

**FIRST AMENDMENT**  
**TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR HICKORY CREEK ESTATES**

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HICKORY CREEK ESTATES ("Amendment") is made this 24 day of September, 1997, by Hickory Creek L.L.C., a Kansas limited liability company (hereinafter referred to as the "Developer").

WITNESSETH THAT:

WHEREAS, the Developer filed the original Declaration of Covenants, Conditions and Restrictions for Hickory Creek Estates ("Declaration") with the Sedgwick County, Kansas Register of Deeds at Film 1598, Page 927 on April 12, 1996;

WHEREAS, the Developer currently owns in excess of 50% of the Lots in the Property and desires, pursuant to Article 11.10 of the Declaration, to amend the Declaration as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Declaration is amended as follows:

1. Article V of the Declaration, titled "Use, Occupancy and Conduct Restrictions," is amended to add a new paragraph 5.29 as follows:

5.29 Trash Removal Service. The Board may select from time to time a single company to provide trash removal service for all residences on the Lots and shall notify all Owners of such decision. Within ninety (90) days after such company is selected, each Owner shall begin to utilize the company identified by the Board to provide trash removal service to such Owner's Lot and continue to use such company exclusively until such time as the Board designates a different trash service company or notifies the Owners that it is no longer necessary for all Owners to utilize the same trash service company. Each Owner shall be responsible for paying all costs and fees associated with trash removal services related to such Owner's Lot. In the event at any time and from time to time the Board determines to change the company providing such trash removal service for the Lots, the Board shall notify each Owner of such change at least ninety (90) days in advance of such change and on or before the expiration of such ninety (90) day period, each Owner shall switch its service to the other company specified by the Board.

2. Article V of the Declaration is further amended to add the following new paragraph 5.30 as follows:

5.30 Fines. The Board shall have the authority to assess fines for any violation of the Use, Occupancy and Conduct Restrictions contained in this Article V. Prior to assessing any fine, the Board shall mail written notice to the last address known to the Board concerning the noncompliant Owner. If the noncompliant Owner fails to cure the violation within fifteen (15) days following the mailing of such notice by the Board or if there is a recurrence of the violation during that fifteen (15) day period, then in addition to any other liability or obligation arising under the Declaration, the Board may assess a fine against the

noncompliant Owner and his or her Lot in an amount determined by the Board to be appropriate in its discretion and until paid in full, the fine shall accrue interest at the rate of 15% per annum, shall constitute a lien on the noncompliant Owner's Lot, and shall be subject to enforcement and foreclosure in the same manner as a special assessment as referenced in Article IV above. Notwithstanding the foregoing, the Board, prior to imposing a fine, shall not be required to give notice and a cure opportunity to an Owner with respect to any violation by such Owner if within the preceeding 180 day period such Owner committed a substantially similar violation for which such Owner was given notice and an opportunity to cure.

3. Except as otherwise provided herein, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has executed this Declaration on the day and year first above written.

Hickory Creek L.L.C.,  
a Kansas Limited Liability Company

By: \_\_\_\_\_ Signed \_\_\_\_\_  
Jay W. Russell, a Managing Member

STATE OF KANSAS                    )  
  ) ss:  
COUNTY OF SEDGWICK            )

BE IT REMEMBERED, that on this 24 day of September, 1997, came before me a Notary Public in and for the County and State aforesaid, personally appeared Jay W. Russell, a Managing Member of Hickory Creek L.L.C., a Kansas limited liability company, personally known to me to be such officer and the same person who executed, as such officer, the above and foregoing instrument in writing on behalf of said corporation and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

My appointment expires:

\_\_\_\_\_  
Signed \_\_\_\_\_  
NOTARY PUBLIC

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