

Restated Declaration of Restrictions

Affecting Sylvan Lakes Subdivision
Overland Park, Johnson County, Kansas

WHEREAS, Sylvan Lakes Homeowners Association a Kansas entity authorized and existing under the laws of the City of Overland Park, County of Johnson, State of Kansas, has heretofore executed a plat of SYLVAN LAKE SUBDIVISION, which plat was recorded on March 18, 1986, under Document No. 1591098, in Book 61, page 46, in the office of the Register of Deeds of Johnson County, Kansas and by its original said owner, B.M.W Properties, Inc., has heretofore dedicated to the public the streets for street purposes as shone on said plat; and modified by Document No. 1671806 DECLARATION OF COVENENENTS, CONDITIONS AND RESTRICTIONS OF THE VILLAGE HOMES ASSOCIATION, INC. on the 9th day of January, 1987 to transfer management the DECLARATION OF RESTRICTIONS to the VILLAGE HOMES ASSOCIATION, INC.

WHEREAS, Sylvan Lakes Homeowners Association, Representative of all of the lots shown on the aforesaid plat of SYLVAN LAKES SUBDIVISION and now desires to place certain restrictions on said lots which restrictions shall be for the use and benefit of present owner thereof and its grantees.

NOW, THEREFORE, in consideration of the premises, Sylvan Lakes Homeowners Association, for itself and for its successors and assigns, and for its future grantees, hereby declares that all of the lots of SYLVAN LAKES SUBDIVISION, as shown on the aforesaid plat, shall be and the same are hereby restricted as to their use in the manner hereinafter set forth.

ARTICLE 1.
DEFINITIONS

For the purpose of these restrictions, the word "street" shall mean any street or road of whatever name which is shown on said plat of SYLVAN LAKES SUBDIVISION.

The word "Outbuilding" shall mean an enclosed, coverer structure not directly attached to the residence to which it is appurtenant.

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

The word "Declaration" shall mean the covenants, restrictions and conditions and all other provisions herein set forth in this entire document.

The word "Association" shall mean and refer to THE VILLAGE HOMES ASSOCIATION, INC., its successors and assigns.

The word "Board of Directors" shall mean and refer to the Board of Directors of the said Association.

The word "Developer" shall mean and refer to B.M.W. COMMUNITIES, INC., its successors and assigns.

The word "Property" shall mean and refer to all real property which becomes subject to the Declaration, together with all of the other said property as may from time to time be annexed thereto in the provisions of Article II hereof.

The word "Common Areas" shall mean and refer to those areas of land shown on any recorded plat of the properties and improvements thereof which are intended to be devoted to the common use and enjoyment of its members.

The word "Owner" shall mean and refer to the record owner whether one or more person or persons or entities of the fee simple title to any lot or parcel of lands but excluding those having any such interest merely as secured performance of an obligation.

The word "Supplementary Declarations" shall mean and refer to any declaration of covenants, restrictions and conditions which may be recorded by the Developer, which extends the provisions of the Declaration and each complementary provisions as are herein required by this Declaration.

The word "Easements Areas" shall mean and refer to those easements which are specifically described as easements areas in the plat.

The word "Members" shall mean and refer to each member of the Association.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS HERETO

PERSONS BOUND BY THESE RESTRICTIONS.

All persons and corporations who now own or shall hereafter acquire any interest in the above enumerated lots hereby restricted shall be taken to hold and agree and covenant with the owner of said lots, and with its 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 beginning on January 1, 2013, provided, however, that each of said restrictions shall be renewable in the same manner hereinafter set forth.

SECTION 1. USE OF LAND. None of the said lots may be improved, used or occupied for other than private residence purposes and no flat or apartment house, although intended for residence purposes, may be erected thereon. Any residence erected or maintained on any of said lots shall be designed for occupancy by a single family.

SECTION 2. REQUIRED SIZE OF RESIDENCE Any residence one story in height erected on any of said lots shall contain a minimum of 1,200 square feet of enclosed floor area, and any such residence more than one story in height erected on any of said lots shall contain a minimum of 1,350 square feet.

The words "enclosed floor area" as used herein shall mean and include in all cases areas on the first and second floors of the residence, shall not mean or include any areas in basement, garage, porches or attic.

