

Any covenant, condition or restriction in this document indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin is omitted as provided in 42 U.S.C. §3604, unless and only to the extent that the restriction (a) is not in violation of state or federal law, (b) is exempt under 42 U.S.C. §3607, or (c) relates to a handicap, but does not discriminate against handicapped people.

DECLARATION OF RESTRICTIVE COVENANTS

AFFECTING THE

FIRST ADDITION, COUNTRY HILLS ESTATES, INC.,

AN ADDITION TO AUGUSTA, KANSAS

THIS DECLARATION, made effective as of the 1st day of June, 1987, by the undersigned, COUNTRY HILLS ESTATES, INC, A Kansas Corporation, hereinafter called Developer, which is the owner of all tracts in said development,

WITNESSETH:

WHEREAS, the Grantors are the owners of real property described in Article I of this Declaration and is desirous of subjecting said real property to the conditions, covenants, restrictions, reservations and easements hereinafter set forth; each and all of which is and are for the benefit of said property and for each owner thereof and shall inure to the benefit of and run with the title of said property, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any owner thereof.

NOW, THEREFORE, the Grantors hereby declare that the real property described in and referred to in Article I hereof is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, reservations and easements hereinafter set forth.

ARTICLE I

Definition of Terms

"Outbuilding" shall mean a covered structure appurtenant to a single-family dwelling. It shall include but not be limited to barns, greenhouses, guest houses, carports, garages and outside storage buildings.

"Developer" shall mean the undersigned, their successors or assigns.

"Owners" shall mean the legal owner, or a contract purchaser, of any one tract in said development.

"Improvements" shall mean and include a detached single-family dwelling, twin-home dwelling, outbuildings, fences, masonry walls, hedges, plantings and other usual appurtenances now common to dwelling usage.

"Building site" shall mean a platted lot in said development.

"Building site" shall mean a platted lot and/or a numbered tract in said development.

"Detached single-family dwelling" shall mean a building and appurtenant structures, erected and maintained in conformity with the requirements of these covenants for private residential purposes and designed for occupancy by a single family. It shall not mean any flat, or apartment, even though intended for residential purposes.

"Twin-home dwelling" shall mean a building and appurtenant structures, erected and maintained in conformity with the requirements of these covenants for private

residential purposes and designed for occupancy by two families. It shall not mean any flat, or apartment, even though intended for residential purposes.

Article II

Property Subject to this Declaration

The real property which is, and shall be conveyed, transferred, occupied, and sold subject to the conditions, covenants, restrictions, reservations and easements with respect to the various portions thereof as set forth in the various clauses and sections of this declaration is legally described as follows, to-wit:

✓ LOTS 1 THROUGH 7, BLOCK 1

TOGETHER WITH

✓ LOTS 1 THROUGH 8, BLOCK 2

TOGETHER WITH

✓ LOT 1, BLOCK 3 AND LOTS 1 & 2, BLOCK 4

TOGETHER WITH

✓ LOTS 1 & 2, BLOCK 5 AND LOTS 1 THROUGH 10, BLOCK 6

TOGETHER WITH

✓ LOT 1, BLOCK 7

OF THE FIRST ADDITION

COUNTRY HILLS ESTATES

located in the City of Augusta, Kansas

as illustrated in Attachment "A"

ARTICLE III

Easements and Setbacks

Setback lines have been indicated on the plat. A dwelling may abut a front setback line but in no event shall a dwelling be located further back on the lot than the front setback line.

Easements for utility purposes have been dedicated in the plat.

The rights of ingress and egress to and from all utility easements across any lot are hereby granted to the electric and other utility companies serving the addition. This ingress and egress right of way is to permit said utility companies to trim necessary trees for and build, maintain, alter, repair, operate and remove transmission lines consisting of poles, wires, equipment and fixtures over and across the lots in said addition. Such easement shall be used, as far as possible, in a manner that will not interfere with the owners use of the premises.

Owners shall not locate any improvements or any combustible materials near enough to said poles, wires and fixtures so as to endanger the same or interfere with the operation thereof, or to be likely to result in damage thereto if a fire should occur.

Article IV

General Purposes of Conditions

The real property described in Article II hereof is subject to the conditions, covenants, restrictions, reservations and easements hereby declared to insure the best use and the most appropriate development of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve so far as practicable, the natural beauty of such property; to guard against the erection thereon of poorly designed or improperly proportioned structures, and structures built of improper or unsuitable materials, to insure the highest and best development of said property; to encourage the erection of attractive homes and the placing of attractive mobile homes thereon; with appropriate locations thereon the building sites; to secure and maintain proper setbacks from the street, and adequate free space between structures; and in general to provide for a high type and quality of improvements on said property.

Article V

PROTECTIVE COVENANTS

A. No structures shall be erected, altered, placed or permitted to remain on any building site subject to this Declaration other than one single-family dwelling, except that in Block 2 Twin-home dwellings are allowed according to the "R-2" zoning so approved by the City of Augusta, and a garage or carport and other out-buildings incidental to the residential use of the premises.

