

**DECLARATION OF**

**COVENANTS, CONDITIONS AND RESTRICTIONS FOR**

**Hidden Prairie**

**SPRING HILL, KS**

**A CONSERVATION SUBDIVISION IN MIAMI COUNTY, KANSAS**

**2019-02176**

**KATIE FORCK**

**MIAMI COUNTY REGISTER OF DEEDS**

**RECORDED: 05/30/2019 10:47:44 AM**

**TOTAL FEES: 310.00 MTG AMOUNT: 0.00**

**PAGES: 18 RECEIPT: 4004772**

**HIDDEN  
PRAIRIE**

**Date: May 29, 2019**

THIS DECLARATION is made and executed on November, 2018, by Waverly 215, LLC, a Kansas limited liability company, which is called "Developer" in this Declaration.

**INTRODUCTORY STATEMENTS**

- A. The Developer is the owner of real property located in Miami County, Kansas, which is legally described on Exhibit "A" attached to this Declaration. Developer desires to create a single-family residential community on the property to be known as Hidden Prairie. The community will include approximately 30 acres of green space, lake, timber and walking trails.
- B. The Developer has filed a Preliminary of Hidden Prairie with the Register of Deeds of Miami County, Kansas. The plat delineates the lots and common areas contained within the legal description of the property.
- C. The Developer intends by this Declaration to provide for the preservation and enhancement of the property values, amenities and opportunities in the community in order to contribute to the personal well-being of the residents, and also to provide for the maintenance of the land and improvements, all for the benefit of the property and each owner.
- D. The Developer further intends by this Declaration to create an association which will maintain, administer and enforce this Declaration and to collect and spend the assessments and charges created by this Declaration. The association will be incorporated under the laws of the State of Kansas, and will be named Hidden Prairie Homes Association, Inc., a Kansas not-for profit corporation.

**GRANTING STATEMENTS**

The Developer hereby declares that the land described in Exhibit "A" and all additional property added under Article II, shall be held, sold, used and conveyed subject to the following covenants, restrictions, easements, charges and liens, all of which are for the purpose of promoting the common good and general welfare of the residents and owners of the Property, for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, restrictions, easements, charges and liens shall run with the land and with the title to the Property and will bind all parties now having or later acquiring any right, title or interest in the Property, and, subject to limitations provided in this Declaration, shall benefit each owner, his and/or her heirs, grantees, distributees, personal representatives, successors and assigns, the Association, and the Developer.

The Developer hereby delegates and assigns to the Association, upon its formation, the power of owning, maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, collecting and spending the assessments and charges created by this Declaration, and promoting the well-being of the residents.

## **Article I - Definitions**

"Approval" means a written statement of approval or any written waiver of approval rights, or a letter of "no objection" by the Design Review Committee, the Association or any public agency.

"Assessable Unit" means any Properties subject to assessments, as provided in Article V.

"Association" means Hidden Prairie Homes Association, Inc., its successors and assigns.

"Board" means the Board of Directors of the Association.

"Builder" means a person or entity who acquires any of the Properties to improve the Properties for resale to future Owners.

"Common Area" or "Common Open Space" means all real property and improvements owned by the Association or over which the Association has an easement for the use and enjoyment of the Members.

"Declaration" means this Declaration and all its amendments.

"Developer" means Waverly 215, LLC, and its successors and assigns, except that no successor or assignee of the Developer shall have any rights or obligations of the Developer hereunder unless they are specifically assigned and assumed in the instrument of succession or assignment, or unless they pass by operation of law. The rights and obligations set forth herein of the Developer shall cease when one hundred percent (100%) of the Lots are sold and the Living Units are substantially complete (the "Development Period").

"Development Plan" means the total general scheme of intended uses of land in the Properties approved by the County of Miami, Kansas, as further defined in Article II.

"Existing" means the current conditions as they exist prior to construction or development.

"First Mortgagee" means an institutional lender who holds the first mortgage on a Lot.

"Governing Documents" means the Articles of Incorporation of the Association, this Declaration, Supplementary Declarations and the Association By-Laws, as such documents may be amended.

"Living Unit" means a structure located on a Lot designed and intended for use and occupancy as a residence by a Single Family.

"Lot" means any lot of land shown on any recorded subdivision map or plat of the Properties, with the exception of Common Area.

"Members" means members of the Association, which shall consist of all Owners.

"Natural Open Space" means all real property owned and designated by the Association or over which the Association has an easement that is conservation space considered for nonuse and non-accessible by members other than the walking trails that are constructed within. This space consists of trees and undisturbed lands and no maintenance or upkeep is involved.

"Notice" means written notice delivered personally or mailed to the last known address of the intended recipient.

"Owner" means the record holder of the fee simple title to a Lot, whether one or more persons.

"Property" or "Properties" means all real property which is subject to the Declaration, and additional real property annexed under the provisions of Article II of this Declaration.

"Quorum of Members" means the representation by presence or proxy of Members who hold fifty one percent (51%) of the outstanding votes of each voting class.

"Registered Notice" means any Notice which has been signed for by a recipient or has been certified by the U.S. Postal Service or other entity as having been delivered (or the delivery of which has been certified by the Postal Service or other entity to

have been attempted) to the address of the intended recipient. Failure by refusal of an intended recipient to acknowledge such Notice shall nevertheless constitute receipt.

"Single Family" means a single housekeeping unit of one family which includes not more than two adults and their children. The Board shall resolve any dispute as to the meaning of this definition.

"Supplementary Declaration" means any declaration of covenants and restrictions recorded by the Developer extending this Declaration.

"Zoning Order" means the provisions pertaining all applicable zoning laws and ordinances of Miami County, Kansas, amended from time to time, applicable to the Properties.

