

**AMENDED DECLARATION OF RESTRICTIVE COVENANTS
AFFECTING
THE WESTWIND ESTATES ADDITION
AN ADDITION TO SEDGWICK COUNTY, KANSAS**

This Amended Declaration is made effective this ____ day of _____, 2022, by the undersigned, James B. Morrison, Manager of Morrison Development, LLC, hereinafter called Grantor.

WITNESSETH:

WHEREAS, a plat of the Westwind Estates Addition to Sedgwick County, Kansas has been filed in the office of the Register of Deeds, Sedgwick County, Kansas.

WHEREAS, Grantor is the owner of the lots described in said plat and is desirous of subjecting the real property to the conditions, covenants, restrictions, and easements, hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof.

NOW, THEREFORE, the Grantor hereby declares that the real property described in the plat and referred to as Westwind Estates Addition, is and shall be held, transferred, sold, conveyed, and occupied subject to the conditions, covenants, restrictions, reservations, and easements hereinafter set forth.

ARTICLE I

A. DEFINITION OF TERMS

“Residential Building Site” as well as “Building Site” shall mean any one or more lots, as platted, or any tract as conveyed, consisting of contiguous land upon which a detached single-family dwelling may be erected in conformance with the requirements of these covenants.

“Detached Single-Family Dwelling” or “Single Family Dwelling” shall mean a building and appurtenant structure thereto as defined in Article II, Section A hereof, erected and maintained in conformance with the requirements of these covenants for private residential purposes and designed for occupancy by a single family. It shall not mean any flat, apartment, multi-family dwelling or duplex, even though intended for residential purposes.

“Outbuilding” shall mean an enclosed or unenclosed, covered structure not directly attached to a single-family dwelling to which it is appurtenant. Outbuildings permitted under this Declaration shall be limited to garages, greenhouses, pool houses, playhouses, and storage facilities.

“Improvements” shall mean and include a detached single-family dwelling as herein defined, outbuildings, fences, masonry walls, hedges, mass plantings, exterior antennae, and other usual appurtenances now common to dwelling usage or common thereto during the existence of these covenants.

“Front and Side Street Building Set-Back Line or Lines” shall mean the minimum distance which a detached single-family dwelling shall be set back from the front lot line and/or side building site lines respectively.

“Side Building Site Line” shall mean the boundary or property line dividing two adjoining building sites.

B. PROPERTY SUBJECT TO THIS DECLARATION

The real property which is subject to the Declaration is more particularly described as follows, to-wit:

Lots 1 through _____, Block _____
Lots 1 through _____, Block _____

Lots 1 through _____, Block _____, all of which is located in a part of the Southwest Quarter (SW/4, 27-17-2W of the 6th PM. Sedgwick County, Kansas, Westwind Estates Addition to Sedgwick County Kansas.

No property, other than that described above, shall be deemed subject to this Declaration.

ARTICLE II

A. GENERAL PURPOSES OF CONDITIONS

The real property described in Article I hereof is subject to easements, covenants and restrictions hereby declared to insure the best use and the most appropriate development and improvement of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve so far as practical, the natural beauty of such property, to guard against the erection thereon of poorly designed or improperly proportioned structures and structures built of improper or unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites, to secure and maintain proper set-backs from streets, and adequate free spaces between structures; and in general to provide for a high type and quality of improvement on said property.

1. No structures shall be erected, altered, placed or permitted to remain on any building site subject to this declaration other than one new detached single-family dwelling, for private use, a private 3-car attached garage, and any additional outbuildings as approved pursuant to subparagraph 3 below.

2. Any detached building shall be subject to subparagraph 3 below and shall be made of a color similar to the home on said lot. No galvanized tin shall be allowed on any outbuildings. A permit must be issued for the primary residence prior to the detached building permit. A detached building cannot be occupied as a residence. Maximum outbuilding size shall be 50' x 60', with a maximum sidewall height of 16' and a maximum peak not to exceed 26'.

3. No detached single-family dwelling or other improvements as herein defined shall be erected, placed or altered on any premises in said development until the buildings or other improvement plans, specifications and plat plan showing the location of such improvements on the particular building site have been submitted to, and approved in writing by, the Grantor as to conformity and harmony of external design, including the height of such improvements, with existing structures in the development, and as to location of the improvements and with respect to topography, grade, and finished ground elevation. Provided, however, that Grantor, its successors or assigns, shall not be liable for any mistake in judgment, negligence or any wrongdoing of itself, its agents, or employees, arising out of or in connection with the approval or disapproval or failure to approve any such plans. Likewise, any person submitting plans to the said Grantor for approval, by the submitting of such plans and any owner by so acquiring title to any of the property covered hereby, agrees that he, she or it will not bring any action or suit to recover for any such damages against the said Grantor. In the event said Grantor fails to approve or disapprove such designs, height, and location within sixty (60) days after said plans and specifications have been submitted to Grantor, this covenant will be deemed to have been fully complied with. If construction or alteration of original improvements or any subsequent additional improvements are begun in violation of the terms and conditions of these covenants or without Grantor's approval required herein, and if prior to the completion thereof, x) no notice of

noncompliance is filed with the Register of Deeds, or y) suit brought to enjoin the erection, establishment or alteration of such improvements has been commenced, this covenant will be deemed to have been fully complied with. Grantor shall have the right to allow exceptions to 75 foot rear setback requirements in paragraph (5).

