

DECLARATION OF RESTRICTIONS

The undersigned, Westland, Ltd., a Kansas corporation, the owner of the real estate hereinafter described, and in anticipation of improving said property herein as residential sites and selling the same, hereby grants and declares the following restrictions and conditions relative to the use, occupancy and ownership of said property, to-wit:

1. DESCRIPTION

The real estate to which these restrictions and covenants shall apply is as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39, Block A.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 17, Block B.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, Block C. Shadywood West Subdivision, Shawnee County, Kansas.

2. DWELLINGS ONLY

Nothing but single-family dwelling, together with garage, fences and retaining walls shall be erected on any lot, nor may any previously constructed dwelling be moved on to one of the sites in the subdivision.

3. GUEST HOUSES

No guest house, garage, shed, tent, trailer, or temporary structure of any kind shall be erected, constructed, permitted, or maintained on any portion of said property prior to the commencement of a principal dwelling house thereon, and no guest house, garage, tent, trailer, basement, or temporary building shall be used for permanent or temporary residence purposes.

4. LOCATIONS OF DWELLINGS

Setback shall be minimum set by plat. No building shall be located nearer to an interior property line than a distance equal to 10% of the property width at the building set-back line or eight feet, whichever is less. For the purpose of this covenant, eaves, steps and patios shall not be considered as a part of the building.

5. SIZE OF PRINCIPLE DWELLING

The floor area of the main structure of any residence, exclusive of porches, garages, and basement areas finished or unfinished, shall not be less than 1,650 square feet for a one-story

residence; 2,000 square feet for a two-story, split level or one and one-half story residence; 1,650 square feet on the main floor for a raised ranch.

6. CONSTRUCTION

When construction of a dwelling is commenced upon any said lots, the owner thereof shall prosecute, with all reasonable diligence, the completion thereof and shall complete the construction thereof within twelve months from the date of commencement. Before construction is commenced, the lot shall be kept in the same neat and clean condition as when it was purchased. Weeds must be mowed and trash removed.

7. ARCHITECTURAL COMMITTEE

There is hereby created an Architectural Committee consisting of three to five persons to be chosen by Westland, Ltd., or its assigns. In case of death, resignation, incapacity, or failure of any member of the Architectural Committee to act, Westland, Ltd., or its assigns shall fill any vacancy or vacancies of said Committee. Any member of the Committee may be removed for any cause by Westland, Ltd., or its assigns. The Committee shall have power to establish and amend its own rules and regulations with regard to meetings, quorums and other procedural matters. The Committee hereby created is herein after referred to as "The Committee."

- 7.1 Approval of Plans.** No single family dwelling, garage, or other structure of any kind shall be erected, constructed, placed, moved on, or maintained on said real property, or any parcel or portion thereof, unless prior to the commencement of any construction, excavation, grading, or other work, two complete sets of plans thereof, shall have first been submitted to the Committee for approval and such approval obtained in writing from the Committee.
- 7.2 Inspection.** Approval of such plans by the Committee shall be endorsed on two sets of plans with one set returned to the person submitting the same and the other retained by the Committee. An inspection fee of \$100.00 shall be paid to the Committee at the time the plans are submitted.
- 7.3 Conformity.** After such plans and other data submitted have been approved by the Committee, no building, garage or other structure of any kind shall be erected, constructed, placed, or maintained upon said property unless the same shall be erected or constructed in conformity with the plans theretofore approved by the Committee. If any building, garage, or other structure of any kind shall be erected, constructed, placed or maintained on said property other than in accordance with the plans theretofore approved by the Committee, such erection, construction and maintenance shall be deemed to have been undertaken without the approval of the Committee ever having been obtained.
- 7.4 Prompt Action.** Committee approval may be withheld for any reason they deem proper including but not limited to (a) because of the non-compliance with any of the specific conditions and restrictions contained in the Declaration of Restriction, or (b) because of the reasonable dissatisfaction of the Committee with the location of the structure or with the appearance of the proposed structure or with the lot grading plan, having in mind the character of the neighborhood in which it is proposed to be erected, the materials of which it is to be built, the harmony

thereof with the surroundings, and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property or properties. However, the Committee shall act with all due promptness and in the event the Committee should fail to approve or disapprove any matter submitted hereunder within fifteen (15) days from submission, then the submission shall be deemed to be approved and this section of the protective covenants will have been fully complied with. Committee action will be final.

