Standards if the Design Review Committee believes that the overall aesthetic impact of any proposed Improvement, addition, alteration or change is detrimental to the Neighborhood

7.6 **REVIEW PROCESS.** All submissions to the Design Review Committee are to be made within the time periods to be established from time to time by the Design Review Committee. The initial review of each such submission by the Design Review Committee will be carried out within thirty (30) working days from the date of each submission, and notification of recommendations, approval or disapproval will be provided in writing to the Owner within that time. Submission to the City for building permits or site plan approval should not be made until final plans have been approved by the Design Review Committee.

7.7 **APPEAL TO THE BOARD.** After the Turnover Date, any applicant or other person who is dissatisfied with a decision of the Design Review Committee shall have the right to appeal such decision to the Board provided such appeal is filed in writing with a member of the Board within seven days after the date the Design Review Committee renders its written decision. In making its decisions, the Board may consider any and all aspects and factors that the individual members of the Board, in their absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Neighborhood, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, landscaping plans and use of any proposed exterior structure. Any decision rendered by the Board on appeal of a decision of the Design Review Committee shall be final and conclusively binding on all parties and shall be deemed to be the decision of the Design Review Committee for all purposes under this Declaration. The Board from time to time may adopt, amend and revoke rules and regulations respecting appeals of decisions of the Design Review Committee, including, without limitation, requiring payment of a reasonable fee by the appealing party.

7.8 **PLANS AND SPECIFICATIONS**. Building plans and specifications shall include the following:

1. A site plan which shows the location of the Residence on the Lot; the location of driveways, walkways, patios, decks, walls, fences, and other structures; the top of foundation elevations; the existing grades and the proposed final grading of the Lot; and the size and location of all large trees with trunks which are six inches or larger in diameter (measured six inches above ground level) located within 25 feet of the Residence or on other parts of the Lot which will be disturbed by construction. The survey shall clearly indicate which large trees will be saved and which shall be removed.
2. A complete set of final construction plans which include floor plans; exterior elevations for all sides showing finish grades; roof plans; and material selections. Floor plans and front elevations shall be drawn at a scale of ¼" = 1". Side and rear elevations and roof plan shall be drawn at ¼" = 1' or 1/8" = 1'.
3. A final color plan with color chips for all exterior surfaces including roofs, walls, shutters, trim and flatwork (if other than untinted concrete).
4. A final landscape plan.

Two sets of all plans and specifications shall be submitted to the Design Review Committee for review. Once approved, one set shall be signed and returned and one set shall be kept by the Design Review Committee for record.

7.9 **INTERPRETATION; WAIVER.** The Design Review Committee's interests in reviewing site and building designs is to assure that a high quality of compatible development is consistently achieved. In order to meet special situations that may not be foreseen, it may be desirable from time to time for the Design Review Committee to allow variances of certain requirements. Any variance granted is considered not to be precedent setting because the decision is being made in the context of the specific project in question with the welfare of the appropriate area and overall Neighborhood in mind. All approvals and consents of the Design Review Committee shall be in writing, and oral approvals or consents shall be of no force or effect.

7.10 **DESIGN REVIEW COMMITTEE AUTHORITY AND LIMITS OF LIABILITY.**

1. The Design Review Committee may delegate the plan review responsibilities to one or more of its members or to architectural consultants it retains. Upon such delegation, the approval or disapproval of plans and specifications by such member or consultants shall be equivalent to approval or disapproval by the entire Design Review Committee.
2. The Design Review Committee shall have the right, at its discretion, to collect fees from applicants to reimburse the Association for direct expenses incurred in reviewing such plans and specifications. Such expenses may include the cost of services rendered by professional architects, landscape architects or engineers, and associated costs of postage, photocopies, etc.
3. By its approval of plans and specifications, the Design Review Committee shall not be deemed to have approved the same for engineering design or for compliance with zoning and building ordinances, and by approving such plans and specifications neither the Developer nor any member thereof, the Design Review Committee nor any member thereof, nor the Association nor any member, officer or director thereof, assumes any liability or responsibility therefore, or for any defect in any structure constructed from such plans and specifications. None of said persons or entities shall be liable to any Owner or other person or entity for any damage, loss, cost or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, or (c) the development or manner of development of any property within

the Neighborhood. Approval of plans and specifications by the Design Review Committee is not, and shall not be deemed to be a representation or warranty that said plans or specifications comply with applicable governmental ordinance or regulations, including zoning ordinances and building codes.

4. Any member or authorized consultant of the Design Review Committee, Developer or its representatives, or any authorized officer, director, employee or agent of the Association may at any reasonable time, after reasonable notice to the Owner, enter upon any Lot without being deemed guilty of trespass in order to inspect Improvements constructed or being constructed on such Lot to ascertain that such Improvements have been or are being built in compliance with the plans and specifications approved by the Design Review Committee, the Design Standards and this Declaration. The Design Review Committee shall cause such an inspection to be undertaken within a reasonable time (not to exceed 60 days) after a request therefore from any Owner as to his Lot, which request shall contain an affirmative statement by such Owner of his good faith belief that he is in compliance with the approved plans and specifications, the Design Standards and the provisions hereof. If such inspection reveals that the Improvements located on such Lot have been completed in compliance with the requirements of the Design Review Committee, the Design Standards and the provisions hereof, the Design Review Committee shall provide to such Owner a notice of such approval in recordable form which, when recorded with the Register of Deeds, shall be conclusive evidence of compliance with the requirements of the Design Review Committee, the Design Standards and the provisions hereof as to the Improvements described in such recorded notice.

5. The Association may promulgate such rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration in order to enforce compliance with the Design Standards. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE ASSOCIATION MAY FIX A FINE OF UP TO $10,000 FOR FAILURE TO OBTAIN ANY REQUIRED APPROVAL FROM THE DESIGN REVIEW COMMITTEE OR TO COMPLY WITH ANY SUCH APPROVAL.

7.11 **PUBLIC APPROVALS.** All pertinent requirements of public agencies shall be complied with in the development of each Lot, and all plans must be approved by the appropriate departments of the City. Without limiting the foregoing, the design of any fence crossing a drainage area must be reviewed and approved by the Director of Public Works of the City to assure that the fence does not restrict water flow. Each Owner must verify code requirements at the time of purchase and development. Although based in part on local zoning and Neighborhood regulations, the Design Standards may be more restrictive as to land use restrictions, site development standards, landscape requirements or other matters. In every case in which the Design Standards or approvals given by the Design Review Committee are at variance with public agency requirements, the more restrictive standards, approvals, or regulations shall govern. Final legal approvals permitting development and occupancy of each Lot and Residence will be made by the City.

ARTICLE 8
USE AND OCCUPANCY RESTRICTIONS

8.1. Lots and Owners shall be subject to the following use and occupancy restrictions:

1. **Residential Use**. Each Lot may be improved, used or occupied only for one single-family private Residence and for no other use or purpose. No trailer, garage, outbuilding or any structure of a temporary character shall at any time be used for human habitation, temporarily or permanently. Except as otherwise provided herein, no building or structure of any sort shall be placed, erected or used for business, professional, trade or commercial purposes on any Lot; provided, however, that this restriction shall not prevent an Owner from maintaining an office area in his Residence in accordance with applicable ordinances of the City. Maintaining such a home office shall not result in the violation of these restrictions or permit advertising said office location (on or off site) or visitation by customers or clients at the Residence. Use of any Lot for commercial day care (child or adult) purposes is specifically prohibited. Nothing herein shall restrict the Developer or others authorized by the Developer from erecting and using temporary buildings or any Residence for office, model, sales or storage purposes during the period of construction of Improvements and sale of Lots within the Neighborhood.

2. **Leasing.** No residence or Lot or any portion thereof may be leased for a period of less than six months. All leases shall be in writing and shall provide that the lease be subject to the terms of these Restrictions and the rules and regulations of the Association, and shall also provide that any failure by the lessee to comply with such terms shall be default under the lease. The Owner of the leased property shall be responsible for compliance by the lessee with these Restrictions and the rules and regulations of the Association.

3. **Maintenance.** Each Owner shall properly maintain his Lot and the Residence thereon in good condition and repair and in a neat, clean, orderly and attractive condition at all times. Trees, shrubs and lawns shall be maintained in good condition and attractive appearance at all times. Lawn grass shall be uniformly mowed and shall not be permitted to reach a height of more than four inches. Each Owner shall properly water, maintain and replace all trees and landscaping on the Owner's Lot and adjacent public rights-of-way.

4. **Utility and Drainage Easements.** Within the easements reserved in the Neighborhood for the installation and maintenance of utilities and drainage facilities, no grading, planting, structure or other material shall be placed or maintained which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels. Easement areas on Lots, and all Improvements thereon, shall be maintained continuously by the Lot Owners, except for those improvements for which a public authority or utility company is responsible.

5. **Alteration of Common Facilities and Right-of-Way Amenities.** No Owner shall improve, destroy or otherwise alter any Common Facilities or Right-of-Way Amenities without prior written consent of the Association.

6. **Flagpoles, Mailboxes, Doghouses, Yard Ornaments, Lawn Furniture, Recreational and Play Structures.** No freestanding flagpole, mailbox, doghouse, sculpture, fountain or other yard ornament, permanent lawn furniture or recreational or play structures may be installed, placed or maintained on the exterior of any building or on any Lot without the prior written approval of the Design Review Committee. (Outdoor furniture placed on decks or patios is exempt from approval requirements.) Except where specifically authorized in writing by the Design Review Committee, all outside doghouses or

recreational or play structures (other than basketball goals) shall be located behind the back building line of the house. Outside doghouses shall have materials and colors that are compatible with the Residence.

7. **Tennis Courts, Swimming Pools and Hot Tubs.** No tennis court or above-ground swimming pool shall be installed or maintained on any Lot, provided, however, that above-ground hot tubs may be installed and maintained with prior written approval by the Design Review Committee. No in-ground swimming pool or related improvements, facilities or equipment shall be installed or maintained upon any Lot unless the location, design, materials and colors are approved in writing by the Design Review Committee. All pools shall be fenced and all hot tubs shall be fenced or otherwise adequately screened, all in accordance with the provisions of this Declaration. All pools and hot tubs shall be kept clean and maintained in operable condition at all times.

8. **Signs.** No permanent or temporary sign of any kind shall be displayed to public view in any manner in the Neighborhood without the prior approval of the Association, except: (a) one sign for each Lot, not exceeding 100 square inches in area, upon which is exhibited the street number for the Lot or the name of the Lot Owner, or both; (b) one sign for each Lot, not exceeding 1,000 square inches in area, advertising the Lot for sale or lease; (c) street markers, traffic signs an other signs displayed by government agencies or utilities on designated easements and rights-of-way; (d) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law; (e) signs not exceeding 1,000 square inches in area promoting candidates or issues but limited to only 21 days before and two days after the day of election and only one sign per candidate or issue; and (f) one garage sale sign not exceeding 1,000 square inches in area is permitted on the Lot when the sale is being held, provided such signs are removed within 24 hours after the close of the sale. Except as otherwise permitted by the Design Review Committee in writing, all Residences shall have a house number place or house numbers in the style(s) approved by the Design Review Committee. For newly constructed homes offered for sale, only one realty sign (which may include a rider identifying the builder), and not also a separate sign for the builder, may be used if a realty company is involved. Nothing in this section shall be construed to prohibit the erection of Neighborhood entrance structures, identity signs, directional signs, advertising signs and informational signs by Developer, its grantees, assignees, or licensees in such size and design and at such places as it or they may determine. No sign shall be placed or maintained on any Common Facility without the approval of the Board. If any sign other than those described above shall be displayed in the Neighborhood, the representatives or agents of the Developer or the Association shall have the right to remove such sign. For purposes hereof, a "sign" includes any mark, symbol, word or drawing intended to communicate to a viewer.

9. **Basketball Goals.** No exterior basketball goals shall be erected or maintained on any Lot without the prior written consent of the Design Review Committee. Basketball goals shall be permanently installed and shall have transparent backboards and black posts. Basketball hoops and goals attached to a building are specifically prohibited. There shall be only one basketball goal per Lot. The Board shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots and the Owners.

10. **Animals.** No animal of any kind, including livestock, poultry and poisonous reptiles, shall be kept on any Lot, except that dogs, cats and other commonly accepted household pets of a number and type permitted by ordinances and regulations of the City, as the same may be amended from time to time, excluding, however, any dog included within the definition of "vicious dogs" pursuant to City ordinances and regulations, may be kept, provided they are not kept or bred for any commercial purpose and do not constitute a nuisance to residents of the Neighborhood. In no event, however, shall more than three dogs or cats, or combination thereof, be kept on any Lot. All permitted pets shall be kept within a Residence or fenced area, or on a leash attended by a responsible person at all times. In the event an otherwise permitted animal, in the discretion of the Association, constitutes a nuisance or endangers the safety or welfare of any resident of the Neighborhood, such animal shall be removed from the Neighborhood by the owner thereof. In the event the owner fails or refuses to remove the animal, the Association may cause the animal to be removed. Owners shall immediately clean up after their pets on all streets, Common Facilities and Lots owned by others.