## **Article II - Property Subject to This Declaration; Additions Thereto**

Section 1. The Properties. The real property which is subject to this Declaration is legally described in Exhibit "A", and is known as Hidden Prairie.

Section 2. Additions to the Properties. Additional properties may become subject to this Declaration upon approval of two-thirds percent of the votes of a Quorum of Owners. The additions authorized under subsections (a) and (b) shall be made by complying with the requirements of the Zoning Order, by filing of record one or more Supplementary Declarations with respect to the additional property, and by filing the plat of the addition with the Association.

Section 3. The Development Plan. The Developer hereby reserves the right to add land to or amend the Development Plan for lands which have not yet been made subject to this Declaration, in response to changes in technological, economic, environmental, social or other conditions related to the development or marketing of the Properties or in response to changes in requirements of government agencies and financial institutions.

## **Article III - Hidden Prairie Homes Association, Inc.**

Section 1. Creation. The Association will be created upon the time the Final Plat is recorded.

### **Section 2. Organization.**

1) The Association. The Association will be a nonprofit, nonstock corporation organized and existing under the laws of the State of Kansas and charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as they may be amended, except that no Governing Documents may for any reason be amended or otherwise changed or interpreted inconsistent with this Declaration.

2) Exercise of Vote. The vote for any membership which is held by more than one person may be exercised by any one of them, unless an objection is made by one of the holders prior to the completion of a vote, in which case the vote for such membership will not be counted. If fewer than twenty-five percent of all Class A votes are cast in an election for any elective office, the Board may declare the results of such election invalid and may elect a Member to fill such office.

### **Section 3. Membership and Voting Rights in the Association.**

1) Membership. Every record owner of a fee interest in any Lot shall be a Member of the Association, except that any person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

2) Membership Initial Fee: Upon purchase of a Lot a \$200 fee shall be collected. These funds will be applied to maintenance and upkeep of common spaces, common amenities and lake.

3) Voting Rights. The Association shall have two classes of voting memberships. Class A Members shall be Owners in good standing in accordance with the By-Laws of the Association entitled to membership with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot. There shall be only one (1) vote per Lot, regardless of whether there is more than one Member with respect to a Lot. The Developer is the sole Class B Member. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds fee simple title. After seventy-five percent (75%) of the Lots are owned by persons other than the Developer, the Developer shall convert the Class B membership to Class A membership and

the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interests required for membership.

#### Section 4. Membership Maintenance Dues.

1) The Association shall charge yearly dues in the amount of \$500 per Lot. For years 2020 thru 2022 the cost adjustment can be up to 20% increase each year as decided by maintenance costs. Beginning 2023 the cost adjustment in dues will occur annually based upon Miami County CPI (Consumer Price Index for average past year). In the event Lots are merged, the dues will continue to be based upon the original recorded plat. Dues are for ongoing maintenance and upkeep of common ground and lake maintenance. In the event a member is delinquent, then Association shall enforce collection measures after 30 days. Post 30 days will result in property lien steps. Delinquent members access to common areas and amenity spaces shall be suspended until their status becomes current.

#### Section 5. Board of the Association.

1) The powers of the Association shall be vested in, exercised by, and under the authority of, and the affairs of the Association shall be controlled by, a Board of Directors consisting of three (3) persons. A minimum of two (2) persons on Board must be Members. The Board, by a majority vote, shall exercise for and on behalf of the Association all powers, duties and authority vested in or delegated to the Association.

2) The Developer shall have the absolute right to elect the Board until conversion of Class B shares to Class A shares as described in paragraph III.3.b Voting Rights above. Thereafter, Directors shall be elected at the first annual meeting of Members following the Development Period, and terms shall be staggered, so that two (2) Directors and one (1) Director shall be elected respectively in alternating years. At the first annual meeting of Members and at each annual meeting of Members thereafter, Directors shall be elected for two (2) year terms of office and shall serve until successors are elected and qualified.

3) In any election of the members of the Association Board, every Member entitled to a vote at such election shall have the right to cumulate his or her votes and give one (1) candidate, or divide among any number of the candidates, a number of votes equal to the number of Directors to be elected multiplied by the number of votes which such Member is otherwise entitled to cast. The candidates receiving the highest number of votes, up to the number of the Directors to be elected, shall be deemed elected.

#### Article IV - Powers and Duties of the Association

The Association shall have the following powers and duties:

1) To provide for the care and maintenance of all Common Areas owned by the Association including roads (to the extent not maintained by Miami County), landscaping, open spaces, ornamental features, signage, monuments, street lights, retention areas and other facilities now existing or which may be erected or created in the future on the Properties, and to assess special charges or service fees or to charge dues to Members for the use of such facilities.

2) To levy assessments on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration set forth in Article V and VII.

3) To contract with single source Trash Service for the development. Only one company will be permitted to provide trash service and this will be negotiated every 24 calendar months to get the best service and best pricing for the residents.

4) To employ, at its discretion, the services of any person or corporation as manager (herein, "Manager"), together with other employees, to, as may be directed and delegated by the Association Board, manage, conduct and perform the business, obligations and duties of the Association and to enter into contracts for such purpose; provided, however, that no management contract shall exceed a term of one (1) year and such contract shall be cancelable for good cause shown by either party upon thirty (30) days written notice. Such employees shall have the right of ingress and egress over such portions of the Properties as is reasonably necessary for the purpose of performing such business, duties and obligations.

