



Doc #: 2019R00479  
STACY R. DRISCOLL  
REGISTER OF DEEDS  
LEAVENWORTH COUNTY, KANSAS  
RECORDED ON:  
01/22/2019 02:16:23 PM  
RECORDING FEE: 174.00  
PAGES: 10

### **DECLARATION OF RESTRICTIONS WEST GLEN**

WHEREAS, a plat of land known as "WEST GLEN, 1<sup>ST</sup> PLAT" has been filed with the Register of Deeds of Leavenworth County, Kansas.

WHEREAS, said plat creates the WEST GLEN subdivision ("WEST GLEN"), composed of the lots and tracts described on Exhibit "A" attached hereto.

WHEREAS, said plat dedicates to the public all of the streets and roads shown on said plat for use by the public; and

WHEREAS, JMK PARTNERS, LLC, is the owner of all of the lots and tracts so shown on the aforesaid plat and now desire to place certain restrictions on all of which restrictions shall be for the use and benefit of Developer and for its future grantees and assigns.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, the Developer for itself and its successors and assigns, and for its future grantees, hereby agrees that all of the lots and tracts shown on the above described plat shall be, and they are hereby restricted as to their use in the manner hereinafter set forth.

#### **DEFINITION OF TERMS USED:**

For the purposes of these restrictions, the "Developer" shall mean JMK PARTNERS, LLC, a Kansas limited liability company.

The "Homes Association Declaration" shall mean that certain homes association declaration recorded in conjunction with this Declaration, for the governance of WEST GLEN.

The word "Association" shall mean the WEST GLEN HOMES ASSOCIATION, or similar name, a corporation, to carry out the duties and possess the rights set forth in the Homes Association Declaration.

The word "street" shall mean any street, road, drive, or terrace of whatever name, as shown on any plat of WEST GLEN.

The word "outbuilding" shall mean an enclosed or unenclosed, covered structure, not directly attached to the residence to which it is appurtenant.

The word "lot" may mean either any numbered lot as platted, or any tract or tracts of land as conveyed, which may consist of one or more numbered lots, as platted, or part or parts of one or more numbered lots, as platted, and upon which a residence may be erected in accordance with the restrictions hereinafter set forth, or as set forth in individual deeds. A "corner lot" shall be deemed to be any lot as platted, or any tract of land as conveyed, having more than one street contiguous to it.

The term "public places" as used herein shall be deemed to mean all streets.

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

#### PERSONS BOUND BY THESE RESTRICTIONS:

Those who execute this instruct and all persons and corporations who or which may own or shall hereinafter acquire any interest in the above described lots hereby restricted shall be taken to hold and agree and covenant with the owner of said lots and with their successors and assigns, to conform to and observe the following covenants, restrictions, and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending on January 1, 2039. Provided, however, that each of said restrictions shall be renewable in the manner hereinafter set forth.

These covenants are to run with the land and shall be binding on all owners within the subdivision and their heirs and assigns and all persons claiming under them until January 1, 2039, and shall be automatically continued thereafter for successive periods of twenty (20) years each, unless the owners of the fee title to the majority of said lots shall be in resolution at a special meeting called for that purpose upon mailed notices to all such owners release, change, or alter any or all of the said restrictions at the end of any such twenty (20) year period at least two (2) years prior to said expiration. All persons owning, occupying shall keep the following restrictions or protective covenants, or using said land and may be enforced by injunction, mandatory or otherwise.

If any party subject hereto, or any of his, her or its assigns, shall violate or attempt to violate any covenant herein, it shall be lawful for any other person or persons owning any real estate in WEST GLEN, to prosecute any proceedings of law or equity against the person or persons violating or attempting to violate any such covenant and either prevent him, her or them from so doing or to recover damages or other dues for such violation.

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

1. No lot in WEST GLEN shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot, other than detached single family dwellings, duplexes and triplexes; no residence shall exceed three (3) stories in height and detached single family dwellings shall have an attached private garage for not less than two cars.