11. **Offensive Activities, Nuisances, Dumping.** No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any trash, ashes, brush, debris or other refuse be thrown, placed or dumped upon any Lot or Common Facilities, nor shall anything be done which may be or become an annoyance or a nuisance to residents of the Neighborhood or any part thereof.

12. **Trash Storage.** No trash, refuse, or garbage can or receptacle shall be placed on any Lot outside a residence, except after sundown of the day before or upon the day of regularly scheduled trash collection and except for grass bags placed in the back or side yard pending regularly scheduled trash collection.

13. **Solar Collectors.** No solar collector of any kind or type shall be erected or maintained upon any Lot without the prior written consent of the Design Review Committee.

14. **Antennas, Satellite Dishes.** No exterior radio, television, short wave, citizens' band or other antenna of any kind, including satellite dishes or other devices for the reception or transmission of radio, microwave or similar signals, shall be placed or maintained on any Lot without the prior written approval of the Design Review Committee. Approval of such devices shall be based on criteria such as location, size, signal strength, aesthetic appearance, landscaping, screening and other legally permissible considerations so as to reasonably control the impact of such devices on the Neighborhood and all parts thereof. All such devices shall be installed in accordance with and shall comply in all respects with City requirements. Notwithstanding any provision in this Declaration to the contrary, small satellite dishes (maximum 20 inches in diameter) may be installed, with the prior written consent of the Design Review Committee, so as not to be readily visible from the street.

15. **Garage Sales.** No garage sales, sample sales or similar activities shall be held within the Neighborhood without the prior written consent of the Association.

16. **Sound Devices.** No exterior speaker, horn, whistle, siren, bell or other sound device, except intercoms, devices used exclusively for security purposes and stereo speakers used in accordance with any rules specified by the Association shall be located, installed or maintained upon any Lot.

17. **Exterior Lights.** No exterior lights attached to a Residence shall be located more than thirty feet above ground level and no free-standing exterior lights shall be located more than ten feet above ground level. Except for holiday lights, all exterior lighting shall be white and not colored. All landscape lighting must be approved in writing by the Design Review Committee. Exterior lights shall be located and oriented so as to avoid glare and excessive light spillage onto adjacent Lots, Common Facilities or public streets.

18. **Utility Lines.** All residential utility transmission lines shall be underground.

19. **Connections to Sanitary and Storm Sewers.** No water from any roof or downspout, basement or garage drain or any surface drainage shall be placed in or connected to any sanitary sewer line; nor shall any connection of any kind be made to a storm sewer line.

20. **Fuel Storage Tanks.** No outside or underground tank for the storage of fuel or other liquids shall be installed, placed or maintained on any Lot.

21. **Vehicles and Equipment.** No automobile, truck, motorcycle, motorbike, van, bus, motor home, recreational vehicle, camper, boat, trailer or other vehicle, and no lawn mower or other motorized or wheeled outdoor equipment or apparatus shall be left, maintained, repaired, serviced or stored on any Lot, except in an enclosed building. Overnight parking of motor vehicles or trailers of any type or character in public streets, Common Facilities or vacant lots is prohibited. Trucks or commercial vehicles with gross vehicle weight of 12,000 pounds or over are prohibited except during such time as such truck is actually being used for the specific purpose for which it is designed. Nothing in this section, however, shall be so construed as to prohibit the regular parking of not more than two licensed and operative automobiles of any type (including pick-up trucks) in a reasonable state of repair and preservation or the temporary parking of recreational vehicles for the purpose of loading or unloading (maximum of two nights every 14 days) on any paved driveway on any Lot.

22. **Garage Doors.** All garage doors shall remain closed at all times except when necessary for entry or exit.

23. **Clotheslines.** No exterior clothesline or clothesline pole shall be erected or maintained on any Lot.

24. **Holiday Decorations.** No exterior banners and/or holiday decorations (including decorative lights) shall be installed, placed or maintained on any Lot except during a sixty (60) day period beginning November 15th of each calendar year.

25. **Artificial Plants.** No artificial flowers or plants shall be permitted on the exterior of any Residence or in any yard.

26. **Awnings, Equipment, Fixtures.** No awning or canopy, or any unsightly equipment or fixture shall be installed, placed or maintained on the exterior of any structure or on any Lot, nor shall any air conditioning equipment or unsightly projection be attached to or placed in front of any Residence without the prior written consent of the Design Review Committee.

8.2 **CONSTRUCTION PERIOD REQUIREMENTS.** During construction periods on any Lot, the Owner and all parties involved in such construction shall be responsible for maintaining the Lot in a clean and orderly manner; for controlling erosion and runoff while the site is in a disturbed condition; and for insuring that mud and debris tracked onto pubic streets is promptly removed. Adequate erosion and silt control procedures shall be followed, including the use of barricades, temporary construction fence, straw bales or silt fence, to protect adjacent Lots, Common Facilities and adjacent property.

8.3 **COMPLIANCE WITH CITY REQUIREMENTS.** Notwithstanding any provision of this Declaration to the contrary, all property within the Neighborhood shall be used only in compliance with federal, state and city requirements. In every case in which any provision of this Declaration is at variance with such requirements, the more restrictive provision shall govern and control.

8.4 **ENFORCEMENT.** The Association or its authorized agents may enter any Lot on which a violation of these Restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses and such fines as may be imposed by the rules and regulations adopted by the Association, shall be deemed a special Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of Article 3.8. All remedies described in Article 14 hereof and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, tenant, occupant or other party of any provision of this Article 8.

ARTICLE 9
RIGHT-OF-WAY AMENITIES

The City has allowed the Developer to construct certain improvements within certain portions of the public right-of-way associated with streets in the Neighborhood (the "Right-of-Way Amenities"), subject to the terms and conditions of a certain Right-of-Way Maintenance Agreement between the Developer and the City. The following provisions of this Article 9 are required to be in this Declaration pursuant to said Right-of-Way Maintenance Agreement.

9.1 Owners are solely responsible for properly maintaining Right-of-Way Amenities in the Neighborhood and hereby delegate the Association to perform such duty, provided, however, that such delegation shall not relieve Owners of their individual responsibility.

9.2 The City shall be released from any and all past, present or future liability for any damage that may be caused at any time to any person or to any real or personal property resulting from or related to, directly or indirectly, the City allowing the Right-of-Way Amenities to be located in its right-of-way, or otherwise acting or failing to act with respect to the maintenance of the Amenities. The City will be further released from any and all past, present or future obligations to expend any public funds or to take any other action to maintain or improve the Right-of-Way Amenities.

9.3 The Association, or upon its failure, the Owners, will indemnify and hold harmless the City, the Mayor, the members of the City Council and the employees and agents of the City from and against any and all losses, damages, costs and expenses, including reasonable attorneys fees, that may be incurred or suffered by any of them as a result of or in connection with any claims that may be asserted against any of them in connection with the Right-of-Way Amenities. The Association, or upon its failure, the Owners, will further be required to promptly reimburse the City for any public funds the City may expend with respect to maintenance of the Right-of-Way Amenities in the event the Association fails to maintain the same, although the City is under absolutely no obligation to so maintain.

9.4 If the City or the City's designee does damage to the Right-of-Way Amenities, repair or replacement of the same shall not be the responsibility of the City or the City's designee.

9.5 Should the City determine that the Right-of-Way Amenities are endangering the public health, safety or welfare or have become unsightly or a nuisance, or interfere in any way with the city's use of the right-of-way, upon request of the City, the Association will remove or cause to be removed any or all Right-of-Way Amenities from the City's right-of-way. Should the Association fail to comply with the City's removal request, the City may remove the same and the Association, or upon its failure, the Owners, shall be obligated to reimburse the City for such removal.

9.6 The Association, or upon its failure, the Owners, shall maintain adequate liability insurance to cover all reasonable insurable risks associated with the maintenance of the Right-of-Way Amenities and the covenants contained herein.

9.7 The City shall be a third-party beneficiary of all provisions herein relating to the Right-of-Way Amenities and the City shall have the right to enforce all restrictions, obligations and other provisions regarding the Right-of-Way Amenities.

ARTICLE 10
PRIVATE LAKE

10.1 Developer shall have the right (but is not obligated) to construct a lake and related appurtenances including, but not limited to a dam, spillway, water control structures and related storm sewer systems designated as private by the City (collectively referred to as the "**Private Lake**") on a parcel of land within the Neighborhood platted as a Tract, and to make the Private Lake available for the use, benefit and enjoyment of the Owners and residents of the Neighborhood. The design and construction specifications for the Private Lake shall be determined by the Developer in its absolute discretion. If the Private Lake is so constructed and made available for use by Owners and residents of the Neighborhood, the following rules, regulations and restrictions shall apply:

1. No docks or other structures shall be built into or over the lake other than by the Association.
2. No automobiles or motorized vehicles of any kind shall be allowed around the lake except for maintenance purposes expressly authorized by the Association.
3. No swimming, wading or fishing shall be allowed in the lake.
4. No refuse, trash, debris or pollutants shall be discarded or discharged in or about the lake.
5. Access to the lake by Owners and residents of the Neighborhood shall be confined to designated Common Facilities.
6. No boats or rafts of any kind shall be allowed on the lake except for maintenance purposes expressly authorized by the Association.

10.2 The City has allowed Developer to construct a Private Lake within the Neighborhood subject to the terms and conditions of a certain Private Lake Agreement between Developer and the City. The following provisions of this Article 10 are a required part of this Declaration pursuant to said Private Lake Agreement:

1. The Private Lake shall be the sole responsibility of the Owners, which Owners shall maintain the Association to be used as the vehicle by which to fulfill the obligations of the Owners under this Article 10. Such delegation shall not, however, relieve the Owners of their responsibility under this Article 10.
2. The Owners shall properly maintain the Private Lake in order to obviate the effects of detrimental erosion or other damage caused by the flow of water and other materials into the lake from surrounding property.
3. The Developer, Association and Owners understand and agree that the City is under no past, present or future obligation to expend any public funds or to take any other action to maintain or improve the Private Lake, and further agree that they will never make any such maintenance or improvement request of the City.
4. The Developer and the City shall be third-party beneficiaries of all provisions of this Declaration relating to the Private Lake and the Developer and the City shall have the right to enforce all restrictions, obligations and other provisions regarding the Private Lake.

ARTICLE 11
MORTGAGES

11.1 **DEFAULTS.** Notwithstanding anything in this Declaration to the contrary, no breach or default of any term, provision, covenant, condition, restriction or easement contained in this Declaration shall defeat or adversely affect the lien of any mortgage on any property in the Neighborhood; however, except as herein specifically provided otherwise, each and all of said terms, provisions, covenants, conditions, restrictions and easements shall be binding upon and effective against any Owner who acquires its title or interest by foreclosure, deed in lieu of foreclosure or the exercise of any other right or remedy under a mortgage, including the obligation to pay all Assessments and Costs arising or accruing thereafter, in the same manner as any other Owner. An Owner who leases his Lot to another party shall be responsible for assuring compliance by the tenant with all of the provisions of this Declaration, the Association's Articles of Incorporation and Bylaws and the rules and regulations adopted by the Association, all as amended and supplemented from time to time, and such Owner shall be jointly and severally responsible with the tenant for any violation by the tenant.

11.2 **ENFORCEMENT AFTER FORECLOSURE SALE.** Without limiting any other rights or remedies herein provided or otherwise available at law or equity, an action to abate any default or breach of any of the terms, provisions, covenants, conditions, restrictions or easements contained in this Declaration may be brought against a purchaser who has acquired title to or

any interest in a Lot through foreclosure of a mortgage and the subsequent sale of the Lot (or through any equivalent proceeding), and against the successors in interest of such purchaser, even though the default or breach existed prior to the purchaser's acquisition of title to or interest in the Lot.

11.3 **EXERCISE OF OWNER'S RIGHTS.** During the pendency of any proceeding to foreclose a mortgage (including any period of redemption), the mortgagee, or a receiver appointed in any such action, may (but need not), if and to the extent permitted by such mortgage or by the other documents evidencing or securing the loan secured by such mortgage, exercise any or all of the rights and privileges of the Owner under this Declaration, including the right to vote as a member of the Association in the place and stead of the Owner.

ARTICLE 12
CHANGES IN THE NEIGHBORHOOD

Notwithstanding anything in this Declaration to the contrary, Developer shall have and expressly reserves the right at any time and from time to time prior to the Turnover Date, in its sole discretion, without the consent of any Builder or other Owner, Association member or other party, (a) subdivide any Lot owned by Developer into two or more Lots, (b) combine any two or more Lots owned by Developer into a single Lot, (c) add to the Neighborhood such other adjacent or nearby lands (without reference to streets and right-of-ways) as may be owned or hereafter acquired or approved for addition by Developer, or (d) dedicate portions of the Neighborhood owned by Developer to any governmental or quasi-governmental body (including the City) if, in Developer's sole discretion, such dedication will benefit the Neighborhood as a whole. Any such change, addition or dedication shall become effective upon the recording with the Register of Deeds of an amendment to this Declaration, duly executed and acknowledged, setting forth the same. Such amendment to add land to the Neighborhood may contain such deletions, additions and modifications of the provisions of this Declaration which are applicable solely to such additional land as may be necessary or desirable, as solely determined by Developer in its discretion.

