



Sedgwick County
Register of Deeds - Tonya Buckingham
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Authorized By *Tonya Buckingham*

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**2017 AMENDMENT TO
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WHISPERING LAKES ESTATES 2ND ADDITION
&
AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WHISPERING LAKES ESTATES ADDITION
OF
WICHITA, SEDGWICK COUNTY, KANSAS**

THIS 2017 AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WHISPERING LAKES ESTATES 2ND ADDITION AND TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WHISPERING LAKES ESTATES ADDITION (for both, the "2017 AMENDMENT") is made this 13th day of March, 2017, by Whispering Lakes Homeowners' Association ("Association"), for itself, its successors, grantees and assigns *and runs with the land.*

29677955

WITNESSETH:

WHEREAS on the 31st day of January, 2000, Heritage Land Developers, Inc. ("Developer") executed that certain Declaration of Covenants, Conditions, and Restrictions for Whispering Lakes Estates [2nd] Addition ("Whispering Lakes 2nd Declaration") and caused the same to be recorded on the 18th day of January, 2001 as document no. 1943430, in the office of the Sedgwick County Register of Deeds on Film 2134, commencing on Page 1142 covering the Whispering Lakes Estates 2nd Addition, Addition to Wichita, Sedgwick County, Kansas, and certain portions of Whispering Lakes Estates Addition, Addition to Wichita, Sedgwick County, Kansas. (the "Original Property")

WHEREAS on the 4th day of April, 2000, Developer executed that certain Restrictive Covenant and caused the same to be recorded on the 15th day of May, 2000 as document no. 1886521, in the office of the Sedgwick County Register of Deeds on Film 2046, commencing on Page 1892 covering the Original Property and the following additional described real property, to wit:

Reserves C, D, E, F and G.
All within
Whispering Lakes Estates Addition
An Addition to Wichita,
Sedgwick County, Kansas

The above described property and the Original Property together the "Property" and subsequent additions to the Property are encumbered by and subject to the Whispering Lakes 2nd Declaration.

WHEREAS on the 28th day of October, 2004, Developer executed that certain Declaration of Covenants, Conditions and Restrictions for Whispering Lakes Estates First Addition (Whispering Lakes Estates Declaration) and caused the same to be recorded on the 15th day of November, 2004 as document no. 28624396, in the office of the Sedgwick County Register of Deeds covering certain Lots within Whispering Lakes Estates, an Addition to Wichita, Sedgwick County, Kansas. (*emphasis added, per the plat, there is no "First Addition" to Whispering Lakes, only Whispering Lakes Estates Addition and Whispering Lakes Estates 2nd Addition*)

WHEREAS on the 19th day of December, 2016, Whispering Lakes, LLC executed that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Whispering Lakes Estates Addition (Restated Whispering Lakes Estates Declaration) and caused the same to be recorded on the 22nd day of December, 2016 as document no. 29660299, in the office of the Sedgwick County Register of Deeds covering *Whispering Lakes Estates**, an Addition to Wichita, Sedgwick County, Kansas.

**Note, the Restated Whispering Lakes Estates Declaration records the intent of the current developer to encumber its Lots within the Whispering Lakes Estates Addition under a common development scheme as established by Whispering Lakes 2nd Declaration.*

NOW, THEREFORE, THE UNDERSIGNED PRESIDENT OF WHISPERING LAKES HOMEOWNERS' ASSOCIATION, ON BEHALF OF THE RECORD OWNERS OF WHISPERING LAKES ESTATES AND WHISPERING LAKES 2ND ADDITIONS HEREBY AMENDS THE RESTATED WHISPERING LAKES ESTATES DECLARATION AND THE WHISPERING LAKES 2ND DECLARATION AS FOLLOWS:

Amend Article II USE, OCCUPANCY AND CONDUCT RESTRICTIONS as follows:

- **Replace Section 2.02 with the following:**

2.02 Construction Requirements. Unless approval is otherwise granted by the Architectural Control Committee, the following construction requirements shall be complied with:

Exterior walls of all buildings, structures and appurtenances thereto constructed on any lot shall be of brick, stone, fiber cement board or wood composite siding (no Masonite siding is allowed), glass, glass blocks or any combination thereof. Shingles must be Heritage II or equivalent--weathered wood color. All window frames shall be of wood or vinyl. All single-story family residence or dwelling, exclusive of basements, porches and garages, shall not be less than 1,300 square feet of floor area. A bi-level family residence or dwelling shall not be less than 1,500 square feet, upper floor only. A front-to-back split level shall not be less than 1,500 square feet, ground level and raised portion. A two-story family residence or dwelling shall not be less than 1,800 square feet, 1,000 square feet minimum ground floor. Slab on grade residence or dwelling shall not be less than 1,800 square feet.

- **Replace Section 2.08 with the following:**

2.08 Trash Service. A common trash service shall be used by all Owners, the agreement therefor to be negotiated between the trash hauler and the Board of Directors, the fees for trash hauling services shall be included in the Association's annual assessments. Trash containers shall not be stored in the front of the home. Trash containers may be stored in the garage, on the side, or rear of the home.

- **Replace Section 2.21 with the following:**

221 Lake(s). The lakes are for the exclusive use and enjoyment of the Members. Guest(s) of a Member are allowed if accompanied by the Member. No boat, raft, canoe or watercraft of any type shall be permitted upon the lakes except for lake maintenance that has been approved by the Architectural Control Committee or Board of Directors. No swimming, wading or ice skating is permitted.

