

STATE OF KANSAS }
SEDGWICK COUNTY } SS

SEP 3 4 46 PM '99

**RESTRICTIVE COVENANTS
AND
CONDITIONS**

HILL MEEK
REGISTER OF DEEDS

THESE RESTRICTIVE COVENANTS AND CONDITIONS are made and entered into this 3 day of Sept, 1999, by and between ATLAS C. TURNER and WANDA L. TURNER, husband and wife, and MONICA M. TURNER, a single person. ATLAS C. TURNER, WANDA L. TURNER, and MONICA M. TURNER shall be referred to herein collectively as the "Turners." The Turners shall be referred to herein collectively as the "Declarants."

WITNESSETH THAT:

WHEREAS, The Turners are the owners of the following described property:

Sawn Meadow Addition
Beginning at the NE corner of the NE 1/4 of Section 16, T29S, R2E of the 6th PM, Sedgwick County, Kansas; thence S0°00'W along the east line of said NE 1/4, 1327.49 feet; thence N90°00'W, 470.93 feet; thence S4°32'54"E, 55 feet; thence N88°20'53"W, 400 feet; thence N0°00'E, 50 feet; thence N89°1'23"W, 1765.85 feet to the west line of said NE 1/4; thence N0°31'35"W along the west line of said NE 1/4, 1314.69 feet to the NW corner of said NE 1/4; thence S89°35'32"E along the north line of said NE 1/4, 2644.34 feet to the point of beginning

WHEREAS, said Lots shall be referred to herein collectively as the "Properties;" and

WHEREAS, Declarants desire to subject the Properties to certain restrictions and conditions.

NOW THEREFORE, in consideration of the foregoing recitations, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 - Declaration

Declarants hereby declare that all of the Properties shall, after the filing of this instrument, be held, leased, occupied, sold, and conveyed subject to the following covenants, conditions, and restrictions. All and each of these covenants, conditions, and restrictions are hereby imposed as equitable servitudes upon the Properties and shall run with the Properties, shall be binding on all parties having or acquiring any right, title, or interest in the Properties or in any part thereof, and their successors and assigns, shall inure to the benefit of every portion of the Properties and any interest therein, shall inure to the benefit of each owner of any portion of the Properties, and his or her successors and assigns, and, except as otherwise provided herein, may be enforced by any owner of any portion of the Properties.

ARTICLE 2 - Definitions

The following words, when used in the Declaration and in any Amendment hereof, unless otherwise provided, shall have the following meanings:

Section 2.01. "Architectural Committee" or "Committee" shall mean the Architectural Committee formed pursuant to Article 4 of this Declaration.

Section 2.02. "Improvement(s)" shall mean all structures and appurtenances thereto of every kind, located on any portion of the Properties, whether above or below the land surface, including but not limited to, buildings, utility systems, walkways, roadways, driveways, fences, walls, decks, stairs, poles, sprinkler and irrigation systems, exterior fixtures and any other structure of any kind.

Section 2.03. "Owner" shall mean the person or persons holding the fee simple interest of record to a Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.04. "Lot" shall mean each of the individual Lots comprising the Properties.

Section 2.05. "Properties" shall mean all of the real property described in attached Exhibit A.

ARTICLE 3 - Restrictions

Section 3.01. Permitted Use. The Properties shall be used for single family residences and for no other purpose.

Section 3.02. Nuisances. No noxious or offensive activity, including noise, shall be carried on or upon any part of the Properties, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the other Owners, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his or her respective Lot.



*Shirley Bragg
Deputy*

16 00

*Atlas Turner
Route 1 - Box 333
10801 E. 87th St. South
Duba, KS 67037*

Section 3.03. Signs. No sign, poster billboard, or other advertising of any kind shall be permitted on any portion of the Properties, except for real estate for sale signs.

Section 3.04. Division of Lots. No Lot may be subdivided.

Section 3.05. Trash/Storage. No lumber, metals, non-working vehicles, building materials, refuse, or trash shall be kept, stored or allowed to accumulate on any portion of the Properties, except building materials may be stored on a Lot during the course of construction of any approved structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers therefore shall not be placed at the ends of driveways, on the parking or lawns, but shall remain in or immediately adjacent to any container storage area, the garage or residence. Trash haulers shall pick-up such containers at such location and shall return the same to such location on the pick-up day. At all other times, such containers shall be stored in such a manner so that they cannot be seen from adjacent or surrounding property. The Architectural Committee, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color, and type of containers permitted and the manner of storage of the same. Notwithstanding the foregoing to the contrary, if a trash hauler requires that the trash container be located at curb side on the pick-up day, then the Owner or Owners using such trash hauler may position their trash containers at curb side on the designated pick-up day, but not at any other time.

