

DECLARATION OF RESTRICTIONS

SYMPHONY HILLS HOMES ASSOCIATION

WHEREAS, a plat of land known as Symphony Hills, has been filed with the Register of Deeds of Johnson County, Kansas at Plat Book 101, Page 35.

WHEREAS, said plat creates Symphony Hills, composed of lots and tracts described in Exhibit "A", attached hereto; and

WHEREAS, said plat dedicates to the public all of the streets and roads shown on said plat for use by the public; and

WHEREAS, **the homeowners of Symphony Hills (herein after "homeowners") by and through the Symphony Hills Homes Association, a Kansas corporation**, now desire to place certain restrictions thereon, all of which restrictions being for the use and benefit of **homeowners**, and for its future grantees and assigns.

NOW, THEREFORE, in consideration of the premises, the **homeowners for themselves and their successors**, grantees and assigns, hereby agrees that all of the lots, tracts and land described in Exhibit "A" shall be and they are hereby restricted as to their use in the manner herinafter set forth.

DEFINITION OF TERMS USED:

For the purposes of these restrictions, the word **"Homeowners" shall mean all present homeowners of any house in Symphony Hills** and their successors and assigns.

The word "street" shall mean any street, road, drive or terrace of whatever name, as shown on said plat of Symphony Hills.

The word “outbuilding” shall mean an enclosed or unenclosed covered structure, not directly attached to the residence to which it is appurtenant.

The word “lot” may mean either any numbered lot as platted, or any tract or tracts of land as conveyed, which may consist of one or more numbered lots, as platted, or part or parts of one or more numbered lots, as platted, and upon which a residence may be erected in accordance with the restrictions hereinafter set forth. A “corner lot” shall be deemed to be any lot as platted, or any tract of land as conveyed, having more than one street contiguous to it.

The word “tract” shall mean any area identified and shown on said plat.

The terms “district” or “subdivision” as used in this agreement shall mean all of the land described in Exhibit A attached hereto (hereinafter referred to as “Symphony Hills”). If and when other land shall, in the manner hereinafter provided for, be added to that described above, then the terms “district” and “subdivision” shall thereafter mean all land which shall from time to time be subjected to the terms of this agreement, including any future modifications thereof. The term “improved property” as used herein, shall be deemed to mean a single tract under a single ownership and use, and on which tract a residence has been erected or is in the process of erection or on which any other building not in violation of restrictions then of record thereof is erected or is in process of erection. Any such tract may consist of one or more contiguous lots or part or parts thereof. Any other land covered by this agreement shall be deemed to be vacant and unimproved.

The term “Association” shall mean the Symphony Hills Homes Association, a Kansas corporation.

The term “public places” as used herein shall be deemed to mean all streets.

The term “owners” as herein used shall mean those persons or corporations who may from time to time own the land within the district.

PERSONS BOUND BY THESE RESTRICTIONS:

Those who execute this instrument and all persons and corporations who or which may own or shall hereafter acquire any interest in the lots and land attached in Exhibit A hereby restricted shall be taken to hold and agree and covenant with the owners of said lots and land, and with their successors and assigns, to conform to and observe the following covenants, restrictions, and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending on December 31, **2023**, provided, however, that each of said restrictions shall be renewable or amended in the manner hereinafter set forth.

The covenants are to run with the land and shall be binding on all owners within the subdivision and their grantees, heirs and assigns and all persons claiming under them until December 31, **2023**, and shall be automatically continued thereafter for successive periods of twenty (20) years each, unless the owners of the fee title to the majority of said lots shall by resolution at a special meeting called for that purpose upon mailed notices to all such owners, release, change, amend or alter any or all of said restrictions, to be effective at the end of any such twenty (20) year period. Such release, change, amendment or alteration shall be in writing, shall be signed and acknowledged by the owners of the lots agreeing thereto, and shall be filed with the Register of Deeds of Johnson County, Kansas within two (2) years prior to the expiration of said twenty (20) year period. Provided this document may be amended at any time upon the affirmative vote of **a simple majority** of the owners of the fee title to said lots. Such amendment

shall be in writing, shall be signed and acknowledged by the owners of the lots agreeing thereto, and shall be filed with the Register of Deeds of Johnson County, Kansas. The following restrictions or protective covenants shall be kept by all persons owning, occupying or using said lots and land and may be enforced by injunction, mandatory and otherwise; the Association may recover its costs and reasonable attorneys fees in connection with such proceedings.

In the event any of the restrictions herein become, in the opinion of the Association, obsolete or unlawful due to technological advancements or a change in the law, the Association may file a Declaratory Judgment action in the District Court of Johnson County, Kansas, seeking a determination of such obsolescence or illegality; the ruling of the Court shall be final and binding, and this Declaration shall be automatically amended to be consistent with such ruling.

