

**Amended and Restated**  
**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**OF**  
**ALLEN'S LAKE TOWNHOUSES**

**TABLE OF CONTENTS**

ARTICLE 1 Submission: Defined Terms .....1

    Section 1.01. Submission .....1

ARTICLE 2 Description of Units .....3

    Section 2.01. Description of Buildings .....3

    Section 2.02. Numbers of Townhouse Units.....3

    Section 2.03. Additional Land .....3

ARTICLE 3 Assessments .....3

    Section 3.01. Assessments .....3

    Section 3.02. Determination of Assessments .....3

    Section 3.03. Use of Assessment Fund .....4

    Section 3.04. Interest on Delinquent Assessments.....4

    Section 3.05. Lien for Delinquent Assessments.....4

    Section 3.06. Subordination of Assessment Lien.....5

    Section 3.07. Right of Association to Enforce Payment of Assessment.....5

    Section 3.08. Special Assessments for Capital Improvements.....5

    Section 3.09. Added Land.....6

ARTICLE 4 Covenants for Maintenance.....6

    Section 4.01. Exterior Maintenance .....6

    Section 4.02. Cost of Maintenance.....6

ARTICLE 5 Architectural Control.....6

    Section 5.01. Architectural Control.....6

    Section 5.02. No Liability .....7

ARTICLE 6 General Covenants and Restrictions.....7

    Section 6.01. Structures .....7

    Section 6.02. Division of Lots.....7

    Section 6.03. Antennas.....7

    Section 6.04. Vehicles and Parking.....7

    Section 6.05. Fences.....7

    Section 6.06. Exempt Property.....7

    Section 6.07. Trees and Plantings .....8

    Section 6.08. Animals.....8

Section	6.09.	<u>Signs</u> .....	8
Section	6.10.	<u>Temporary Buildings</u> .....	8
Section	6.11.	<u>No Storage; Trash</u> .....	8
Section	6.12.	<u>Pipes</u> .....	9
Section	6.13.	<u>Association May Trim or Prune</u> .....	9
Section	6.14.	<u>Motor Vehicles/Common Area; Garages</u> .....	9
Section	6.15.	<u>Sight Lines</u> .....	9
Section	6.16.	<u>Noxious, Dangerous, and Offensive Activities Prohibited</u> .....	9
Section	6.17.	<u>Maintenance of Drainage Channels and Swales</u> .....	9
Section	6.18.	<u>Home Professions and Industries</u> .....	9
Section	6.19.	<u>Model Homes and Real Estate Offices</u> .....	10
Section	6.20.	<u>Laundry and Machinery</u> .....	10
Section	6.21.	<u>Land Use</u> .....	10
Section	6.22.	<u>Set-Back Requirements</u> .....	10
Section	6.23.	<u>Rights of City of Wichita</u> .....	10
Section	6.24.	<u>Rules and Regulations</u> .....	10
Section	6.25.	<u>Restrictions Not Exclusive</u> .....	11
Section	6.26.	<u>Mortgagees</u> .....	11
Section	6.27.	<u>No Leasing of Units</u> .....	11
Section	6.28.	<u>Assembly and Private Behavior</u> .....	12
Section	6.29.	<u>Reasonable Rules</u> .....	12
ARTICLE 7 <u>Enforcement</u> .....			12
Section	7.01.	<u>Right to Enforce</u> .....	12
Section	7.02.	<u>Determination on Enforcement</u> .....	12
Section	7.03.	<u>Dispute Resolution</u> .....	13
ARTICLE 8 <u>Easements; Party Walls</u> .....			13
Section	8.01.	<u>Easements</u> .....	13
Section	8.02.	<u>Party Walls</u> .....	14
ARTICLE 9 <u>Insurance</u> .....			15
Section	9.01.	<u>Insurance</u> .....	15
Section	9.02.	<u>Hazard Insurance</u> .....	15
Section	9.03.	<u>Damage and Destruction</u> .....	16
Section	9.04.	<u>Insurance Trustee</u> .....	17
Section	9.05.	<u>Repair and Reconstruction – Excess Costs</u> .....	18
Section	9.06.	<u>Minor Repairs</u> .....	18
Section	9.07.	<u>Liability Insurance</u> .....	19
Section	9.08.	<u>Other Insurance</u> .....	19
ARTICLE 10 <u>Power of Assignment and Delegation</u> .....			20

ARTICLE 11	<u>Severability</u>	.....	20
ARTICLE 12	<u>Amendment</u>	.....	21
Section	12.01.	<u>Covenants Running With the Land</u>	.....21
Section	12.02.	<u>Amendment by Declarant</u>	.....21
Section	12.03.	<u>Amendment; Other</u>	.....21
ARTICLE 13	<u>Additional Land</u>	.....	22
Section	13.01.	<u>Reservation</u>	.....22
Section	13.02.	<u>No Limitations</u>	.....22
Section	13.03.	<u>Expiration</u>	.....22
Section	13.04.	<u>Legal Description</u>	.....22
Section	13.05.	<u>Determination</u>	.....22
Section	13.06.	<u>When Effective</u>	.....22
ARTICLE 14	<u>Notice</u>	.....	22
Section	14.01.	<u>Legal Proceedings</u>	.....22
Section	14.02.	<u>Notice of Proposed Budget</u>	.....22
Section	14.03.	<u>Delivery of Notice</u>	.....23

EXHIBIT A – Submitted Land

**Amended and Restated**  
**DECLARATION OF**  
**COVENANTS, CONDITIONS, AND RESTRICTIONS OF**  
**ALLEN'S LAKE TOWNHOUSES**

**Recitals**

THIS AMENDED AND RESTATED DECLARATION (the "Declaration") is filed this 15th day of September, 2016 by the Board of Directors of the Allen's Lake Townhouse Owners' Association.

The original declaration ("Original Declaration") was first made the 13<sup>th</sup> day of November, 1984, by Leewood Homes, Inc. ("Declarant"), and has been amended pursuant to the following documents filed of record with the Sedgwick County Register of Deeds:

Film 0696 Page 0066, Film 0705 Page 0391, Film 0760 Page 1309, Film 0931 Page 1414, Film 0949 Page 1264, Film 0954 Page 0279, Film 0426 Page 0245, Film 2194 Page 0672, Film 2596 Page 0364, Doc#/FLM-PG: 29406710.

This amended and restated Declaration incorporates the provisions of the amendments recited above into the Original Declaration, modifying as necessary for internal consistency, and further incorporates the necessary provisions of the Kansas Common Interest Owner's Bill of Rights Act (K.S.A. 58-4601 et al), which Act became effective and controlling in 2011 notwithstanding conflicting provisions of the Original Declaration.