ARTICLE 13
RIGHTS OF THE DEVELOPER

Notwithstanding anything in this Declaration to the contrary, prior to the Turnover Date none of the restrictions contained in this Declaration shall prohibit or limit any act by Developer, its employees, agents or contractors or any other parties designated by Developer in connection with the construction, completion, sale or leasing of the Lots or any other part of the Neighborhood, except that Developer shall be bound by the Design Standards and laws and ordinances.

ARTICLE 14
REMEDIES

14.1 **ENFORCEMENT.** In the event of any breach or default by any Owner, occupant or other person or entity ("**Defaulting Party**") under this Declaration, the Association shall have all of the rights and remedies provided in this Declaration and otherwise available at law or equity, and shall have the right (but not the obligation) to prosecute any action or other proceeding against the Defaulting Party for an injunction, whether affirmative or negative, or for enforcement or foreclosure of any lien herein provided, or for the appointment or a receiver for the affected Lot, or for damages or specific performance, or for judgment for the payment of money and collection thereof, or for any combination of remedies, or for any other relief, all without notice and without regard to the value of the affected Lot or the solvency or the Defaulting Party. Any and all such rights and remedies may be exercised by the Association at any time and from time to time.

No agreement, restriction, reservation or other provision herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during his ownership; provided, however, that (a) the immediate grantee from the Builder shall be personally responsible for breaches committed during Builder's ownership of such Lot and (b) an Owner shall be personally responsible for any breach committed by any prior Owner of the Lot to the extent notice of such breach was filed of record, as provided below, prior to the transfer of ownership. Whenever the Developer or the Board determines that a violation of this Declaration has occurred and is continuing with respect to a Lot, the Developer or the Association may file with the office of the Register of Deeds a certificate setting forth public notice of the nature of the breach and the Lot involved. No delay or failure by any person or entity to exercise any of its rights or remedies with respect to a violation of this Declaration shall impair any of such rights or remedies; nor shall any such delay or failure be construed as a waiver of that or any other violation.

14.2 **EXPENSES OF ENFORCEMENT.** All expenses of the Association, or any other person having rights of enforcement under this Declaration, in connection with any action or proceeding described in or permitted by this Article 14, including court costs, attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the highest rate allowable under Kansas law, shall be charged to and assessed against the Defaulting Party and shall be deemed a special Assessment against the Owner of the affected Lot, with respect to which special Assessment the Association shall have a lien as provided in Article 3.

14.3 **RIGHT TO CURE.** The Association and any manager or managing agent retained by the Association shall have the authority (but not the obligation) to correct any breach or default under this Declaration and to do whatever may be necessary for such purpose, and all expenses in connection therewith, together with interest thereon until paid at the highest rate allowable under Kansas law, shall be charged to and assessed against the Defaulting Party as a special Assessment, with respect to which special assessment the Association shall have a lien as provided in Article 3.

14.4 **WAIVER.** No waiver of any violation shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity

may have; provided, however, that a duly authorized, executed and delivered waiver by the Association, acting upon a decision of the Board, respecting a specific violation shall constitute and be deemed as a waiver of such violation by all other persons and entities (other than the Developer).

14.5 **LIMITATION ON DEVELOPER'S LIABILITY.** Notwithstanding anything to the contrary in this Declaration, it is expressly agreed that neither Developer (including any assignee of Developer's interest hereunder) nor any member of Developer (or any member of any assignee of Developer) shall have any personal liability to the Association or to any Owner, tenant, occupant, Association member or other party arising under, in connection with or resulting from (including resulting from any action or failure to act with respect to) this Declaration, the Association, the Design Review Committee, the Association's Articles of Incorporation or Bylaws, the Design Standards or the rules or regulations adopted by the Association, or for any action taken or not taken pursuant to authority granted to Developer herein or therein, except, (a) in the case of Developer (or its assignee), to the extent of Developer's interest in the Neighborhood, and (b) in the case of a member of Developer (or a member of such assignee), to the extent of such member's interest in Developer (or in such assignee); and in the event of a judgment against Developer (or any member of Developer, or assignee of Developer, or member of any such assignee), no execution or other action shall be sought or brought thereon against any other assets or be a lien upon any other assets of the judgment debtor.

ARTICLE 15
AMENDMENT AND TERMINATION

15.1 **AMENDMENT BY ASSOCIATION.** The Association shall have the right, power and authority (subject to the provisions of Article 15.2 and to the restrictions on amendment set forth in Article 15.3) to amend, modify, revise or add to any of the terms of this Declaration (as from time to time amended, modified, revised or supplemented) by a written instrument setting forth the entire amendment, which amendment shall become effective when duly adopted, executed, acknowledged and recorded with the Register of Deeds. Any proposed amendment must be first approved by a majority of the Board and then adopted by the members of the Association. Amendments may be adopted by the members (a) at a meeting of the members by the affirmative vote of at least two-thirds of all members entitled to vote at such meeting, or (b) without a meeting if all members have been duly notified of the proposed amendment and if two-thirds of all members entitled to vote at such a meeting, if held, consent to the amendment.

15.2 **AMENDMENT BY DEVELOPER.** Notwithstanding any other provision of this Declaration to the contrary, prior to the Turnover Date, Developer shall have the sole and exclusive right, power and authority to amend, modify, revise or add to any of the terms of this Declaration (as from time to time amended, modified, revised or supplemented) without the approval of the Board or members of the Association or the approval of any Builder, other Owner or other party, by a written instrument setting forth the entire amendment, which shall become effective upon its recording with the Register of Deeds.

Anything set forth in this Article 15 to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to amend, modify, revise or add to any of the terms and provisions of this Declaration (as from time to time amended, modified or supplemented) by executing, acknowledging and recording an appropriate instrument in writing for such purpose, if (a) either the Veteran's Administration or the Federal Housing Administration or any successor agencies thereto shall require such action as a condition precedent to the approval by such action as a condition precedent to the approval by such agency of the Neighborhood or any part of the Neighborhood or any Lot in the Neighborhood, for federally-approved mortgage financing purposes under applicable Veteran's Administration or Federal Housing Administration or similar programs, laws and regulations, or (b) the City requires such action as a condition to approval by the City of some matter relating to the development of the Neighborhood.

15.3 **TERM AND TERMINATION.** The provisions of this Declaration shall continue in full force and effect (subject, however, to the right to amend as herein provided) until January 1, 2030. Thereafter, unless one year prior to January 2, 2030, an instrument executed in one or more counterparts by at least a majority of all Association members then entitled to vote shall be recorded with the Register of Deeds directing the termination of this Declaration, this Declaration shall be automatically continued without any further notice for an additional period of 10 years and thereafter for successive periods of 10 years each; provided, that within one year prior to the expiration of any such 10-year period, this Declaration may be terminated as above provided in this section.

15.4 **WRITTEN CONSENT OF CITY REQUIRED.** The written consent of the City shall be required prior to the termination of this Declaration in its entirety or to any amendment, modification or termination of any provision thereof regarding any Right-of-Way Amenities. If the Association requests such consent, it shall be made in writing to the City Clerk. The City shall have 60 days upon receipt of the same to rule on the request.

ARTICLE 16
GENERAL PROVISIONS

16.1 **NOTICES.** All notices, requests, consents, approvals and other communications required or permitted under this Declaration or the Association's Bylaws shall be in writing and shall be addressed to Developer at 14819 W. 95th Street, Lenexa, Kansas 66215, to the Association at the address specified in the Association's Bylaws, and to each Owner and member at the last address shown for such Owner or member on the records of the Association. Any party may designate a different address or addresses for itself by giving written notice of its request. Notices, requests, consents, approvals and other communications shall be deemed delivered when mailed by United States mail, postage prepaid, when delivered in person or by courier, or delivered via facsimile transmission (fax).

16.2 **ASSOCIATION ADDRESS.** The Association shall notify each member whose address is listed with the Association of the time and place of regular and special meetings of the members of the Association, and the place where payments shall be made and any other business in connection with the Association may be transacted.

16.3 **PERFORMANCE BY DEVELOPER.** Prior to the incorporation of the Association, Developer shall have the right, at its option, to perform the duties of the Association, levy and collect the assessments and otherwise exercise the rights and powers herein given to the Association in the same manner as if such powers and duties were herein given directly to Developer. The Association shall not assume any of the rights or powers herein provided for without the consent of Developer and its relinquishment of such rights and powers; provided, however, that nothing set forth herein shall be deemed to require Developer to perform or satisfy any duty or obligation to Owners or otherwise.

16.4 **ASSIGNMENT BY DEVELOPER.** The Developer shall have the right and authority to assign, convey, transfer and set over any and all of the benefits, privileges, rights, powers, reservations and easements of Developer herein granted or reserved to any party which assumes the obligations, duties and responsibilities of Developer pertaining to the particular benefits, privileges, rights, powers, reservations and easements assigned. Upon the recording with the Register of Deeds of a document of assignment whereby the assignee assumes and agrees to perform such obligations, duties and responsibilities, such assignee shall, to the extent of such assignment, have the same benefits, privileges, rights, powers, reservations and easements and be subject to the same obligations, duties and responsibilities with respect thereto as are herein given to and assumed by Developer, and Developer shall thereupon be released and relieved from all liability with respect to such obligations accruing from and after the date of recording of such assignment. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the benefits, privileges, rights, powers, reservations and easements to any other party which assumes the obligations, duties and responsibilities with respect thereto in the same manner as herein set forth.

16.5 **TERMINOLOGY.** The words “include,” “includes” and “including” shall be deemed followed by the phrase “without limitation.” The words “herein,” “hereof,” “hereunder” and similar terms shall refer to this Declaration unless the context requires otherwise. Whenever the context so requires, the neuter gender includes the masculine and/or feminine gender, and the singular number includes the plural and vice versa.

16.6 **SEVERABILITY.** If any provisions of this Declaration or the application thereof in any circumstance is held invalid, the validity of the remainder of this Declaration and of the application of such provision in other circumstances shall not be affected thereby.

16.7 **RULE AGAINST PERPETUITIES; OBSERVANCE OF LAWS.** The Association shall at all times observe all applicable state, county, city and other laws or regulations. If at any time any of the easements, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule of law known as the “Rule Against Perpetuities,” then such provision shall become null and void, but no other parts of this Declaration not in conflict herewith shall be affected thereby

16.8 **APPROVALS.** Wherever the approval or consent of the Developer, the Association, the Board or the Design Review Committee or any other person or entity is required, such approval or consent shall require the prior written approval of such approving or consenting party, to be given in its sole discretion. Neither the Developer, nor the Association, nor any member of the Design Review Committee or the Board shall be personally liable to any person for any approval, disapproval or failure to approve any matter submitted for approval, for the adoption, amendment or revocation of any rules, regulations, restrictions or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration or any such rules, regulations, restrictions or guidelines.

ARTICLE 17
COVENANTS RUNNING WITH THE LAND

Each grantee of Developer and of any Builder or other Owner, by the acceptance of a deed, conveyance or other instrument evidencing or creating an interest or estate in any land within the Neighborhood, and each person acquiring a membership in the Association, and the heirs, legal representatives, successors and assigns of each of the foregoing, accepts the same subject to all of the terms, provisions, covenants, conditions, restrictions, reservations, easements and liens and subject to all of the rights, benefits and privileges of every kind which are granted, created, reserved or declared by this Declaration, and all imposition and obligations hereby imposed, all of which shall be deemed covenants running with the land and equitable servitude, and shall bind every person and entity at any time having any interest or estate in any land within the Neighborhood, and shall inure to the benefit of any such person or entity, as though the provisions of this Declaration were reflected at length in each and every deed, conveyance or other instrument evidencing or creating such interest or estate.

IN WITNESS WHEREOF, Developer has executed this Declaration as of the date first above written.

DEER VALLEY DEVELOPMENT, L.L.C., a Kansas limited liability company

By: _____

Clay C. Blair, III, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

ON THIS 1st day of May, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Clay C. Blair, III, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me duly sworn, acknowledged that he is a member of Deer Valley Development, L.L.C., a Kansas limited liability company, and that he executed such instrument on behalf of said company by authority of its members, and said person acknowledged the execution of said instrument to be the act and deed of said limited liability company.

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

_____
Notary Public
Printed Name: _____

My Commission Expires:

_____

EXHIBIT A
TO
DECLARATION OF DEER VALLEY

BUILDING STANDARDS AND REQUIREMENTS

1. **Permitted Height of Residences.**

No portion of a Residence erected on any Lot shall exceed three (3) stories in height above ground level at any point without the prior written consent of the Design Review Committee.

2. **Setback of Residences.**

(a) Setback Lines. All Residences and other Improvements shall be located on each Lot as approved by the Design Review Committee and in full compliance with setback lines shown on the Plat or established by the Design Review Committee. The Design Review Committee may establish new building setback lines on any Lot with the express written consent of the Lot Owner, provided such new setback lines comply with City codes.