Section 3.06. Additional Physical Restrictions and Requirements. Except as hereafter provided and subject to the provisions of subsection 4.02 (l) hereof, all Lots must comply with the following restrictions and requirements:

- a) **Outbuildings** - No Lot shall have more than two unattached outbuildings. No Lot may contain more than one residential structure.
- b) **Floor Space** - The primary residential structure must have a minimum of 1500 square feet of main floor living floor area, excluding basements, garages, decks and porches.
- c) **Animals** - Except as provided in the last sentence of this subparagraph C, each Lot may have a maximum of no large animals (horse, cow, other similar sized animal), one (1) inside dog, two (2) outside dogs, and two (2) cats. All animals must be kept within the confines of the Owner's Lot.
- d) **Exterior** - The exterior walls of the primary residence on each Lot must consist of at least 20% brick or stone.
- e) Each homesite must have at least one two (2) car garage, either attached or unattached to the primary residence. No garage may contain any living area.
- f) No mobile home, travel trailer or trailer house may be used for living quarters anywhere upon said property.
- g) No basement, tent, shack, garage, barn, trailer, or other out-building erected in the tract 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 except while under construction.
- h) No used, secondhand, 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 be moved, placed or permitted to remain upon a building site subjected to these covenants, unless approved by the Architectural Committee and all other property owners.

Section 3.07. Restrictions Not Exclusive. The restrictions contained in this Declaration shall not be taken as permitting any action or thing prohibited by applicable zoning laws, or the laws, rules, or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, leases, or this Declaration shall be taken to govern and control.

ARTICLE 4 - Architectural Control Provisions

Section 4.01. Architectural Committee. An Architectural Committee consisting initially of Atlas C. Turner, Wanda L. Turner, and Monica M. Turner is hereby created with the rights and powers set forth in this Declaration. Committee members shall not be entitled to compensation for their services hereunder. Any member of the Committee may at any time resign from the Committee upon written notice delivered to the Owners of the Properties. Any vacancies created by the death or resignation of any Committee member shall be filled by a person who is then an Owner. Such new Committee member shall be selected by a majority vote of the Owners then entitled to vote. When any Committee member, except the original members of the Committee, ceases to own an interest in any portion of the Properties, such member shall no longer be qualified to be a member of the Committee and shall be deemed to have resigned upon severance of his or her last remaining ownership interest in any portion of the Properties. The Owners entitled to vote may, by a majority vote, remove and replace any member of the Committee if such majority determines that the applicable member is not fulfilling his or her obligations in a fair and impartial manner.

Section 4.02. Mechanics of Operation.