**ARTICLE 1**

**Submission: Defined Terms**

Section 1.01. **Submission**. At the filing of the Original Declaration, the Declarant owned the Submitted Land in fee simple and submitted it to the Kansas Townhouse Ownership Act (K.S.A. § 58-3701, et seq.) (the "Act"), as amended, including the following described land, together with all rights, easements, appurtenances, and hereditaments pertaining to or belonging thereto and all buildings, structures, and improvements located and to be constructed thereon and hereinafter more fully described and all personal property, equipment, and facilities intended for use in connection therewith (all of which real and personal property is hereinafter called the "Property").

a. The name of the townhouse development is Allen's Lake Townhouses, and its address is 6510 East 29<sup>th</sup> Street North, Wichita, Kansas.

b. The land owned by Declarant which is hereby submitted to the Act is as set out on Exhibit "A" attached hereto.

Section 1.02. Definitions. The terms used herein and in the Bylaws and all other documents relating to this townhouse development shall have the meanings specified in the Act, except as such may be specifically changed herein and unless the context requires otherwise.

a. "Association of Townhouse Owners," referred to herein as the "Association," shall mean and refer to Allen's Lake Townhouse Owners' Association, a nonprofit corporation organized under the laws of the State of Kansas, to be formed within one (1) year of the date of recording hereof.

b. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

c. "Common Area" shall mean any portion of the real estate and all improvements located thereon owned by the Association for the common use and enjoyment of the Townhouse Unit Owners.

d. "Common Expenses" shall be all sums lawfully assessed against the Townhouse Unit Owners by the Association pursuant to the provisions hereof, including, but not limited to, the cost of exterior maintenance of Units and the cost of all insurance policies purchased by the Board pursuant to the Declaration.

e. "Declaration" means this document and all attachments and amendments thereto.

f. "Immediate Family Member" means an Owner's spouse or life partner, parents and stepparents, siblings and stepsiblings, and children (including stepchildren, adopted children, and foster-children).

g. "Insurance Trustee" shall mean the Association, unless the Board shall have designated another person, firm, or corporation to be the Insurance Trustee.

h. "Lot" means a portion of the real property that comprises the Property, as shown on the recorded plat of the addition and described by a number, with the exception of any Common Area.

i. "Owner," "Unit Owner," or "Townhouse Owner" means the person or persons owning the Lot or a portion thereof in fee simple on which a Townhouse Unit is, or is to be, located. Owners shall also be "Members" in the Association.

j. "Person" means an individual, corporation, partnership, Association, trustee, or other legal entity.

k. "Townhouse Unit" or "Unit" means one (1) single-family townhouse residential Unit, which is located on a Lot and may be joined with at

least one (1) additional single-family townhouse residence by a common wall or walls and/or roof and/or foundation.

## ARTICLE 2

### Description of Units

Section 2.01. Description of Buildings. There will be initially constructed a total of six (6) buildings which contain four (4) Units each. There are eight (8) different floor plans. All Units shall include either a one-car or two-car garage. All Units shall be constructed in accordance with the provisions of this Declaration, as well as the Recorded Plat of Allen's Lake.

Section 2.02. Numbers of Townhouse Units. The designation of the original Units, as shown on the recorded plats of survey are as follows:

Unit numbers 101, 102, 103, 104, 201, 202, 203, 204, 301, 302, 303, 304, 501, 502, 503, 504, 601, 602, 603, 604, 701, 702, 703, 704

The designation of the Units added via amendment to the original Declaration are as follows:

Units numbers 801, 802, 803, 804, 901, 902, 903, 1001, 1002, 1101, 1102, 1301, 1302, 1303, 1304, 1401, 1402, 1501, 1502, 1503, 1504; and

Units numbers 1200, 1600 1650, 1700, 1800, 1850, 1950, 2000, 2050, 2100, 2150, 2200, 2250, 2300, 2350, 2400, 2450, 2500, 2550, 2600, 2700, 2750, 2800, 2850, 2900, 2950, 3000, 3050, 3100, 3150, 3003, 3007, 3011, 3015, 3019, 3023, 3027, 3031, 3035, 3039, 3040, 3044, 3047, 3048, 3051, 3052

Section 2.03. Additional Land. The additional land and Units described above were added by amendment in accordance with the provisions of Article 13 below. At the filing of the Original Declaration, it was contemplated that additional land and Units would be added to the project up to a total maximum of one hundred fifty-two (152) Units.

## ARTICLE 3

### Assessments

Section 3.01. Assessments. All of the Units of the Members of the Association shall be subject to an annual assessment charge to be paid by the respective Owners thereof to the Association annually in advance on the 1<sup>st</sup> day of January, in each year. The Board may permit the annual assessment charge to be paid quarterly..

Section 3.02. Determination of Assessments. Annual assessments will be determined by the Board of Directors based on the annual budget. Dues will be assessed annually and billed

quarterly based on Building square footage as recorded in the county records. Dues may be adjusted by the Board of Directors for Building maintenance costs and Building insurance costs based on variation between the following categories of Units:

**Units numbered,** 101, 102, 103, 104, 201, 202, 203, 204, 301, 302, 303, 304, 501, 502, 503, 504, 601, 602, 603, 604, 701, 702, 703, 704

Units numbered 801, 802, 803, 804, 901, 902, 903, 1001, 1002, 1101, 1102, 1301, 1302, 1303, 1304, 1401, 1402, 1501, 1502, 1503, 1504

Units numbered 1200, 1600 1650, 1700, 1800, 1850, 1950, 2000, 2050, 2100, 2150, 2200, 2250, 2300, 2350, 2400, 2450, 2500, 2550, 2600, 2700, 2750, 2800, 2850, 2900, 2950, 3000, 3050, 3100, 3150, 3003, 3007, 3011, 3015, 3019, 3023, 3027, 3031, 3035, 3039, 3040, 3044, 3047, 3048, 3051, 3052

These dues payments will be made to the Management Company on or before the first day of each quarter (January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, October 1<sup>st</sup>). Dues will be considered late if not received by 5:30 p.m. in the office of the Management Company by the tenth (10<sup>th</sup>) day of the same month. After 5:30 p.m. on the tenth day, a late fee in the amount of ten percent (10%) of the quarterly dues will then be assessed and added to such quarterly dues. Continued delinquency may subject the Unit Owner to additional fees in interest as listed in the Declarations and amendments.

Section 3.03. Use of Assessment Fund. The assessment fund may be used for such of the following purposes as the Association shall determine necessary and advisable: those purposes set out in Article 4 hereof; for improving and maintaining the Common Area and other property of the Association, including streets, lakes, bridge, pool, pool house; for planting trees and shrubbery and the care thereof; for expenses incidental to the property operation and maintenance of any other recreational facilities located within the Common Area; for collection and disposing of garbage, ashes, and rubbish; for maintenance of the sprinkling system; for employing night watchmen; for caring for vacant property; for removing grass or weeds; for street cleaning; for street signs, street lights, and snow removal; for constructing, purchasing, maintaining, or operating any community service; for purchase of insurance; for professional management of the Association; for doing any other thing necessary or advisable in the opinion of the Association for the general welfare of the Members; for expenses incidental to the enforcement of these restrictions; for the payment of operating expenses of the Association; or for any other purpose within the purposes for which the Association is incorporated.

