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AMENDED AND RESTATED HOMES ASSOCIATION DECLARATION

THIS DECLARATION made this 25th day of June 2002, by WESTCHESTER HOMES ASSOCIATION, a not-for-profit corporation, having its principal place of business in Johnson County, Kansas;

WITNESSETH: That

WHEREAS, Westchester Venture, a partnership, was the owner and developer of Westchester, a development in the City of Lenexa, Johnson County, Kansas, which four plats were recorded in the office of the Register of Deeds of Johnson County, Kansas; and

WHEREAS, Westchester Venture developed the above described land and created and maintained a residential neighborhood possessing features of more than ordinary value to the said community; and

WHEREAS, Westchester Venture prepared (1) Homes Association Declaration on May 15, 1985 and caused it to be recorded in the office of the Johnson County Register of Deeds in Vol. 2159 and Page 390 on May 16, 1985, (2) Homes Association Declaration on October 3, 1986 and caused it to be recorded in the office of the Johnson County Register of Deeds in Vol. 2436 and Page 902 on October 6, 1986, and (3) Homes Association Declaration on February 14, 1989 and caused it to be recorded in the office of the Johnson County Register of Deeds in Vol. 2974 and Page 517 on April 24, 1989.

WHEREAS, certain lot owners desire to amend said Declarations.

\$194.00
\$190.00
STATE OF KANSAS }
COUNTY OF JOHNSON } SS
FILED FOR RECORD

2002 SEP 17 4 9:52 PM

REBECCA L. DAVIS
REGISTER OF DEEDS

194.00
90.00

DOCS-226552.1

384.00 *JK*

WHEREAS, 60 percent or more of the owners of the lots within the district described in Exhibit A have given written consent to this Amended and Restated Declaration.

NOW, THEREFORE, in order to assist it and its grantees in providing the means necessary to bring about the development of the above described land, Westchester Venture, in May, 1995, subjected the real property described in Exhibit A to the covenants, charges and assessments set forth and contained in this Amended and Restated Declaration, subject, however, to the limitations hereinafter contained.

DEFINITIONS OF TERMS USED

The term "district" as used in this declaration shall mean, unless and until extended as hereinafter provided, all of the lots last hereinabove described and shown on said plat of Westchester. If or when other land, in the manner hereinafter provided, shall be added to that described above, then the term "district" shall thereafter mean all land which shall from time to time be subjected to the terms of this declaration, including any future modification thereof. The term "improved property" as used herein shall be deemed to mean a single tract under a single ownership and use, and on which tract a residence has been erected or is in the process of erection, or on which any other building not in violation of the restrictions then of record thereon is erected or is in the process of erection. Any other land covered by this declaration shall be deemed to be vacant and unimproved. The term "public place" as used herein shall be deemed to mean all streets, park areas, service areas and other common areas, and all similar places the use ~~of which is dedicated to or set aside for the use of the general public, or for the general use of all~~ of the owners with the district, or which may, with appropriate consent, be used by all of the

owners of the district. The term "owners" as used herein shall mean those persons or corporations who may from time to time own the land and townhouse within the district.

SECTION 1. MEMBERSHIP IN ASSOCIATION

The owners of all of the land hereinabove described, together with the owners of any other land that may from time to time be made subject to all of the terms and provisions of this declaration in the manner hereinafter provided for, are members of an Association, which is known as Westchester Homes Association ("Association"). The Association is incorporated under the laws of the State of Kansas, as a corporation not for profit. Membership in the Association is limited to the owners of the land within the boundaries of the district as it exists from time to time. The Association shall be the sole judge of the qualifications of its members and of their rights to participate in its meetings and proceedings.

SECTION 2. OTHER LANDS-HOW THEY MAY BE ADDED

The Association may from time to time add to the district such land as is now or hereafter owned or approved for addition by said Association, provided that the land so added to the district shall at that time be bound by all of the terms of this declaration and any future modifications thereof. The Association may also unite or combine with any other association similarly organized, operating on a similar basis, and having jurisdiction of land lying with Johnson County, Kansas, or any political subdivision thereof.