(b) Projections. Notwithstanding the setback lines shown on the Plat or those established by the Design Review Committee, cantilevered upper stories, balconies, bay, bow or oriel windows, cornices, eaves, chimneys, downspouts and decorative elements may project no more than three feet over the building setback lines for each Lot. Unenclosed, covered porches and vestibules not more than one story in height may project up to six feet beyond front building lines. No provisions herein shall be construed to permit any portion of any structure to project beyond the boundary of the Lot upon which it is erected.

(c) Sight Lines. No fence, wall, structure or plant materials which obstruct sight lines at elevations between two and six feet above the streets shall be placed or permitted to remain on any Corner Lot within the triangular area formed by the street right-of-way lines and a line connecting them at points twenty-five feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the extension of street right-of-way lines. The same sight-line limitations shall apply to any Lot within ten feet from the intersection of the right-of-way property line with the edge of a driveway. Trees shall be permitted to remain within such areas if the foliage line is maintained at a height sufficient to prevent obstruction of sight lines.

3. **Required Size and Type of Residence.**

(a) No Residence erected on any Lot shall contain less than the minimum number of square feet of Enclosed Floor Area (as hereinafter defined) shown on the following table.

Enclosed Floor Area Minimums (in square feet)

1 Story Residence	2,400
1.5 Story Residence*	2,200
2 Story Residence*	2,200

*1.5 Story and 2 Story Residences shall contain a minimum of 1,200 square feet on the main level (first floor).

For purposes of this Section 3: A "Reverse1.5 Story Residence" (a ranch-style house with a ground level walk-out basement) shall be categorized along with 1.5 story Residences, and a Residence's "Enclosed Floor Area" shall mean and include, in all cases, areas on the first floor, second floor (if applicable) and basement level (in cases of Reverse 1.5 Story Residences) enclosed and finished for all-year occupancy, computed utilizing outside measurements of the Residence, and shall not include any areas in garages, porches or attics, or basements (except in cases of Reverse 1.5 Story Residences).

(b) No Residence designated as a "ranch with basement garage" or a "bi-level" by the Design Review Committee shall be constructed on any Lot.

(c) The Design Review Committee reserves the absolute and incontestable right to determine whether any Residence violates the foregoing prohibition and whether the Enclosed Floor Area of any Residence meets the minimum requirements provided for in this Section and hereby also reserves the right to approve deviations from the aforementioned building sizes and to modify any of the Enclosed Floor Area requirements set forth in this Section. The Design Review Committee's determination(s) in this regard shall be final.

4. **Time Limits for Construction or Reconstruction; Penalty for Violation.**

Unless the following time periods are expressly extended by the Design Review Committee, construction of any Residence on any Lot shall be commenced within 90 days following the date of delivery of a warranty deed from the Developer to the purchaser of such Lot, shall be diligently pursued, and shall be completed within 240 days after commencement. No Residence or exterior structure shall stand with its exterior in any unfinished condition for more than six months after commencement of

20050506-0002822 05/06/2005
P: 18 of 21 10:53:12 AM
Register of Deeds T20050024651
Johnson Co ROD B:200505 P:002822

construction. For the purposes of this section, commencement of construction is deemed to be the date a building permit is issued by the City. In the event such construction is not commenced within such 90-day period (or extension thereof), the Developer shall have, prior to commencement of construction, the right, but not the obligation, to repurchase such Lot at its original sale price. No Owner of a Lot in violation of this construction commencement provision shall be entitled to reimbursement for taxes, interest, or other expenses paid or incurred by or for such Owner.

Subject to the provisions of Article 5 of the Declaration of Deer Valley, in the event of fire, windstorm, vandalism or other casualty, no Improvements shall be permitted to remain in damaged condition for longer than three months before said damaged Improvements are demolished and removed from the Lot or before repairs commence. Such repairs shall be completed within six months after commencement.

If commencement or completion of such construction or reconstruction is delayed due to weather conditions, strikes, unavoidable shortages of materials, acts of God or other conditions over which the Owner has no control, the time allowed for completion shall be extended for that period of time caused by any such delay in construction.

Any Owner of a structure in violation of this section shall pay the Association a fine of no more than One Hundred Dollars ($100.00) per day, as determined by the Association for each day the violation continues. The fine provided for herein, if not paid when due by said Owner, shall become a lien upon the real estate upon which the structure in violation of this section is located; provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed upon said real estate. All fines shall be due thirty (30) days from the date of the written notice of the violation provided by the Association to the Owner of any Lot upon which the violation occurs, and if the fine is not paid within said thirty-day period, the fine shall bear interest at the rate of eighteen percent (18%) per annum until paid. Any such interest accruing shall also be a lien upon the real estate and all such liens may be enforced by the Developer or the Association in any court in Johnson County, Kansas, having jurisdiction of suit for the enforcement of such liens.

5. Fences, Walls, Decks, Outbuildings.

No fence, wall or deck shall be constructed, maintained or altered upon any Lot unless the location, design, configuration, height, color and materials are prior approved in writing by the Design Review Committee. No animal pens or runs shall be permitted. No fence, boundary wall or privacy screen shall be constructed or maintained on any Lot nearer to the street than the rear corners (as defined by the Design Review Committee) of the Residence. Any fence installed next to an existing fence on an adjacent Lot must be joined to such existing fence.

Fences shall be black wrought iron or untreated cedar in one of three styles shown on the attached Exhibit A-1. All fences must be stair-stepped to follow the grade of the Lot. Fences shall not exceed 48 inches in height unless specifically approved for a greater height by the Design Review Committee. Privacy fences over 48 inches in height, but not taller than 72 inches, may be permitted if located within the building setback lines and no further than 20 feet from the Residence and if specifically approved in writing by the Design Review Committee. Any such privacy fence shall be an approved style as shown on Exhibit A-1 or an alternate style deemed by the Design Review Committee to be compatible with the style of the Residence. No animal pens or runs shall be permitted.

No detached outbuilding, including, without limitation: sheds, barns, garages, and storage facilities, shall be erected upon, moved onto or maintained upon any Lot. Storage shall be permitted under a deck provided such area is screened as otherwise authorized herein.

6. Surface Drainage.

Final grading of each Lot shall adequately handle all run-off water in a reasonable manner which is in accordance and fully compatible with the grading of adjacent Lots, the master grading plan approved by the City, any related site grading plan furnished by the Developer and any specific site grading plan for the Lot approved by the Developer. No landscaping, berms, fences or other structures shall be installed or maintained that impedes the flow of surface water. Water from sump pumps shall be drained away from adjacent residences (actual and future). No changes in the final grading of any Lot shall be made without the prior written approval of the Design Review Committee and, if necessary, the City. The Developer shall have no liability or responsibility to any Builder, Owner or other party for the failure of a Builder or Owner to final grade or maintain any Lot in accordance with the master grading plan or an approved lot grading plan or for the Developer not requiring a lot grading plan and compliance therewith. The Developer does not represent or guarantee to any Owner or other person that any grading plan for the Lots that the Developer may approve or supply shall be sufficient or adequate or that the Lots will drain properly or to any Owner's or other person's satisfaction.

7. Roofs.

Roof materials, colors and brands shall be specifically approved in writing by the Design Review Committee. Roofs shall be covered with wood shingles or shakes; clay or concrete tile; slate; or with specific written approval of the Design Review Committee in its absolute discretion, high quality asphalt or composition shingles. Composition shingles of the Celotex brand, 40-year "Presidential" line, "weathered wood" color are hereby approved. Flat roofs and tar-and-gravel roofs are specifically prohibited. Bronze-colored flashing shall be used in valleys. Roofs shall have a minimum pitch of 3/12.

8. Exterior Wall Materials.

Exterior walls of all buildings, structures and all appurtenances thereto shall be of stucco, stone, brick, wood lap siding, wood shingles, wood or composite paneling (such as "Woodsman" brand siding), plate glass, glass block, or a combination thereof, provided, however, that panelized siding materials are restricted for use on side and rear elevations of a Residence only. Siding which simulates natural materials may be approved on a case-by-case basis by the Design Review Committee.

Notwithstanding the foregoing provisions of this Section 8 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into

general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Design Review Committee in its absolute discretion, shall be acceptable upon written approval by the Design Review Committee.

9. Exterior Colors.

Neutral, earth-tone colors are encouraged so that structures blend with the natural setting of the Neighborhood. Bright primary colors and pastels of primary colors shall not be permitted. Exterior colors and color combinations that, in the opinion of the Design Review Committee, are inharmonious shall not be permitted. Each Owner must submit a color plan showing the color of the exterior walls, shutters, doors, trim, etc., to the Design Review Committee prior to initial construction on any Lot. The Design Review Committee shall have final approval of all exterior color plans.

10. Windows and Doors.

All windows and exterior doors shall be constructed of glass, wood, colored metal, or vinyl clad and wood laminate or any combination thereof. Mirror finishes on window glass are specifically prohibited. Unpainted metal or bright finished window frames, screens, or accessories shall not be permitted.

11. Gutters and Downspouts.

Exposed metal gutters and downspouts shall be painted to match the trim or body color of the Residence.

12. Chimneys.

Any full chimney which is revealed on an exterior facade shall be supported by a full foundation. No metal pipe shall be exposed on the exterior of any fireplace or fireplace flue, and all fireplace flues shall be capped with a black or color-confirming low profile metal rain cap.

13. Paint, Stain.

Wood exteriors, except roofs, shall be covered with a workmanlike finish of two coats of high quality paint or stain, however certain natural siding materials which are intended to weather (such as cedar shingles) may be exempted from this requirement.

14. Exposed Concrete Foundations and Walls.

The exterior surface of all concrete foundations and walls which are exposed in excess of 12 inches above final grade shall be painted the same color as the Residence or covered with siding materials compatible with the structure.

15. Landscaping.

A detailed landscape plan must be submitted to and approved by the Design Review Committee prior to installation. Extensive landscaping is encouraged, and a minimum expenditure of $1,000 for front yard landscaping (excluding sod and irrigation systems) is required. All yards and the unpaved portions of street right-of-ways and easements contiguous thereto shall be fully sodded or planted with ground covers or covered with mulch, provided, however, that no duty to clear any tract of trees, bushes, shrubs, or natural growth which are kept reasonably attractive shall be implied. Both sod and required landscape installation shall be completed prior to first occupancy of the Residence, or the Owner shall escrow funds in an amount and manner determined by the Design Review Committee to assure such installation when weather permits. All vegetable gardens shall be located behind the rear corners of the Residence and at least five feet away from the boundary of the Lot. No vegetable garden(s) shall exceed 100 square feet in size on any Lot except with the prior written consent of the Design Review Committee.

The Developer shall have the right (but not the obligation) to install one or more trees on the public right-of-way adjacent to each Lot. The type and location of such trees shall be selected by the Developer in its absolute discretion.

16. Driveways and Sidewalks.

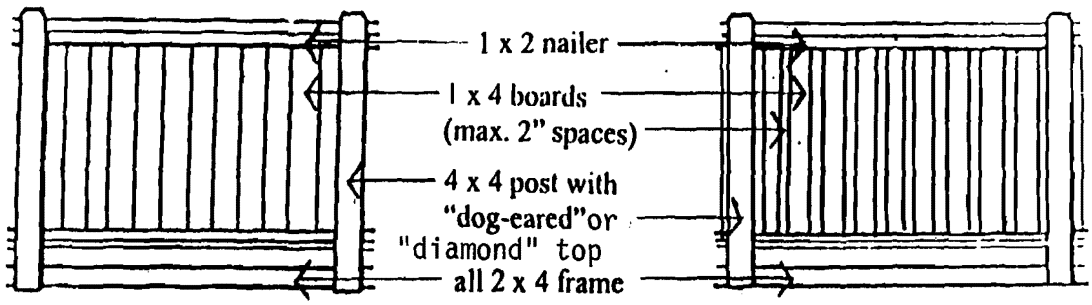
All driveways and sidewalks shall be concrete, patterned concrete, interlocking pavers, brick or other permanent stone finishes. No driveway shall be constructed in a manner as to permit access to a street across a rear lot line. Asphalt, gravel or natural driveways or sidewalks are specifically prohibited. Specific approval for circle driveways must be obtained in writing from the Design Review Committee before construction thereof on any Lot.

17. Garages.

All Residences shall have private garages for not less than two cars. Carports are specifically prohibited.