If any party hereto, or any of its grantees or assigns, shall violate or attempt to violate any covenants herein, it shall be lawful for any other person or persons owning any real estate in Symphony Hills to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenants and either prevent him, her it or them from so doing to recover damages for such violation.

Invalidation of any one of these restrictions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

1. No lot in Symphony Hills shall be used for any purpose except residential one-family residences. No building shall be erected, altered, placed or permitted to remain in any lot, other than one detached single-family

dwelling not to exceed three (3) stories in height and an attached private garage for not less than two (2) cars.

2. No lot shall be in any way subdivided. No building, structure, appurtenance or improvement of any type shall be erected, placed or altered on any lot until construction plans and specifications, including a plan showing location on the lot, have been approved by the Architectural Control Committee, hereafter defined. The Architectural Control Committee shall have the absolute discretion to approve or disapprove such plans, and shall consider same in connection with these restrictions, quality and type of workmanship and materials, harmony of external design and colors with existing structures and landscape, and location with respect to topography and finished grade elevation. Any person aggrieved by the decision of the Architectural Control Committee shall have such right of appeal as may be set forth in the By-Laws of the Symphony Hills Homes Association or the rules and regulations established from time to time by the Board of Directors of said Association. No fences shall be erected, placed or altered without the prior approval of the Architectural Control Committee.
 - A. The Architectural Control Committee will be composed of the Board of Directors of the SYMPHONY HILLS HOMES ASSOCIATION (“Board of Directors”), or a subcommittee designed by it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. The Committee shall establish rules and regulations pertaining to the filing of plans, hearings, notice and other procedures.

- B. The Architectural Control Committee shall have control over the completed homes in Symphony Hills at or after the recording of this Declaration, which shall include but is not limited to exterior and/or trim color on homes, and any changes from original exterior and/or trim color shall require the approval of the Architectural Control Committee.
- C. No building shall be located nearer than twenty-five (25) feet to the existing street lot line as shown in the recorded plat(s) of Symphony Hills.
- D. No building shall be located nearer than five (5) feet to any interior line lot.
- E. For the purposes of setbacks, eaves, steps and open porches shall not be considered part of a building, provided, however, that this shall not be construed to permit any portion of a building or structure to encroach upon another lot.
- F. No fencing shall be permitted upon any of the lots except of materials and type as that depicted in Exhibit B or as approved by the Architectural Control Committee. No fence shall exceed sixty inches (60") in height **above ground level** unless specifically approved for a greater height by the Architectural Control Committee. No animal pens or runs shall be permitted without the approval of the Architectural Control Committee.
- G. All houses shall have external driveways consisting exclusively of properly constructed concrete surfaces; all lots, regardless of house location thereon, shall be fully sodded, unless an exception is granted by the Architectural Control Committee for special circumstances, which may include but is not limited to, soil, lighting or topographical conditions that would make sodding impractical or unreasonably expensive; and provided further that no duty to clear any tract of trees, bushes, shrubs or natural growths which are kept reasonably attractive shall be implied.
- H. Each lot shall be used for only single-family residential purposes. The Board of Directors may establish rules and regulations for the use of a portion of a home by the owner thereof in furtherance of his or her occupation; provided, however, that such a use shall not otherwise result in the violation of these restrictions or permit advertising (on or off site) or visitation by customers or clients at the home.

- I. The above lots may be improved, used or occupied only for private residences, and no flat, duplex or apartment house, though intended for residential purposes, may be erected thereon.
- J. No residence shall be more than three (3) stories in height, except that split-level construction shall be permitted.
- K. No trailer, basement, tent, shack, garage, barn or outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any residence of temporary character be permitted.
- L. No dwelling or residence shall be occupied until fully completed, except for exterior painting and minor trim details, and such dwelling or residence must be fully completed within twelve (12) months after the first earth excavation is started. In the event of fire, windstorm, or other damage, no building shall be permitted to remain in a damaged condition longer than three (3) months.
- M. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other common household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose, and further provided that not more than three (3) dogs or cats (or combination thereof) shall be kept or maintained on any lot. In the event an otherwise permitted animal, in the discretion of the Board, constitutes a nuisance or endangers the safety or welfare of any resident of the subdivision, such animal shall be removed from the subdivision by the owner thereof. In the event the owner fails or refuses to remove the animal, the Board of Directors may cause the animal to be removed.
- N. No school or other buses, motor homes, mobile homes, autos, campers, camper-trailers, recreational vehicles, tractors or trucks shall be parked at the curb for more than twenty-four (24) hours at any one time. No school bus, motor home, mobile home, camper, camper-trailer, recreational vehicle, tractor, or truck with a capacity in excess of _ ton, truck with camper attached or boat shall be parked or left outside on any lot for more than twenty-four (24) hours at any one time; such vehicles shall be stored in a garage if kept on a lot for more than twenty-four (24) hours. No major repair work shall be done on any car, truck, trailer or other vehicle while parked outside the garage or in the street. No autos, buses, boats, trucks, race cars, wrecked cars, modified stock cars, trailers, or vehicles that are not in operating condition, are not registered or whose presence might create an unsightly appearance or create a nuisance or be a hazard to life or health shall be allowed

to be parked or left on any lot or at the curb. No trash, old appliances, junk or other refuse shall be allowed to accumulate on any lot.