5) To maintain insurance or surety bonds, as deemed by the Association Board to be necessary and appropriate, including but not limited to:

- a. fire and appropriate extended coverage and other physical loss and damage insurance on all improvements located in or upon the Common Areas;
  - b. comprehensive liability insurance insuring the Board and Members, including the Developer, against liability to, and claims of, the public, Members or the Board and Association; except that the coverage in favor of the Developer shall not extend to the Developer's capacity as a developer; and
  - c. such other insurance, including workmen's compensation insurance, to the extent necessary to comply with any applicable law and then-current insurance practices, and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary, appropriate or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or property.
- 6) To enforce the decisions of the Design Review Committee (Article X).
- 7) To grant and convey to any third-party easements and rights of way in, on, over or under the Common Areas for the purposes set forth in Article XIII.
- 8) To install and maintain a set of common mailboxes for Development.
- 9) At its discretion to do all other things not inconsistent with this Declaration that the Board may from time to time determine to be either necessary or desirable for the Association, for its Members or for the protection, care or development of the Common Areas and the Property.

#### **Article V - Method of Providing Funds**

Section 1. For the purpose of providing funds to enable the Association to perform the duties and to discharge the obligations imposed upon it, all of the Properties shall be subject to an annual membership maintenance dues as described in Article III, to be paid to the Association by Owners on such terms that a majority of a Quorum of the Members shall determine. Such assessment shall be prorated as follows:

- 1) 100% of the prorata share for each Lot, whether occupied or not until 50% of the Lots are sold.
- 2) After 50% of the Lots are sold:
  - a. 100% on each Lot occupied by a Living Unit
  - b. 50% on each unoccupied Lot; and
  - c. 10% on each unoccupied platted Lot owned by the Developer.

Section 2. The amount of the assessment for dues provided for in Section 1 of this Article may be increased as described in Article III, Section 4.

Section 3. For the purpose of providing a special fund assessment to be used and to enable the Association to repair, replace, construct and extend its facilities and property, each Assessable Unit may be specially assessed by the Association at an annual rate in an amount not exceeding the amount fixed for the annual dues assessment as provided in Section 1 above for the year that such special assessment is approved. The amount of the special fund assessment against each Assessable Unit shall be in the same proration as required in Section 1 above. Such assessment may be made by the Board, subject to approval at a regular annual meeting or a specially called meeting of all Class A Members entitled to vote. A majority of a Quorum of Class A Members present or by proxy at such meeting shall be required to approve such an assessment. Upon successful vote of assessment, the funds shall be used within one (1) calendar year of vote or returned to Members.

Notice of any meeting for the approval of an assessment or for one or more special fund assessments shall be given as provided in Article I not more than 30 days or less than 10 days prior to the meeting. The notice shall set forth the purpose for which the sums derived from the assessment or assessments are to be used, together with the estimated cost of the proposed project

or projects, and the proposed time and method of payment. The sums paid to the Association on account of such special assessment shall be set aside and used for the specific purpose for which the special fund assessment is made, unless otherwise authorized by the Members of the Association at a meeting duly called as herein provided.

Section 4. The assessments made pursuant to Sections 1, 2, and 3 above shall be on a calendar year basis and shall be paid on January 1 of each year. The annual payment shall be in default if not paid on or before the fifteenth day of January of each year. Any assessment not paid when due shall be subject to a late charge of Thirty Dollars (\$30.00) per month, which late charge may be increased from time to time by the Board.

Section 5. User Fees and Charges. In addition to the yearly dues and special fund assessments, the Board may levy and collect charges and fees for the use of the Common Areas for the purpose of maintaining Common Areas, operating services on Common Areas, regulating the use of Common Areas and the services offered thereon, and for providing utility services. In addition, the Association may levy and collect any costs incurred in bringing an Owner or his Lot into compliance with the provisions of this Declaration.

Section 6. Developer Advances.

- 1) On an annual calendar year basis, the Board shall prepare the Association Budget which shall include a cash budget projecting anticipated cash receipts, cash expenditures and net cash surplus or deficit for the ensuing calendar year.
- 2) The Developer may, but shall not be obligated, to make cash advances to the Association to eliminate any projected net cash requirements of the Association which occur during the course of any calendar year. Such cash advances may be considered borrowings of the Association. The option of the Developer to make advances to the Association pursuant to this shall continue only during the Development Period.

#### **Article VI - Limitation on Expenditures**

Section 1. The Association shall at no time expend more money within any one year for maintenance of Common Areas than the total amount of the dues assessment for that particular year plus any surplus which it may have on hand from previous assessments, nor shall the Association enter into any contract binding the dues assessments of any future year to pay for any such obligations.

Section 2. Special Funds. The limitations imposed upon dues assessment shall not apply to special fund assessments.

Section 3. Surplus Funds. The Association may create as part of the dues assessment a surplus or reserve fund to be carried forward from year to year as determined by the Board as necessary and/or desirable for the greater financial security of the Association and the effectuation of its purposes.

#### **Article VII - Liens on Real Estate**

Assessments, fees and other charges levied by the Association shall become a lien on the Lot against which it is levied as soon as it is due, except that it will be subordinate to any First Mortgage then existing or which is later recorded against such Lot. If the assessments, fees or charges are not paid when due, the amount due plus late charges stated in Article V, plus the costs of collection (including attorney's fees), may be enforced as a lien against the Lot in proceedings in any court in Miami County, Kansas having jurisdiction. The Association may file certificates of nonpayment of assessments in the Office of the Register of Deeds whenever any such assessments are delinquent, collect from the Owner a fee of \$100.00, which fee is also a lien upon the Lot, except it will be subordinate to any First Mortgage then existing or which is later recorded against such Lot, collectible in the same manner as the original assessments.

Such liens shall continue for a period of five (5) years from the date recorded unless suit shall have been instituted for collection of the assessment, in which case the lien shall continue until termination of the suit and/or sale of the property under execution of the judgment.