SECTION 3. POWER AND DUTIES OF THE ASSOCIATION

Single family dwellings have been constructed on the lots hereby subjected to the terms of this document for occupancy by a single family.

Westchester Venture caused certain lands owned by it, to be designated as public places or common areas. The Association accepted from Westchester Venture the conveyance of all its right, title and interest in and to any and all of the public places and common areas created by Westchester Venture subject to the rights of property owners in Westchester or other land which may be subjected to this agreement.

The Association shall have the following powers and duties which it may exercise and perform whenever in its discretion it may deem them necessary or desirable, to-wit:

(1) To enforce, either in its own name or in the name of any owner within the district, any or all building restrictions which may have been heretofore or may hereafter be imposed upon any of the land in the district, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, declarations or contracts in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for. Nothing herein contained shall be deemed or construed to prevent any owner having the contractual right to do so from enforcing in his own name any such restrictions.

(2) To manage and control as trustee for its members all public and private streets, park areas, swimming pool and clubhouse, if any, service areas, sidewalks and other public places which may now be or hereafter designated as such, and any and all improvements

thereon, provided that such management and control of said places and improvements shall at all times be subject to that had and exercised by any township, city, county and state, or any of them, in which said places and improvements are located.

(3) To provide for the collection and disposal of rubbish and garbage, when adequate services of that type are not available from any public source..

(4) To care for, spray, trim, protect and replant trees on all streets and in other public places where trees have once been planted, when such services are not available from any public source; and to care for, protect and replant shrubbery, and resow grass and replace sod in any common areas shown on the plat of Westchester, or on property which may hereafter be dedicated for common use.

(5) To mow, care for, maintain and remove all rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the district neat in appearance and in good order.

(6) To provide for the plowing and removal of snow from sidewalks and streets when such services are not available from any public source.

(7) To provide for the maintenance of any lawns, swimming pools, dedicated parks, tennis courts, playgrounds, parking areas, walks, curbs, pedestrian ways, gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected or created in any street, common areas, parking area or other public place shown on the plats of Westchester or created by separate instrument from land described in the preamble hereto.

(8) To provide such lights as the Association may deem advisable on streets, parks, parkings, pedestrian ways, gateways, entrances or other features and in other public or semi-public places, when such facilities are not available from any public source.

(9) To provide for the cleaning of streets, gutters, catch basins, sidewalks, and pedestrian ways and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.

(10) To erect and maintain signs for the marking of streets and safety signs for the protection of children and other persons, when such signs are not available from any public source.

(11) To employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

(12) To exercise control over such easements as it may acquire from time to time.

(13) To pay taxes and special assessments on such real estate and personal property as may be owned by it; and the Association shall have the responsibility for paying such taxes and special assessments on any swimming pool which may be due and owing at the time the Association receives the title to such swimming pool. Additionally, the Association shall pay such taxes and assessments as may be assessed against land in streets, common areas and other public or semi-public places within the district.

(14) To levy and collect the assessments which are provided for in this declaration.

SECTION 4. METHOD OF PROVIDING GENERAL FUNDS

(1) For the purpose of providing a general fund to enable the Association to exercise the powers and maintain the improvements and render the services herein provided for, all privately owned lots on which a dwelling has been erected within the boundaries of the district shall be subject to an annual assessment which may be levied by the Association from year to year and shall be paid to the Association annually in advance by the respective owners of the said assessable lands subject thereto, which said assessable lands shall be deemed to be all of the above enumerated lots in the aforesaid plat of Westchester on which dwellings have been erected, together with such other lots as may from time to time be added to the said district as herein provided and on which dwellings have been erected. The Association may from year to year fix and determine the total amount required in the general fund and may levy and collect an annual assessment.

(2) The maximum annual assessment upon each lot as aforesaid may be increased to an amount not exceeding ten percent (10%) above the minimum assessment for the previous calendar year (1) except for, and plus the amount by which ad valorem real estate taxes, and utility charges payable by the Association have increased over the amounts payable for the same or similar items for the previous year and allocated on a monthly basis and borne equally by all lot owners resulting from the operation and maintenance of the common facilities and/or amenities of the Project commencing with the next month after their construction, completion and availability for use, all without a vote of the membership, provided, however, that at a meeting of the members specially called for that purpose, prior to the date on which the

assessment is levied for the first year for which such increase is proposed, a majority of the members present at such meeting authorize such an increase by an affirmative vote therefor.