SECTION 3. OUTBUILDING PROHIBITED No outbuilding or other detached structure appurtenant to the residence may be erected on any of said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 4. FENCES No fence or other fence like structure, including dog kennels or dog runs, may be erected on any of the said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 5. SWIMMING POOLS No above-ground, fixed swimming pools will be permitted. No in-ground swimming pool may be erected on any of the said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 6. OVERHEAD WIRES PROHIBITED No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on any of the said lots with the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 7. PARKING PROHIBITED No truck, bus, trailer, commercial or recreation vehicle, motorcycle, boat or other apparatus except passenger automobiles shall be kept, stored or maintained on any of said lots except in a fully enclosed garage, without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 8. OUTSIDE ANTENNA AND SATELLITE RECEIVERS (DISCS) PROHIBITED No radio or television transmitting or receiving antenna or satellite receivers (discs) may be erected or maintained outside of any residence on any of said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 9. PERGOLAS PROHIBITED No pergola, or any detached structure for purely ornamental purposes, may be erected on any of said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 10. OIL TANKS PROHIBITED No tank for the storage of fuel may be maintained about the surface of the ground on any of said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 11. RESTRICTIONS ON MAINTAINING PETS No wild, semi-wild or domestic mammals, reptiles or birds may be kept or maintained upon any of the lots hereby restricted without the consent in writing of the Sylvan Lakes Homeowners Association, except that no more than two (2) dogs, two (2) cats or two (2) birds or any combination of the foregoing specific animals listed in the exception not exceeding the aggregate two (2) may be kept on any such lots without such consent.

SECTION 12. BILLBOARDS PROHIBITED No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any of said lots without the consent in writing of the Sylvan Lakes Homeowners Association, provided however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each lot or tract as sold and conveyed, which advertising board shall not be more than five (5) feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease the lot or tract upon which it is erected.

SECTION 13. SOLAR COLLECTORS AND WIND TURBINES PROHIBITED No solar collectors or wind turbines of any kind or type may be erected or maintained on any of said lots without the consent in writing of the Sylvan Lakes Homeowners Association.

SECTION 14. DURATION OF RESTRICTIONS Each of the restrictions herein set forth shall continue and be binding upon the Sylvan Lakes Homeowners Association and upon its successors and assigns, until January 1, 2014 and shall automatically be continued thereafter for successive periods of five (5) years each, provided, however, that the owners of the fee simple title to more than 50 percent of the front feet of all of the lots hereby restricted, as shown on the aforesaid plat of the SYLVAN LAKES SUBDIVISION, may release all of the land which is hereby restricted from any one or more of the restrictions herein set forth, on January 1, 2013, or at the end of any successive five (5) year period thereafter, by executing and acknowledging an appropriate agreement or agreements in writing for such purpose and filing the same for record in the office of the Register of Deeds of Johnson County, Kansas.

ARTICLE III **MAINTENANCE ASSESSMENT**

SECTION 1. Each representative lot herein described when, if, and as conveyed by the Developer, shall thereafter be subject to an annual maintenance charge or assessment to be paid to the SYLVAN LAKES HOMEOWNERS ASSOCIATION (formally The Village Homes Association, Inc.), a non-profit corporation organized and existing under the laws of the State of Kansas for the purpose of providing a general fund to enable the Association to perform the duties hereinafter set forth. The amount of such assessment shall be fixed annually but the said Association, and shall be charged or assessed in equal proportions against each lot of the land above described. The first assessment shall be made for the year beginning January 1, 1987 and thereafter each assessment shall be made for each subsequent calendar year commencing as of January 1st each year. Each yearly assessment shall be due and payable on or before ninety (90) days after it has been fixed and levied, but in no event shall the due date

thereof be prior to the first day of February. It shall be the duty of the Association to notify all of the fee simple title to the property above described, whose addresses are listed with the said Association, within thirty (30) days after said assessment has been fixed and levied, giving the amount due on each lot or parcel of land owned by each such owner. Failure of the Association to levy the assessment or charge for any one year shall not affect the right of said Association to do so for any subsequent year.