2. No building shall be erected, placed or altered on any lot until construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee ("ACC") as to quality or workmanship and materials, harmony of external design with existing structures and landscape, and as to location with respect to topography and finished grade elevation. Approval shall be as provided in paragraphs 2(A) and 2(B) herein.

a. The ACC will be composed of the Board of Directors of the Association ("Board of Directors"), or a subcommittee designated by it. Until such time that there exists a Board of Directors of the WEST GLEN HOMES ASSOCIATION, the Developer will act as the ACC. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the ACC, nor its designated representatives, as such shall be entitled to any compensation for services performed pursuant to this covenant.

b. It is expressly agreed that the ACC shall have exclusive control of new residences and improvements to be constructed after the date of the filing of this Declaration.

c. Submission of Plans and Specifications. No structure shall be commenced, placed or moved on to or permitted to remain on any Properties, nor shall any existing structure upon any Properties be altered in any way which materially changes the exterior appearances thereof, nor shall any new use be commenced, unless plans and specifications (including a description of any new use) therefore shall have been submitted to and approved in writing by the ACC. Upon receiving plans and specifications, an authorized representative of the ACC shall provide a written receipt.

d. Approval of Plans and Specifications. Upon approval by the ACC of plans and specifications submitted hereunder, a copy of such plans and specifications, as approved shall be deposited as a permanent record with the ACC and a copy of such plans and specifications bearing such approval in writing shall be returned to the applicant submitting the same.

Approval for use in connection with any lot or residence of any Plans and Specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included herein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other lot or residence. Approval of any such plans and specifications shall be final and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. The ACC, in its discretion, is permitted to approve deviations from the Declaration when, in its judgment, such deviations will result in a more commonly beneficial use, or when such deviations do not detract from the value or enjoyment of surrounding properties. Such approval must be granted in writing. When the ACC approves and grants a deviation from the Declaration, such approved deviation shall for all purposes amend this Declaration but only to the limited extent of such specifically approved deviation.

e. Disapproval of Plans and Specifications.

i. The ACC shall have the right to disapprove any plans and specifications submitted hereunder for any reason, including but not limited to:

- (1) The failure to include information in such plans and specifications as may have been reasonably requested;
- (2) The failure of such plans or specifications to comply with the Declaration or the Design Standards and Procedures;
- (3) Objection to the exterior design, appearance or materials of any proposed residence or improvements;
- (4) Incompatibility of any proposed improvements or use with existing residences, improvements or uses upon surrounding properties;
- (5) Objection to the site plan or improvement on grounds of incompatibility with surrounding properties;
- (6) Object to the grading plan;
- (7) Objection to the color scheme, finish, reappropriations, style, architecture, height, bulk, safety or appropriateness of any proposed residence or improvement;
- (8) Failure to satisfy minimum floor area requirements, if any;
- (9) Objection to the proposed parking areas;
  - (a) Incompatibility with surrounding properties;
  - (b) Insufficiency of size of the parking area in relation to the proposed use; or
  - (c) Undesirable alteration of the flow of water;
- (10) Objection to the location of the improvement on a Lot;
- (11) Any matter not included in the Design Standards and Procedures, if such matters, in the judgment of the ACC, would lower the value of or otherwise damage the Properties;
- (12) Any other matter which, upon the judgment of the ACC, would render a proposed improvement or use inharmonious with the Design Standards for WEST GLEN.

ii. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or

upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case, the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

f. No building shall be located nearer to the existing street lot line than permitted in the recorded plat of WEST GLEN or the zoning regulations of the City, whichever is stricter.

g. Construction must begin within twelve (12) months after purchase of the lot and thereafter diligently prosecuted.

h. All constructed residences shall have external driveways consisting exclusively of properly constructed concrete surfaces; all lots, regardless of house location thereon shall be fully sodded, however; no sodding shall be required where, in the opinion of the ACC soil, lighting, or topographical conditions would make sodding impractical or unreasonably expensive, and provided further that no duty to clear any tract of trees, bushes, shrubs or natural growths, which are kept reasonably attractive shall be implied.

