

**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
TOWN AND COUNTRY MANOR**

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIONS TOWN AND COUNTRY MANOR, made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2008,

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, are more than fifty percent (50%) of the owners of the lots in Town and Country Manor situated in the County of Johnson, State of Kansas, and area described as follows, to wit:

A plat described as: The South half (S/2) of the Northwest Quarter (NW/4) of Section Twelve (12), Township Fourteen (14), Range Twenty-Four (24), except that part in streets or roads.

WHEREAS, the Declaration of Restrictions Town and Country Manor was filed on October 7, 1996 in the Office of the Register of Deeds of Johnson County, Kansas, in Book 5008 at Page 463;

WHEREAS, the Declaration of Restrictions Town and Country Manor was amended by the Amendment to the Declaration of Restrictions Town and Country Manor filed on December 28, 1998 in the Office of the Register of Deeds of Johnson County, Kansas, in Book 5991 at Page 253; and,

WHEREAS, the Declaration of Restrictions Town and Country Manor was further amended by the Amendment to the Declaration of Restrictions of Town and Country Manor filed on May 16, 2002 in the Office of the Register of Deeds of Johnson County, Kansas, in Book 7824 at Page 748; and,

WHEREAS, the Declaration of Restrictions Town and Country Manor was further amended, as to Lots 29 through 36 and Tract A, TOWN AND COUNTRY MANOR SECOND PLAT, by the Town and Country Manor Declaration of Restrictions Additional Phase (Second Plat) filed on September 7, 2004 in the Office of the Register of Deeds of Johnson County, Kansas, in Book 200409 at Page 2374; and,

WHEREAS, the Declaration of Restrictions Town and Country Manor was further amended, as to Lots 37 through 59 and Tracts B, C and D, TOWN AND COUNTRY MANOR THIRD PLAT, by the Town and Country Manor Declaration of Restrictions Additional Phase (Third Plat) filed on May 10, 2005 in the Office of the Register of Deeds of Johnson County, Kansas, in Book 200505 at Page 3854; and,

WHEREAS, pursuant to Section 25 B of the Declaration of Restrictions Town and Country Manor, as amended, the Declaration of Restrictions Town and Country Manor, with the exception of the provisions of Section 25 C, may be amended by approval of the owners of more than fifty percent (50%) of the lots; and,

WHEREAS, the undersigned, being more than fifty percent (50%) of the owners of the lots, propose that the Declaration of Restrictions Town and Country Manor, as previously amended, be further amended as set forth herein and restated in its entirety.

NOW, THEREFORE, in consideration of the premises, the undersigned hereby further amend and restate the Declaration of Restrictions Town and Country Manor in its entirety, and, agree that all of the lots and tracts in the above described plat shall be and are hereby restricted as to their use in the manner hereinafter set forth.

1. **DEFINITIONS.** For the purpose of these restrictions, the following words or terms shall have the following meanings:
  - A. Street. The word "street" shall mean the public roads (including rights-of-way) which are dedicated for public purposes on said plat of Town and Country Manor.
  - B. Subdivision. The word "subdivision" shall mean Town and Country Manor as described herein.
  - C. Lot. The word "lot" may mean either any numbered lot as platted or one or more lots or part or parts of one or more numbered lots as platted, and upon which a residence may be created in accordance with the restrictions hereinafter set forth.
  - D. Area of Common. The term "area of common" shall refer to the entry markers, entry median, and entry structure. The term "area of common" shall not refer to islands within cul-de-sac bulbs; these areas are part of the street public rights-of way.
  - E. Board of Directors. The term "Board of Directors" shall refer to the Board of Directors of the Town and Country Manor Homes Association.
  - F. Association. The term "Association" shall refer to the Town and Country Manor Homes Association.
  - G. Homeowner. The term "homeowner" shall mean the Owner or Owners of record of a lot and residence in Town and Country Manor subdivision.
  - H. Owner. The word "Owner" shall mean the Owner or Owners of record of a lot and residence (if constructed) in Town and Country Manor subdivision.
  - I. Developer. The word "Developer" means American Heritage Homes, Inc. and/or future assignees.