- a. **Required Approvals.** No demolition, removal, construction, improvement, repair, excavation or other work which in any way alters the exterior appearance of any improvements (herein the "Improvements") located on any portion of the Properties from its natural or improved state, existing on the date such portion of the Properties was first sold after the date hereof, shall be commenced, erected, or maintained upon any portion of the Properties, until the plans and specifications showing all elevations of any buildings including dimensions, materials, and color schemes, the nature, kind, grading scheme, shape, height, materials and location of the same, and such additional information as the Committee may require shall have been submitted to and approved in writing by the Committee as to harmony of external design, color, and location in relation to surrounding structures on the Properties and topography. The Committee shall establish reasonable procedures, including, at the discretion of the Committee, rules and regulations, for the granting of the approvals herein required. The vote or written consent of any two (2) members of the Committee taken with or without a meeting shall constitute an act of the Committee.
- b. **Preparation and Submission of Plans.** All plans and specifications submitted to the Committee pursuant to subsection a. above shall be prepared, as appropriate, by an architect, engineer or landscape designer, or landscape architect, said person to be employed by and at the expense of the Owner making the application. Plans and resubmittals thereof shall be approved or disapproved within thirty (30) days after receipt by the Committee, and the Committee shall use due diligence in responding to the applicant upon receipt of all necessary information. All approvals given by the Committee shall be in writing. Failure of the Committee to respond to a submittal or resubmittal of plans within such period shall be deemed to be approval of the plans as submitted or resubmitted.
- c. **Discretionary Power of the Committee.** The Committee may withhold approval of plans and specifications submitted to it pursuant to this Section 4.02 not only because of noncompliance with any of the specific conditions, covenants or restrictions contained in this Declaration, or failure to include information and detail in such plans and specifications as may have been reasonably requested by the Committee, but also by virtue of the reasonable dissatisfaction of the Committee with the location of the structure on the Properties, the elevation, the color scheme, finish, design, proportions, architecture, shape, height, style, grading plan and appropriateness of the proposed structures or altered structures, the materials used therein, or because of the Committee's reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Committee, will render the proposed item of Improvement inharmonious or out of keeping with the general plan for Improvements of the Properties.
- d. **Proceeding with Work.** Upon receipt of required approval from the Committee pursuant to this Section 4.02, the Owner making the application shall, as soon as practicable, diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, landscaping and alterations pursuant to said approval; said commencement to be, in all cases, within three hundred sixty (360) days from the date of such approval. If the Owner shall fail to comply with this subsection d, any approval given pursuant to this Section 4.02 shall be deemed revoked unless the Committee, upon written request of the Owner, made prior to the expiration of said three hundred sixty (360) day period, extends, in writing, the time for such commencement. No such extension shall be granted except upon a finding by the Committee that there has been no change in the circumstances upon which the original approval was granted.
- e. **Failure to Complete Work.** The Owner shall in any event complete the construction, reconstruction, refinishing, landscaping or alteration of any such Improvement within twelve (12) months after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the owner of his or her agents. If an Owner fails to comply with this subsection e, such failure shall be treated as a failure to complete the Improvements in compliance with approved plans.
- f. **Violations.** If, after plans and specifications for Improvements have been approved, pursuant to this Section 4.02, by the Committee, any Improvements are altered, constructed, or maintained upon any portion of the Properties otherwise than as approved, such alteration, construction or maintenance shall be deemed to have been undertaken without approval having been obtained as

required by this Declaration. In the event any work requiring approval pursuant to the terms hereof, shall have been undertaken or shall be deemed to have been undertaken without such approval, then the Committee may elect to notify the Owner of such noncompliance, specifying particulars of noncompliance, and require the Owner to remedy such noncompliance. If the owner shall have failed, within fifteen (15) days following notice from the Committee, to remedy the noncompliance, the Committee may: (i) commence appropriate judicial proceedings to require such compliance; (ii) remove the noncomplying improvement; or (iii) remedy the noncompliance and, in any such event, the owner shall reimburse the Committee for all expenses incurred in connection therewith, including reasonable attorney fees, upon demand.

- g. **Compliance Deemed.** After the expiration of one (1) year from the date of completion of any improvement, addition or alteration, said improvement, addition or alteration shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to comply with all of the provisions hereof, unless a notice of noncompliance, executed by one or more members of the Committee in regard to such additions or alterations shall have been recorded or legal proceedings shall have been instituted to enforce compliance with these provisions. Upon approval of the Committee, it shall be conclusively presumed that the location and exterior configuration of any building, structure or other improvement placed or constructed on any portion of the Properties in accordance with plans and specifications so approved does not violate the provisions of this Declaration.
- h. **Waiver.** The approval of the Committee of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Committee of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications which are submitted, nor shall its approval be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.
- i. **Existing Structures.** All structures, improvements and alterations existing as of the date of the filing of this Declaration are hereby deemed to be in temporary compliance with the architectural provisions and restrictions of this Article and, if not so in compliance, are hereby granted a temporary exemption for eighteen (18) months from such compliance or when farming operations cease or last lot is sold, but only with respect to the condition thereof as existed on the date of the filing of these Declarations.

Section 4.03. Variance. The Committee may authorize variances from compliance with any of the architectural provisions or restrictions of this Declaration or any rules, regulations or guidelines promulgated in relation thereto, including without limitation, restrictions upon height, size or placement of structures, number of structures, or similar restrictions, as the Committee may determine, in their sole discretion on the basis of topography, natural obstructions, hardship, aesthetic or environmental considerations and the like; provided, however, such variance shall not materially alter or be inconsistent with the general plan and intent of this Declaration. Such variances shall be granted in a written document signed by at least two (2) members of the committee and shall become effective upon recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the owner's obligation to comply with all governmental laws and regulations affecting the use of his or her portion of the Properties and the improvements thereon, including but not limited to zoning ordinances or requirements imposed by the County or any other governmental authority.