i. For the purpose of this covenant, eaves, steps and open porches shall not be considered a part of a building, provided, however that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

j. No residence shall be more than three stories in front, except that split-level construction shall be permitted.

k. No residence may be rented or leased for a term of less than six (6) months, the lease or rental agreement must require the tenant to abide by this Declaration and the lease or rental agreement shall be subject to approval by the Developer or the Board of Directors of the Association, as the case may be, in its discretion.

l. No dwelling or residence shall be occupied until fully completed, except for exterior painting and minor trim details, and such dwelling or residence must be fully completed within twelve (12) months after the first earth excavation is started. In the event of fire, windstorm, or other damage, no residence or improvement shall be permitted to remain in damaged condition longer than three (3) months.

m. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose, and further provided that not more than three (3) dogs or three (3) cats or three (3) other household pets shall be kept on any residence lot.

n. No school buses, autos, campers, camper-trailers, recreational vehicles, tractors, or trucks shall be parked at the curb for more than twenty-four (24) hours at any one time. No school bus, camper, camper trailer, recreational vehicle, tractor, with

capacity in excess of 3/4 ton truck with camper attached or boat shall be parked or left outside on any lot for more than twenty-four (24) hours at any one time. No major repair work shall be done on any car, truck, trailer or other vehicle while parked outside the garage or in the street. No cars, buses, boats, trucks, race cars, wrecked cars, modified stock cars, trailers, or vehicles that are not in operating condition or whose presence might create an unsightly appearance or create a nuisance or be a hazard to life or health shall be allowed to be parked or left on any lot or at the curb. No trash, old appliances, junk or other refuse shall be allowed to accumulate on any lot in the subdivision.

o. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No building material of any kind or character shall be placed or stored upon any lot until the fee holder thereof is ready to commence improvements, and then the material shall be placed only within the property lines of the lot upon which improvements are to be erected. Upon commencement of improvements, they shall be completed as expeditiously as possible.

p. No radio or television aerial wire, antenna, antenna tower or satellite dishes greater than 24" shall be maintained outside of any structure.

q. No signs, billboards or advertising structures of any kind shall be placed or stored upon any lot in this subdivision, except, the Developer may erect a sign announcing the development of the subdivision for a reasonable period of time. Customary sale signs advertising the sale of the property are permitted, provided such signs do not exceed five (5) square feet.

r. No tanks for storage of oil or other fluids may be maintained on any portion of the premises above the surface of the ground.

s. No trash, ashes, or other refuse shall be thrown or dumped upon any undeveloped portion of said land except as used by Developer during construction period.

t. Lawns shall be kept in good condition as soil, climate and other natural conditions permit, and grass shall not be permitted to create an unsightly appearance.

u. No solar panels or solar collectors shall be installed or maintained on the exterior of any residence.

v. All residences will have composition seal-down shingles. The shingles may be either "Timberline" design or conventional 3-tab seal down. All roofs will be of the color "Weathered Wood" regardless of design. All roofing materials (including color) shall be subject to prior approval of the ACC. All roofing shingles shall carry a minimum twenty-five (25) year manufacturer warranty.

w. No playground or recreational equipment of any type, temporary or permanent, shall be placed closer to the street than the rear building line of a residence, except permanent basketball goals approved in advance by the ACC.

x. Any property owner or property subject to the restrictions herein set forth may construct, for personal use, one in-ground swimming pool, the design and materials of which shall be subject to the approval of the ACC; no above ground or above grade swimming pools shall be permitted. No tennis courts shall be allowed unless constructed on common areas or areas owned by the Association.

y. All residences shall have wood, wood or vinyl clad, or vinyl windows.

z. No residence shall have basement doors or windows within three or fewer feet of the 100-year water surface elevation adjacent to the Lot.

3. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side, or rear of each tract. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in 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 improvements for which a public authority or utility company is responsible.

4. No structure shall be moved into said property and no outbuilding shall be erected without the prior approval of the ACC.