- O. All doors on garages shall be kept closed, except when opened for the purpose of parking or removal of motor vehicles.
- P. No exterior clothesline or poles (including flagpoles unless attached to a dwelling) may be erected or maintained on any of the lots hereby restricted.
- Q. No exterior Christmas lights and/or holiday decorations may be erected or maintained on any of the lots hereby restricted, except during a sixty (60) day period beginning November 15 of each calendar year.
- R. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Outside trash burning shall be prohibited.
- S. No radio or television aerial wire, antenna, antenna tower, satellite dish over 36" in width or energy collector, whether permanent or temporary, shall be maintained outside of any structure unless prior approval is given by the Architectural Control Committee.
- T. No tanks for the storage of oil or other fluids may be maintained on any portion of the premises above or below the surface of the ground.
- U. No trash, ashes, or other refuse shall be thrown, dumped or placed upon any undeveloped portion of the subdivision.
- V. Lawns shall be kept in good condition as soil, climate and other natural conditions permit, and grass shall not be permitted to reach a height of six (6) inches or more or otherwise create an unsightly appearance.
- W. Any property owner or property subject to the restrictions herein set forth may construct, for their personal use, one in-ground swimming pool; no above ground or above grade swimming pools shall be permitted. No tennis courts shall be allowed unless constructed on common areas or areas owned by the Homes Association.

- X. No storage buildings shall be allowed without prior approval by the Architectural Control Committee.
 - Y. No solar panels or solar collectors shall be installed or maintained on the exterior of any residence or on any lot.
 - Z. Basketball goals may be erected only with the prior approval of the Architectural Control Committee. All basketball goals shall be free-standing on poles, and shall not be attached to any residence or building; the backboard of such goals shall be constructed of transparent material. Poles, nets, hardware, backboards and braces shall be kept in good condition. No basketball goal, temporary or permanent, shall be placed closer than ten (10) feet from the street.
 - AA. No sign of any type shall be erected, placed or maintained on any lot or on any structure on a lot without the prior approval of the Architectural Control Committee, except that subdivision entry signs/markers, directional signs and advertising signs may be erected and maintained by the Board of Directors. For purposes hereof, a "sign" includes any mark, symbol, word(s), or other drawing intended to communicate to a viewer.
 - BB. No residence or lot or any portion thereof may be leased or rented for a period of less than six (6) months. All leases or rental agreements shall be in writing, and the owner of the lot shall be responsible for compliance by the renter or lessees of these restrictions and the rules and regulations of the Association.
 - CC. No hunting or use of firearms or archery equipment shall be permitted in the subdivision.
 - DD. No artificial vegetation shall be permitted on the exterior of any lot; exterior sculptures, fountains and other similar yard décor shall be subject to the prior approval of the Architectural Control Committee.
3. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side, or rear of each tract. Within these easements, no structure, planting or other material shall be placed or permitted to remain 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 in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the tract, except for those improvements for which a public authority or utility company is responsible.

4. All single story residences shall have a total finished ground floor area of not less than one thousand (1,000) square feet; all two story residences shall have a finished ground floor area of not less than six hundred (600) square feet and a total finished floor area of one thousand four hundred (1,400) square feet; all one and one-half story residences shall have a finished ground floor of not less than one thousand (1,000) square feet and a total finished floor area of one thousand two hundred (1,200) square feet. Other plans shall have a minimum of one thousand (1,000) square feet.
5. The roofs of all residences shall be of 25-year composition Tamko roofing products, in weathered wood color; no deviations from this product shall be permitted on roofs, either at the time of original construction or in subsequent repair or replacement, unless an exception is granted by the Architectural Control Committee.
6. It is agreed that if the owner of any vacant lot fails or refuses to cut weeds or brush from the cleared portions of the property, then the Architectural Control Committee shall have authorization to do so and the cost thereof may be taxed as a lien against the property.

7. All wooden decks, porches, porticos, stoops or balconies shall be constructed of cedar, except if they are less than 42” x 42” they may be constructed of treated lumber or cedar, unless an exception is granted by the Architectural Control Committee.

8. The Developer unconditionally reserves the right to subject additional land to these restrictions and add same to the district and subdivision at any time, by document recorded in the Office of the Register of Deeds of Johnson County, Kansas.