Section 4.04. Liability. Neither the Committee nor any member thereof shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved drawings and specifications; (c) the development of any portion of the Properties; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him. Every person who submits plans or specifications to the Committee for approval agrees, and every Owner agrees, that he will not bring any action or suit against the Committee or any member thereof to recover any such loss or damage.

ARTICLE 5

Duration and Amendment

Section 5.01. Duration. This Declaration shall continue in full force until thirty (30) years from the date hereof and shall continue to be automatically renewed for successive ten (10) year terms, unless a

Declaration of Termination is recorded meeting the requirements of an amendment to this Declaration as set forth in Section 5.02 below.

Section 5.02. **Amendment.** This Declaration may be amended at any time upon a 2/3 majority vote of the Owners entitled to vote. An instrument, executed and acknowledged by the Owners holding the required voting power, setting forth any such amendment, when recorded, shall be deemed conclusive evidence of such fact if not contested within one (1) year of the filing; provided, however, any amendment, in order to be effective, must contain the approval of any Declarant who then owns any portion of the Properties.

ARTICLE 6 -- General Provisions

Section 6.01. **Legal Proceedings.** Failure to comply with any of the terms of this Declaration shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, which relief may be sought by the Committee or by an aggrieved Owner. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision, or any other provision hereof. The Committee or any Owner (not at the time in default hereunder), shall be entitled to bring an action for damages against any defaulting Owner, and in addition, may enjoin any violation of this Declaration. Any judgment rendered in any action or proceeding pursuant thereto shall include, without limitation, a sum for attorneys' fees in such amount as the Court may deem reasonable, in favor of the prevailing party, costs of collection and court costs. Each remedy provided for in the Declaration shall be cumulative and not exclusive or exhaustive.

Section 6.02. **Severability.** The provisions hereof shall be deemed independent and severable, and a determination of invalidity or partial invalidity or enforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provisions hereof.

Section 6.03. **Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of neighborhood development and any violation of this Declaration shall be deemed to be a nuisance. The article and section headings, titles and captions herein have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context otherwise requires, as used herein, the singular and the plural shall each include the other and the masculine, feminine, and neuter shall each include the masculine, feminine, and neuter. All exhibits attached hereto are incorporated herein by this reference as if fully set forth herein.

Section 6.04. **No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication to all or any part of the Properties to the public, or for any public use.

Section 6.05. **Nonliability.** No right, power, or responsibility conferred on the Architectural Committee by this Declaration, shall be construed as duty, obligation or disability charged upon the Committee or any member of the Committee. No such Person shall be liable to any party for injuries or damages resulting from such Person's acts or omissions within what such Person reasonably believed to be the scope of his Committee duties ("Official Acts"), except to the extent that such injuries or damages result from such Person's willful or malicious misconduct.

Section 6.06. **Voting Rights.** With respect to all matters requiring the vote or approval of the Owners, each Owner, except Declarants, shall have one (1) vote for the Lot which he or she owns and upon which is constructed a single family dwelling in which such Owner uses as his or her primary residence; provided however, if more than one person owns a particular Lot, then such Owners must decide between themselves the manner in which the one (1) vote for such Lot shall be cast. The ownership of a Lot, by a party other than Declarants, shall entitle the owner thereof to vote only if a single family dwelling has been constructed on the Lot and the Owner uses such dwelling as his or her primary residence. The Turners shall, together, have one (1) vote for each Lot owned by the Turners and the Turners shall be entitled to cast such votes notwithstanding that the Lot or Lots owned by the Turners may not have a single family dwelling constructed thereon.

IN WITNESS WHEREOF, Declarants have caused this Declaration be executed on the day and year first above written.

Atlas C. Turner

 Atlas C. Turner

Wanda L. Turner

 Wanda L. Turner

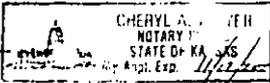
Monica M. Turner

 Monica M. Turner

STATE OF KANSAS)
COUNTY OF SEDGWICK) ss

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 3RD DAY OF SEPTEMBER, 1999
BY ATLAS C. TURNER AND WANDA L. TURNER.

[Signature]
NOTARY PUBLIC



STATE OF KANSAS)
COUNTY OF SEDGWICK) ss

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 3 DAY OF SEPTEMBER, 1999
BY MONICA M. TURNER.

[Signature]
NOTARY PUBLIC