5. It is agreed that if the owner of any vacant lot fails or refuses to cut weeds or brush from the cleared portion of the property, then the ACC shall have authorization to do so and charge the cost thereof as a lien against the property.

6. No fence shall be located on any lot nearer than 30 feet to a property line, which is adjacent to a street. Chain link fences are not acceptable. All fences will be constructed of vinyl, wood, or wrought iron, as approved by the ACC.

7. The Developer unconditionally reserves the right to subject additional land to these restrictions and add same to the district and subdivision at any time, by document recorded in the Office of the Register of Deeds of Leavenworth County, Kansas.

8. As designated on Exhibit "A" attached hereto, certain Lots and tracts within the District are known as "Villa Lots" or "Villa Properties". For the Villa Lots and Villa Properties, the Association shall provide lawn mowing at reasonable intervals, reasonable maintenance of Association or Developer installed landscaping, maintenance of lawn irrigation systems and snow (but not ice) removal from driveways and sidewalks (minimum accumulation of two (2) inches). Owners of Villa Lots or Villa Properties shall do nothing to inhibit or impair the ability of the Association to perform such services, such as placement of structures or property in areas that interfere with lawn mowing or landscape maintenance, without the prior consent of the Association. Owner-installed landscaping, swimming pools, sport courts, playground equipment, permanent grills, fireplaces, fire pits, ponds, sculptures and "yard art" shall be prohibited on Villa Lots and Villa Properties unless specifically approved by the ACC. Owners of Villa Lots or Villa Properties shall be subject to additional dues and assessments for the costs of services provided by the Association.

9. As conditions precedent to the development of the WEST GLEN community, Developer has been required to pay to the City of Basehor and other authorities certain fees, charges and impositions for streets, parks, utilities and other off-site improvements. Each grantee of the Developer or of any Owner of a Lot, by the acceptance of a deed, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, and the heirs, successors and assigns of the foregoing persons, hereby releases the Developer, its successors, agents, officers, members, stockholders and assigns from any obligation to remit any part of such fees, charges and impositions to him, her or it in the event any of the same are declared invalid or illegal, or refunded for any reason, the refund or return of same to the Developer notwithstanding; it is expressly understood that Developer shall have the sole right to make claim for and receive any such refund or return.

**OPTION TO EXCLUDE APPLICABILITY  
OF THE TERMS AND CONDITIONS OF THE FOREGOING  
DECLARATION TO CERTAIN REAL PROPERTY**

Developer shall have the power at any time to waive or modify any or all of the restrictions or covenants contained herein as to said real property remaining undeveloped or unimproved and under the ownership or control of Developer, or its assigns. For purposes hereof, "unimproved" shall mean that no finished residence has been erected thereon. The Developer specifically reserves the right carry on its business in the subdivision, so long as Developer owns land within the subdivision or new homes are being constructed, including, but not limited to, maintaining sales offices, model homes, business offices and other facilities necessary or convenient for the business of Developer.

*[Remainder of page left blank intentionally  
Signature page to follow]*

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the 22<sup>nd</sup>  
day of January, 2019.

"Developer"

JMK PARTNERS, LLC, a  
Kansas limited liability company

By: [Signature]  
Michael C. Reilly, Managing Partner

STATE OF KANSAS, LEAVENWORTH COUNTY, SS.:

BE IT REMEMBERED, that on this 22<sup>nd</sup> day of January, 2019, before me the undersigned, a Notary Public in and for the county and state aforesaid, came Michael C. Reilly, Managing Member of JMK PARTNERS, LLC, a limited liability company, who is personally known to me to be the same person who executed, as officer of such Managing Member, the within instrument on behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

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

[Signature]  
Notary Public

My Appointment Expires:

March 25, 2020



Exhibit "A"

Lots 1 through 49, inclusive, and Tracts A through I, inclusive, WEST GLEN, 1<sup>ST</sup> PLAT, a subdivision in the City of Leavenworth, Leavenworth County, Kansas.