4. No house shall be constructed upon any building site with less than one thousand seven hundred (1,700) square feet of living area under one roof on the ground level exclusive of garages, carports, overhangs, and basement; provided, however, that all multilevel homes shall have a minimum square footage of 2,400 square feet of living area, and all floor levels not more than four feet below grade shall be counted in computing the minimum requirements, exclusive of garages, carports, overhangs, and basements. Each house constructed on any building site shall have a garage attached, to serve a minimum of three standard size automobiles.

4A. All roofs shall have a minimum of 6/12 pitch. Roof materials will consist of Heritage II or equivalent. No metal roofs will be allowed on the primary residence without written permission from the Grantor.

4B. Front elevation of single-family dwelling must include brick or stone. A minimum of 50% brick, stone, or brick/stone combination is required on the front elevation.

5. The Front Building Set-Back Line shall be 50 feet. Side Building Set-Back Lines shall be 15 feet. No single-family dwelling or outbuilding shall be located within the Front Building Set-Back line or Side Building Set-Back line.

6. No excess dirt shall be hauled off or removed from the development. Excess dirt may be needed by a neighbor or for other development purposes.

7. All driveway approaches to the single-family dwelling shall be of concrete or Neosho stone.

8. No dwelling shall be occupied until all exterior elements are complete. All construction of any improvement shall be completed within 12 months of initial excavation. No basement, tent, shack, garage, barn or other outbuilding erected on a building site covered by these covenants shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

9. No used, second hand or previously erected house or building of any kind shall be moved or placed, either in sections or as a whole, upon said land, nor shall any trailer or mobile home be moved, placed or permitted upon a building site subject to these covenants. No cars, trucks, tractors, semi-trucks, trailers or other vehicles and/or trash, old appliances, refuse or junk of any kind shall be stored or permitted to remain on any building site or portion thereof, unless said items are stored inside any enclosed garage or outbuilding.

10. No retail, wholesale, manufacturing, or repair business of any kind (nor so-called home occupations involving vehicular traffic by employees, customers, vendors, or the public) shall be permitted on any building site or in any detached single-family dwelling or appurtenant structure erected thereon. No activity which may be or become any annoyance or nuisance to the neighborhood shall be carried on upon any building site or in any detached single-family dwelling or appurtenant structures erected thereon. The following home occupations are hereby approved: Awmay, Avon and similar sales representatives; childcare; hairdressers; residential home building contractors; realtors and home office with remote access so long as no substantial traffic is associated with such activities.

11. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the building sites herein restricted without the consent in writing from the Grantors excepting the use of signboard on each building site, which signboard shall not be more than five (5) square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease, the building site upon which it is erected and improvements thereon, if any.

12. Manufacture and sale of any illegal substances is prohibited in Westwind Estates. Manufacture and sale of alcoholic beverages is prohibited.

13. No noxious, illegal or offensive activity shall be carried on upon any lot or lots, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

14. Use of "all terrain" motorized recreational vehicles (whether of two-, three-, four- or more wheel design) is forbidden; use of trail bikes, dirt bikes, motorcycles and other motorized off-road vehicles is forbidden; use of snow mobiles or other motorized snow or ice recreational vehicles is prohibited.

15. No motorcycle, truck, trailer or boat shall be stored on any lot unless it is garaged.

16. Landscaping and grass on lawns shall be kept in neat and natural appearance, and lawns maintained in a neat manner. Lawns shall be fertilized as needed and treated for pests and weeds at least twice annually. Shrubbery shall be trimmed no less often than twice annually.

17. If any owner of a lot fails or refuses to cut grass, weeds or brush from the cleared portion of the property, Grantor may do so and assess the costs thereof as a lien against the property. Cleared portion of the property shall be defined as the area within 50 feet on either side and rear of single family dwelling and the area from front of single family dwelling to the front street.

18. No animals or poultry of any kind, other than house pets belonging to the household of the premises shall be kept or maintained on any part of the real property subject to these covenants. No bulls, cows, sheep, goats, split hoof animals, swine or dog kennels of any kind shall be permitted. Dogs shall not be allowed to disturb neighbors. Dogs shall not be allowed to run free but must be on a leash or within a fenced backyard.

19. No barbwire or chain link fences shall be permitted in front, side or in the rear of the single-family dwelling. Split rail and wrought iron fencing will be allowed in front yard, side yard and in the rear of a single-family dwelling. Except with the approval of Grantor in writing, no fence, masonry wall, hedge, mass planting, or structure which materially obscures the view of the detached single-family dwelling from the street shall be permitted nearer to the front building set back line than the front face of the dwelling; nor shall any television or radio transmission or receiving antennae project higher than the highest peak of the detached single-family dwelling.