SECTION 2. The assessment shall become a lien on said real estate as soon as it is due and payable at the above set forth. In the event of failure of any of the owners to pay the assessment when due, then such assessment shall bear interest at the rate of ten percent (10%) per annum for the date when it was due until paid.

Ninety (90) days after the date any yearly assessment has been fixed and levied, the assessment if not paid shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate, in the proceedings in any Court in the County of Johnson, State of Kansas, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof as hereinafter provided. The said Association may, at its discretion, file certificates of non-payment of assessments in the Office of the County Clerk and Registrar of Deeds of Johnson County, Kansas, whenever such assessments are delinquent. For each certificate so file, the said Association shall be entitled to collect from the owner or owners of the property described therein a fee of Ten Dollars (\$10) which fee is hereby declared to be a lien upon the real estate so described in said certificates and shall be collectible in the same manner as the original assessments provided for herein.

Such liens shall continue for a period of three (3) years from the date of delinquency and not longer, unless within such time suit shall have been instituted for the collection of the assessment, and a notice of action pending filed for record in the Registrar's Office of the County of Johnson, State of Kansas, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment establishing same.

ARTICLE IV. **APPLICATION OF ASSESSMENTS**

Such charges of assessments may be applied by said Association toward payment of the costs of the following:

SECTION 1. ENFORCMENT OF RESTRICTIONS To enforce, either in its own name or in the name of the owner or owners of the property above described, any or all building restrictions which may have been heretofore, or may hereafter be, imposed upon any of the said above-described property, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent the right of the owner or owners of any lot or parcel of land above described to enforce said building restrictions or reservations being made by the parties having the right to make such changed, releases, or modifications as are permissible in the deeds, contracts, declarations, agreement or plats in which such restrictions and reservations are set forth; nor

shall it server to prevent the assignment of those rights by the proper parties, wherever and whenever such right of assignment exists. The expenses and costs of any such proceedings instituted by said Association shall be paid out of the general fund of said Association.

SECTION 2. SNOW AND RUBBISH REMOVAL To collect snow, refuse, trash, rubbish and the like.

SECTION 3. CARE OF VACANT PROPERTIES To mow and remove weeds and grass from all vacant properties and pick up and remove therefrom loose material, trash and rubbish of all kinds, and to do other things necessary and desirable in the judgment of the offices of said Association to keep such vacant and unimproved properties clean and in good order.

SECTION 4. COMMON AREAS To provide for the maintenance of common areas not otherwise maintained by the City of Overland Park, County of Johnson, State of Kansas and as set out in the final Development Plan of B.M.W COMMUNITIES, INC., and approved by the Overland Park City Commission.

SECTION 5. BEAUTIFYING To mow, fertilize and otherwise maintain the individual lots and to beautify and keep neat and in good order, all open spaces and vacant lots and other areas within the lines of the streets where such service is not adequately provided by the proper City and County authorities; to provide any other neighborhood services not provided by local government authorities.

SECTION 6. IMPROVEMENTS To protect property values by keeping alive pride in the community and enthusiasm for it; to work for better transportation, schools, libraries, recreation areas and playgrounds within the community and to do all lawful things and acts which the said Association at any time and from time to time shall, in its uncontrolled discretion, deem to b for the best interests of said above-described property and the owners of the lot or lots therein.

SECTION 7. COLLECTION OF ASSESSMENTS; EXPENSES; LIMITATION ON YEARLY EXPENDITURES Association shall collect all charges or assessments herein provided for and shall pay all expense in connection therewith and all other expenses incident to the conduct of the business of said Association, provided however, that the said Association shall at no time expend more money within any one year than the total amount of the charge of assessment for that particular year or any surplus which it may have on hand from the previous charges or assessments, not shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligations.

ARTICLE V **MEMBERSHIP**

SECTION 1. MEMBERSHIP IN ASSOCIATION; EFFECT OF CONVEYANCE Each owner by original purchase from the Developer, or its successors or assigns, of any lot or lots herein described shall at its election, become a member of said Association and shall continue to be a member thereof so land as it is the owner of any lot or lots in the tract of land herein described. Upon transfer, conveyance, or sale by any owner of all his or her interest in said described tract, said owner's membership to said Association shall thereupon cease and terminate. Except as herein provided, the Association shall be

the sole judge of the qualifications of its members and of their right to participate in and vote at its meeting. The fact of nonmembership in said Association shall not serve in any way to release or relieve the lot or lots owned by said owner from the assessment herein provided for.