## **Article VIII - Right to Enforce This Declaration**

This Declaration shall run with the land and bind the Properties, the Owners, their heirs, administrators, executors, successors and assigns, and all persons claiming by, through or under them. The Association and each Owner shall have the right to obtain an injunction, to prevent the breach of or to enforce the observance of this Declaration or to maintain an ordinary legal action for damage.

The failure of the Association to enforce this Declaration at the time of its violation will not waive the right to do so at a later time. If the Association is the prevailing party in any legal action, it may recover its attorneys' fees in such action from the non-prevailing party.

If any Member fails to pay an assessment, fee or charge when due, the Board may suspend the voting rights of the Member.

## **Article IX - Property Rights in the Common Areas**

Section 1. Members' Easements of Enjoyment. Each Member has a right and easement of enjoyment to the Common Areas, and such easement is appurtenant to and runs with the land of every Lot.

Section 2. Title to Common Areas. The Developer may retain the legal title to the Common Areas until it has completed all improvements on the Common Areas. The Developer hereby covenants, for itself, its successors and assigns, that it will convey the Common Areas to the Association free and clear of all liens and encumbrances.

Section 3. Limitation on Members' Easements. The rights and easements of enjoyment created in this Declaration are subject to the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility.

Section 4. Damage or Destruction by Owner. If any Common Area is damaged by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner hereby authorizes the Association to repair the damaged areas. The amount for such repairs shall be a Special Assessment upon the Lot of the Owner, shall be a lien upon the Lot, and shall be enforceable under Article VIII.

Section 5. Maintenance by Owner. Common area shall be maintained by Developer until passed to Association. Native grass establishments and mowing are to be done in order to properly upkeep to adhere to theme of development.

## **Article X - Design Review Committee (DRC)**

Section 1. Purposes, Powers and Duties of the Design Review Committee (DRC). The purpose of the DRC is to assure that all proposed uses and any construction or alteration of any structure which takes place on any Lot or to any Living Unit or any other property affected by the Declaration shall be performed in conformity with these covenants and restrictions and the "Design Standards and Procedures for Single Family Construction" at Hidden Prairie.

Section 2. Composition and Appointment. The DRC shall consist of Collins and Webb Architecture and the Developer. This shall be in effect until a board is formed. Thereafter, members of the DRC shall be appointed by the Board.

Section 3. Operation of the DRC.

1) Meetings. The DRC shall hold regular meetings at least quarterly or more often as may be determined by the members of the DRC. Regular and special meetings shall be held at such time and such place as the members of the DRC shall specify. At least three members of the DRC must be present for the transaction of business. The DRC shall maintain a written record of votes and minutes of each of its meetings.

2) Activities. The DRC shall adopt, promulgate and amend the Designs Standards and Procedures for Single Family Construction as provided in Section 5 hereof, and will make findings, determinations, rulings and orders with respect to the conformity with said Design Standards of plans and specifications submitted for approval.

As required, the DRC shall issue permits, authorizations or approvals pursuant to the directions and authorizations contained herein. Any applicant to the DRC may within ten (10) days after receipt of notice of any decision which he or she deems to be

unsatisfactory, file a written request to have the matter reviewed by the Board. The Board shall review such request within 30 days of receipt and its decision shall be final and binding.

#### Section 4. Design Standards and Procedures for Single Family Residential Construction.

The DRC shall adopt and enforce the Design Standards and Procedures for Single Family Residential Construction, for the purposes of:

- 1) governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions of Section 6 of this Article; and
- 2) governing the procedures for such submissions of plans and specifications; and
- 3) establishing policies, requirements, standards, restrictions and specifications with respect to the approval and disapproval of proposed uses and with respect to all construction or alteration of any structure on any Lot, Living Unit, Easement or Common Area.

Section 5. Submission of Plans and Specifications. No structure shall be erected, placed or moved onto or permitted to remain on any Properties, nor shall any existing structure upon any Properties be altered in any way which materially changes its exterior appearances, nor shall any new use be commenced, unless plans and specifications (including a description of any new use) are submitted to and approved in writing by the DRC. Plans for construction of a new home or additions to existing homes shall be stamped by a licensed architect. Upon receiving plans and specifications, an authorized representative of the DRC shall provide a written receipt. The requirements for submission include floor plans, plot plans including driveways, grading plans, building elevations, dimensions and exterior materials finish board.

Section 6. Pre-Approval. The DRC allow a potential buyer of a Lot to present a design option / concept for pre-approval so the potential purchaser would know status and decision before proceeding with purchase of Lot. The DRC will require 7 business days for review and approval. Refer to Section 13 of this Article for Fees associated with reviews.

Section 7. Approval of Plans and Specifications. A copy of the approved plans and specifications will be deposited as a permanent record with the DRC and a copy of such plans and specifications bearing written approval shall be returned to the applicant. Approval of plans and specifications for any Lot or Living Unit will not waive the DRC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein, if such plans, specifications, features or elements are subsequently submitted in connection with any other Lot or Living Unit.

Approval shall be final and such approval may not be revoked or rescinded. The DRC is permitted to approve deviations from the Design Standards and Procedures and from this Declaration when, in its judgment, such deviations will result in a more beneficial use, or when such deviations do not detract from the value or enjoyment of surrounding properties. Such approval must be granted in writing.