B. No television or radio antenna may be erected more than twelve (12) feet above the top of the building upon which it is placed.

C. No animal, poultry or fowl of any kind, other than household pets belonging to the household and then no more than two pets of any type over the age of six months shall be kept or maintained on any part of the real estate subject to these covenants. If the household should keep or maintain more than one dog subject to these covenants it is understood that only one dog shall be an "outside" dog with the second dog being a "house" dog.

D. It is expected that each owner will do a reasonable amount of landscaping and in any event must keep his yard seeded at all times. It is required that owners keep all grass and weeds mowed and trimmed in a neat and presentable manner.

E. No vehicle shall be stored on the premises unless it is in operable condition. Any collector automobile stored within the Development or on any street or on any building site shall be covered if not enclosed within a garage.

F. Each building site is limited exclusively for residential use except for "home occupations" if permitted by the City of Augusta.

G. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the building sites herein restricted; provided however, that permission is hereby granted for the erection and maintenance

of "For Sale" signs. Realtors signs, builder's signs and open house signs on each building site, used for the sole and exclusive purpose of advertising for sale or lease, the building site on which it is erected and improvements thereon, if any; and provided further that temporary signs such as garage sale and political signs may be placed and shall be removed in a timely fashion after such event ceases. If a "home occupation" is permitted by the city on the building site than one sign no larger than six inches by eighteen inches is allowed so long as the sign is attached directly to the exterior of the house and is not illuminated.

H. The location of any outbuilding or appurtenant building constructed on a building site can be no closer than five (5) feet to any building site lot line and five (5) feet from the rear property line of the said building site.

I. The exterior of all outbuildings must be finished with paint or other decorative materials at the time of erection. Any such building must be constructed in a good and workmanlike manner. Metal outbuildings are expressly prohibited..

J. Any mass plantings or fencing creating a traffic hazard shall be removed or reduced in size to that required for safety.

K. All outside trash containers must be kept at the side or rear of the dwelling and must be covered and screened from public view. The type of such containers must be such that dogs and other animals cannot tip them or otherwise cause the contents thereof to be spilled upon the ground.

L. Every residence must contain not less than a either [1] a minimum of nine hundred (900) square feet of ground floor living area under roof excluding basement area, garage and porches, as determined by the Architectural Review Committee. Floor area within 4 feet of elevation change of the main entry floor shall be considered as a single story or, [2] a minimum of 900 square feet for a two-story residence with a minimum of 600 square feet on the first floor excluding basement area, garages and porches, as determined by the Architectural Review Board or, [3] such other size criteria as the Architectural Review Board may determine.

M. The installation of barbed wire is prohibited and all fencing material including posts must be new material and painted or other commercial finishes applied. All fencing shall be constructed in a workmanlike manner with proper corner post supports supplied to prevent the sagging of the fence or the fences losing their alignment. No fencing shall be constructed and/or erected unless the plan and materials are first approved by the Architectural Review Committee. Existing fencing on common boundary lines shall not be removed except with prior permission of the Architectural Review Committee.

N. All newly placed clotheslines, equipment, wood piles and satellite receiving dishes shall be placed in the side or back yards and screened by adequate planting or fencing as to conceal them from view of the street.

O. Notwithstanding any provision of this Declaration so long as the Developer or Builders are engaged in developing or improving any portion of the Properties, such persons shall have an easement of ingress, egress and use over any lands not conveyed to an Owner for occupancy for [1] movement and storage of building materials and equipment, [2] erection and maintenance of directional and promotional signs and [3] conduct of sales activities, including maintenance of model living units, [4] maintenance of buildings as used in the

normal course of business for the Development or related residential construction. Such easement shall be subject to such rules as may be established by the Developer to maintain reasonable standards of safety, cleanliness and general appearance of the Properties.

P. Any residence making connection to natural gas will have the gas meter placed immediately adjacent to their residence. Under no circumstances will gas meters be located in the front yards or by the street.

Q. Roofing material shall consist of wood shingles, wood shakes, asphalt or asphalt impregnated fiberglass roofing shingles. Other roofing materials may be acceptable upon approval of the Architectural Review Board.

R. No used, secondhand or previously lived in house or building of any kind shall be moved or placed, either in sections or as a whole, upon said land, nor shall any mobile home be moved, placed or permitted to remain upon a building site subjected to these covenants. Developer reserves the right to place a mobile home on a building site to be used as a sales office until such time as seventy-five percent of all lots are sold as described in the Development Plan.

S. No nuisance shall be permitted to exist or operate upon any property so as to jeopardize property values or be detrimental to the well-being of Residents.

T. Owners of improvements and vacant lots in said development shall keep the same painted, repaired, mowed and properly maintained and will not permit the accumulation of junk anywhere on the premises.

U. Construction of structures and related grounds will be completed within twelve months of approval of the Architectural Review Board provided however an extension can be requested of the ARB under unusual circumstances.

V. No basement, tent, shack, garage, barn or other outbuilding erected on a building site covered by these covenants 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.