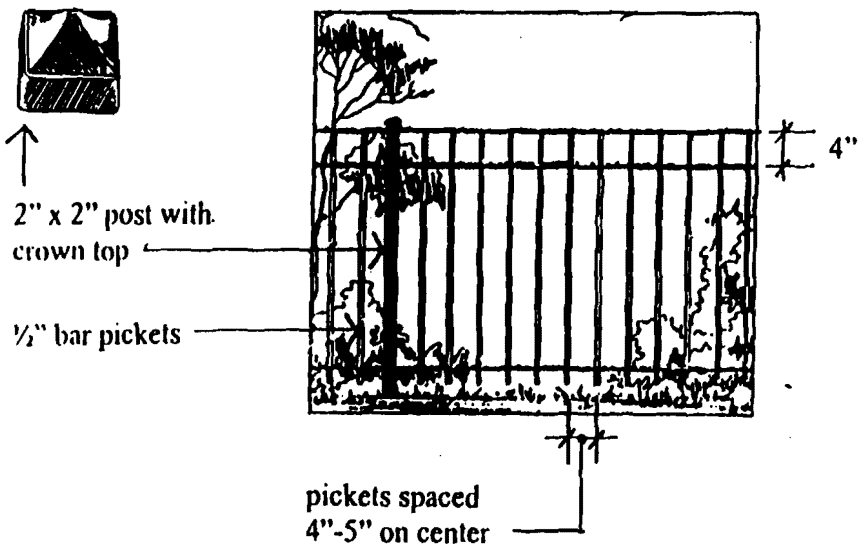
EXHIBIT A-1
DEER VALLEY DECLARATION
APPROVED FENCE STYLES

UNTREATED CEDAR



Solid Picture Frame **Spaced Picture Frame**

BLACK WROUGHT IRON



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Register of Deeds T20050024651
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RESOLUTION TO AMEND

BUILDING STANDARDS AND REQUIREMENTS

The undersigned are all of the members of the Design Review Committee, as described in the Declaration of Deer Valley ("Declaration"). Pursuant to Section 7.4 of the Declaration, which provides in part that "The Design Standards may, from time to time, be amended, supplemented or repealed by the Design Review Committee upon unanimous vote." The undersigned, being all of the members of the Design Review Committee, hereby agree and state as follows:

RESOLVED, that the first sentence of paragraph 2 of Section 5 of the Design Standards shall be replaced in its entirety as follows:

> Fences shall be black wrought iron, black aluminum or black powder-coated steel in one of the three styles shown on the attached Exhibit A-1. Cedar fences may be untreated or may be treated with protective sealer in a color commonly referred to as "Natural Cedar Tone".

All other portions of Section 5 remain unchanged.

FURTHER RESOLVED, that the foregoing amendment take effect immediately.

Dated: 5-31-07

Being All the Members of the Design Review Committee

Clay C. Blair III

Janet M. Blair

Frank Dean

RESOLUTION TO AMEND

BUILDING STANDARDS AND REQUIREMENTS

The undersigned are all of the members of the Design Review Committee, as described in the Declaration of Deer Valley ("Declaration"). Pursuant to Section 7.4 of the Declaration, which provides in part that "The Design Standards may, from time to time, be amended, supplemented or repealed by the Design Review Committee upon unanimous vote." The undersigned, being all of the members of the Design Review Committee, hereby agree and state as follows:

RESOLVED, that Section 15 of the Design Standards shall be replaced in its entirety as follows:

15. Landscaping.

A detailed landscape plan must be submitted to and approved by the Design Review Committee prior to installation. Extensive landscaping is encouraged, and a minimum expenditure of $2,500.00 for front yard landscaping (excluding sod and irrigation systems) is required. At least one shade tree shall be planted in the front yard of each lot and on each corner lot at least one shade tree shall be planted in the side yard adjacent to the public street. Such shade trees shall be a minimum of 2" caliper in size. All yards and the unpaved portions of street right-of-ways and easements contiguous thereto shall be fully sodded or planted with ground covers or covered with mulch, provided, however, that no duty to clear any tract of trees, bushes, shrubs, or natural growth which are kept reasonably attractive shall be implied. Both sod and required landscape installation shall be completed prior to first occupancy of the Residence, or the Owner shall escrow funds in an amount and manner determined by the Design Review Committee to assure such installation when weather permits. All vegetable gardens shall be located behind the rear corners of the Residence and at least five feet away from the boundary of the Lot. No vegetable garden(s) shall exceed 100 square feet in size on any Lot except with the prior written consent of the Design Review Committee.

FURTHER RESOLVED, that the foregoing amendment take effect immediately for all whose landscape plans have not been approved.

Dated: 2-6-07

Being All the Members of the Design Review Committee

Clay C. Blair III

Janet M. Blair

Frank Dean

Aaron

First American Title Insurance Company
115 East Park
Post Office Box 1125
Olathe, KS 66061

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AMENDMENT TO DECLARATION OF DEER VALLEY

THIS AMENDMENT to DECLARATION OF DEER VALLEY is made as of the **4th** day of **November,** 2005, by Deer Valley Development, L.L.C. (the "Owner") and relates to the following described land, to-wit:

> Lot 52 through and including Lot 105 Deer Valley Second Plat, Tract G & H Deer Valley Second Plat, and Tracts D, E, and F Deer Valley First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, as shown on Deer Valley Second Plat, heretofore filed of record in Book **200510**, Page **010552** on the **27th** day of **October,** 2005, in the office of the Register of Deeds, Johnson County, Kansas;

WITNESSETH:

WHEREAS, the Owner, as the owner of the above-described lots and tracts, desires to subject said lots and tracts to the covenants, restrictions, easements and other provisions contained in that certain Declaration of Deer Valley dated as of the 1st day of May, 2005 and filed for record in the office of the Register of Deeds, Johnson County, Kansas on the 6th day of May, 2005 in Book 200505, Page 002822 (the "Original Declaration").

NOW, THEREFORE, in consideration of these premises, and pursuant to the right and authority set out in Article 13 of the Original Declaration, the Owner for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the above-described lots and tracts shall be, and they hereby are, subject to the covenants, restrictions, easements and other provisions set forth in the Original Declaration and any amendments thereto. As contemplated in Article 13 of the Original Declaration, this instrument shall have the effect of subjecting the above-described lots and tracts to all of the provisions of the Original Declaration and any amendments thereto as though said lots and tracts had been originally described therein and subject to the provisions thereof.

In all other respects, the Original Declaration and any amendments thereto are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, the Owner has caused this instrument to be executed the date first above written.

DEER VALLEY DEVELOPMENT, L.L.C.

By:_____
Clay C. Blair, III, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

ON THIS 3 day of November, 2005, before me, the undersigned, a Notary Public to and for said County and State personally appeared Clay C. Blair to me personally known to be the person described in and who executed the foregoing instrument, who, being by me duly sworn, acknowledged that he is a member of Deer Valley Development, L.L.C., a Kansas limited liability company, and that he executed such instrument on behalf of said company by authority of its members, and said person acknowledged the execution of said instrument to be the act and deed of said Deer Valley Development, L.L.C.

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

Chrisanne M. Golding
Notary Public
Printed Name: Chrisanne M. Golding

My commission expires:

August 27, 2006

CHRISANNE M GOLDING
MY COMMISSION EXPIRES
August 27, 2006

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COPY

Stream Corridor Maintenance Agreement

THIS DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS: Maintenance Obligations for Stream Corridor is made this 1st day of May 2006, by DEER VALLEY DEVELOPMENT, L.L.C., (hereinafter referred to as "Property Owner")

RECITALS:

WHEREAS, the Property Owner is the owner of the following described real property (hereinafter, the "Property") located in the City of Overland Park, Johnson County, Kansas, to wit:

Final Plat of Deer Valley Second Plat
Final Plat of Deer Valley Fourth Plat.

WHEREAS, the Property Owner desires to develop the Property which contains a natural stream; and

WHEREAS, the term "Property Owner" as used in this document shall refer to the current owner of the Property described as the Final Plat of Deer Valley Fourth Plat, as well as all subsequent owners of any portion of the property contained within said Plat. This shall include, without being limited to, subsequent owners of individual lots developed for single family ownership, a Homes Association that may own any property held in common, or any other owners of land within the Property described in said Plat.

WHEREAS, Chapter 18.365 of the Overland Park Municipal Code allows reservation of a stream corridor through a Restrictive Covenant.

WHEREAS, Chapter 18.365 of the Overland Park Municipal Code requires the Property Owner to place certain restrictions and responsibilities within the stream corridor; and

WHEREAS, the stream corridor is located on Tract "J" Deer Valley Fourth Plat, in the City of Overland Park, Johnson County, Kansas; and

WHEREAS, the City of Overland Park has approved a Final Plat of Deer Valley Fourth Plat for the Property subject to the conditions and stipulations hereinafter set forth, including the recordation of this Declaration of Covenants, Easements, Conditions and Restrictions: Maintenance Obligations for the Steam Corridor, and

WHEREAS, the Property Owner desires to utilize the stream corridor in accordance with the Stream Corridor Plan as shown on Exhibit A.

WHEREAS, in order to insure the proper and adequate maintenance of the natural stream preservation corridor in compliance with legal requirements, it is necessary to establish binding covenants, conditions, and restrictions applicable to the Property, and

WHEREAS, the Property Owner does hereby establish the following regulations, stipulations, easements, covenants, conditions and restrictions pursuant to Chapter 18.365 of the Overland Park Municipal Code, on the Property:

1) The Property Owner shall provide and is responsible for all maintenance of the designated stream corridor as shown on the Property, including, without being limited to, the stream bed and all existing and future bank stabilization measures, in order to insure that all such facilities remain in proper working condition in accordance with approved design standards and all applicable legal requirements.

2) The Property Owner agrees to actively pursue measures to prevent unauthorized activities pursuant to Chapter 18.365 of the Overland Park Municipal Code which interfere with the preservation of the stream corridor.

3) The Property Owner will remove obstructions and excessive silt deposits within the stream corridor which might cause flooding of buildings, roadways, or other properties.

4) Permanent storm drainage and temporary construction easements, if required by the City in the future, shall be dedicated at no cost to the City.

5) The Property Owner shall indemnify and hold the City harmless from any and all damage, loss, claims or liability of any kind whatsoever arising from the installation, maintenance, repair, operation or use of the stream corridor or any facilities related thereto, including, but not limited to, any loss occasioned by reason of damage or injury to persons or property which may occur. In addition, the Petitioner shall pay all costs and expenses involved in defending all actions arising there from.

6) It is understood by Property Owner that the City of Overland Park is under no past, present, or future obligation to expend public funds or take any other action whatsoever to maintain or improve the storm drainage system in the stream corridor. The City or Property Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. The City or the Property Owner, shall have the right to include in their claim for relief a reasonable sum to reimburse them for their attorneys' fees and any other expenses reasonably incurred in enforcing their rights hereunder. Failure by the City or by the Property Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Neither shall failure by the City to enforce the provisions hereof be deemed a waiver of any provision hereof as to any other Owner.

7) If, after reasonable notice to the Property Owner, the Property Owner shall fail to maintain the stream corridor as set forth herein and other applicable legal requirements, the City may perform all necessary repair or maintenance work, and the City may assess the Property Owner and the Property, for the cost of the work and any applicable penalties. For the purposes of this document, "reasonable notice" shall consist of 30 days prior written notice sent to the Property Owner, unless there are exigent circumstances requiring either immediate or shorter response than said 30 days would provide, in which case the notice provided shall be whatever is reasonable under those circumstances. The Property Owner does herein grant the City, its agents and contractors, a right of entry on said property for the purpose of inspecting, installing, maintaining or repairing the stream corridor, and shall execute any documents deemed necessary by the City, if any, relating thereto.

   The City may record an Affidavit of Nonpayment of Maintenance Charges in the Office of the Register of Deeds of Johnson County, Kansas, stating (a) the legal description of the property upon which the lien is claimed, (b) the name(s) of the Owner(s) of said property as last known to the City, and (c) the amount of the Maintenance Charge which is unpaid. The Lien shall be created at the time of the filing and recording of the Affidavit and such lien shall be superior to all other charges, liens, or encumbrances which may thereafter in any manner arise or be imposed upon the subject property, whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, or other instrument, saving and excepting only such liens for taxes and other public charges as are by applicable law made superior.

8) While other provisions of this document may allow the City to take certain actions to enforce the terms of this document, it should be understood that the City has no duty or obligation to enforce those other provisions by entering the Property and performing maintenance or clearing obstructions within the stream corridor and assessing the Property Owner for reasonable expenses incurred performing this maintenance or taking any other action to enforce the terms and conditions set forth elsewhere in this document.

9) The Property Owner understands that the following activities are prohibited within the stream corridor except where to the extent allowed pursuant to Chapter 18.365 of the Overland Park Municipal Code:

   a. Regular mowing
   b. Clearing of healthy vegetation
   c. Disposal of grass clippings, leaves or other yard waste and debris

10) The Property Owner agrees to provide, without being limited to, the minimum maintenance within the stream corridor, or any portion thereof, in accordance with applicable provisions of the Overland Park Municipal Code; provided however if the stream corridor is dedicated and accepted by the City for use as public parkland, the corridor shall be maintained in accordance with established parkland maintenance policies, notwithstanding any other provision in this document to the contrary.

11) The Property Owner agrees to limit uses of the stream corridor to those as shown on the Stream Corridor Plan shown on Exhibit A.

These covenants and agreements as set forth herein, fully executed, shall be filed with the Register of Deeds in Olathe, Johnson County, Kansas, and the filing of the same shall constitute constructive notice to all heirs, successors, transferees, and assigns of the Property Owner of these covenants and agreements running with the land and notice of all stipulations made thereto. This document may not be amended or modified in any way without the prior written approval of the authorized officials of the City of Overland Park, Kansas, and that approval must be indicated on the face of any subsequently recorded document amending or modifying this document.