(3) Unless the increases provided for in paragraph (2) of this Section 4 are specifically limited by the resolutions in which they are contained to be for a specified period they shall be effective until rescinded by the Association, at a meeting specifically called for such purpose, by an affirmative vote of sixty percent (60%) of the members present or by action taken under the terms of paragraph (4) of this Section 4 and in either such event the rescission shall be effective commencing on the first day of the next succeeding year.

(4) Whenever the Association may deem it advisable to submit to the members a proposal under paragraph (2) of this Section 4 for increasing or decreasing the permissible maximum amount of the annual assessment it shall notify the members of the Association by mailing to such members at the last known address, with United States postage thereon prepaid, a notice of such meeting, giving the time and place at which it is to be held and the fact that an increase in the amount of the annual assessment is to be voted upon at such meeting.

(5) It will be the duty of the Association to notify each and every owner of an assessable lot whose address is listed with the Association on or before the date giving the amount of the assessment on each tract owned by them and the date when such assessment is due. Failure of the Association to levy the assessment prior to January 1 of each year for the next succeeding calendar year beginning on January 1 shall not invalidate any such assessment made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to January 1 of any year, then it shall become due and payable not later than thirty (30) days from

the date of levying the assessment. The Association may elect to permit collections in monthly, quarterly or semi-annual payments in lieu of the annual payments provided for herein.

(6) A written or printed notice, deposited in the United States Post Office with postage thereon prepaid, and addressed to the respective owners at the last address listed with the Association, shall be deemed to be sufficient and proper notice for these purposes, or for any other purpose of this declaration where notices are required.

SECTION 5. LIEN ON REAL ESTATE

(1) The assessment provided for by Section 4 hereof shall become a lien on the real estate against which it is levied as soon as it is due and payable as above set forth, provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate securing the payment of a loan made by a recognized lending institution. In the event of the failure of any owner to pay the assessment on or before the first day of the first month following the making of such assessment, then such assessment shall bear interest at the rate of fourteen per cent (14%) per annum from the first day of the first month but if the assessment is paid within thirty (30) days from the date of the assessment, then no interest shall be charged. If the Association exercises the election permitted by Section 4, paragraph (6) hereof to collect each year's assessment in either monthly, quarterly or semiannual installments, then no interest shall be charged except as to any owner who shall fail to pay any such installment within thirty (30) days of its due date, which default may, at the election of the Association, be treated as sufficient cause to accelerate maturity of the annual assessment remaining unpaid and interest shall be owed on the entire unpaid amount from the date of such default.

(2) On or after February 1 1985 , and February 1 of each year thereafter, or within thirty (30) days from the date of levying the assessment for the calendar year during which the assessment is levied, or within thirty (30) days following the election of the Association accelerate maturity under paragraph (2) of this Section 5 in the case of installment collection, the assessment shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate, in proceedings in any court in Johnson County, Kansas, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of nonpayment of assessments in the office of the Register of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the owner or owners of the property described therein a fee of Twenty-Five Dollars (\$25.00) which fee is hereby declared to be a lien upon the real estate so described in said certificate, provided that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate securing the payment of a loan which is made by a recognized lending institution. Such fees shall be collectible in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

(3) Such liens shall continue for a period of five (5) years from the date of delinquency and no longer, unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment establishing same.

SECTION 6. EXPENDITURES LIMITED TO ASSESSMENT FOR CURRENT YEAR

The Association shall at no time expend more money within any one year than the total amount of the assessment for that particular year plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the Association except for contracts for utilities, it being the intention that the assessment for each year shall be applied as far as practicable toward payment of the obligations of that year, and that the Association shall have no power to make a contract affecting the assessments of any future or subsequent year except for utilities.

SECTION 7. ASSOCIATION TO NOTIFY MEMBERS OF ADDRESS

The Association shall notify all owners of land in the district as it may exist from time to time, insofar as the addresses of such owners are listed with the said Association, of the official address of said Association, the place and time of the regular meetings of the Association, and the place where payments shall be made and any other business in connection with said Association may be transacted, and in the case of any change of such address the Association shall notify all the owners of the land in the district insofar as their addresses are listed with the Association, of the new address.