Section 3.04. Interest on Delinquent Assessments. All assessment charges which shall remain due and unpaid thirty (30) days after they are due shall thereafter be subject to interest at the rate of fifteen percent (15%) per annum or the prime rate as published in the Wall Street Journal on the day of delinquency, whichever is higher.

Section 3.05. Lien for Delinquent Assessments. It is expressly understood and agreed that the annual assessment charge shall be a lien and encumbrance on the Unit with respect to which said charge is made. In order to perfect its lien, the Association may file a notice of

nonpayment in the real estate records of Sedgwick County any time after the due date of the assessment. The notice of nonpayment shall state: (a) the legal description of the Unit upon which the lien is asserted, (b) the name(s) of the Owner(s) of the Unit, (c) the due date, and (d) the amount of the unpaid assessment. The lien may be foreclosed by the Association in the same manner as a mortgage lien upon the Unit, provided the foreclosure action is commenced within five years after the notice of nonpayment is recorded. If the assessment is not paid within five years after the notice is recorded, the Association may revive the lien by recording additional notices of nonpayment for additional five-year time periods. Additionally, it is expressly agreed that, by the acceptance of title to any of said Units, the Owner (not including thereby a mortgagee as long as it is not the Owner) from the time of acquiring title thereto shall be held to have covenanted and agreed to pay to the Association all charges provided for herein which were then due and unpaid to the time of his acquiring the title and all such charges thereafter falling due during his Ownership thereof. A certificate in writing issued by the Association or its agent shall be given on demand to any Owner or prospective purchaser liable, or who may be liable, for said charges, which shall set forth the status of said charges. This certificate shall be binding upon said parties.

Section 3.06. Subordination of Assessment Lien. The lien provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Unit shall not affect the assessment lien. The sale or transfer of any Lot or Unit, which is subject to any such mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, however, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Unit from liability for any assessments thereafter becoming due of from the lien thereof.

Section 3.07. Right of Association to Enforce Payment of Assessment. By the acceptance of title, each Owner shall be held to vest in the Association the right and power in its own name to take and prosecute all suits, legal, equitable, or otherwise, which may in the opinion of the Association be necessary or advisable for the collection of such charge or charges.

Furthermore, the Association shall have the power to suspend any right or privilege of a Unit Owner that fails to pay an assessment, but may not: (i) deny a Unit Owner or other occupant access to the Owner's Unit; (ii) suspend a Unit Owner's right to vote except involving issues of assessments and fees; or (iii) withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety, or property of any person.

Section 3.08. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, if any, 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 the Members in attendance, who are voting in person, by absentee ballot, or by proxy, at a meeting duly called for such purpose. Notice and consideration of any proposed special assessment shall follow the procedures set out in Article 14 below.

Additionally, If the Board of Directors determines by a 2/3 vote of the membership of the Board that a special assessment is necessary to respond to an emergency:

- (1) The special assessment shall become effective immediately in accordance with the terms of the vote;
- (2) notice of the emergency assessment must be provided promptly to all Unit Owners; and
- (3) the Board of Directors may spend the funds paid on account of the emergency assessment only for the purposes described in the vote.

Section 3.09. Added Land. Pursuant to Section 13 below, and subsequent to the initial filing of the Original Declaration, the Declarant has incorporated all of the land intended to be a part of the Allen's Lake Townhouses development, and this Declaration shall affect in its entirety all of that certain real property legally described as Lot 1, Block 1, Allen's Farm, an Addition to Wichita, Sedgwick County, Kansas, said real property including all real property heretofore covered by this Declaration together with any portions of said Lot 1 that have been added since the initial filing of the Declaration.

## **ARTICLE 4**

### **Covenants for Maintenance**

Section 4.01. Exterior Maintenance. In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon the individual Units as follows: paint, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces (except doors and windows), and other exterior improvements as reasonably determined necessary by the Board, and provide certain lawn and yard care. Where exterior walls extend beyond the Unit(s) as a dividing wall or privacy wall, the Association shall paint, repair, and replace the siding and exterior surfaces of such dividing wall(s) only if the Owners of such dividing wall(s) maintain the structural integrity of the dividing wall(s) and maintain adjacent or attached decks and patios. The care and maintenance of any enclosed yard areas, and interior of the Units, including all appliances, heating and air-conditioning equipment, electrical systems, plumbing, exterior doors, windows, glass walls, chimney flues, and structural items (including but not limited to all walls, beams, foundations, and footings whether interior or exterior), and all other maintenance and repair that might be required on the individual Unit not otherwise specifically designated the responsibility of the Association herein, shall be the sole responsibility of the Owner. In addition, each Owner shall be solely responsible for the repair and maintenance of the Owner's patio, deck, deck stairs, deck railing, driveway, and sidewalks appurtenant to his Unit. In the event any such patio, deck, deck stairs, deck railing, driveway, or sidewalk should, in the opinion of the Board, become unsightly or dangerous to persons or property, the Association may, after reasonable notice to the Owner affording him or her an opportunity to make the needed repairs, cause the same to be made at such Owner's expense, and in the event the same shall not be paid by said Owner, the Board may file a lien on said Unit pursuant to Article 3 hereof.

Section 4.02. Cost of Maintenance. The cost of the maintenance to be provided above shall be added to and become a part of the annual assessment to which the Units are subjected under Article 3 hereof, and, as part of such annual assessment or charge, it shall be a lien and obligation of the respective Owners and shall become due and payable in all respects as provided therein.

## **ARTICLE 5**

### **Architectural Control**

Section 5.01. Architectural Control. (a) No building, fence, wall, planting, or other structure or improvement shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change or alteration to any Unit be made without first obtaining the express written consent of the Board, which shall have complete control of all such matters relating to the property and may consent or withhold its consent on such basis as it deems proper, subject to subsection b below. The Board shall have complete and exclusive control of all such matters relating to the property and may further promulgate such rules, guidelines, and requirements as it deems necessary in order to assure the continued maintenance and operation of the property as a first-class development, subject to subsection b below.

(b) The Board shall adopt procedures for enforcement of those standards of architectural design and aesthetic control and for approval of construction applications, including a reasonable time within which the Board must act after an application is submitted and the consequences of its failure to act.

Section 5.02. No Liability. Neither the Declarant, the Association, nor any officer, director, member, agent, or employee thereof, shall be liable to any Owner or to any person, firm, corporation, or other entity for any damages arising from any performance or nonperformance of any duties or functions under this Article 5.

## **ARTICLE 6**

### **General Covenants and Restrictions**

Section 6.01. Structures. No previously approved structure shall be used for any purpose other than that for which it was originally designed.

Section 6.02. Division of Lots. No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise.