20. Oil drilling, oil development operations, refining, mining operation of any kind or quarrying shall not be permitted upon or in any of the building sites subject to these covenants, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any of the building sites, covered by these covenants.

21. Trash, lawn cuttings, branches and other refuse shall not be burned or buried on any lot. Refuse shall be removed no less often than once per week. Refuse shall be stored in locked outbuildings or inside the garage between collections.

22. Outdoor clothes lines are prohibited.

23. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side or rear of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels on the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the tract, except for those facilities for which a public authority or a utility company is responsible.

24. **Onsite Wastewater Disposal System.** The Grantor has agreed with the Metropolitan Area Building and Construction Department ("MABCD" or "Department") that the Grantor will operate an alternative onsite wastewater disposal system in connection with lots sold in the Westwind Estates Addition (the "Restrictive Covenant. If upon the occurrence of any single condition or combination of the following conditions:

- (1) failure to have a continuing maintenance contract for the alternative onsite wastewater disposal system (a copy of that agreement must be provided to the MABCD), or

- (2) failure to obtain an annual operating permit from the MABCD, due January 1 of each year, or
- (3) failure to provide all documentation regarding maintenance of the system at the time of annual permit renewal, and
- (4) failure to allow the MABCD to collect effluent samples to insure that said system is performing as designed.

the permit will be subject to revocation and the owner(s) of the property may be required to construct and maintain a new onsite wastewater disposal system that complies with all federal, state and local statutes, regulations, codes and resolutions, including but not limited to the Sedgwick County Sanitary Code, and amendments thereto.

24A. **Easement to the MABCD.** The Department, its successors or assigns, and any duly authorized agents or contractors employed by or on behalf of the Department are hereby granted a permanent easement to enter or come upon the property to perform the following action:

1. Inspect the alternative onsite wastewater disposal system.
2. Collect effluent samples for testing of certain constituents in order to determine if the design parameters are being met.

24B. **Disclosure.** Any offer or contract for the conveyance, sale, lease, or other interest in the property must contain a full and complete disclosure of all terms, conditions, and requirements concerning the alternative onsite wastewater disposal system imposed under this restrictive covenant. Buyer is required to sign the Restrictive Covenant with Sedgwick County for the Onsite Wastewater Disposal System.

25. Sedgwick County must determine if you can have an alternative septic sewer system before any building permits can be issued. Buyer is responsible for the cost of soil tests and coordinating such tests with Sedgwick County. No lagoons are allowed in this addition.

26. Buyer is responsible for maintenance of the lot until time of construction begins.

27. Buyer/lot owner is required to provide Builder/General Contractor with a copy of these Restrictive Covenants.

28. These covenants and restrictions shall run with the land and shall be binding on all owners within the Westwind Estates Addition and their grantees, heirs and assigns and all persons claiming under them for twenty (20) years from the date of recording and automatically shall be continued thereafter for successive twenty (20) year periods, unless the owners of fee title to the majority of lots shall, by resolution at a special meeting called for that purpose upon mailed notice to all such owners, release, change, amend or alter any or all of these restrictions. Any such release, change, amendment or alteration shall not be effective until reduced to writing and filed with the Register of Deeds.

29. These covenants further may be amended at any time upon the affirmative vote of the owners of fee title to seventy-five percent (75%) of the lots and approval of Grantor (so long as Grantor owns any lot in the addition). Such amendment may include the formation of an Owners' Association to acquire, develop and maintain signage, sidewalks, or other common areas. Upon amendment of the covenants and the formation of such an association, dues may be assessed against the lots and liens imposed to secure the collection of same. Such amendment shall be effective if signed by the owners of seventy-five percent (75%) of the lots and by the Grantor (so long as Grantor owns any lot in the addition) and recorded with the Register of Deeds.

30. Homes without basement on slab, must contain not less 2,000 finished square feet, minimum 3-car attached garage.

31. **Division Of Lots.** Except as authorized in written recordable form by the Declarant of the Board, no Lot shall be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, but more than one lot may be combined to create a larger building site. Notwithstanding the foregoing, Declarant may conduct a Lot split, division or subdivision in its discretion and without the necessity of any additional authorization.

32. **Architectural Control: Approval Required.** No Structure shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition, change or alteration therein or thereto (including demolition) be made, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Design Committee (the "DC"). In the event the DC fails to approve or disapprove such design and location within (30) days after said plans and specifications have been submitted to and received by it, approval will not be required, and this Article will be deemed to have been fully complied with.

IN WITNESS WHEREOF, this Amended Declaration has been signed.

By: _____
James B. Morrison, Manager,
Morrison Development, LLC

_____ Date

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

Acknowledged before me this ____ day of _____, 2021 by James B. Morrison, as Manager of Morrison Development, LLC.

Notary Public

My Commission Expires: _____