SECTION 8. TO OBSERVE ALL LAWS

Said Association shall at all times observe all state, county, city and other laws, and if at any time any of the provisions of this declaration shall be found to be in conflict therewith then such parts of this declaration as are in conflict with such laws shall become null and void, but no other part of this declaration not in conflict therewith shall be affected thereby. The Association

shall have the right to make such reasonable rules and regulations, and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of this declaration, subject, however, to the limitations of its rights to contract as are herein provided for.

SECTION 9. AMENDMENT

By written consent of the owners of sixty percent (60%) of the lots within the district as then constituted, evidenced by the declaration duly executed and acknowledged by such owners and recorded in the office of the Register of Deeds of Johnson County, Kansas, this instrument may be modified and amended, provided, however, that no right to exceed the maximum annual assessment herein provided for may be given.

SECTION 10. HOW TERMINATED

This declaration may be terminated and all of the land now or hereafter affected may be released from all of the terms and provisions thereof by the owners of the lots then subject thereto executing and acknowledging an appropriate agreement or agreements for that purpose and filing the same for record in the office of Register of Deeds of Johnson County, Kansas.

SECTION 11. COVENANTS RUNNING WITH THE LAND

All of the provisions of this declaration shall be deemed to be covenants running with the land, and shall be binding upon owners and upon their successors and assigns.

IN WITNESS WHEREOF, Westchester Homes Association and upon the authority of 60 percent of the owners, this 25th day of June, 2002.

WILLIAM R BUCKNER

William R. Buckner

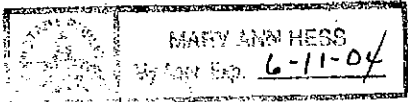
WILLIAM R. BUCKNER

ACKNOWLEDGMENT

STATE OF KANSAS)

Miami) SS
COUNTY OF JOHNSON)

On this 25th day of June, 2002, before me, the undersigned, a Notary Public in and for the county and state aforesaid, personally appeared: William R Buckner President of Westchester Homes Association, to me personally known to be the same persons who executed the within and foregoing instrument of writing and acknowledged to me that the same was executed as a free and voluntary act and deed for the uses and purposes therein set forth. IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal the day and year last above written.

Mary Ann Hess
NOTARY PUBLIC


My commission expires: 6-11-04

EXHIBIT A

Legal Descriptions for Westchester Courts Subdivisions

Tracts A, B, C, D, E and Common Area, CERTIFICATE OF SURVEY OF LOT 1, WESTCHESTER COURTS, FIRST PLAT and CERTIFICATE OF SURVEY OF LOT 10, WESTCHESTER COURTS, SECOND PLAT, filed in the Register of Deeds in Volume 2434, Page 533, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D and Common Area, CERTIFICATE OF SURVEY OF LOT 2, WESTCHESTER COURTS, FIRST PLAT, filed in the Register of Deeds in Volume 2158, Page 163, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C and Common Area, CERTIFICATE OF SURVEY OF LOT 3, WESTCHESTER COURTS, FIRST PLAT, filed in the Register of Deeds in Volume 2158, Page 164, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C and Common Area, CERTIFICATE OF SURVEY OF LOT 4, WESTCHESTER COURTS, FIRST PLAT, filed in the Register of Deeds in Volume 2158, Page 165, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D and Common Area, CERTIFICATE OF SURVEY OF LOT 5, WESTCHESTER COURTS, FIRST PLAT, filed in the Register of Deeds in Volume 2158, Page 166, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B and Common Area, CERTIFICATE OF SURVEY OF LOT 8, WESTCHESTER COURTS, 1ST PLAT, filed in the Register of Deeds in Volume 2330, Page 491, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D, E and Common Area, CERTIFICATE OF SURVEY OF LOTS 11 AND 12, WESTCHESTER COURTS, SECOND PLAT, filed in the Register of Deeds in Volume 2629, Page 706, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C and Common Area, CERTIFICATE OF SURVEY OF LOT 14, WESTCHESTER COURTS, SECOND PLAT, filed in the Register of Deeds in Volume 2721, Page 242, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D and Common Area, CERTIFICATE OF SURVEY OF LOT 15, WESTCHESTER COURTS, THIRD PLAT, filed in the Register of Deeds in Volume 2452, Page 243, a subdivision in the City of Lenexa, Johnson County, Kansas.