Section 6.03. Antennas. No facilities, including poles and wires, for the transmission of electricity, telephone messages, television, data, and the like shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antenna of any kind, including satellite receiving antennas, may be maintained upon any Lot without the prior written approval of the Architectural Committee.

Section 6.04. Vehicles and Parking. No boat, boat trailer, house trailer, camper, camper trailer, recreational vehicle, pickup truck, or similar item shall be stored or permanently, continually, or regularly parked in and on any street, the Common Area, or in the open on any Lot or driveway; all other vehicles shall be parked in the garage and not continually parked on a regular basis in the street or driveway. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on any of the common elements or in the open on any Lot. Vehicle repairs, other than ordinary light maintenance, are not permitted on the property.

Section 6.05. Fences. No fence shall be erected on any Lot, except for fences installed by Declarant or the Association or which are approved pursuant to Section 5.01.

Section 6.06. Exempt Property. All properties dedicated to and accepted by a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Kansas shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 6.07. Trees and Plantings. The care and maintenance of all trees, plantings, and lawn area within any fenced area or for which the Association elects not to so care and maintain shall be the responsibility of the Unit Owner. All other trees and plantings shall be the responsibility of the Association and shall not be trimmed or removed by an Owner. In the event an Owner should desire to plant a tree or other planting, he may do so with the permission of the Board, and all subsequent care and replacement thereof shall be at the sole discretion of the Board, and the Owner shall have no further right with regard thereto. Any such planting obtained by an Owner and planted with the approval of the Board shall be at no expense to the Board.

Section 6.08. Animals. No birds, reptiles, animals, or insects shall be kept or maintained on any Lot except for domestic purposes. Under no circumstances shall any commercial or agricultural business enterprise involving the use of animals be conducted on the Properties without the express written consent of the Association. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any Lot. Dogs and other animals shall be confined at all times to the residence site and must be kept on a leash when outside the residence site and on the Common Area.

Section 6.09. Signs. No sign or other advertising device of any nature shall be placed upon any Lot, except as provided herein. The Association may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. The Association may remove nonconforming signs upon three (3) days' notice to the Owner, such removal to be at the cost of said Owner. In addition to the foregoing, so long as Declarant owns any Lot in the Addition, Declarant may require any Owner, real estate agent, or other person desiring to utilize a sign to advertise a Unit for sale, lease, or rent to utilize a standard sign provided by Declarant for which a reasonable rental may be charged by Declarant. The number and location of any such signs shall be subject to reasonable rules adopted by Declarant. Any nonconforming sign may be removed, without notice, by Declarant, and Declarant shall not be liable to anyone in the event of any such removal.

Notwithstanding any other provisions of this Declaration or the Bylaws or rules and regulations, any rule regulating display of the flag of the United States must be consistent with federal law. In addition, the Association may not prohibit display on a Unit or on a limited common element adjoining a Unit of the flag of this state, or signs regarding candidates for public or Association office or ballot questions. The Association may adopt rules governing the time, place, size, number, and manner of those displays that are not inconsistent with K.S.A. 58-3820, and amendments thereto.

Section 6.10. Temporary Buildings. No temporary building, trailer, garage, basement, tent, outbuilding, or building in the course of construction shall be used temporarily or permanently as a residence on any Lot, except for Declarant's construction purposes.

Section 6.11. No Storage; Trash. No lumber, metals, bulk materials, refuse, or trash shall be kept, stored, or allowed to accumulate on any Lot or on the Common Area, except building materials may be stored on a Lot during the course of construction of any Unit by Declarant. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pick-up is to be made, at such place on the Lot so as to provide access to persons making such pick-up. At all other times, such containers shall be stored in such a manner so that they cannot be seen from adjacent and surrounding property. The Association, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color, and type of containers permitted and the manner of storage of the same.

Section 6.12. Pipes. No water pipe, gas pipe, sewer pipe, or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, except hoses used for irrigation purposes. No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel, or earth.

Section 6.13. Association May Trim or Prune. The Association shall have the right to enter upon any Lot and trim or prune, at the expense of the Owner, any hedge or other planting which, in the opinion of the Association, by reason of its location upon the Lot or the height to which it is permitted to grow, is unreasonably detrimental to the adjoining property or obscures the view of street traffic or is unattractive in appearance.

Section 6.14. Motor Vehicles/Common Area; Garages. No motor vehicles of any type other than maintenance vehicles shall be operated on the Common Area or the sidewalks and bicycle paths, if any, located in the Common Area. Garage doors shall be kept closed at all times except for purposes of entry, exit, or maintenance.

Section 6.15. Sight Lines. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street lines extended past the corner. The same sight line restrictions shall apply to any Lot within ten (10)

feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to avoid obstruction of such sight lines.

Section 6.16. Noxious, Dangerous, and Offensive Activities Prohibited. No noxious, dangerous, or offensive activity or thing shall be carried on or permitted, nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood.

Section 6.17. Maintenance of Drainage Channels and Swales. The Association shall maintain, mow, and keep in good repair and condition any drainage channels and swales located on any Lot, in accordance with the master drainage plan.

Section 6.18. Home Professions and Industries. No profession or home industry shall be conducted in or on any part of a Lot or in any improvements thereon without the specific written approval of the Board. The Board, in its discretion, upon consideration of the circumstances in each case and particularly the effect on surrounding property, may permit a Lot or any improvement thereon to be used in whole or in part for the conduct of a profession or home industry. No such profession or home industry shall be permitted, however, unless it is considered, by the Board, to be compatible with a high-quality residential neighborhood.

Section 6.19. Model Homes and Real Estate Offices. All else herein notwithstanding, any Lot or Unit owned by Declarant or persons so authorized by Declarant may be used for a model home or for a real estate office until all Units in the development are sold.

Section 6.20. Laundry and Machinery. No clothing or any other household fabric shall be hung in the open on any Lot, except with specific written approval of the Association. No machinery shall be placed or operated upon any Lot, except such machinery as is usual in the maintenance of a private residence.

Section 6.21. Land Use. None of the Lots may be improved, used, or occupied for other than the uses as designated by the recorded plat thereof, applicable zoning regulations, or this Declaration.

Section 6.22. Set-Back Requirements. All building set-back requirements as set out on the recorded plat of Allen's Park Addition shall be observed.