W. Each of the conditions, covenants, restrictions and reservations set forth above shall continue and be binding upon the Grantors and upon their successors and assigns and upon each of them and all parties claiming under them for a period of twenty (20) years from the date hereof, and automatically shall be continued thereafter for successive periods of five (5) years each; provided, however, that after three-fourths of the building sites have residences constructed or placed thereon, that two-thirds of the property owners, as defined herein, that is to say owners of building sites herein, subject to this Declaration which are hereby restricted, may release all of the land so restricted from any one or more of said restrictions or may enlarge, change or modify any one or more of said restrictions by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing the same for record in the Office of the Register of Deeds of Butler County, Kansas.

Any interpretation of these restrictive covenants needed or requested by any interested party shall be made by the Architectural Review Committee of Country Hills Estates and such interpretation shall be final and binding unless rescinded or modified by an affirmative vote of two-thirds of the owners within thirty (30) days after such interpretation is published.

The covenants herein set forth shall run with the land and bind the present owners, their successors and assigns, and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the owners of said building sites, their successors and assignees, and with each of them to conform to and observe said restrictions as to the use of building sites, and the construction of improvements thereon, but no restrictions herein set forth, shall be personally binding on any person or persons, except in respect to breaches committed during his or their holding title to said land, and the owner or owners of any of the above land and/or Developer at their option, shall have the right to sue for and obtain an injunction prohibitive or mandatory, to prevent the breach of or to enforce the observances of the restrictions set forth above, in addition to ordinary legal action for damages.

Article VI

The Architectural Review Committee of
COUNTRY HILLS ESTATES

The Architectural Review Committee of Country Hills Estates shall consist of three persons, to be appointed by the Grantor. Grantor shall retain the right to make changes in the membership of the Architectural Review Committee as conditions require. The term for each Architectural Review Committee member shall be indefinite. After three-fourths of the lots have been sold to individual owners then two-thirds of the owners of lots in said development may at any time recall and replace any or all members of said Architectural Review Committee. Members of said Architectural Review Committee shall serve without compensation.

Article VII

Miscellaneous

A. Invalidation of any one of these covenants or any part thereof by judgments or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

B. These covenants shall and do hereby provide that no single-family dwelling, twin-home dwelling, or other improvements as herein defined shall be erected, placed, altered and/or commenced on any building site in said development until the building or other improvement plans, specifications and plot plan showing the location of such improvements on the particular building site have been submitted to and approved in writing as to conformity and harmony of external design, including the height of such improvements, with existing structures in the Development, and as to location of the improvements with respect to topography, grade and finished ground elevation, by the Architectural Review Committee; provided, however, that the said Committee, its members, successors or assigns, shall not be liable in damages to anyone so submitting plans for approval, or to any other owner or owners of land covered by this instrument by reason of mistake in judgment, negligence or non-feasance of itself, its agents or employees, arising out of or in connection with the approval or disapproval, or failure to approve any such plans, likewise anyone so submitting plans to the said Committee for approval, by the submitting of such plans and any owner by so acquiring title to the property covered hereby, agrees that he will not bring any action or suit to recover for any such damages against the said Committee. In the event said Committee fails

to approve or disapprove such design, height and location within thirty (30) days after said plans and specifications have been submitted to it, this covenant will be deemed to have been fully complied with. If construction or alteration of original improvements or any subsequent additional improvements are begun in violation of the terms and conditions of this section or without the written approval required herein and no suit to enjoin the erection, establishment or alteration or such improvement has been commenced prior to the completion thereof, this covenant will be deemed to have been fully complied with. If construction, including fencing is commenced before approval of the Committee it may require the owner to tear down such construction and restore the premises.

C. The Developer reserves the right, with the approval of the Architectural Review Board, to make additional donations of common areas and said areas will be subject to these covenants and restrictions.

D. Two common areas are currently part of the Development Plan and as such their use is subject to the rules and regulations established by the Architectural Review Board. One area is Country Hills Community Park and the second area is the entrance to the Development off Ohio Street. Both such areas plus any future donated or developed common areas are for the enjoyment and use of the property owners of Country Hills and their guests, and any additional parties which may wish to use the facilities.

E. It is further understood that an area in Country Hills Community Park or other such area designated by the Developers is reserved for the future possible construction of a swimming pool. The Developer, in consultation with the property owners, may elect to construct such pool when it is determined that there is sufficient homeowner interest to share in the pool's proper maintenance. If such swimming pool is constructed the Developer pledges the maximum sum of twenty five thousand dollars [\$25,000] in land or other valuable considerations for it's completion.

IN WITNESS WHEREOF, the undersigned Grantors have hereunto executed this document the day and year first above written.

COUNTRY HILLS ESTATES, INC.

Robert R. Whittaker
Robert R. Whittaker, President

STATE OF KANSAS)

ss:

COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this 1st day, June, 1987 by the President of Country Hills Estates, Inc.

Cleta L. Duncan
Notary Public

My Appt./Comm. Expires:

CLETA L. DUNCAN
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 9-13-88

9-13-88