8. FUEL TANKS

No tanks or other structures for the storage of any type of fluid or fuel shall be maintained on any lot above the surface of the ground.

9. NUISANCES

No obnoxious or offensive activity shall be carried on said property, or any portion thereof, nor shall anything be done which shall be or become an annoyance or nuisance to the neighborhood. No mobile home or travel trailer either with or without wheels shall be kept on any lot. Motorboats, houseboats and other similar water-home vehicles may only be maintained, stored or kept if housed completely within the residential structure.

10. GARBAGE

No garbage, refuse or obnoxious or offensive material shall be permitted to accumulate on any of said lots, and the owner thereof shall cause all garbage and other like material to be disposed of by and in accordance with accepted sanitary practice. No trash, ashes, or refuse may be thrown, dumped or stored on any lot. No trash, garbage shall be burned on any lot outside of the residence. All residences shall have installed and maintained a garbage disposal unit connected to the sanitary sewer.

11. ANIMALS

No animals nor fowl of any description shall be raised, housed or kept on the premises except dogs, cats or other household pets that are of such nature as not to interfere with the safety and comfort of adjoining owners may be kept on said property, provided that they are not bred or maintained thereon for any commercial purpose.

12. EXCAVATIONS

No work, exploration, drilling, or mining of any minerals, rock, soil or material of any nature shall be conducted on any lots, nor shall any excavation be made upon said property for any portion thereof, except as may be incident to the installation of utility service, drainage lines, the preparation of buildings sites, the construction of dwellings or swimming pools.

13. EASEMENTS

Declarant reserves for the purpose of installing and maintaining public utility facilities, pedestrian walkways, drainage facilities, and for such other purpose incident to the development of the subject real property, certain easements, all of which are shown on the recorded subdivision map or plat of said property. In addition thereto, Declarant reserves for itself, its

successors and assigns the right to create easements and right-of-way for public utility use, for drainage purposes, pedestrian walkways, television cables, or any one or more of the same across any lot in this subdivision; provided, however, that said easements and rights-of-way shall be located along one or more of the lines and extending not more than 10 feet therefrom and the exercise of the rights thereunder do not interfere with any of the buildings or improvements.

14. SCREENS

Clotheslines may be constructed or maintained on lots if screened on all sides from public view by plantings or fencing.

15. TELEVISION ANTENNAS

No television antenna may be erected on the outside of any structure on any lot.

16. ROOFS

All structures built on said lots must have a wood, slate, or tile roof, and/or such structures may have a roof which uses roofing material, which conforms to the standards of a 30-year life, laminated buildup shingle and which can include such architectural styles and brands such as Timberline, Atlas, Heritage and/or Malarky. Further, such roofing material shall be a medium to dark gray in color or a color equivalent to weathered wood. Any questions as to the interpretation of this paragraph and/or disputes arising herefrom, shall be submitted to the Architectural Committee which shall resolve any such question(s) and/or dispute(s) and whose decision shall be binding.

17. YARD LIGHTS

All houses must have a yard light in the front yard. Such light shall be installed in operable condition on or before construction is completed on said lot and shall be controlled by a photoelectric cell.

18. FENCES

Only wood, brick, or ornamental iron fencing may be erected on any lot. No fence shall be erected or placed any farther toward the street than the front side of the house.

19. DRIVEWAYS

All driveways shall be constructed of concrete, brick, or asphalt.

20. SIGNS

No signs, billboards, or advertising structures of any kind may be placed or stored upon any lot except those signs advertising the sale of the property shown on the recorded plat are permitted, not to exceed ten (10) square feet.

21. APPEARANCE OF PROPERTY

21.1. Landscaping. The owner shall maintain each lot in a tidy manner. No owner may alter the landscaping in the Common Areas.