#### Section 8. Disapproval of Plans and Specifications.

- 1) The DRC shall have the right to disapprove any plans and specifications submitted hereunder for any reason, including but not limited to:
  - a. the failure to include information in such plans and specifications as may have been reasonably requested;
  - b. the failure of such plans or specifications to comply with this Declaration or the Design Standards and Procedures;
  - c. objection to the exterior design, appearance or materials of any proposed Living Unit or improvements;
  - d. incompatibility of any proposed improvements or use with existing Living Units or uses upon surrounding properties;
  - e. objection to the site plan of improvement on grounds of incompatibility with surrounding properties;
  - f. objection to the grading plan;



- g. objection to the color scheme, finish, proportions, style, architecture, height, bulk, safety or appropriateness of any proposed Living Unit or improvement;
- h. failure to satisfy minimum floor area requirements;
- i. objection to the location of the improvements on a Lot;
- j. any matter not included in the Design Standards and Procedures, if such matter, in the judgment of the DRC, would lower the value of or otherwise damage the Properties; or
- k. any other matter which, upon the judgment of the DRC, would render a proposed improvement or use inharmonious with the Design Standards and Procedures or as set forth in the Development Plan.

2) In any case in which the DRC shall disapprove any plans and specifications or shall approve the same only as modified or upon specified conditions, the disapproval or qualified approval shall be accompanied by a detailed statement of the grounds upon which such action was based. If requested, the DRC will make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

Section 9. Failure to Act. If the DRC fails to take action on any plans and specifications within sixty (60) days of presentation to the DRC, together with the fees authorized by Section 13 of this Article, and consistent with such other requirements as called for by the Design Standards and Procedures, the same will be deemed to have been approved as submitted, and no further action by the DRC will be required for the applicant to begin construction. Such approval will be placed in writing on the plans and specifications and will be returned to the applicant.

Section 10. Inspection Rights. After reasonable notice and at a reasonable time, a designated agent of the Association or the DRC may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Living Unit thereon complies with these provisions and to inspect and report the condition of the septic system on each Lot, and neither the Association, the DRC nor any agent shall be deemed to have committed a trespass or other wrongful act solely by reason of entry or inspection, provided the inspection is carried out in accordance with the terms of this Section.

Section 11. Violations. If any Living Unit is erected, placed, maintained or altered upon any Lot, or any new use commenced on any Lot, without the approval of the DRC, such erection, placement, maintenance or alteration or such use, shall be deemed to have been undertaken in violation of this Article.

If, in the opinion of the DRC, a violation occurred, the DRC will notify the Association. If the Board agrees with the determination of the DRC with respect to the violation, then upon Notice of the violation to the Owner from the Board, any such Living Unit, or improvement shall be removed or altered, and any such use shall be terminated, so as to end such violation.

If the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the violation within the time specified in such Notice, the Association shall have the right to enforce its rights of action as provided in this Declaration together with all remedies whether at law or in equity and including but not limited to the remedy of injunctive relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorneys' fees, and damages.

#### Section 12. Certification of Compliance.

1) Upon completion of the construction or alteration of any improvement in accordance with plans and specifications approved by the DRC, the DRC, upon written request of the Owner thereof, will issue a Certificate of Compliance, identifying such improvement and the property upon which such improvement is placed and stating that the plans and specifications and the location of such improvement complies with the requirements of the DRC. A copy of the Certificate of Compliance shall be filed for permanent record with the plans and specifications on file with the DRC. A Certificate of Compliance is not a certification by the DRC as to compliance with any governmental regulations or requirements.

2) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated and, as to any purchaser, encumbrancer, or insurer; such Certificate of Compliance shall be conclusive evidence that all improvements on the Lot or uses described therein comply with all the requirements of this Article.

Section 13. Fees. The DRC will charge a reasonable and appropriate review fee to an Owner applicant that is not using a Hidden Prairie prototype or a preferred partner of the development. The fees shall be made payable to the Association and shall be payable at the time plans and specifications are submitted as a condition for the review and approval of such plans and specifications. No additional fee shall be required for the resubmission of plans and specifications revised in accordance with DRC recommendations.

Section 14. Nondiscrimination by DRC. The DRC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion and national origin. Further, the DRC in the exercise of its power granted pursuant to this Declaration shall not take any action which is intended to or does, in effect, discriminate against persons of a particular race, color, sex, religion or national origin.

Section 15. Public Approvals. All pertinent requirements of public agencies must be followed in the development of this Property, and all plans must be approved by the appropriate departments of Miami County. Each potential Owner should verify code requirements prior to purchase of a Lot or Living Unit. Although based on local zoning and subdivision regulations, the community development criteria may be more restrictive in land use, site development standards, landscape requirements and other matters. In every case in which these criteria are at variance with public agency requirements, the more restrictive regulations shall govern. Final approvals permitting development and occupancy of property will be made by Miami County.

#### **Article XI – Commencement and Completion**

Section 1. General Provisions. Unless the following time periods are expressly extended by the Developer in writing, construction of the residence on a Lot shall be commenced (meaning installation of footings and foundations) within eighteen (18) months following the purchase date of the Lot. Construction duration shall not extend longer than 12 months. A additional three (3) month extension block may be purchased for \$1,000. In the event the Lot purchaser chooses not to build after 18 months the Lot is transferred back to the Developer at a transaction price of 75% of the original purchase price. The purchaser is responsible for all taxes, insurance, fees and interest in order to make the transfer and the lot shall be free and clear of any mortgages or restrictions.