Section 6.23. Rights of City of Wichita. The "Floodway" in said Addition has been designated as the "Common Area" and is to be conveyed to an Owners' Association to be formed, which Association shall be responsible for the maintenance and upkeep thereof. Until such conveyance, Declarant, as Owner, shall be responsible for such maintenance and upkeep. In the event the Association, its successors or assigns, shall fail at any time to maintain the Common Area or fail in any manner to fulfill its obligations relating to the Common Area, the City of Wichita may serve a written Notice of Delinquency upon the Association setting forth the manner in which the Association has failed to fulfill its obligations. Such Notice shall include a statement describing the obligation that has not been fulfilled and shall grant twenty (20) days within which the Association may fulfill the obligation. If said obligation is not fulfilled within

the time specified, the City of Wichita, in order to preserve the taxable value of the properties within the Addition and to prevent the Common Area from becoming a nuisance, may enter upon said Common Area and perform the obligations listed in the Notice of Delinquency. All costs incurred by the City of Wichita in carrying out the obligations of the Declarant or the Association may be assessed equally against all the Units within the Addition in the same manner as provided by law for special assessments, and said assessments may be established as liens upon said Units. Should the Declarant or the Association, their successors or assigns, upon receipt of said Notice of Delinquency believe that the obligations described in said Notice are not proper for any reason, it may, within the twenty (20) day period to be provided in said Notice, apply for a hearing before the Board of City Commissioners to appeal said obligations, and any further proceedings under said Notice shall be suspended pending the outcome of any proceedings with respect to such appeal.

Section 6.24. Rules and Regulations. Rules and regulations governing the use of the Common Areas and the personal conduct of the Owners, their families and guests thereon, may be made, amended from time to time, and penalties established for infraction thereof by the Board. However, before adopting, amending, or repealing any rule, the Board shall give all Unit Owners notice of:

- (1) the Board's intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change; and
- (2) a date on which the Board will act on the proposed rule or amendment after considering comments from Unit Owners.

Following adoption, amendment, or repeal of a rule, the Association shall notify the Unit Owners of its action and provide a copy of any new or revised rule. Copies of the current rules and regulations and amendments thereto shall be furnished by the Association to all residents of the development upon request.

Section 6.25. Restrictions Not Exclusive. The restrictions contained in this Declaration shall not be taken as permitting any action or thing prohibited by applicable zoning laws, or the laws, rules, or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restricting provision of such laws, rules, regulations, deeds, leases, or this Declaration shall be taken to govern and control.

Section 6.26. Intentionally Deleted.

Section 6.27 No Leasing of Units. No person as defined by Section 1.02(i), or other entity of any kind, who owns a dwelling Unit within the area covered by this Declaration, shall lease, let or rent to a tenant who is a non-Owner of the occupied Unit nor allow any non-Owner to occupy the Unit who is not an "Immediate Family Member" of the Owner, as that term is defined in Section 1.01(f) above. Any lease or other arrangement to allow a non-Owner to occupy the Unit for any period of time in violation of this Section 6.27 shall be void.

Notwithstanding the above, an Owner may share occupancy of his or her Unit with an occupant who is not an Owner or an Immediate Family Member, so long as the Owner simultaneously occupies his or her Unit as his or her primary residence during the entire tenure of the non-Owner occupant's residency in the Unit. However, no short-term lease or rental (such as nightly or weekly) shall be allowed in any Unit regardless of whether the Owner simultaneously occupies the Unit.

Additionally, in the event that an Owner passes away and leaves behind an Immediate Family Member who is not an Owner, but who was occupying the deceased Owner's Unit at the deceased Owner's time of death, the Association will recognize any legal rights granted to such Immediate Family Member, whether by will, trust, statute, or otherwise, and such Immediate Family Member may continue to occupy the deceased Owner's Unit until legal determination of such Immediate Family Member's rights to the property has been made. Any non-Owner Immediate Family Member who continues to occupy a Unit after the death of the Owner must comply with all terms and provisions of this Declaration and shall be granted all rights and responsibilities set forth herein until such time as the Immediate Family Member either becomes an Owner or legal determination is made that the Immediate Family Member will not inherit the deceased Owner's Unit.

By the acceptance of or retention of title to any Unit encumbered by this Declaration, each Owner grants to the Association the right and power, in its own name or in the name of such Owner, to bring legal action to enforce the provisions of this Section 6.27, including, but not limited to, the right to serve any tenant or occupant in violation of this Section 6.26 with a three day notice to vacate and to file a forcible detainer action seeking eviction of the tenant or occupant.

Section 6.28. Assembly and Private Behavior. Unit owners may peacefully assemble on the Common Areas to consider matters related to the common interest community, but the Association may adopt rules governing the time, place, and manner of those assemblies. Association rules that affect the use of or behavior in Units that may be used for residential purposes, shall be adopted only to:

- (1) Implement a provision of the declaration; or
- (2) regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners.

Section 6.29. Reasonable Rules. Every rule must be reasonable.

## ARTICLE 7

### **Enforcement and Dispute Resolution**

Section 7.01. Right to Enforce. The Association, Declarant, or any 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.

Failure by the Association, Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Additionally, parties to a dispute arising under this Declaration, the Bylaws, or the provisions of K.S.A. 58-4601 et al, may agree to resolve the dispute by any form of binding or nonbinding alternative dispute resolution, but any such agreement must be in a record authenticated by the parties.

Section 7.02. Determination on Enforcement. The Board of Directors may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the declaration, Bylaws, and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The Board of Directors does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

- (1) The Association's legal position does not justify taking any or further enforcement action;
- (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law;
- (3) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (4) it is not in the Association's best interests to pursue an enforcement action.

If the Board of Directors' chooses, pursuant to this Section 7.02, not to pursue enforcement under one set of circumstances, that choice shall not prevent the Board of Directors from taking enforcement action under another set of circumstances, but the Board of Directors may not be arbitrary or capricious in taking enforcement action.

Section 7.03. Dispute Resolution. In accordance with K.S.A. 58-4608(4), the Association shall have the power to require that disputes between the Association and Unit Owners or between two or more Unit Owners regarding the common interest community of Allen's Lake Townhouses be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding.

## **ARTICLE 8**

### **Easements: Party Walls**

Section 8.01. Easements.

a. If any Unit shall encroach upon any other Unit or Lot or upon any portion of the Common Area, as a result of the construction, settling, or shifting of any building, structure, or improvement thereon, a valid easement for the

maintenance and continuation of such encroachment shall exist as long as such building, structure, or improvement stands. In the event any building, structure, or improvement on the Property shall be rebuilt after having been damaged or partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, any resulting encroachment of any Unit upon any other Unit or Lot or upon any part of the Common Area shall be permitted and a valid easement for the continuation and maintenance of such encroachment shall exist as long as such building, structure, or improvement stands.

b. There is reserved for the benefit of each Unit an easement for utility services over, under, and through the Property and each other Unit and Lot. There is further reserved for the Association an easement of entry and of access for the installation and maintenance of utility lines, utility meter boxes, landscaping, and community facilities in the Common Area and for the performance generally of its rights and duties, as provided in this Declaration and the Bylaws of the Association.

c. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Unit.

d. Declarant shall have the right, at any time prior to relinquishing control of the Association, and thereafter the Association shall have the right to grant and reserve easements and rights-of-way through, under, over, and across the Common Area for construction purposes and for the installation, maintenance, and inspection of public or private water, sewer, drainage, gas, electricity, telephone, master antenna systems, and other utilities.