- **Replace Section 2.22 with the following:**

2.22 Vehicles/Trailers, etc. No boat, trailer of any type, camper, recreation vehicle or any other similar item may be stored or parked on any driveway or Lot. No inoperable automobile, truck, motorcycle, or any other vehicle of any type or description may be stored or parked on any driveway or Lot. Vehicle repairs other than ordinary light maintenance are not permitted on the Property.

- **Replace Section 2.23 with the following:**

2.23 Fishing. Fishing is permitted during daytime hours only. Fishing is catch and release only.

Amend Article VI OPERATION OF THE ASSOCIATION, ASSESSMENTS as follows:

- **Replace Section 6.05 with the following:**

6.05 Initiation Fee. The Association shall levy and collect an initiation fee in an amount not greater than the then current Annual Assessment from the purchaser of each Lot or home. Such initiation fee shall not be considered a "transfer fee" for the purposes of Section 58-3821 of the Kansas Statutes and shall be specifically excluded from the application of that statute per subsection 58-3821(a)(2)(G) therein. Such initiation fee shall not apply to:

- (i) the transfer by Developer to an affiliated entity; and
- (ii) the transfer of title to any Lot to a properly licensed general contractor for the purpose of constructing a residence thereon for the purpose of offering the same for sale.

Amend Article VIII MISCELLANEOUS as follows:

- ***Replace the words "Architectural Control Committee" with the word "Association" in Sections 8.01, 8.04, 8.05, 8.08, 8.09 and 8.12 and add the following new sentence at the end of Section 8.12:***

"Developer, the Association, or any Owner shall have the right to include in such claim for relief a reasonable sum for attorney's fees and all other expenses reasonably incurred in enforcing the rights, terms, provisions, covenants, conditions and restrictions hereunder."

- ***Add the following new subsections to Section 8.12:***

8.12.01. Notice of non-compliance and hearing. Once Developer has relinquished its interest in the Property to the Association, the Board of Directors of the Association shall have the authority to determine compliance with this Declaration. If the Board of Directors determines that action is necessary, the Owner of the Lot shall be notified in writing of the allegation and the Owner shall have ten (10) days to request a hearing with the Board of Directors to dispute the allegation. If the Owner fails to respond to the notification within ten (10) days, or after a hearing, the Board of Directors determines the Owner's dispute of the allegation is without merit, the Board of Directors shall notify the Owner in writing of the Board of Directors' determination of non-compliance.

8.12.02. Damages for breach of Declaration. In the event the Lot is not in compliance within ten (10) business days of the notice of non-compliance, the Owner shall pay the Association an amount equal to \$50 per non-compliance, not to exceed \$500 per month, not as a penalty but as liquidated damages for the Owner's breach of the Declaration. Such amount due shall become a lien on the Lot as soon as it is due and payable; provided, however, such lien shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on the Lot. In the event of Owner's failure to pay the amount due within thirty (30) days from the date levied, then such amount due, from the thirtieth (30th) day after levy shall bear interest at Ten Percent (10%) per annum, compounded. The liquidated damages provisions of this Section 8.12.02 shall be in addition to, not in lieu of, the right of Developer, the Board of Directors, the Association, the Architectural Control Committee, or any Owner to enforce, by any proceeding at law or in equity, all covenants, conditions and restrictions per Article II, Article IV and Section 8.12 of this Declaration.


The undersigned hereby certifies that this 2017 Amendment has been executed in accordance with Developer's right to amend the Declaration in accordance with Article VIII, Section 8.10 and is in effect and valid pursuant to all terms and provisions of the Declaration.

If any restriction, condition, covenant or reservation contained in this 2017 Amendment shall at any time be held invalid or for any reason becomes unenforceable, no other restriction, condition, covenant, reservation or any part thereof, shall be affected or impaired. The failure of Developer, its successors in interest, any subsequent Board of Directors of the Whispering Lakes

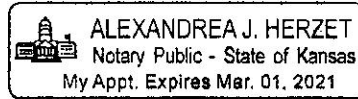
Homeowners' Association or of any Owner to enforce any of the restrictions, conditions, covenants or reservation contained herein shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant or reservation.

Except as herein expressly amended, the Whispering Lakes 2nd Declaration, Restrictive Covenant, Whispering Lakes Estates Declaration and Restated Whispering Lakes Estates Declaration are hereby ratified and confirmed. This 2017 Amendment shall be effective as of the date of recording.

Whispering Lakes Homeowners' Association, for Whispering Lakes 2nd Addition and Whispering Lakes Estates Addition



By: Vickie Pickering
President

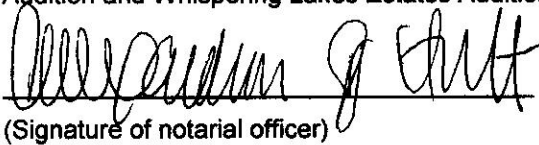


STATE OF KANSAS)

) ss:

SEDGWICK COUNTY)

This instrument was acknowledged before me on March 15, 2017 by Vickie Pickering as President of Whispering Lakes Homeowners' Association for Whispering Lakes 2nd Addition and Whispering Lakes Estates Addition.


(Signature of notarial officer)

My appointment expires: 3/1/2021