#### **Article XII - General Restrictions**

Section 1. General Provisions. In addition to any design standards established by the DRC, all of the existing Properties and all additional lands which shall be subject to this Declaration under Article II shall be subject to the following use restrictions:

- 1) Land Use. No building or structure shall be used for a purpose other than Single Family residential use, except for out buildings incidental to residential use. No Living Unit or other improvements shall be placed on any Lot without the prior written approval of DRC;
- 2) Division and Separation of Lots. No lot shall be in any way subdivided. Additionally, lots in Hidden Prairie cannot be separated from the Association or parceled off to adjacent lands in order to be removed from the Association and Subdivision.
- 3) Landscaping; Obstruction of Traffic. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic. The DRC may adopt and promulgate rules and regulations regarding the preservations of trees and other natural resources and wildlife to protect and encourage the preservation of the ecological balance of the Properties. All bare ground shall be finish graded and fully sodded, seeded and planted. Owners and Builders shall protect all trees during the course of construction. The uses of native grasses are encouraged in this development.
- 4) Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done that may be or become a nuisance or annoyance to the neighborhood. All exterior lighting, except for low intensity decorative lighting, shall have a concealed light source. Noise shall be limited to 55 db at the Lot line.
- 5) Grades. Within any slope control area established by the Board, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel and all improvements them shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible. Overall drainage for the development is designed to flow into approved locations that include ditches and streams. Modifications that divert drainage onto other lots shall not be permitted.

6) Fences. No fence of any kind shall be erected, begun, or permitted to remain upon any portion of the Properties unless approved by the DRC. No fence shall be located on any Lot, within any Common Area or Easement, or nearer than twenty-five (25) feet to a property line which is adjacent to a street. No chain link, chicken wire, woven wire or barbed wire shall be used for fences. Privacy fences shall be permitted only upon approval in writing by the DRC. Fences are generally discouraged because they detract from the open concept of the development.

7) No Business Structure. No business structure shall be erected on any Lot; however, limited home occupations shall be permitted subject to the following restrictions and limitations:

a. Prior to commencing any home occupation on any Lot, the Owner shall furnish to the Board a written description of such home occupation. In the event the Board in its sole discretion, deems such home occupation to be non-detrimental to the Properties or to other Owners, written permission to conduct such home occupation shall be given to such Owner. Such written permission shall always be subject to revocation upon thirty (30) days written notice and the Owner shall thereupon cease such home occupation. In no event will permission be granted for wholesale or retail selling from inventory located or exhibited at the premises, (ii) rental of equipment or personal property stored or exhibited at the premises, (iii) medical, dental or related health care services, or (iv) automobile or other vehicle repair services;

b. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than twenty-five percent (25%) of the floor area of any one floor of the Living Unit shall be utilized for a home occupation;

c. All materials or equipment used in the home occupation shall be stored within an enclosed structure;

d. No alteration of the exterior of the Living Unit shall be made which changes the character thereof as a residence;

e. No signs shall be permitted;

f. At least one person occupying such Living Unit as his or her residence shall be engaged in such home occupation;

g. No equipment shall be utilized that creates a nuisance due to noise or electrical interference; and

h. In no event shall more than two (2) off-street parking spaces be provided.

8) Multi-Family Housing. The above lots may be improved, used or occupied only for private residences. No flat, duplex or apartment house, though intended for residential purposes, may be erected thereon.

9) Temporary Occupancy. No dwelling or residence shall be occupied until fully completed, except in a situation where a temporary occupancy permit can be obtained from the county because of conditions that temporarily delay completion of the dwelling, 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 building shall be permitted to remain in a damaged condition longer than three (3) months.

10) Holiday Lighting. No exterior holiday lighting and/or holiday decorations may be erected or maintained on any of the lots hereby restricted, except during a sixty (60) day period beginning November 15th of each calendar year.

11) Animals. No more than three (3) adult dogs, three (3) adult cats and eight (8) chickens shall be kept on the Properties. No hogs, sheep, or goats shall be brought onto or kept on the Properties. Grazing animals consisting of cows and horses maintained on any Lot or Living Unit shall be limited in number to 1 acre of pasture per grazing animal. Other unnamed animals and quantities shall be at the discretion of the DRC. Pets shall be confined to the Lot and not allowed to run at large. All animal waste shall remain contained within the Lot and shall be disposed of properly. Dog runs or animal pens, material, design, and location must be submitted for approval by the DRC. Dogs that bark excessively must not be allowed outdoors for long periods on time. Crowing roosters are not permitted in the development.

12) Parking of Motor Vehicles, Boats, and Trailers. No trucks, semi-trucks, over the road vehicles, commercial vehicles, school buses, racing vehicles, wrecked cars, modified stock cars, boats, house trailers, boat trailers, and trailers of every other description shall be permitted to be parked or to be stored on any Lot unless they are parked or stored in an enclosed garage or in such other enclosure approved by the DRC except only during periods of approved construction on the Lot. Large boats and trailers that do not fit into a garage may be permitted to be stored outdoors on the back of the lot. This prohibition of

parking shall not apply to temporary parking such as for pick-up delivery, and other commercial services. Vehicles, boats or trailers that are not in operating condition or whose presence might create an unsightly appearance, nuisance or be hazardous shall not be parked or left in driveway, parked on the lot, or on the street. In addition, automotive repair work on any car/vehicle parked outside the garage is prohibited. Parking cars in street longer than 12 hours is prohibited;

For the purpose of this covenant, a 3/4 ton or smaller vehicle, commonly known as a pickup truck and which is not used for commercial purposes, and not bearing a commercial sign, shall not be deemed to be a commercial vehicle or truck. The DRC is authorized at its discretion, to issue a waiver of not more than 48 hours in a 30-day period for recreation vehicles;

13) Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on the Properties without the prior written consent of the DRC;

14) Laundry Poles. No permanent poles for attaching wires or lines for the purpose of hanging laundry thereupon shall be erected, installed or constructed on the Properties (except as located in the backyard of any Lot);

15) Antennas. No outside radio or television antenna or large (greater than 2' in diameter) dish shall be erected, installed or constructed on any Lot, without the prior written consent of the DRC;

16) Temporary Structures. No structure of the character of a trailer, basement, tent, shack, garage, barn or other out buildings shall be used on the Properties at any time as a residence, either temporarily or permanently after occupancy permit on home is received by the county. Temporary residence during construction of home may be permitted but shall not exceed 6 months and must be approved by the DRC.