21.2. Maintenance By Owner. Except as otherwise provided herein, the Owner of each Lot shall maintain all improvements on his Lot in a clean and attractive condition, and without limiting the generality of the foregoing, the Owner of each Lot shall:

- 21.2.a.** keep his Lot free from rubbish, litter and noxious weeds;
- 21.2.b.** install, maintain, cultivate and keep in good condition and repair, shrubs, trees, grass, lawns, plantings and other landscaping located or from time to time placed upon the side and rear yards of his Lot;
- 21.2.c.** trim and restrain all trees, shrubs or plantings of any kind so that they shall not be allowed to overhang or otherwise encroach upon, above or below any walkway, or adjoining Lot, unless prior approval of the Architectural Committee or adjoining Lot Owner is obtained;
- 21.2.d.** maintain in good condition and repair and adequately paint or otherwise finish all improvements and structures located or from time to time placed upon his Lot;
- 21.2.e.** maintain all walkway surfaces and keep them clean, reasonably dry and free of oil and other extraneous matter;
- 21.2.f.** install, maintain, cultivate and keep in good condition and repair, shrubs, trees, grass, lawns, plantings and other front yard landscaping.

21.3. Owner's Noncompliance With Landscaping And Maintenance

Requirements. In the event an Owner shall fail to comply with the provisions of the paragraph above titled "Maintenance by Owner," the Association shall notify such Owner in writing of such specific lack of compliance, which notice shall specify the nature of such lack of compliance.

- 21.3.a.** If such Owner fails to remedy such lack of compliance within five (5) days after receipt of such notice (or within such greater time period as may be specified in such notice), or, in the alternative, fails to deliver written notice to the Board within five (5) days from receipt of such notice requesting a hearing before the Board with regard to the matters of noncompliance set forth in such notice, the Association or its authorized agents shall have the right to enter upon such Owner's Lot for the purpose of remedying the matters set forth in the notice, and shall not be liable for trespass in connection with such entry.
- 21.3.b.** If the Owner timely requests a hearing before the Board, the Board shall schedule a hearing and shall provide the owner with at least seven (7) days written notice as to the date, time and place thereof. At the hearing, the Owner will have an opportunity to discuss with the Board the merits of the claims set forth in the Association's original notice of noncompliance, and the Board will determine what action, if any, need be taken by the Owner and the time within which it must be accomplished. The decision of a majority of the members of the Board present at the hearing will be binding upon the Association and the Owner, subject only to legal remedies instituted within twenty (20) days of the Board's decision. In the event it is determined that the

Owner has not complied with the provisions of the paragraph titled "Maintenance by Owner" of this Article, the Board shall establish a reasonable time within which the Owner shall so comply. The cost to the Association of remedying such Owner's failure to comply with the provisions of this paragraph shall be assessed to the owner as a Remedial Assessment, enforceable in the manner provided in the Article of this Declaration titled "Assessments." The authority of the Board to require the painting or other maintenance of the Dwelling shall be limited to those portions of the Dwelling visible from neighboring streets.

22. GARAGES

All houses shall have at least a two-car garage with electrically operated overhead doors.

23. EXPOSED FOUNDATIONS

All exterior basement foundations and walls, which are exposed in excess of twelve (12) inches above final grade level, shall be painted the same color as the residence, or covered with siding compatible with the structure.

24. VIOLATIONS

Declarant, the Architectural Committee, and every person hereinafter having any right, title or interest in any lot or parcel with said property shall have the right to prevent or stop violation of any of the said restrictions by injunction or other lawful procedure, and to recover any damages resulting for such violation.

25. DURATION

Upon application thereof, the restrictions herein set forth may be changed or waived by a vote of the majority of the lot owners of Shadywood West Subdivision. A waiver of any of the restrictions herein shall operate only as a waiver to a named owner and shall not apply to any other owners unless so specified. The restrictions herein set forth shall run with the land and bind the above party; its heirs, trustees, assigns and grantees until December 31, 1987 and shall then be automatically extended for successive periods of ten (10) years.

26. BINDING COVENANTS

26.1. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvements and maintenance of the common Area and Landscape Easements, and such additional maintenance areas as the Association undertakes to maintain, and the performance of the duties of the Association as set forth in this Declaration.