#### Section 8.02. Party Walls.

a. The division wall between any two (2) Units shall be a party wall and the respective Owners shall have cross easements in the wall and the wall shall be used for the joint purposes of the two separate living Units separated by it.

b. Should such wall be damaged or destroyed by the default, negligence, or other act or omission of one of the Owners, such Owner shall rebuild or repair the wall and shall compensate the other Owner for any damages to the property of the other Owner. Should the wall at any time while in use by both parties as aforesaid be injured by any cause other than the act or omission of either, the wall shall be repaired or rebuilt at their joint expense, provided that any sum received from insurance against such injury or destruction shall first be applied to such repair or restoration. Any repairing or rebuilding of the wall shall be on the same location and of the same size as the original wall or portion thereof and of the same or similar material of the same quality of that used in the original wall or portion thereof.

The Owner causing repairs to be made shall have the right to enter on the property of the other Owner to the extent legally necessary in performance of the work, provided that he take due precaution not to damage the property of the other Owner.

c. Neither Owner shall use the wall in any manner whatsoever that may interfere with the equal use of the other half of the wall by the other Owner. In particular no structural changes shall be made in said wall by either Owner without the express written consent of the other joint Owner.

d. This covenant shall not operate to convey to either Owner the fee to any part of the land owned by the other Owner, the creation of rights to a party wall being the sole purpose hereof.

## ARTICLE 9

### Insurance

Section 9.01. Insurance. The Board for the benefit of the Association and the Owners shall acquire insurance as hereinafter provided. Payment therefor shall be billed to each Owner in such amount as is allocable to such Unit by the insurance company and shall be considered as part of the annual assessment to be levied hereunder. All contents, personal property, and individual liability coverage shall be the sole responsibility of the Unit Owner.

Section 9.02. Hazard Insurance. The Board shall obtain and maintain, at all times, a policy or policies of fire insurance as the same are hereinafter more fully set out, with extended coverage endorsement, for the full insurance replacement cost of the Units and Common Area, excluding all foundations and excavations, payable as hereinafter provided, or such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection to the Owners, their mortgagees, and the Association, as their respective interests may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each Unit, if any. Such limits and coverage shall be reviewed at least annually by the Board and can be increased or modified in its discretion.

a. All policies shall be written with a company licensed to do business in the State of Kansas and holding a rating of "A" or better by Best's Insurance Reports, or other comparable rating organization, unless such insurance shall be unobtainable or obtainable only at a cost the Board deems excessive.

b. Exclusive authority to adjust losses under policies hereafter in force in the project shall be vested in the Board or its authorized representative.

c. In no event shall the insurance coverage obtained and maintained by the Board hereunder, be brought into contribution with insurance purchased by individual Owners or their mortgagees.

d. Each Owner may obtain additional insurance at his or her own expense; provided, however, that no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Board, on behalf of all of the Owners, may realize under any insurance policy which the Board may have in force on the Property at any particular time.

e. Any Owner who obtains individual insurance policies covering any portion of the Property other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Board within thirty (30) days after purchase of such insurance.

f. The Board shall be required to make every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Board, the officers of the Association, the Owners, and their respective servants, agents, and guests;

(2) That the master policy on the Property cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual Owners without permitting the Board to have a reasonable opportunity to remedy such conduct within a reasonable period of time;

(3) That the master policy on the Property cannot be cancelled, invalidated, or suspended on account of the conduct of any officer or employee of the Board without permitting the Board to have a reasonable opportunity to remedy such conduct within a reasonable period of time; and

(4) That any "no other insurance" clause in the master policy excludes individual Owners' policies from consideration.

g. The Board shall conduct an annual insurance review, which shall include an appraisal of the improvements by a representative of the insurance carrier writing the master policy.

h. In the event that the Board should fail to provide such hazard insurance coverage or in the event that a majority of the Owners shall decide not to have the Board provide such coverage, each Owner shall maintain fire and extended coverage insurance against loss or damage by fire or other casualty to the full replacement value of the Unit, excluding land, foundation and excavations. Such insurance shall provide for payment for losses thereunder by the insurer to the Insurance Trustee for the benefit of each Owner, the Owner of each first mortgage of record, and the Association, as their respective interests appear and as set forth in this Declaration. The proceeds from insurance received by the Insurance Trustee shall be used to repair, reconstruct, or rebuild the Units damaged or destroyed by said fire or other casualty as otherwise provided for herein.

Section 9.03. Damage and Destruction.

a. Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 9.03, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty.

b. Such damage or destruction shall be repaired or reconstructed, unless all of the Owners and their first mortgagees agree in writing not to rebuild.

c. In the event that it should be determined that the damage or destruction shall not be repaired or reconstructed, then and in that event the proceeds of the said insurance shall be paid to the Unit Owners, their mortgagees, and the Association, as their respective interests may appear.

Section 9.04. Insurance Trustee.

a. Unless the Board shall designate a different Insurance Trustee, all insurance policies purchased by and in the name of the Board shall provide that proceeds covering property losses shall be paid to the Association, as Insurance Trustee.

b. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to hold such proceeds in trust for the benefit of the Owners and their mortgagees. Proceeds on account of damage or destruction to Units shall be held in trust for the Owners of the damaged or destroyed Units in proportion to the costs of repairing or reconstructing the damage or destruction suffered by each such Owner. In the event that a mortgagee endorsement has been issued as to any particular Unit, the share of such Unit Owner shall be held in trust for such Owner and his mortgagee, as their respective interests may appear.

c. Proceeds of insurance policies received by the Insurance Trustee shall be disbursed as follows:

(1) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, such portion thereof as may be required for such purpose shall be disbursed in payment of such repairs or reconstruction, as hereinafter provided. Any proceeds remaining after defraying the costs of repairs or reconstruction shall be placed in the Capital Improvement Reserve Fund or comparable fund of the Association.

(2) If the damage or destruction is not to be repaired or reconstructed, the disbursements shall be made by the Insurance Trustee in accordance with the terms of Section 9.03.

(3) The Board, on behalf of the Insurance Trustee, shall determine whether the damage or destruction was to the Common Area or one or more Units or both. If the damage or destruction is to the Common Area and is to be repaired or reconstructed, the Insurance Trustee shall make disbursements upon and pursuant to such written authorizations as may be submitted to it by an architect or other person named therein as having been employed by the Association to supervise such repairs or reconstruction.

If the damage or destruction is to one or more Units and is to be repaired or reconstructed, the mortgagee or mortgagees, if any, known by the Insurance Trustee to have an interest in or lien upon such Unit or Units may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified therein, or, in the alternative, it may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorizations as may be submitted to it by an architect or other person named therein as having been employed by the Association to supervise such repairs or reconstruction.