17) Signs. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any Lot; provided, however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each Lot which shall not be more than eight (8) square feet in size and may be used for the sole and exclusive purpose of advertising for sale the Lot upon which it is erected and permission is granted to erect normal and customary signs advertising garage sales or promoting political campaigns so long as the same are removed within seven (7) days from erection;

18) Drilling and Quarrying. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring oil or natural gas shall be erected, maintained or permitted upon any Lot;

19) Trash. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in containers, or other equipment for the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition and out of view. There shall be no burning of trash on any Lot except on lots that have residences under construction. All firewood shall be stored out of view of any street;

20) Discharging of Firearms. For the safety of the residents, shooting and discharging guns in the development is not permitted.

21) Sewage Disposal. A septic tank waste water treatment system shall be installed to serve each Living Unit. Lagoon style septic systems are prohibited. No septic tank effluent shall be discharged on any Lot. Each septic tank shall meet the requirements of Miami County and KDHE. Each Owner shall be responsible for costs associated with the occasional pumping of such tanks. The Association may inspect such tanks (the cost of which shall be part of the annual general assessment) and report to an Owner that pumping will be required at Owner's expense;

22) Water Supply. No individual water supply system shall be permitted on any Lot, except for use in air conditioners and sprinkler systems;

23) Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved to the Association and/or applicable public utility companies. Such easements shall include the rights of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage any structure installed in accordance with said easement, or interfere with the installation and maintenance of utilities, or which may change the direction of the flow 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 said Lot;

24) Care and Appearance of Premises. The structures and grounds on each Lot shall be maintained in a neat and attractive manner. The Association shall have the right (upon twenty (20) days' notice to the Owner of the Lot involved, setting forth the action intended to be taken, and if at the end of such time such action has not been taken by the Owner), at the expense of the Owner, to remove trash or rubbish, and to cut grass, weeds and vegetation and to trim or prune any hedge or other planting that in the opinion of the DRC, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property. Upon like notice and conditions, the DRC shall care for vacant or unimproved property, and remove grass, weeds and rubbish therefrom and to do any and all things necessary or desirable in the opinion of the DRC to keep such property in neat and good order, all at the cost and expense of the Owner. Such costs and expenses incurred by the Association shall be paid to the Association upon demand and if not paid within ten (10) days thereof then they shall become a lien upon the property affected;

25) Swimming Pools. Any property owner or property subject to the restrictions herein set forth may construct, for their personal use, one in-ground swimming pool; no above ground or above grade swimming pools shall be permitted except as approved by the DRC. All in ground swimming pools shall be fences and screened. The Developer or Association disclaims all liability associated with swimming pools and people swimming.

26) Rental of Residence. No residence or lot or any portion thereof may be leased or rented for a period of less than six (6) months. All leases or rental agreements shall be in writing, and the owner of the lot shall be responsible for compliance by the renter or lessee of these restrictions and the rules and regulations of the Association. The practice of offering rooms and residences on Air BnB and VRBO is not permitted in this development.

27) Artificial Vegetation, Sculptures, and Fountains. Exterior sculptures and other similar yard décor shall be subject to the approval of the DRC if placed in front of the residence;

28) Exterior Colors and Landscaping. The exterior colors and materials shall have the prior written approval of the DRC and shall not be changed without the written approval of the DRC;

29) Minimum Size and Height Requirements. Minimum square footage and height requirements will be set forth for the development pursuant to the Development Plan. The requirements are as follows:

a. Any one-story residence erected on any Lot in the Subdivision shall contain not less than a minimum of 1,800 square feet of enclosed floor area on the ground floor, and any residential structure of one and one-half (1 1/2) or two (2) stories shall have a minimum of 2,800 square feet of enclosed floor area, with 1,600 square feet on the first floor. Each Living Unit shall have an attached garage for a minimum of two cars, and a maximum of four cars. Entry to garage is encourage to be on side or back of residence. Residences shall be conventional housing and conventional construction. No barn houses, shed houses, shipping container houses, car ports or dome houses will be allowed.

b. The words "enclosed floor area" as used herein shall mean and include areas of the residence enclosed and finished for all year occupancy, computed on outside measurements of the residence and shall not mean or include any areas in basements, garages, carports, porches or attics.

30) Building Lines. No part of any residence shall be located on any Lot which violates the building lines established by the Plat. Building setbacks are as follows: fifty (50) feet from street right-of-way lines; twenty (20) feet from side and rear lot lines.

31) Damaged Structures. In the event of fire, windstorm or other damage, no building shall be permitted to remain with its exterior in a damaged condition longer than six (3) months. The DRC shall have the right at its discretion to grant extensions for periods of no more than two (2) months. Extensions shall be subject to renewal by the DRC but in no event shall the exterior of any building on any lot be permitted to remain in a damaged condition for more than twelve (12) months. In the event an owner fails to comply with the time limitation set forth herein, liquidated damages of \$100 per day shall accrue against such Owner and shall become a lien upon such Owner's Lot;

32) Frontage. All Living Units shall present a good frontage to the street. The frontage of the home shall be kept free of any equipment, tanks, heating and cooling systems, electrical equipment, play equipment and unsightly objects that don't

promote the front of the home. Trampolines, play equipment etc. shall be behind the home in the rear of the home. Each home shall have a house number with an approved style that is clearly readable from the street.