Legal Descriptions for Westchester Courts Subdivisions
Continued

Tracts A, B, C, D and Common Area, CERTIFICATE OF SURVEY OF LOT 16, WESTCHESTER COURTS, THIRD PLAT, filed in the Register of Deeds in Volume 2705, Page 92, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D, E and Common Area, CERTIFICATE OF SURVEY OF LOTS 17 AND 18, WESTCHESTER COURTS, THIRD PLAT, filed in the Register of Deeds in Volume 2666, Page 895, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C and Common Area, Lot 20, WESTCHESTER COURTS, THIRD PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas.

Lot 21, WESTCHESTER COURTS, THIRD PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D and Common Area, CERTIFICATE OF SURVEY OF LOT 22, WESTCHESTER COURTS, THIRD PLAT, filed in the Register of Deeds in Volume 2705, Page 91, a subdivision in the City of Lenexa, Johnson County, Kansas.

Lot 23, WESTCHESTER COURTS, THIRD PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas.

Lots 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34, WESTCHESTER COURTS, FOURTH PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas.

Lots 35, 36, 37, 38, 40, 41, 42, 43, 44, 45 and 46, WESTCHESTER COURTS, FOURTH PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B and Common Area, CERTIFICATE OF SURVEY OF LOT 39, WESTCHESTER COURTS, FOURTH PLAT, filed in the Register of Deeds in Volume 2999, Page 20, a subdivision in the City of Lenexa, Johnson County, Kansas.

Tracts A, B, C, D, E, F and Common Area, CERTIFICATE OF SURVEY OF WESTCHESTER COURTS, FIRST PLAT AND SECOND PLAT, filed in the Register of Deeds in Volume 4597, Page 275, a subdivision in the City of Lenexa, Johnson County, Kansas.

WESTCHESTER HOMES ASSOCIATION
Exhibit B: Maintenance Responsibilities

<u>Maintenance Item</u>	<u>Extent of Responsibility</u>	<u>Responsible Party</u>
Roofing/Flashing	All	Owner
Gutters/Downspouts	Clean/Maintain Replace	Association Owner
Exterior Wall Surfaces		
Wood/Composition*	Paint/Maintain	Association
Masonry	Routine Paint/Seal Replace	Association Owner
Exterior Chimney		
Wood/Composition	Paint/Repair Replace	Association Owner
Masonry	Seal/Repair Replace	Association Owner
Windows (Exterior)*	Paint/Caulk	Association
Window Structure	Repair/Replace	Owner
Exterior Doors (All)	Paint/Caulk Repair/Replace	Association Owner
Foundation	All	Owner
Utility Lines		
Electric/Gas/Water	Residence to Meter Meter to Main	Owner Utility Company
Sewer	Residence to Main Main	Owner Utility Company
Driveways	All	Owner
Curbing	All	Association

<u>Maintenance Item</u>	<u>Extent of Responsibility</u>	<u>Responsible Party</u>
Parking (Common Areas)	All	Association
Patio Slabs/Decks/Privacy Screens	All	Owner
Sidewalks		
Public Use	All	Association
Private Use	All	Owner
Grass Areas/Trees		
Inside Privacy	All	Owner
Outside Privacy	All	Association
Shrubs		
Foundation Plants	All	Owner
Common Areas	All	Association
Fences		
Perimeter	All	Association
Privacy/Party	All	Owner
Street Lights	All	Association
Pest Control	All	Owner
Sprinkler System	All	Association

All maintenance items noted "Association" will be performed by the Association except for the following: (1) item is determined by the Association, and verified by an independent expert selected by Association, to be economically and/or physically infeasible to maintain or repair; or (2) problems are a result of owner negligence or damage. In such instances, the owner will be responsible for repair/replacement at owner's expense.

* Except when windows, doors or other Owner replacements are made.