Section 9.05. Repair and Reconstruction – Excess Costs.

a. If the damage or destruction for which the insurance proceeds are paid to the Insurance Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall levy a special assessment against all Owners of the damaged Units and against all Owners in the case of damage to the Common Area, in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of repair and reconstruction of their respective Units.

b. Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstructed, shall be disbursed as provided for in Section 9.04.

Section 9.06. Minor Repairs.

a. Notwithstanding the foregoing provisions hereof, in the event of damage by fire or other casualty to either the Common Area or a single Unit covered by insurance written in the name of the Association and if the insurance proceeds initially offered or paid therefor are less than Five Thousand Dollars (\$5,000) and the estimated cost of repairing such damage is less than twice the amount of such proceeds, then the damage shall be repaired in accordance with the following provisions.

b. If the damage is confined to the Common Area, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Association, or its duly authorized agent, and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair, and replacement of the Common Area. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of a special assessment levied by the Board, without a vote of the Members, against all Owners or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair, and replacement of the Common Area as the Board, in the exercise of its sole discretion may determine.

c. If the damage is confined to a single Unit, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be paid to the Capital Improvement Reserve Fund or comparable fund of the Association. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess shall be provided by means of a special assessment levied by the Board against the Owner of the damaged Unit. Payments for repairs provided for in this Subsection shall be made only after all such repairs have been completed and approved by the Association, the Owner, and his, her, or its mortgagee, if any, which approval shall not be unreasonably withheld.

Section 9.07. Liability Insurance.

a. The Board shall obtain a policy or policies of liability insurance insuring the Board, the Association and its officers and employees, and the Unit Owners and their employees, if any, against any liability to the public or to the Owners of the Units and their invitees or tenants incident to the Ownership and/or use of the Property and including the personal liability exposure of the Owners incident to their being a Member of the Association, but excluding such liability of such Owners arising from their Ownership and occupancy of their individual Units and Lots. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) for any one (1) person injured for any one (1) accident, and shall not be less than One Hundred Thousand Dollars (\$100,000) for property damage for each occurrence (such limits and coverage to be reviewed at least annually by the Board and increased in its discretion). Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of a named insured under the policy or policies shall not be prejudiced as respects his action against another named insured.

Section 9.08. Other Insurance. The Board shall obtain and maintain:

a. Adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle, or are responsible for handling, funds of the Association, including any managers. Such fidelity bonds shall:

(1) Name the Association as an obligee;

(2) Be written in an amount not less than one-half (1/2) the total annual assessments for the year;

(3) Contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression.

(4) Shall provide for ten (10) days written notice to the Association or Insurance Trustee of cancellation or substantial modification. Said notice must also be given to each servicer that services a FNMA owned mortgage in the project.

b. Workers’ compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an “all states” endorsement).

c. Directors and officers liability insurance in an amount not less than One Million Dollars (\$1,000,000).

d. Such other insurance as the Board may determine or as may be requested from time to time by a majority vote.

## ARTICLE 10

### **Power of Assignment and Delegation**

Declarant shall have the right and power to assign and delegate to the Association, or any successor or successors thereto, at any time and from time to time, all or any part of any of the rights, powers, and authority contained in this Declaration. The initial operation of the Association shall be by Declarant until ninety percent (90%) of all Units, including any Units in any additional phases, have been sold or until such earlier time as Declarant may relinquish such control to the Association. The initial operation of the Association shall be by Declarant. Control of the Association shall be delivered to the Association prior to the earlier of one hundred twenty (120) days after the date by which seventy-five percent (75%) of the total of all projected Units have been conveyed to Unit Owners or five (5) years after the date on which the first Unit has been conveyed to a Unit Owner.

## ARTICLE 11

### Severability

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

## ARTICLE 12

### Amendment

Section 12.01. Covenants Running With the Land. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 12.02. Amendment by Declarant. Amendments to this Declaration made prior to the date on which Declarant delivers management of the property to the Association shall become effective when approved in writing by Declarant and recorded in the office of the Register of Deeds of Sedgwick County, Kansas; provided, however, that such amendment shall not materially affect any rights of any then existing mortgage holders or Lot Owners.

Section 12.03. Amendment; Other. Amendments to this Declaration other than those provided for in Section 13.02 shall be proposed and adopted in the following manner:

- a. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment shall be considered.
- b. A resolution adopting a proposed amendment may be proposed by either the Board or by the membership of the Association. Unless otherwise specified in this Declaration, such proposed amendment must be approved by the Owners of not less than seventy-five percent (75%) of the votes in the addition. Such votes may be cast in person, by absentee ballot, or by proxy as provided for herein and in the Bylaws of the Association.
- c. Notwithstanding anything else in this Article 12 to the contrary, Section 6.23 shall not be amended without the prior approval of the Wichita Board of City Commissioners.
- d. A copy of each amendment provided for herein shall be certified by the Board as having been duly adopted and shall be effective when filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

The Board of Directors shall not have the power to amend this Declaration or the Bylaws of the Association except as expressly set forth herein.

## ARTICLE 13

### Additional Land

More than ten (10) years have passed since the initial filing of the Original Declaration, and no more land may be added to the development. All additional land that was added to the development by Declarant pursuant to Article 13 of the Original Declaration is now reflected on Exhibit A.

## ARTICLE 14

### Notice

The Association shall provide notice to the Unit Owners pursuant to the following:

Section 14.01. Legal Proceedings. The Association shall promptly provide notice to the Unit Owners of any legal proceedings in which the Association is a party other than proceedings involving enforcement of rules, the Declaration, or to recover unpaid assessments or other sums due the Association.

Section 14.02. Notice of Proposed Budget. Notice of any meeting at which a budget will be considered must be given to Unit Owners at least 10 days prior to the meeting date and, in accordance with subsection (g) of K.S.A. 58-4612, and amendments thereto, a copy of the proposal must be made available to any Unit Owner who requests it. At any meeting at which a budget or budget amendment is considered, in accordance with subsection (d) of K.S.A. 58-4612, and amendments thereto, Unit Owners must be given a reasonable opportunity to comment on the proposal prior to the Board taking action.

Section 14.03. Delivery of Notice. The Association shall deliver any notice required to be given by the Association pursuant to this Declaration or the provisions of K.S.A. 58-4601, et al. to any mailing or electronic mail address a unit owner designates. Otherwise, the association may deliver notices by:

- (1) Hand delivery to each Unit Owner;
- (2) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each Unit;
- (3) electronic means, if the Unit Owner has given the association an electronic address;  
or
- (4) any other method reasonably calculated to provide notice to the Unit Owner.

IN WITNESS WHEREOF, the Board of Directors of the Allen's Lake Townhouse Owners' Association has executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions, as of this \_\_\_\_\_, 2015.