J. Architectural Committee. The term “architectural committee” hereinafter referred to shall consist of up to three (3) residents of the subdivision. Each member of said committee shall serve for a term of one year. The three members shall be elected by the Association after all of the lots are sold and the plans approved by the Developer. In the event that no residents shall be elected by the Association, the Board of Directors shall have the power to appoint residents as members of the architectural committee. Further, in the event that a resident elected to the architectural committee is unable to fulfill his/her complete term, the Board of Directors shall appoint a resident to fill any unexpired term. Should a disagreement between the members of the architectural committee arise, the determination of sixty percent (60%) of the Owners shall be final. A further right of appeal shall exist to arbitration, pursuant to an arbitrator by and under the rules and regulations of the American Arbitrators Association.”

**2. PERSONS BOUND BY THESE RESTRICTIONS.** All person and corporations who now own or shall hereafter acquire any interest in the lots shall be take to hold and agree and covenant with the following covenants, restrictions, and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of ten (10) years from the filing of this document, except as the same may be amended by the provisions hereof (except as provided otherwise in this Declaration); provided, however, that each of said restrictions shall be renewable in the manner hereinafter set forth.

**3. RELATIONSHIP TO OTHER LAWS AND REGULATIONS.** The deed restrictions herein may be more restrictive than applicable local, state, and federal regulations pertinent to the activity pursued, although said deed restrictions shall not less restrictive than said local, state, or federal regulations pertinent to the activity pursued. Said deed restrictions shall not be construed as an exemption from any pertinent local, state, or federal regulations pertinent to the activity pursued. In cases where a deed restriction as indicated herein addresses a situation or activity also addressed by a local, state federal or other law, the most restrictive shall apply.

**4. USE OF LAND.** None of the lots may be improved, used, or occupied for other than single-family, private residential purposes. No residential building which has previously been at another location shall be moved onto any lot. No “earth” houses shall be permitted. No mobile homes or manufactured homes shall be permitted. No trailer or outbuilding erected on any lots shall at any time be used for human habitation, temporarily or permanently, nor shall any residence of a temporary character be erected on any of such lots or used for human habitation; provided however, that nothing herein shall prevent the Developer or others (including, without limitation, builders) authorized by the Developer from erecting temporary buildings and using such temporary buildings on any residence for a model or construction office during the development and construction of the residences.

**5. PRIOR APPROVAL OF PLOT AND BUILDING PLANS.** All plot, building, landscaping plans, additions and/or renovations to the exterior of any residence, detached garages and detailed specifications, prior to actual construction, must be submitted to and approved in writing on said plans by the Developer or the architectural committee, whichever is appropriate. Two sets of plans and specifications are to be submitted. One set will be retained by the Developer or the architectural committee and the other shall be returned to the lot Owner, either approved or disapproved. In no event shall any lot Owner construct a home which is substantially identical to an existing home in Town and Country Manor, nor shall two or more homes be built from the same set of plans, without the written consent of the Developer or the architectural committee. At the time of such submission, a security deposit in an amount to be fixed by the Developer or the Board of Directors shall be made as security for damage to streets and other property that might be caused during the course of construction. Such deposit shall be forthwith refunded upon the completion of construction and landscaping. In addition, a non-refundable fee shall be paid in an amount to be fixed from time to time by the Developer or the Board of Directors.

The Developer or architectural committee shall review the Building Plans, the Plot Plan, the Landscaping Plan, and the Specifications for the construction within ten (10) working days from the date said plans and specifications are submitted in full.

The Developer, the architectural committee, or the Board of Directors shall not be held liable for any damage resulting or claimed to result from its approval or disapproval or its failure or refusal to approve any plot or building plans submitted to it hereunder.

**6. SETBACK OF RESIDENCES AND OTHER STRUCTURES FROM PROPERTY LINES.** No part of any residence, except as hereinafter provided, may be erected or maintained on any of the lots hereby restricted nearer to the street than is the building line or lines on the Plat of Town and Country Manor, on a lot or lots on which such residence is erected. Those minimum setbacks are as follows, provided that said setbacks conform to the City of Overland Park's Unified Development Ordinance as amended:

- A. Minimum front yard: 50 feet
- B. Minimum side yard: 25 feet
- C. Minimum rear yard: 75 feet

The following parts of a residence may project beyond the minimum setbacks established herein, provided, however, that such projections conform to the City of Overland Park's Unified Development Ordinance, as amended:

- A. Window projections: Not to exceed three (3) feet
- B. Miscellaneous projections: Not to exceed three (3) feet

- C. Vestibule projections: Any vestibule not more than one story in height may project beyond the building lines by not more than six (6) feet.
- D. Porch projections: Unenclosed, covered porches, balconies and porte cocheres may project beyond the building lines by not more than sixteen feet (16').