SECTION 2. NOTICE OF ADDRESS OF ASSOCIATION; TIME AND PLACE OF MEETING The Association shall notify all owners of the lot or lots in the land described herein, as the address of such owners are listed with the said Association, of the official address of the Association, the time and place of regular meetings of the Association, and any other business of said Association.

ARTICLE IV **GENERAL PROVISIONS**

SECTION 1. DURATION The covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the original date of this Declaration (January 9th, 1987) is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

SECTION 2. MODIFICATION OF DECLARATION By written consent of the owners of the fee simple title to two-thirds of all of the lots and blocks herein above described, the Association may be given such additional powers as may be desired by said Association, or otherwise amend or modify this Declaration.

SECTION 3. CONFLICT OF DECLARATION AND LAW Said Association shall, at all times, observe all of the laws of the City of Overland Park, County of Johnson, State of Kansas, and the United States of America, and if at any time, any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws shall become null and void, but not other parts of the Declaration not in conflict therewith shall be affected.

SECTION 4. RULES AND REGULATIONS OF ASSOCIATION; EMPLOYMENT The Association shall have the right to make such reasonable rules and regulations and provide such means and employ such agents as will enable it adequately and properly to carry out the provisions of this Declaration, subject to the limitations hereinabove and hereinafter set forth.

SECTION 5. TERMINATION OF DECLARATION; RELEASE This Declaration may be terminated and all of the land now or hereafter may be released from all of the terms and conditions thereof by the owners of the fee simple title of two-thirds of the property subject thereto at the time it is proposed to terminate and this said Declaration, executing and acknowledging an appropriate written agreement or agreements for that purpose, and filing the same in the office of the County Clerk and Recorder of the City of Overland Park, County of Johnson, State of Kansas.

SECTION 6. LIMITED LIABILITY Neither the Developer nor any agent or employee thereof shall be liable to any party for any action or failure to act with respect to any matter under this Declaration if the action taken or failure to act was in good faith or was without malice.

SECTION 7. SEVERABILITY Invalidity of unenforceability of any provision of the Declaration in whole or in part shall not affect the validity or unenforceability of any other provision of any valid and enforceable part of any provision.

SECTION 8. NO WAIVER Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision not any other provision hereof.

SECTION 9. DISCRETION VESTED WITH ASSOCIATION The resolution of any questions arising with respect to the interpretation of this Declaration shall be vested in the Board of Directors.

SECTION 10. RIGHT TO ENFORCE The restrictions herein set forth shall run with the land and bind the present owner, and its successors and assigns, and all parties claiming by, through or under it shall be taken to hold, agree and covenant with the owner of the lots hereby restricted, and with its successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said lots and the construction of improvements thereon, but no restrictions herein set forth shall be personally binding on any corporation, person or persons, except in respect of breaches committed during its, his or their seizing of, or title to said land; Sylvan Lakes Homeowners Association, its successors and assigns, and also the owner or owners of any of the lots hereby restricted shall have the right to sue for and obtain an injunction, prohibitive and mandatory, to prevent the breach of or to enforce the observance of the restrictions above set forth, in addition to ordinary legal actions for damages; failure of the Sylvan Lakes Homeowners Association, its successors or assigns, or of any owner or owners of any lot or lots in this subdivision, to enforce any of the restrictions herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter. Sylvan Lakes Homeowners Association may, by appropriate agreement made expressly for that purpose, assign or convey to any person or corporation all of the rights, reservations and privileges herein reserved by it, and upon such assignment or conveyance being made, its assigns or grantees may at their option exercise, transfer or assign those rights, or any one or more of them at any time or times, in the same way and manner as though directly reserved by them or it in their instrument.

IN WITNESS WHEREOF, Sylvan Lakes Homeowners Association, by authority of its Board of Directors, has caused this instrument to be executed by its President on this 1st day of January, 2013.



Sylvan Lakes Homeowners Association

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