Allen's Lake Townhouse Owners' Association

\_\_\_\_\_  
William Wesche, President



**EXHIBIT A**

**SUBMITTED LAND**

Beginning at a point on the west line of Allens Farm, an addition to Wichita, Sedgwick County, Kansas; 130.00 feet bearing N 01° 14' 30" W from the southwest corner of said addition; thence continuing along said west line bearing N 01° 14' 30" W, 45.00 feet; thence N 15° 16' 40" W, 103.08 feet; thence N 01° 14' 30" W, 25.21 feet; thence N 88° 45' 30" E, 225.00 feet; thence N 55° 15' 30" E, 78.62 feet; thence N 01° 14' 30" W, 42.68 feet; thence N 60° 00' 00" E, 172.00 feet; thence S 30° 00' 00" E, 56.00 feet; thence S 66° 30' 00" E, 147.42 feet; thence S 01° 14' 30" E, 189.17 feet; thence S 60° 00' 00" W, 168.00 feet; thence S 01° 14' 30" E, 114.43 feet to a point on the south line of said Allens Farm Addition, said point also being on the north line of 29<sup>th</sup> Street North; thence westerly along said line bearing S 88° 55' 01" W, 70.00 feet; thence N 01° 14' 30" W, 100.00 feet; thence N 69° 38' 43" W, 150.46 feet; thence S 88° 55' 01" W, 220.00 feet to the point of beginning; containing 3.48 acres, more or less.

AND ALSO:

Beginning at the northwest corner of Lot 1, Block 1 of Allens Farm, an addition to Wichita, Sedgwick County, Kansas, said point also being 730.79 feet northerly bearing N 01° 14' 30" W and 60.00 feet easterly bearing N 88° 45' 30" E from the southwest corner of Section 31, Township 26 south, Range 2 east; thence easterly along the south line of 30<sup>th</sup> Street North as platted in said addition bearing N 88° 55' 01" E, 340.49 feet to the beginning of a curve to the left; thence 129.71 feet along said curve having a radius of 247.73 feet, a central angle of 30° 00' 00", and a long chord bearing N 73° 55' 01" E, 128.23 feet; thence N 58° 55' 01" E, 55.00 feet; thence S 31° 04' 59" E, 115.00 feet; thence S 13° 55' 01" W, 125.00 feet; thence S 64° 57' 41" W, 115.13 feet; thence S 60° 00' 00" W, 172.00 feet; thence S 01° 14' 30" E, 42.68 feet; thence S 55° 15' 30" W, 78.62 feet; thence S 88° 55' 01" W, 225.00 feet to the west line of said addition; thence northerly along said west line bearing N 01° 14' 30" W, 75.79 feet; thence N 12° 47' 40" E, 41.23 feet; thence N 01° 14' 30" W, 260.00 feet to the point of beginning.

AND ALSO:

Beginning at a point on the west line of said Allens Farm addition, 130.00 feet north bearing N 01° 14' 30" W from the southwest corner of said addition; said point also being 184.79 feet north bearing N 01° 14' 30" W and 75.00 feet east bearing N, 88° 45' 30" E from the southwest corner of Section 31, Township 26 south, Range 2 east; thence N 88° 55' 01" E, 220.00 feet; thence S 69° 38' 43" E, 150.46 feet; thence S 01° 14' 30" E, 100.00 feet to a point on the south line of said addition, said point also being on the north line of 29<sup>th</sup> Street North; thence westerly along said line bearing S 88° 55' 01" W, 84.97 feet; thence N 77° 02' 49" W, 103.08 feet; thence S 88° 55' 01" W, 175.00 feet; thence N 01° 14' 30" W, 130.00 feet to the point of beginning.

AND ALSO:

Beginning at a point on the south line of said Allens Farm addition, 197.78 feet westerly bearing S 88° 55' 01" W from the southeast corner of said addition; said point also being 913.07 feet easterly bearing N 88° 55' 01" E and 30.00 feet northerly bearing N 01° 04' 59" W from the southwest corner of Section 31, Township 26 south, Range 2 east; thence westerly along said south line bearing S 88° 55' 01" W, 408.25 feet; thence N 01° 14' 30" W, 114.43 feet; thence N 60° 00' 00" E, 168.00 feet; thence N 88° 55' 01" E, 190.30 feet; thence S 21° 04' 59" E, 208.22 feet to the point of beginning.

AND ALSO:

A tract of land lying in the Southwest Quarter, Section 31, Township 26 South, Range 2 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of Lot 1, Allens Farm, an addition to Wichita, Sedgwick County, Kansas; thence N 88° 55' 01" E, 239.54 feet along the North line of said Lot 1 to the point of beginning; thence N 88° 55' 01" E, 100.95 feet along the North line of said Lot 1 to a point on a curve to the left; thence along said curve 129.71 feet, said curve having a central angle of 30° 00' 00", a radius of 247.73 feet, and a long chord of 128.23 feet, bearing N 73° 53' 01" E; thence N 58° 55' 01" E, 90.00 feet to a point on a curve to the right; thence along said curve 69.61 feet, said curve having a central angle of 30° 00' 00", a radius of 132.94 feet, and a long chord of 68.81 feet, bearing N 73° 55' 01" E; thence N 88° 55' 01" E, 228.93 feet; thence S 01° 04' 59" E, 140.00 feet; thence N 88° 55' 01" E, 10.00 feet; thence S 01° 14' 30" E, 164.84 feet; thence S 28° 45' 30" W, 185.00 feet; thence N 88° 04' 59" W, 175.00 feet; thence N 22° 04' 59" W, 95.00 feet; thence S 89° 55' 01" W, 82.50 feet; thence N 26° 09' 04" W, 185.21 feet; thence S 61° 30' 15" W, 95.00 feet; thence N 24° 14' 49" W, 158.80 feet to the point of beginning.

AND ALSO:

A tract of land lying in the Southwest Quarter, Section 31, Township 26 South, Range 2 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, more particularly described as follows:

Beginning at the Southeast corner of Lot 1, Allens Farm, an addition to Wichita, Sedgwick County, Kansas; thence S 88° 55' 01" W, 315.00 feet along the South line of said Lot 1; thence N 01° 14' 30" W, 332.65 feet; thence S 88° 04' 59" E, 19.11 feet; thence N 28° 45' 30" E, 185.00 feet; thence N 01° 14' 30" W, 164.84 feet; thence S 88° 55' 01" W, 10.00 feet; thence N 01° 04' 59" W, 140.00 feet to the North line of said Lot 1; thence N 88° 55' 01" E, 5.00 feet along the North line of said Lot, to a point on a curve to the right; thence along said curve 67.45 feet, said curve having a central angle of 44° 50' 29", a radius of 86.18 feet, and a long chord of 65.74 feet, bearing S 68° 39' 44" E; thence S 46° 14' 30" E, 172.86 feet to a point on a curve to the right; thence along said curve 67.32 feet, said curve having a central angle of 45° 00' 00", a radius of 85.71 feet, and a long chord of 65.60 feet, bearing S 23° 44' 30" E; thence S 01° 14' 30" E, 589.46 feet to the point of beginning.