**7. FREE SPACE REQUIRED.** The main body of any residence, including attached garages, attached greenhouses, porches, enclosed or unenclosed, covered or uncovered, but exclusive of all other projections set forth above, erected or maintained on any of the lots or on any part or parts thereof, hereby restricted shall not occupy more than eight percent (80%) of the width of the lot on which it is erected, measured in each case on the building lines as shown on the aforementioned Plat or as from time to time approved by the Board of Directors.

**8. MINIMUM FLOOR AREA AND OTHER RESTRICTIONS AND REQUIREMENTS.** The following minimum finished floor area requirements shall apply (unless expressly waived by the Developer or its assigns:

- A. For residences on lots 1 through 28 whose sale closed prior to December 28, 1998:

2,600 square feet

- B. For residences on lots 1 through 28 whose sale closed on or after December 28, 1998:

3,000 square feet

- C. For residences on lots 29 through 59 and Tracts A, B, C and D:

2 Story	3,800 square feet
1 ½ Story	3,250 square feet
Ranch	3,000 square feet

All finished floor areas shall be determined exclusive of any porches, garages, attics, and basements areas, whether finished or unfinished. No detached floor areas count. All residences shall have a minimum of a three (3) car garage. No garage shall face the road without prior written permission of the Developer or the architectural committee.”

A detailed landscaping plan and landscaping allowance shall accompany the plot plan (along with a final grading plan if deemed necessary by the Developer) and final building plans. The minimum landscaping allowance (in dollars) for each residence shall not be less than four percent (4%) of the purchase price of the lot and the value of the residence (either the construction cost of the residence or the appraised value of the residence, whichever is greater). The cost of sod shall be included in the calculation of

the minimum landscape allowance, but the cost of any irrigation system shall not be included in the calculation of the minimum landscape allowance.

Any lot purchased from the Developer shall have the residence under construction within six (6) months from the date of purchase. In the event of damage or destruction of an existing residence, the Owner shall have the repairs or reconstruction commenced within six (6) months. Any resale of an unimproved lot carries the original purchase date from the Developer and construction shall begin according to the terms set forth herein. If construction of approved plans is not started at the end of the six (6) month period, then the Developer has the right to purchase the lot from the buyer(s) at the original purchase price. When construction, repairs or reconstruction is started on any lot, a period of one (1) year is allowed for the completion of said construction, repairs, or reconstruction. The construction starting date shall commence when a Building Permit is issued and shall end when a Certificate of Occupancy is issued. A fine of One Hundred and No/100 Dollars (\$100.00) per day payable to the Developer or its assigns shall be imposed on any violation of any restriction set forth in this Section 8, unless written authorization is granted by the Developer or its assigns to extend construction for not more than sixty (60) days. To receive written authorization from the Developer or its assigns to extend construction for not more than sixty (60) days, a fee of One Hundred and No/100 Dollars (\$100.00) shall be imposed and shall be payable to the Developer or its assigns. Any fines or fees not paid in full within thirty (30) days after imposition, shall be filed as liens against the offending property.

**9. UTILITY LINES.** All electrical, telephone, and cable lines servicing each lot in Town and Country Manor shall be placed underground. However, any electrical, telephone, and cable lines existing on the date that these Declarations are filed and which are located either on the subdivision or on its perimeter shall be exempt from this restriction.

**10. SIDEWALKS, STREET LIGHTS, AND DRAINAGE CHANNELS.** Town and Country Manor is developed without sidewalks or street lights. Furthermore, Town and Country Manor is developed with natural drainage channels for storm water control. All costs of any future project to construct sidewalks in Town and Country Manor shall be spread among all properties in the subdivision. All costs of any future project to construct street lights in Town and Country Manor shall be spread among all properties in the subdivision. The maintenance of natural drainage improvements in Town and Country will not be performed by City of Overland Park forces; furthermore, all costs of any future project to construct drainage improvements on such channels in Town and Country Manor shall be spread among all properties in the subdivision. These restrictions relating to sidewalk, streetlight, and drainage channel projects and/or maintenance shall not be amended, modified, or terminated at any time or under any conditions.