26.2. Maximum Annual Assessment. The maximum monthly assessment per Lot shall be ten and No/100 Dollars (\$10.00) per Lot.

26.2.a. The maximum annual assessment may be, increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

- 26.2.b.** The maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- 26.2.c.** The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
- 26.3. Replacement Fund.** The annual maintenance assessment shall include an amount for a replacement fund which the Board of Directors determines to be adequate for the maintenance, repair and replacement of Common Area and Landscape Easement improvements, if any, and such amount shall be set aside as a pro rata portion of each installment of the maintenance assessments.
- 26.4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost not covered by the annual assessment of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for that purpose, or at an annual meeting.
- 26.5. Reserve Fund.** For the purposes of creating reserves-to ensure payment when due of the cost of capital expenditures relating to the repair and replacement of the Common Area and Landscape Easement, a portion of the annual assessments shall constitute a contribution to the reserve fund of the Association. The specific items for which such contribution shall be made and the amount of such contribution in respect of each such item shall be determined by the Board, acting in its sole discretion, at the time it adopts the budget for the annual assessments in accordance with this Declaration. All such contributions shall be collected as provided herein, shall be accounted for separately and shall be held in trust and used to pay for each specific capital expenditure in such a manner and at such times as the Board, acting in its sole discretion, shall determine.
- 26.6. Notice and Quorum for any Action Authorized Under Sections 26.2 and 26.4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 26.2 or 26.4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.
- 26.7. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.
- 26.8. Date of Commencement of Annual Assessments: Due Dates.** The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The Board of Directors shall establish the due dates. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been

paid. A properly executed certificate of Association as to the status of assessments is binding upon the Association as of the date of its issuance.

- 26.9. Effect of Nonpayment of Assessments: Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the same rate of interest charged by the VA for single-family residential-loans against the owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments.
- 26.10. Enforcement by Suit.** The Board may commence and maintain a suit at law or equity against an owner or prior Owner to enforce said assessment obligation, such suit to be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency, with interest thereon at the rate equal to the highest rate for VA mortgage loans during the period of delinquency, from the date of the delinquency, and all court costs and reasonable attorneys' fees, in such amount as the court may adjudge against the delinquent owner.
- 26.11. Enforcement by Lien.** There is hereby created a claim of lien, with power of sale, on each and every Lot to secure payment to the Association of any and all assessments or fines levied against any and all Lots under this Declaration, together with interest thereon at the rate equal to the highest rate for VA mortgage loans during the period of delinquency from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of such assessment or fine, the Association or any authorized representative may, but shall not be required to make a written demand for payment to the delinquent Owner. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or at any time after the delinquency if no written demand is made, the Association may elect to file and record a notice of assessment or fine and claim of lien on behalf of the Association against the Lot of the defaulting Owner in the Office of the County Recorder of Shawnee County, Kansas. Such a notice of assessment or fine and claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:
- 26.11.a.** The name of the delinquent Owner;
 - 26.11.b.** The legal description of the Lot against which the claim of lien is made;
 - 26.11.c.** The total amount of the delinquency, interest thereon, collection costs and reasonable attorneys' fees (with any proper offset allowed);
 - 26.11.d.** That the notice of assessment and claim of lien is made by the Association pursuant to this Declaration;

26.11.e. That a lien is claimed against said Lot in an amount equal to the amount stated.

26.12. Notice of Lien. A copy of the lien shall be mailed to said owner upon such recordation of a duly-executed original or copy of such a notice of assessment or fine and claim of lien, the lien claimed therein shall immediately attach and become effective.

26.13. Foreclosure of Lien. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust by exercise of a power of sale contained therein or in the manner provided by law for the enforcement of a judgment as the laws of the State of Kansas may from time to time be changed or amended. The Association shall have the power to bid in at any foreclosure sale, Trustee's sale or judgment sale and to purchase, acquire, lease, hold, mortgage and convey any Lot. Reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law and the owner shall be deemed to have contractually agreed to payment of such costs and expenses upon recordation of this Declaration.

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

27. VALIDITY

Invalidity of any of the above restrictions, covenants and conditions by a court judgment or decree shall in no way affect any of the other provisions hereof; such other provisions shall remain in full force and effect.