Notwithstanding other provisions of this document placing rights, duties, obligations and responsibilities on the Property Owner, as that term is defined herein, those rights, duties, obligations and responsibilities shall only be exercised or enforced in the following manner: when the property is owned by the current owner, or by a succeeding developer, those requirements shall only be exercised or enforced by or against those legal entities. When an approved Homes Association takes over ownership of the Property, those rights, duties, obligations and responsibilities shall succeed to that Association as provided in the legal documents creating the same. It is not the intent of this document to create or impose any rights, duties, obligations and responsibilities directly on subsequent owners of individual lot within the subdivision, unless or until the Homes Association is unwilling or unable to exercise or

comply with and enforce the terms of this document and fully meet all the duties, obligations and responsibilities set forth herein, including, without being limited to, payment of any costs imposed by this document by all means specified in the documents creating the Association, including assessment of individual lot owners when necessary. If that Association shall cease to exist or be in default of its duties, obligations or responsibilities as set forth herein, the City shall have the option of directly enforcing them against individual owners of lots within the subdivision.

The City, at Property owner's cost, shall cause this agreement to be filed with the Register of Deeds of Johnson County, Kansas. Each party hereto shall receive a duly executed copy of this Agreement for its official records.

IN WITNESS WHEREOF, the undersigned have caused this maintenance agreement to be duly executed the day and year first written above.

PETITIONER

DEER VALLEY DEVELOPMENT, L.L.C.

BY: _____
Clay Blair, III

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this 1st day of May 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Clay Blair, III, who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of Deer Valley Development, L.L.C., and said persons duly acknowledged the execution of the same to be the act and deed of the limited liability company.

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

My Commission Expires:

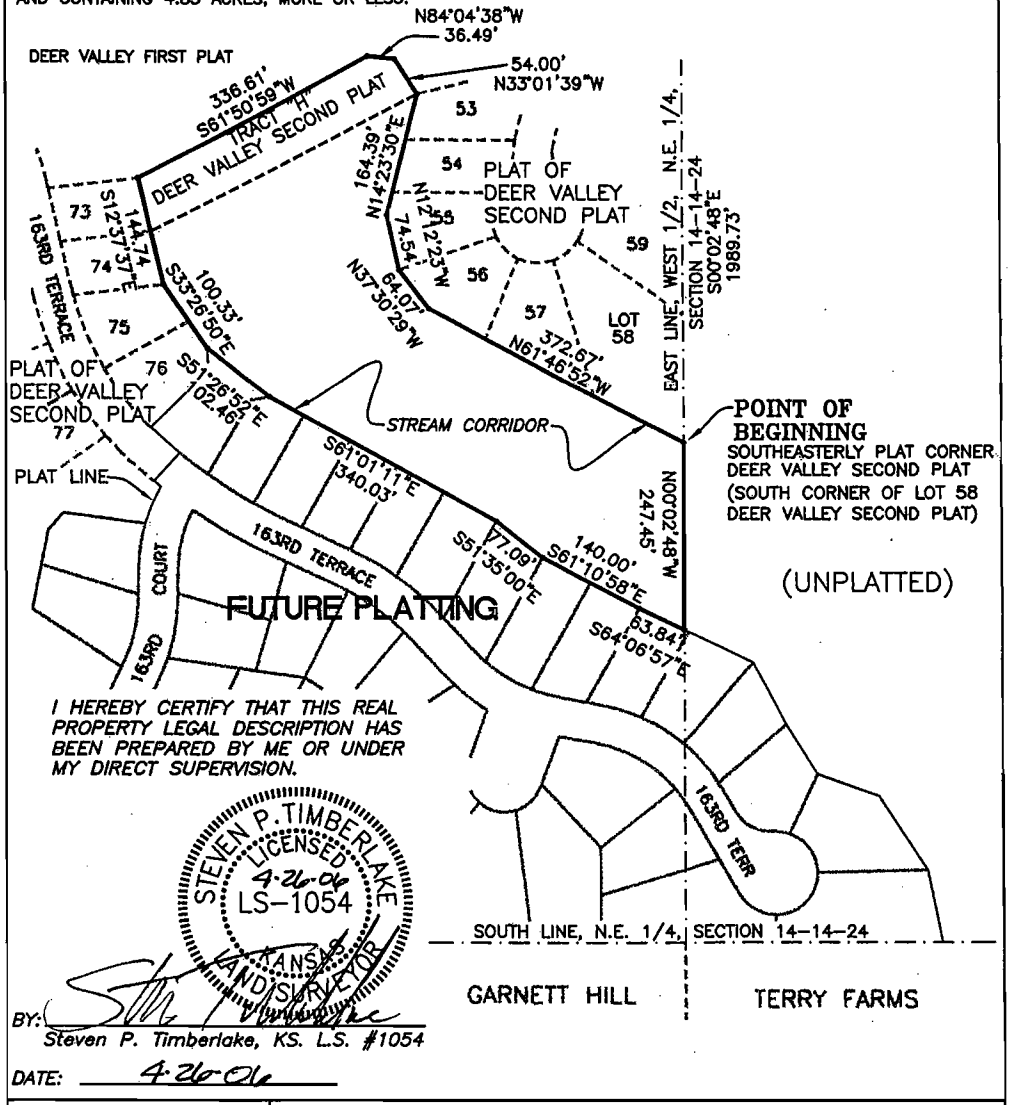
FRANK J. DEAN
Notary Public - State of Kansas
My Appt. Expires 3-21-09

_____
Notary Public

EXHIBIT "A"
STREAM CORRIDOR
PART OF THE THE NE 1/4 OF SECTION 14, T 14 S, R 24 E
IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS

DESCRIPTION:
ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 14, RANGE 24 EAST, IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST PLAT CORNER OF DEER VALLEY SECOND PLAT, A RECORDED SUBDIVISION IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS, SAID POINT ALSO BEING THE SOUTHEASTERLY LOT CORNER OF LOT 58, OF SAID DEER VALLEY SECOND PLAT, SAID POINT ALSO LYING ON THE EAST LINE OF THE WEST 1/2, OF THE NE 1/4, OF SAID SECTION 14; THENCE N 61°46'52" W, ALONG THE SOUTHERLY LINE OF SAID LOT 58 AND ALONG THE SOUTHERLY PLAT BOUNDARY OF SAID DEER VALLEY SECOND PLAT, A DISTANCE OF 372.67 FEET; THENCE CONTINUING ALONG SAID PLAT BOUNDARY FOR THE NEXT SIX COURSES; N 37°30'29" W, A DISTANCE OF 64.07 FEET; THENCE N 12°12'23" W, A DISTANCE OF 74.54 FEET; THENCE N 14°23'30" E, A DISTANCE OF 164.39 FEET TO THE SOUTHEAST CORNER OF "TRACT H" OF SAID DEER VALLEY SECOND PLAT; THENCE N 33°01'39" W, ALONG THE EASTERLY LINE OF SAID TRACT "H", A DISTANCE OF 54.00 FEET; THENCE CONTINUING ALONG SAID TRACT "H", N 84°04'38" W, A DISTANCE OF 36.49 FEET; THENCE S 61°50'59" W, ALONG THE NORTH LINE OF SAID TRACT "H", A DISTANCE OF 336.61 FEET; THENCE S 12°37'37" E, ALONG SAID TRACT "H" AND ALONG SAID DEER VALLEY SECOND PLAT, A DISTANCE OF 144.74 FEET; THENCE S 33°26'50" E, A DISTANCE OF 100.33 FEET TO A POINT ON THE EASTERLY LINE OF LOT 76 OF SAID DEER VALLEY SECOND PLAT; THENCE S 51°26'52" E, DEPARTING FROM SAID PLAT BOUNDARY, A DISTANCE OF 102.46 FEET; THENCE S 61°01'11" E, A DISTANCE OF 340.03 FEET; THENCE S 51°35'00" E, A DISTANCE OF 77.09 FEET; THENCE S 64°06'57" E, A DISTANCE OF 63.84 FEET TO A POINT ON THE EAST LINE OF THE WEST 1/2, OF THE NE 1/4, OF SAID SECTION 14; THENCE N 00°02'48" W, ALONG SAID EAST LINE, A DISTANCE OF 247.45 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.83 ACRES, MORE OR LESS.



I HEREBY CERTIFY THAT THIS REAL PROPERTY LEGAL DESCRIPTION HAS BEEN PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

STEVEN P. TIMBERLAKE LICENSED 4-26-06 LS-1054 KANSAS LAND SURVEYOR

BY: _____
Steven P. Timberlake, KS. L.S. #1054

DATE: 4-26-06

DATE:	3-21-06
PROJ. NO.:	05-017 05-162
DRAWN BY:	ST
SCALE:	1"=200'

SCHLAGEL & ASSOCIATES, P.A.
PLANNERS ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS
14920 WEST 107TH STREET • LENEXA, KANSAS 66215
PH. • 913-492-5158 FAX • 913-492-8400

Arcom

FIRST AMERICAN TITLE (SLT)
115 East Park St.
Olathe, KS 66061
913-782-5522 Fax 913-782-0401

20060824-0009117 08/24/2006
P: 1 of 3 F: $16.00 11:08:44 AM
Register of Deeds T20060043015
JO CO KS BK:200608 PG:009117

(Reserved for Register of Deeds)

SECOND AMENDMENT TO DECLARATION OF DEER VALLEY

THIS SECOND AMENDMENT to DECLARATION OF DEER VALLEY is made as of the 14 day of August, 2006, by Deer Valley Development, LLC (the "Developer").

WHEREAS, Developer executed a Declaration of Deer Valley, dated as of the 1st day of May, 2005 and filed for record in the office of the Register of Deeds, Johnson County, Kansas on the 6th day of May, 2005 in Book 200505, Page 002822 (the "Original Declaration"), which affected the following described real estate (the "Original Declaration Property"):

> Lots 1-51 inclusive and Tracts A-C inclusive of Deer Valley First Plat, a subdivision in the City Overland Park, Kansas filed for record on November 29, 2004 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200410 at Page 011240;

WHEREAS, Developer executed an Amendment to Declaration of Deer Valley, dated as of the 4th day of November, 2005 and filed for record in the office of the Register of Deeds, Johnson County, Kansas on the 8th day of November, 2005 in Book 200511, Page 003305 (the "First Amendment"), which affected the following described real estate:

> Lot 52 through and including Lot 105 Deer Valley Second Plat, Tract G & H Deer Valley Second Plat, and Tracts D, E, and F Deer Valley First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, as shown on Deer Valley Second Plat, heretofore filed of record in Book 200510, Page 010552 on the 27th day of October, 2005, in the office of the Register of Deeds, Johnson County, Kansas;

WHEREAS, the legal description set forth in the Amendment to Declaration of Deer Valley as described above was incorrect and should read as follows (hereafter referred to as the "First Amendment Parcel"):

> Lot 52 through and including Lot 104 Deer Valley Second Plat, Tract F, G & H Deer Valley Second Plat, and Tracts D and E Deer Valley First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, as shown on Deer Valley Second Plat, heretofore filed of record in Book

200510, Page 010552 on the 27th day of October, 2005, in the office of the Register of Deeds, Johnson County, Kansas;

WHEREAS, pursuant to the authority set forth in Article 15.2 of the Original Declaration, prior to the Turnover Date, the Developer has the sole and exclusive right, power and authority to amend, modify, revise or add to any of the terms of the Declaration;

WHEREAS, pursuant to the authority set forth in Article 12 of the Original Declaration, the Developer reserved the right to subdivide Lots, combine Lots and add to the neighborhood;

WHEREAS, the Developer has determined that it is desirable to eliminate Tract "F" of Deer Valley Second Plat and reconfigure Lots 64 and 65 of Deer Valley Second Plat and to add Lots 105 and 106 to the Neighborhood, all as set forth in Deer Valley Third Plat.

NOW, THEREFORE, in consideration of these premises, and pursuant to the right and authority set out in Article 12 and Article 15.2 of the Original Declaration, the Developer for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares as follows:

1. The legal description affecting the First Amendment shall be modified and amended to be the legal description set forth as the First Amendment Parcel and described above.

2. That all of the following described Lots shall be, and they hereby are, subject to the covenants, restrictions, easements and other provisions set forth in the Original Declaration and any amendments thereto:

Lots 64, 65, 105 and Lot 106 of Deer Valley Third Plat, a subdivision in the City Overland Park, Kansas filed for record on June 13, 2006 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200606 at Page 004855.

3. This instrument shall have the effect of subjecting the above-described Lots to all of the provisions of the Original Declaration and any amendments thereto as though said lots and tracts had been originally described therein and subject to the provisions thereof.

4. In all other respects, the Original Declaration and the First Amendment thereto are hereby ratified, confirmed and approved.

(signature page follows)

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed the date first above written.

DEER VALLEY DEVELOPMENT, LLC

By:_____
Clay C. Blair, III, Manager

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me, the undersigned, a Notary Public, by Clay C. Blair, III, as the Manager of Deer Valley Development, LLC, a Kansas limited liability company.