**11. LOCATION OR STORAGE OF CERTAIN ARTICLES IN YARDS PROHIBITED.**

No inoperative motor vehicle or motor vehicle without a current state registration, nor any discarded, unused, junk, or scrap parts of any automobile or other vehicle or of any household appliance or furniture may be stored or parked in any yard in any lot for more than 24-hours in a 30-day period, as required by the laws of the City of Overland Park and any other local, state, and federal regulations pertinent to said activity.

**12. TYPES OF ROOFS AND FENCES.** All residences and other structures on the lots hereby restricted shall have pitched roofs constructed of wood, tile, or high grade composition, specifically approved by the Developer or the architectural committee in writing. No fences or walls may be erected more than five feet (5') high.

A. Front yard fences. In conformance with Section 18.390.140(C) of the Overland Park, Kansas, Unified Development Ordinance, as amended, no fences or walls may be constructed in the front yard or in front of the front platted building line, whichever is more restrictive except for decorative entry fences. A decorative entry fence shall:

- i. Extend no further than twelve (12) feet in front of the front surface of the residence and shall in no case be closer than fifteen (15) feet to any public or private street right-of-way.
- ii. Be located in front of the main entry to the residence and shall not extend beyond either side of the residence.
- iii. Not connect with any other fence on the property, nor with any fence defined as a decorative landscape element.
- iv. Be decorative in nature, be three (3) feet or less in height, and be limited to or similar to one of the following types of construction: brick or stone walls, or wrought iron (or comparable aluminum).
- v. Not define an area which is completely enclosed without an ungated opening to the yard at least thirty-six (36) inches in width.
- vi. Be maintained in good condition such that: (1) painted portions of the fence do not have chipping or peeling paint; (2) elements of the fence that are broken or missing are promptly repaired or replaced; and, (3) the area at the base of the fence is kept free of debris and neatly trimmed.

B. Rear yard fences. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted landscape easement except as part of a master fence/screening plan approved by the City of Overland Park as required by law. In the case of a double frontage lot

whose rear yard abuts a collector or local street, a fence or wall may be constructed no closer than fifteen (15) feet to the rear property line.

C. Side yard fences. No fence or wall may be constructed on the side property line. In addition, no fence shall be permitted in any platted landscape easement except as part of a master fence/screening plan approved by the City of Overland Park as required by law.

D. Design standards for fences.

- i. All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
- ii. All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
- iii. All fences (other than decorative fences) erected on lots hereby restricted shall be limited to one of the following types of construction: brick or stone walls, wrought iron (or comparable aluminum), or similar materials specifically approved in writing by the Developer or the architectural committee. Fences constructed of wire or plastic are specifically prohibited.

**13. BUILDING MATERIALS.** Exterior walls of all residences and all appurtenances thereto shall be of stucco, brick, stone, wood siding, or any combination thereof, or such other materials as may be deemed by the Developer or the architectural committee in writing to be compatible therewith. All windows and exterior window treatments shall also be approved by the Developer or the architectural committee in writing. All wood exteriors, except roofs, shall be covered with a workmanlike finish of two (2) coats of high quality paint or stain. No residence or building shall be permitted to stand with its exterior in any unfinished condition longer than six (6) months after commencement of construction. All exterior basement foundations and walls which are exposed above final grade shall be painted the same color as the residence, or, at the Developer's or the architectural committee's discretion, covered with siding compatible with the structure. All exterior colors shall be described on the Building Plans and shall be subject to approval in the manner described herein and, in any event, prior to commencement of construction. All exterior chimneys must be covered with stucco, brick, stone or other materials expressly approved by the Developer or the architectural committee. All deck rails and porch rails must be wrought iron (or comparable aluminum) or other materials expressly approved by the Developer or the architectural committee. All front elevation trim must be smooth cedar, smart trim, precast, or other materials expressly approved by the Developer or the architectural committee. All retaining walls and landscaping walls shall be made of natural rocks or stone or other



materials expressly approved by the Developer or the architectural committee. Asphalt driveways are prohibited. All driveway locations and materials must be submitted to and approved by the Developer or architectural committee prior to installation. All garages shall be side entry. All garage doors must be wood type or other materials expressly approved by the Developer or architectural committee. All exterior landscape lighting must be submitted to and approved by the Developer or architectural committee prior to installation. All roof pitches shall be a minimum of 8 to 12 (6 to 12 for tile roofs), except as otherwise expressly approved by the Developer or architectural committee. All roof materials must be submitted to and approved by the Developer or architectural committee prior to installation. The Owners of Lots 49 through 55 shall be responsible for the maintenance, including mowing and care and replacement of all landscaping, of that portion of the berm located to the rear of the Owner's lot.