Aug. 14, 2006

Chrisanne M. Golding
Print Name: Chrisanne M. Golding
Notary Public in and for said County and State

My Appointment Expires:

August 27, 2006

STATE OF KANSAS OFFICIAL SEAL
CHRISANNE M GOLDING
MY COMMISSION EXPIRES
August 27, 2006

0066/7207393.2

20060824-0009117
P: 3 of 3
Register of Deeds
JO CO KS
08/24/2006
11:08:44 AM
T20060043015
BK:200608 PG:009117

XCCom

First American Title Insurance Company
115 East Park
Post Office Box 1125
Olathe, KS 66061

20070129-0008101 01/29/2007
P: 1 of 3 F: $16.00 11:07:30 AM
Register of Deeds T20070004083
JO CO KS BK:200701 PG:008101

(Reserved for Register of Deeds)

THIRD AMENDMENT TO DECLARATION OF DEER VALLEY

THIS THIRD AMENDMENT to DECLARATION OF DEER VALLEY is made as of the 24th day of January, 2007, by Deer Valley Development, LLC (the "Developer").

WHEREAS, Developer executed a Declaration of Deer Valley, dated as of the 1st day of May, 2005 and filed for record in the office of the Register of Deeds, Johnson County, Kansas on the 6th day of May, 2005 in Book 200505, Page 002822 (the "Original Declaration"), which affected the following described real estate (the "Original Declaration Property"):

> Lots 1-51 inclusive and Tracts A-C inclusive of Deer Valley First Plat, a subdivision in the City Overland Park, Kansas filed for record on November 29, 2004 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200410 at Page 011240;

WHEREAS, Developer executed an Amendment to Declaration of Deer Valley, dated as of the 4th day of November, 2005 and filed for record in the office of the Register of Deeds, Johnson County, Kansas on the 8th day of November, 2005 in Book 200511, Page 003305 (the "First Amendment"), which affected the following described real estate:

> Lot 52 through and including Lot 105 Deer Valley Second Plat, Tract G & H Deer Valley Second Plat, and Tracts D, E, and F Deer Valley First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, as shown on Deer Valley Second Plat, heretofore filed of record in Book 200510, Page 010552 on the 27th day of October, 2005, in the office of the Register of Deeds, Johnson County, Kansas;

WHEREAS, the legal description set forth in the Amendment to Declaration of Deer Valley as described above was revised as follows (hereafter referred to as the "First Amendment Parcel"):

> Lot 52 through and including Lot 104 Deer Valley Second Plat, Tract F, G & H Deer Valley Second Plat, and Tracts D and E Deer Valley First Plat,

a subdivision in the City of Overland Park, Johnson County, Kansas, as shown on Deer Valley Second Plat, heretofore filed of record in Book 200510, Page 010552 on the 27th day of October, 2005, in the office of the Register of Deeds, Johnson County, Kansas;

WHEREAS, Developer executed a Second Amendment to Declaration of Deer Valley ("Second Amendment"), dated as of the 14th day of August, 2006 and filed for record in the office of the Register of Deeds, Johnson County, Kansas on the 24th day of August, 2006 in Book 200608, Page 009117 (the "Second Amendment"), which included the addition of the following:

Lots 64, 65, 105 and Lot 106 of Deer Valley Third Plat, a subdivision in the City Overland Park, Kansas filed for record on June 13, 2006, 2006 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200606 at Page 004855.

WHEREAS, pursuant to the authority set forth in Article 15.2 of the Original Declaration, prior to the Turnover Date, the Developer has the sole and exclusive right, power and authority to amend, modify, revise or add to any of the terms of the Declaration;

WHEREAS, pursuant to the authority set forth in Article 12 of the Original Declaration, the Developer reserved the right to subdivide Lots, combine Lots and add to the neighborhood;

WHEREAS, pursuant to the Second Amendment the Developer determined that it is desirable to eliminate Tract "F" of Deer Valley Second Plat and reconfigure Lots 64 and 65 of Deer Valley Second Plat and to add Lots 105 and 106 to the Neighborhood, all as set forth in Deer Valley Third Plat and in the Second Amendment; and

WHEREAS, the Developer has determined that it is desirable to add Lots 107 to and including Lots 154 and Tract J of Deer Valley Fourth Plat, to the Neighborhood, all as set forth in Deer Valley Fourth Plat.

NOW, THEREFORE, in consideration of these premises, and pursuant to the right and authority set out in Article 12 and Article 15.2 of the Original Declaration, the Developer for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares as follows:

1. That all of the following described Lots shall be, and they hereby are, subject to the covenants, restrictions, easements and other provisions set forth in the Original Declaration and any amendments thereto:

Lots 107 to and including Lots 154 and Tract J of Deer Valley Fourth Plat, a subdivision in the City Overland Park, Kansas filed for record on September 8, 2006 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200609 at Page 002309.

2. This instrument shall have the effect of subjecting the above-described Lots to all of the provisions of the Original Declaration and any amendments thereto as though said lots and tracts had been originally described therein and subject to the provisions thereof.

3. Tract J of the Fourth Plat and Tract H of the Second Plat as described above are subject to a Stream Corridor Maintenance Agreement dated May 1, 2006, filed for record on

September 8, 2006 in the office of the Register of Deeds of Johnson County, Kansas and recorded in Book 200609 at Page 002310. The Stream Corridor Maintenance Agreement provides for the maintenance of a designated stream corridor as described therein. Rights and responsibilities of the parties thereto are incorporated herein.

4. In all other respects, the Original Declaration, the First Amendment and the Second Amendment thereto are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed the date first above written.

DEER VALLEY DEVELOPMENT, LLC

By: _____
Clay C. Blair, III, Manager

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on January 24, 2007, by Clay C. Blair III, as Manager of DEER VALLEY DEVELOPMENT, LLC, a Kansas limited liability company.

Chrisanne M. Golding
Print Name: Chrisanne M. Golding
Notary Public in and for said County and State

My Appointment Expires:

August 27, 2010

CHRISANNE M. GOLDING
Notary Public, State of Kansas
My Appointment Expires
8/27/2010

BYLAWS

OF

DEER VALLEY HOMEOWNERS ASSOCIATION, INC.

AMENDED AND RESTATED AS OF MARCH 9, 2009

ARTICLE I

Definitions

Section 1. "ASSOCIATION" shall mean and refer to Deer Valley Homeowners Association, Inc., a not-for-profit corporation organized and existing under the laws of the state of Kansas.

Section 2. "ARTICLES OF INCORPORATION" shall mean the Articles of Incorporation of Deer Valley Homeowners Association, Inc., as such Articles of Incorporation may from time to time be amended.

Section 3. "BYLAWS" shall mean the Bylaws of Deer Valley Homeowners Association, Inc., as originally adopted and as from time to time amended.

Section 4. "DECLARATION" shall mean the Declaration of Deer Valley filed for record with the Register of Deeds for Johnson County, Kansas on May 6, 2005, in Book 200505, Pages 002822, as such Declaration has been or may from time to time be amended.

Section 5. "LOT" means any lot as shown as a separate parcel on any recorded plat of all or part of the Subdivision; provided, however, that if an Owner, other than the Developer, owns adjacent lots (or parts thereof) upon which only one residence has been, is being, or will be erected, then (i) for purposes of determining the amount of annual and special assessments due with respect thereto from time to time, such adjacent property under common ownership shall constitute such whole or partial number of Lots as may be specified in writing by the Developer, and (ii) for all other purposes hereunder, such adjacent property under common ownership shall be deemed to constitute only one 'Lot'.

Section 6. "BOARD" means the Board of Directors of the Association.

Section 7. "CERTIFICATE OF SUBSTANTIAL COMPLETION" means a certificate executed, acknowledged and recorded by the Developer stating that all or, at the Developers discretion, substantially all of the Lots in the Neighborhood (as then composed or contemplated by the Developer) have been sold by the Developer and the residences to be constructed thereon are substantially completed; provided, however, that the Developer may execute and record a Certificate of Substantial Completion or similar instrument in lieu thereof in its absolute

discretion at any time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Association or any other person or entity.

Section 8. "CITY" means the City of Overland Park, Kansas.

Section 9. "COMMON AREAS" means all land designated by Developer for the general use, benefit or enjoyment of all owners, tenants and occupants of the Neighborhood which is (a) designated as a tract on any plat of any portion of the Neighborhood, (b) deeded to the Association by or at the direction of the Developer, or (c) the subject of easements, teases, licenses or other rights of use granted to the Association by or at the direction of the Developer, together with all improvements, fixtures, equipment and other tangible personal property located on, used in connection with or forming a part of any of the foregoing land, including, without limitation: buildings and structures; plantings, irrigation systems and other landscape features; playgrounds, picnic areas, swimming pools and other recreational facilities and equipment; sidewalks, traits and walkways; lighting, signs, monuments, walls, fences and sculptures; and drainage facilities, PROVIDED, HOWEVER, the foregoing does not constitute a representation or warranty that any Common Area so enumerated wilt exist within the Neighborhood.

Section 10. "DEVELOPER" means Deer Valley Development, L.L.C., a Kansas limited liability company, and its successors and assigns.

Section 11. "HOMES ASSOCIATION" means the Deer Valley Homeowners Association, a Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homeowner association for the Neighborhood.

Section 12. "OWNER" means each person or persons and/or entity or entities who may from time to time own fee simple title to any Lot, including the Developer, but excluding those having such interest merely as security for the performance of an obligation.

Section. 13. "RIGHT-OF-WAY AMENITIES" has the meaning set forth in the Declaration.

Section 14. "NEIGHBORHOOD" means collectively all of the above-described tots and tracts in Deer Valley, all Common Areas, and all additional property which hereafter may be made subject to the Declaration in the manner provided therein.

Section 15. "TURNOVER DATE" means the earlier of: (1) the first day of the next fiscal year of the Association following that date on which Developer no longer owns any lot in the Neighborhood, or (b) the effective date designated by Developer, in a notice to the members of the Association, stating that Developer relinquishes control.

ARTICLE II

Location

Section 1. The principal office of the Association shall be located at 14819W. 95th Street, Lenexa, Kansas 66215, or such other place as may from time to time be designated by the Board.

ARTICLE III

Membership

Section 1. Every Owner of a Lot included within the Neighborhood, or any portion thereof as more particularly described on any document now or hereafter recorded, together with the owners of any other land which may from time to time be added by Developer and made subject to all of the terms and provisions of the Declaration, Articles of Incorporation and these Bylaws, by filing for record in the Register of Deeds of Johnson County, Kansas, shall be a member of the Association. No Owner shall be permitted or allowed to disclaim said membership and the duties, obligations and benefits thereof nor withdraw from the Association for any reason; provided, that the foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for performance of an obligation.

Section 2. The rights of membership are subject to the payment of monthly, annual and special assessments levied by the Association, the obligation of which assessments is imposed against each Owner of a Lot, as provided in the Declaration.

Section 3. The membership rights of an Owner, including but not limited to the rights provided for in Articles III and IV of these Bylaws, may be suspended by action of the Board during the period when the assessments remain unpaid; but, upon payment of such assessments, said owner's rights and privileges shall be automatically restored. The Board may adopt and publish rules and regulations governing the use of the amenities of the Association, and the personal conduct of any person thereon, as provided in Article VIII hereof, and in the event of breach of such rules and regulations the Board may, in its discretion, suspend the rights of any person for violation of such rules and regulations, such suspension period not to exceed thirty (30) days.

ARTICLE IV

Voting Rights

Voting rights shall be as provided in the Declaration.

ARTICLE V

Association Purposes and Powers

The Association has been organized for the purpose of protecting, maintaining, improving, operating and administering the Neighborhood, including Common Areas and Right-of-Way Amenities, including taking necessary action to levy and collect the assessments herein provided for, pay expenses and losses and do such other things as are provided or contemplated in the Declaration, the Articles of Incorporation or these Bylaws. The Association shall not be deemed to be conducting a business of any kind, and shall hold and apply all funds it receives for the benefit of the Neighborhood in accordance with the provisions of this Declaration and the Articles of Incorporation and these Bylaws.

ARTICLE VI

Board of Directors

Section 1. The affairs of the Association shall be managed by a Board of five (5) Directors who must be members of the Association. The annual meeting shall be held the last Tuesday of March each and every year, at which meeting the members shall elect Directors. The number and term of Directors for the Association may, from time to time, be changed by majority vote of not less than one half (1/2) of the members entitled to vote thereon, which change in number of Directors shall be reflected by amendment to the Articles of Incorporation and resultant amendment to these Bylaws; provided that the number of Directors as authorized by the Articles of Incorporation and these Bylaws shall always be an odd number.

Section 2. Vacancies in the Board shall be filled by a vote of the majority of the Directors. Any Director shall hold office until their successor is elected by the members, who may be elected at the next annual meeting of the members or at any special meeting duly called for that purpose.

ARTICLE VII

Election of Directors; Nominating Committee; Election Committee

Section 1. Election to the Board shall be by written ballot as hereinafter provided. At such election, the members or their proxies may cast, in respect of each vacancy, as many votes as they are entitled to exercise under the provisions of the recorded documents applicable to the Neighborhood. The names receiving the largest number of votes shall be elected.

Section 2. Nominations for election to the Board shall be made by a Nominating Committee

which shall be one of the Standing Committees of the Association.

Section 3. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more members of the Association. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting.

Section 4. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members, as the committee, in its discretion, shall determine. Nominations shall be placed on a written ballot which shall be sent to all members with written notice of the meeting at which any such election is to be held. At the annual or special meeting at which such election is being held, the ballots shall be collected and counted, and the results of such election shall be announced at the meeting.

ARTICLE VIII

Powers and Duties of the Board of Directors

Section 1. The Board shall have power:

(a) To call special meetings of the members whenever it deems necessary and it shall call a meeting at any time upon written request of one-fourth (1/4) of the voting owners, as provided in Article XII, Section 2.

(b) To appoint and remove at its pleasure, all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any member, officer or Director of the Association in any capacity whatsoever.

(c) To adopt and publish rules and regulations governing the use of the Association property and the personal conduct of the members and their guests thereon.

(d) To exercise for the Association all powers, duties and authority vested in or delegated to this Association, including those referred to in the Declaration except those reserved to the owners.

(e) In the event that any member of the Board of this Association shall be absent from three (3) consecutive regular meetings of the Board, the Board may by action taken at the meeting during which the third absence occurs, declare the office of the absent Director to be vacant.

(f) To contract with a professional association management company to carry out any of the powers and duties of the Board.

Section 2. It shall be the duty of the Board:

(a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting when such is requested in writing by one-fourth (1/4) of the voting owners.

(b) To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.

(c) To carry out the purposes of this Association including, but not by way of limitation, maintenance of the Association property, and if a majority of the Board approves to employ a professional real estate management company.

(d) As more fully provided in the Declaration applicable to the Neighborhood, to establish, levy and assess against the Lots, and collect the assessments, and in connection therewith:

(1) To implement and enforce the amount of the assessment against each Lot as provided in the Declaration;

(2) To prepare a roster of the Owners and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any member, and, at the same time;

(3) To send written notice of each assessment to every Owner subject thereto.

(e) To issue, or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

ARTICLE IX

Directors' Meetings

Section 1. A regular meeting of the Board shall be held at 1:00 p.m. on the last Tuesday of March provided that the Board may, by resolution, change the day and hour of holding such regular meeting.

Section 2. Notice of such regular meeting is hereby dispensed with.

Section 3. Special meetings of the Board shall be held when called by a majority of the Directors then serving after not less than three (3) days' notice to each Director.

Section 4. The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof All such waivers, consents or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

Section 5. The majority of the Board shall constitute a quorum thereof

ARTICLE X

Officers

Section 1. The officers shall be a Chairman of the Board, a President, a Vice President, a Secretary, and a Treasurer. The Chairman of the Board, President and Vice President shall be members of the Board, and the Chairman of the Board and President may be the same individuals.

Section 2. The officers shall be chosen by majority vote of the Directors.

Section 3. All officers shall hold office during the pleasure of the Board.

Section 4. The Chairman of the Board shall preside at the meetings of the Board, shall see that orders and resolutions of the Board are carried out and sign all notes, checks, leases, deeds of trust, chattel mortgages, financing statements, deeds, and all other written instruments.

Section 5. The President shall preside at all meetings of the members at which the President is present, and shall do and perform such other duties and may exercise such other powers as from time to time may be assigned to the President by these Bylaws or by the Board.

Section 6. The Vice President shall perform all the duties of the President in the absence of the President.

Section 7. The Secretary shall be ex-officio. The Secretary of the Board shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall sign all certificates of membership. The Secretary shall keep the records of the Association. The Secretary shall record in a book kept for that purpose the names of all members

of the Association together with their addresses as registered by such members.

Section 8. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board, provided however, that a resolution of the Board shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association, provided that such checks and notes shall also be signed by the President or the Vice President.

Section 9. The Treasurer shall keep proper books of account and cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year. The Treasurer shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet shall be presented to the membership at its regular annual meeting.

ARTICLE XI

Committees

Section 1. The Board, may in its discretion, appoint Standing Committees of the Association, including, but not limited to:

The Nominating Committee
The Design Review
The Audit Committee
The Pool, Recreation & Social Committee

Unless otherwise provided herein, each committee shall consist of a Chairman and two or more members and shall include a member of the Board for board contact. The committees shall be appointed by the Board prior to each annual meeting to serve from the close of such meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting. The Board may appoint such other committees as it deems desirable.

Section 2. The Nominating Committee shall have the duties and functions described in Article VII.

Section 3. The Design Review Committee shall establish design standards, shall review and approve improvements, alterations and replacements of or to ay improvements within the Neighborhood, and shall perform the duties and functions described in Article 7 of the Declarations.

Section 4. The Audit Committee shall supervise the annual audit of the Association's books and approve the annual budget and balance sheet statement to be presented to the membership at its regular annual meeting. The Treasurer shall be an ex officio member of the Committee.

Section 5. The Pool, Recreation and Social Committee shall supervise the use and operation of the swimming pool and recreational equipment and perform such other duties as the Board in its discretion determines.

Section 6. With exception of the Nominating Committee, each committee shall have power to appoint a subcommittee from among its membership and may delegate to any such subcommittee any of its powers, duties and functions.

Section 7. It shall be the duty of each committee to receive complaints from members on any matter involving Association functions, duties, and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, director or officer of the Association further concerned with the matter presented.

ARTICLE XII

Meetings of Members

Section 1. A regular annual meeting of the members shall be held at 7:00 p.m. on the last Tuesday of March each and every year. If the day for the annual meeting of the members shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday.

Section 2. Special meetings of the members for any purpose may be called at any time by the Developer, a majority of the Board then serving, or upon written request of the Owners who have a right to vote one-fourth (1/4) of all of the votes.

Section 3. Notice of any meetings shall be given to the Owners by the Secretary. Notice may be given to each Owner either personally, or by sending a copy of the notice through the mail, or by e-mail. Each member shall register his address with the Secretary, and notices of meetings shall be mailed to said member at such address. Notice of any meeting, regular or special, shall be mailed at least six (6) days in advance of the meeting and shall set forth in general the nature of the business to be transacted, provided however, that if the business of any meeting shall involve an election governed by Article VII or any action governed by the Articles of Incorporation or the Declaration, notice of such meeting shall be given or sent as therein provided if different.

Section 4. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each Class of membership shall constitute a quorum for any action governed by these Bylaws. Any action governed by the Articles of Incorporation or the Declaration shall require a quorum as therein provided.

ARTICLE XIII

Proxies

Section 1. At all corporate meetings of members, each member may vote in person or by proxy.

Section 2. All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (II) months, and every proxy shall automatically cease upon sale by the owner of a Lot.

ARTICLE XIV

Books and Papers

Section 1. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any members.

ARTICLE XV

Corporate Seal

Section 1. The Association at the option of the Directors shall have a seal in circular form having within its circumference the words:

"Deer Valley Homeowners Association, Inc."

ARTICLE XVI

Amendments

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of the class of Owners entitled to vote present in person or by proxy, provided that those provisions of these Bylaws which are governed by the Articles of Incorporation of this Association may not be amended except as permitted in the Articles of Incorporation or applicable law; and provided further that any matter stated herein to be or which is in fact governed by the Declaration may not be amended except as provided in the Declaration.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and

these Bylaws, the Declaration shall control.

ARTICLE XVII

Indemnification of Officers and Directors

Section 1. Each director, officer, former director and former officer of this Association and the legal representatives thereof shall be indemnified and held harmless by this Association against liabilities, expenses, counsel fees and costs reasonably incurred by him or his estate in connection with or arising out of any action, suit, proceeding or claim in which he is made a party by reason of his being, or having been, such director or officer; provided that this Association shall not indemnify such director or officer with respect to any matters as to which he shall be finally adjudged in any such action, suit or proceeding to have been liable for gross negligence or willful misconduct in the performance of his duties as such director or officer. The indemnification herein provided for, however, shall apply also in respect of any amount paid in compromise of any such action, suit, proceeding or claim asserted against such director or officer (including expenses, counsel fees and costs reasonably incurred in connection therewith), provided the Board shall have first approved such proposed compromise settlement and determined that the director or officer involved was not guilty of gross negligence or willful misconduct; but in taking such action any director involved shall not be qualified to vote thereon, and if for this reason a quorum of the Board cannot be obtained to vote on such matter, it shall be determined by a committee of three (3) persons appointed by the Owners at a duly called special meeting or at an annual meeting. In determining whether or not a director or officer was guilty of gross negligence or willful misconduct in relation to any such matters, the Board or committee appointed by the members, as the case may be, may rely conclusively upon an opinion of independent legal counsel selected by such Board or committee. Any compromise settlement authorized herein shall not be effective until submitted to and approved by a court of competent jurisdiction. The right to indemnification herein provided shall not be exclusive of any other rights to which such director or officer may be lawfully entitled.

IN WITNESS WHEREOF, we, being all of the Directors of Deer Valley Homeowners Association, Inc., have hereunto set our hands this 16th day of March, 2009.

(Signature)

CLAY KEITH
(Printed Name)

Frank J. Dean
(Signature)

FRANK J. DEAN
(Printed Name)

Janet M. Blair
(Signature)

Janet M. Blair
(Printed Name)

AMENDMENT
TO
BYLAWS OF
DEER VALLEY HOMEOWNERS ASSOCIATION

The undersigned, being the Developer having controlling interest of the Deer Valley Homeowners Association, a Kansas non-profit corporation ("the Association"), do hereby consent to the adoption of, and do hereby adopt, the following resolution:

BE IT RESOLVED, that Article VI, Section 1 of the Bylaws of the Association be and hereby amended to read as follows:

Section 1. The affairs of the Association shall be managed by a Board of five Directors who must be members of the Assoeiation. The annual meeting shall be held on the last Tuesday of March of each and every year. At the annual meeting in March 2009, members shall elect five Directors, three of whom shall serve a three year term, and two of whom shall serve a two year term. Thereafter, beginning in March 2011, at each annual meeting in odd numbered years, members shall elect two Directors. In even numbered years, beginning in March 2012, ınembers shall elect three Directors. After the Mareh 2009 election future elected Directors shall serve a two year term.

The number and term of Directors for the Assoeiation may, from time to time, be changed by majority vote of not less than one half (1/2) of the members entitled to vote thereon, which change in number of Directors shall be reflected by amendment to the Articles of Incorporation and resultant amendment to these By-Laws; provided that the number of Directors as authorized by the Articles of Incorporation and these By-Laws shall always be an odd number.

The undersigned certify that the above amendinent was approved on March 10, 2010.

Deer Valley Development LC
by [signature] Member
3-11-10

DEER VALLEY

RULES AND REGULATIONS

Deer Valley Assessment Enforcement Policy

This policy sets forth Deer Valley's procedures for collecting delinquent Assessments pursuant to Article 3 of the Declaration:

1. 30 days after Assessment is first due the Assessment shall bear interest from the due date until paid at the highest rate allowable under Kansas law. **In addition all Homeowners Association provided services (pool, trash, etc.) will be suspended.**

2. 60 days after Assessment is first due a certificate of nonpayment (lien) will be filed against the property and for each certificate so filed, the Association shall be entitled to collect from the Owner of the Lot described therein a fee of $100.00 plus the costs of recording such certificate, which fee shall be part of the Costs included in the lien.

3. If after 90 days an Assessment is still delinquent the Homeowners Association will pursue legal remedy in a court of law.

Deer Valley Rules and Regulations Enforcement Policy

This policy sets forth Deer Valley's procedures for enforcing the Declaration, By-Laws, and any Rules and Regulations adopted by the Board of Directors. In addition, this policy makes owners and/or residents responsible for the actions of their guests and tenants while on Deer Valley property.

Pursuant to Article 3 of the Declaration and Article VIII Section 1c of the By-Laws, the following shall be the enforcement procedures used when owners, residents, guests, or tenants are in violation of the Declaration, By-Laws, and/or any Board-approved Rules and Regulations:

1. The owner and/or resident will receive a written request ("First Warning") to remedy the violation(s) within 10 days.

2. After 10 days from the "First Warning", if the violation remains, the owner and/or resident will receive a written warning ("Second Warning")

requesting that the violation(s) be remedied within 10 days, and a fine of $50 (per violation) will be assessed to the owner's account.

3. After 20 days from the “First Warning”, if the violation(s) remain(s), the owner and/or resident responsible for the violation(s) will receive another written warning ("Third Warning") indicating that a fine of $100 (per violation) has been assessed to the owner's account, and requesting that the violation(s) be remedied within 10 days.

4. After 30 days from the “First Warning”, if the violation(s) remain(s), the owner and/or resident responsible for the violation(s) will be assessed a $25 per day charge (per violation) until the violation(s) has been remedied.

5. All monetary charges added to the owner's account pursuant to this policy will be collected and enforced pursuant to Article 3.8 of the Declaration.