**14. TANK STORAGE.** No fuel storage tanks are allowed on any lot in the subdivision.

**15. EXTERIOR TELEVISION ANTENNAS, SATELLITE DISHES, OR RADIO ANTENNAS.** Other than satellite dishes intended specifically for residential use, no television and/or radio antennas shall be allowed on any lot, residence or other structure within the subdivision. All satellite dishes shall be attached to the side or rear of the residence and installed such that the entire satellite dish is below the roof line of the residence.

**16. EXTERIOR STRUCTURES.**

- A. Basketball goals. Basketball goals shall be located between a line drawn parallel to the front surface of the residence and the back lot line and shall in no case be closer than 15 feet to the back and side lot lines. All backboards of basketball goals shall be made of glass or acrylic.
- B. Swimming pools. Swimming pools shall be in-ground and shall be properly fenced according to applicable local laws.
- C. Hot tubs. Hot tubs shall be properly fenced according to applicable local laws.
- D. Doghouses and other animal shelters. Outside doghouses and other animal shelters shall be located in backyards (between the back of the residence and the back lot line) and shall be painted (where appropriate) so as to blend with the surroundings and shall have roofs (where appropriate) that are compatible with the surroundings.
- E. Exterior structures. No exterior structure (other than a residence) shall have dimensions larger than 36 feet by 48 feet, with an additional overhang allowed of up to 6 feet on any side. All exterior structures must be located between a line drawn parallel to the back surface of the residence and the

back lot line and shall in no case be closer than 15 feet to the back and side lot lines. No exterior structure shall be located in the front yard (between a line drawn parallel to the back surface of the residence and the front lot line). All building and landscaping plans and detailed specifications of all proposed exterior structures must be submitted to and approved by the architectural committee prior to construction to ensure that the proposed location, building materials and landscaping plan are consistent with all applicable provisions of this Declaration, as amended. The architectural committee or the Board of Directors shall not be held liable for any damage resulting or claimed to result from the approval or disapproval or the failure or refusal to approve or disapprove any exterior structure submitted hereunder.

**17. BUILDING OR USES OTHER THAN FOR RESIDENTIAL PURPOSES; NOXIOUS ACTIVITY; MISCELLANEOUS.**

- A. Business use of buildings. No residence or exterior structure shall be used for business, professional trade, or commercial purposes on any lot; provided however, that this restriction shall not prevent an Owner from maintaining an office in his or her residence in accordance with the applicable ordinances of Overland Park, Kansas.
- B. Burning. No trash, leaves, or other waste may be burned on any of the lots in accordance with the applicable ordinances of Overland Park, Kansas.
- C. Noxious or offensive activity. No noxious or offensive activity shall be conducted on any lot, nor shall any trash, ashes, or other refuse be thrown, placed or dumped upon any lot, street, or area of common, nor shall anything be conducted which may be or become an annoyance or nuisance to the neighborhood. Each Owner shall properly maintain his lot in a neat, clean and orderly fashion. All residences and exterior structures shall be kept and maintained in good condition and repair at all times.
- D. Parking restrictions. No trailer, bus, camper, recreational vehicle, boat, or similar apparatus shall be parked, left or stored in any yard, driveway, or street for more than a 24-hour period. No commercial vehicle shall be parked, left, or stored in any yard, driveway, or street for more than a 24-hour period. All passenger vehicles (including, but not limited to, automobiles, motorcycles, mini-vans, sport utility vehicles, and trucks) shall be kept in a fully enclosed garage from the hours of 10:00 p.m. to 6:00 a.m. No passenger vehicles (including, but not limited to, automobiles, motorcycles, mini-vans, sport utility vehicles, and trucks) shall be parked on a street in the subdivision between the hours of 10:00 p.m. to 6:00 a.m. A fine of twenty-five dollars (\$25.00) per day may be levied against any violation of this restriction until it is rectified.

- E. Garage Doors. All garage doors shall remain closed at all times except when necessary for entry and exit.
- F. Excessive noise. No use shall be operated and activity or equipment maintained that produces noise of a pitch or level that violates the residential character or damages and interferes with the livability and tranquility of the subdivision. In no case shall a noise level be generated that exceeds 50 db at repeated intervals for a sustained length of time as measured at the property line of the noise source.
- G. Damaged buildings. In the event of vandalism, fire, windstorm, or other damage, no building or other structure shall be permitted to remain in a damaged condition for a period longer than that allowed by the laws of the City of Overland Park, Kansas. Neither the Association nor the Board of Directors shall be responsible for any damage to buildings or other structures caused by vandalism or negligence of any Owner or a member of the Owner's family, and/or a guest or business invitee of any Owner.

**18. ANIMALS.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot except dogs, cats, or other common household pets so long as they are not kept, bred, or maintained for commercial purposes and do not constitute a nuisance to the neighborhood. In no event, however, shall more than two (2) dogs and two (2) cats be raised, kept or maintained on any lot. Any Owner wishing to raise, keep, or maintain either three (3) dogs, three (3) cats or four or more of any combination thereof, shall require the permission of the Board of Directors and a special animal permit from the City of Overland Park as required by law.

**19. LANDSCAPING AND LAWNS.** Within thirty (30) days of the issuance of the Certificate of Occupancy, the entire yard surrounding the residence shall be completed per the agreed upon Landscaping Plan. The area located between a line drawn parallel to the front surface of the residence and the back lot line shall be sodded. Any vegetable gardens shall be located between a line drawn parallel to the back surface of the residence and the back lot line and shall in no case be closer than 15 feet to the back and side lot lines. No vegetable garden shall be located in the front yard (between a line drawn parallel to the back surface of the residence and the front lot line). The Owner of each lot shall maintain their lawn (any sodded or seeded areas) in a uniform manner and properly maintain all landscaping and replace it when necessary. The Owner shall have any dead trees and/or shrubs removed within thirty (30) days after written notice from the Association. All weeds, grass, and other vegetation shall be maintained in a manner that is not offensive to the neighbors and in a manner that is consistent with the laws of the City of Overland Park, Kansas. A fine of ten dollars (\$10.00) per day shall be levied against violations of any of the requirements of this Section 19 until it is rectified.

**20. EASEMENTS FOR PUBLIC UTILITIES; DRAINAGE; MAINTENANCE.** The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorized the location, erection, construction, maintenance and use of drains, pipelines, storm sewers, water mains and lines, electric and telephone lines and other utilities, and to give or grant rights-of-way or easements therefore, over, under, upon, and through all easements and rights-of-way shown on the recorded Plat of the area of common. All utility easements and rights-of-way shall inure to the benefit of all utility companies for purposes of installing, maintaining, or moving utility lines or services and shall inure to the benefit of the Developer, all Owners in the subdivision and the Association as cross easement for utility line or service maintenance.

**As noted in the section herein regarding sidewalks, street lights and drainage channels, the maintenance of natural drainage channels in Town and Country Manor will not be performed by City of Overland Park forces. Furthermore, as noted in said section, all costs of any future project to construct drainage improvements on such channels in Town and Country Manor shall be spread among all properties in the subdivision.**

**21. AREAS OF COMMON.**

- A. Maintenance. The Developer shall be responsible for the maintenance of such areas of common as cul-de-sac bulbs and entry markers as long as said Developer retains control of the Association. At the time the Developer relinquishes control of the Association to the owners as provided for herein, said owners shall be responsible for the maintenance of the subdivision's areas of common.
- B. Improvements. No Owner shall improve, destroy, or otherwise alter any area of common without the express consent of the Association or Developer (depending on which entity has the rights, title and interest in the area of common at the time of the request).
- C. Gates. Any gates or similar security facilities that may be installed as or in an area of common shall be constructed and operated in a manner that permits access at all times by emergency vehicles.
- D. Additional Rules. The Developer and/or the Association shall have the right to make additional rules, regulations and restrictions pertaining to the use of any area of common.

**22. NO LIABILITY FOR APPROVAL OR DISAPPROVAL.** Neither the Developer nor the members of the Association shall be personally liable to any person for any discretionary approval, disapproval, or failure to approve any matter submitted for approval, for the adoption of any rules, regulations, or guidelines, or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration.

**23. COVENANTS RUNNING WITH THE LAND ENFORCEMENT.** The agreements, restrictions and reservations herein set forth are and shall be covenants running with the land into whosoever hands nay of the property in subdivisions shall come. The Developer and its successors, assigns, and grantees and all parties claiming by, through, or under them, shall conform to and observe such agreements, restrictions and reservations; provided, however, that no person shall be obligated to enforce any such agreements, restrictions and reservations. No agreement binding upon any Owner except with respect to breaches thereof committed during its or his seizing of title of such lots; provided, however, that the immediate grantee for the builder of the residence on a lot shall be personally responsible for breaches committed during such builder's ownership of such lot.

The Developer, its successors and assigns, and all other Owners of any of the lots and the Association, shall have the right (but not the obligation) to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance to the agreements, restrictions, and reservations herein set forth, in addition to any action at law for damages. The failure to enforce any of the agreements, restrictions, or reservations herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter. Any violation of any agreement, restriction, or reservation herein set forth shall be deemed a nuisance and may be enforced by the Developer, its successors and assigns, in any manner allowed by law or equity, including, but not limited to, the imposition and collection of fines, which if not paid within thirty (30) days from the date of imposition may be enforced as a lien on the Owner/Violator's real estate, in proceedings in any court in Johnson County, Kansas, having jurisdiction of suits for enforcement of such liens. Unless a specific fine is otherwise provided herein, the amount of the fine for any violation of any agreement, restriction, or reservation herein set forth may be up to One Thousand and No/100 Dollars (\$1,000.00).

**24. ASSIGNMENT OF DEVELOPER'S RIGHTS.** The Developer shall have the right and authority, by appropriate agreement made expressly for that purpose, to assign, convey, transfer and set over to any person(s) or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for all purposes be the Developer hereunder with respect to the assigned rights, benefits, powers, reservations, privileges, duties and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

**25. RELEASE AND MODIFICATION OF RESTRICTIONS.**

- A. Term. The provisions of this Declaration shall remain in full force and effect until the 31<sup>st</sup> day of January, 2002, and shall automatically be continued thereafter for successive periods of five (5) years each, provided, however, that the then Owners of a majority (more than 50%) of the lots may release the Subdivision, or any part thereof, from at least part of such provisions (the conditions outlined in Section 25.C herein may not be released), or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and recording any appropriate agreement in writing for such purposes, at least one (1) year prior to the original expiration date or to the subsequent expiration date, whichever is applicable.
  
- B. Amendments. The provisions of this Declaration may be amended, modified, or terminated, at least in part, at any time by the Developer provided that said Developer controls the Association. (The provisions outlined in Section 25.C herein may not be amended, modified, or terminated). The provisions of this Declaration may be amended, modified, or terminated, at least in part, at any time by the Owners of more than fifty percent (50%) of the Owners (excluding the Developer if it is then an Owner) of the lots (excluding those owned by the Developer), provided that said Owners control the Association. (Again, the provisions outlined in Section 25.C herein may not be amended, modified, or terminated).
  
- C. Amendments Prohibited. At no time and under no conditions shall this Declaration be amended, modified, or terminated with respect to the following restrictions regarding sidewalks, street lights, and drainage channels and as set forth elsewhere herein, to wit:
  - i. All costs of any future project to construct sidewalks in Town and Country Manor shall be spread among all properties in the subdivision.
  
  - ii. All costs of any future project to construct street lights in Town and Country Manor shall be spread among all properties in the subdivision.
  
  - iii. The maintenance of natural drainage channels in Town and Country Manor will not be performed by City of Overland Park forces; furthermore, all costs of any future project to construct drainage improvements on such channels in Town and Country Manor shall be spread among all properties in the subdivision.

**26. RELEASE OF ASSOCIATION CONTROL.** The Developer shall relinquish control of the Association upon the earlier of when one hundred percent (100%) of the platted lots have been sold or upon the discretion of the Developer.

**27. SEVERABILITY.** Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions, or any part thereof, but they shall remain in full force and effect.

The provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding upon the above named Developer, American Heritage Homes, Inc., and all persons claiming by, through, or under it.

IN WITNESS WHEREOF, the undersigned, being more than fifty percent (50%) of the owners of the lots, have caused this Amended and Restated Declaration of Restrictions Town and Country Manor on the date indicated next to our respective signatures.

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