33) Foundation Exposure. No concrete or common concrete blocks shall be exposed over one (1) foot above ground level on any elevation of a structure, if the same is visible from any street. No exposed concrete on the house. Exterior materials to be continuous to grade and held off based on material manufacturer's recommendations. Exposed concrete is permitted for walk-out and daylight basements as approved by the DRC;

34) Driveways. Any portion of any driveway within street right of way must comply with standards established by the DRC. All driveways must be asphalt, bomanite, permanent stone or concrete.

35) Electrical Requirements. All Lots upon which a residence is constructed shall have and maintain in good operating condition a unit commonly known as an "electric heat pump" heating and cooling unit. Propane may be used for fire places and cooktops. Screening may be required for tanks based on location and adjacency of neighboring lots. All tanks must be in rear of property. DRC to review and approve location of tank.

36) Outbuildings. There shall be no more than one (1) single story outbuilding per Lot. The outbuilding shall be located at least fifty (50) feet behind the Living Unit, and shall set back at least one hundred (100) feet from a street right-of-way line. Driveway leading to the outbuilding shall be asphalt or concrete drive with a concrete pad in front of building. Driveway to the outbuilding shall connect to the existing driveway and not the street. Any outbuildings shall be constructed of wood, masonry or pre-finished metal panels and shall be complementary of the living unit. Floor area of outbuilding shall not exceed floor area of main level of Living Unit. Out building colors and materials shall be complementary of the home. In addition, the design, material, etc. of any outbuilding shall be approved by the DRC in accordance with these Declarations.

37) Fishing Restrictions. Fishing is catch and release unless posted otherwise. No swimming shall be allowed in lake. All guests shall be accompanied by a resident of Hidden Prairie. The resident is responsible for assuring guests following the fishing restrictions.

38) Traffic Restrictions. Large tractor trailer trucks, semi-trucks, eighteen wheelers and over the road trucks are prohibited from driving into the subdivision in order to prevent damage to roadway surface. HOA will issue temporary permits for moving trucks and special use.

39) Existing Conditions Exemption. Existing conditions of home, out buildings, drainage conditions and landscaping that was constructed prior to this development associated with Lot 12 and Lot 13 are exempt from these General Restrictions. Any upgrades and modifications made to aforementioned "existing" shall be in compliance with all governances set forth in this document.

40) All basketball goals installed shall be permanently installed, free standing and not attached to the residence. No portable basketball goals permitted.

41) Sports courts, batting cages and tennis courts shall be approved by Association.

42) No solar panels will be permitted to be ground mounted. There are permitted on the roofs. There shall be no wind turbines, wind generators or wind mills. A wind mill pump for the lake/pond aeration is allowed.

43) All utilities in subdivision shall be underground.

44) Mail boxes shall be common to the subdivision and provided by the Association. No individual mail boxes will be allowed.

#### **Article XIII - Easements**

Section 1. Easements. Any provision in this Declaration to the contrary notwithstanding, easements and rights-of-way are hereby expressly reserved to the Developer and, as appropriate and necessary, to the Association, their agents, designees, successors and assigns, in, on, over and under the easement area of each Lot and the Common Area as designated on any plat filed relative to a Phase, for the following purposes:

- 1) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments and appurtenant structures in connection with the transmission of electricity, telephone, traffic signals, fire alarm systems, communication systems, television cables and other utilities and similar facilities;
- 2) the erection, installation, construction and maintenance of storm water drains, land drains, public and private sewers, grinder pumps, pipe lines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function, and appurtenant structures whether above ground or underground;
- 3) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Developer or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;
- 4) landscape purposes, including the right to require Owner's of Lots affected by the Landscape Easements set forth on any plat filed relative to a Phase, to plant and maintain such area in accordance with DRC standards;
- 5) walking trails.

Section 2. Installation. Developer reserves unto itself, its assignees, successors and designees, the right, power and authority to direct and control, in cooperation with a public authority or any utility company which will install or own, operate and maintain the respective facilities, or both, which utilities and drainage services (as provided for herein) shall be installed in and occupy any specific easement. Within any easements, no improvement, planting or other material or improvement shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the directional flow of drainage channels in the easement, or which may alter, obstruct or retard the flow of water through drainage channels within the easement areas, or which may change or prevent the intended use of any easement.

Section 3. Owner Rights and Obligations. Subject to all of the other restrictions contained in this Declaration, each Owner shall have the right to use the Easement Areas of his Lot in any manner not inconsistent with the purposes for which such easement areas are reserved, and the area within any easement area and all improvements within the bounds of such easement areas shall be maintained continuously by the Owner of the said Lot, except for such improvements for which a public authority or utility company is or may become responsible for maintenance. Notwithstanding anything herein to the contrary, each owner of a Lot covenants and agrees that, in cooperation with the Developer, each Owner shall execute all grants of easements, grants of right-of-way or any other similar grant or conveyance documentation required to be executed by an Owner in order to grant and convey to any public authority or utility company, their assigns or lessees, the right, privilege and easement to lay, construct, maintain, alter, inspect, repair, replace, protect, relocate, change the size of, operate and remove all utility lines, service taps, distribution facilities, valves, regulators, pressure sewer systems (including the force mains, grinder pump units and appurtenances) and other equipment appurtenant to and necessary for providing any and all of the utility and drainage services as provided herein.

Section 4. Access. The Developer reserves for itself and the Association, their agents, designees, successors and assigns the right at all reasonable times and upon reasonable notice to enter upon all parts of the Easement Areas of each Lot for any of the purposes for which said easements or rights-of-way are reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry. The Developer and the Association, their agents, designees, successors and assigns shall be responsible for leaving each Easement Area in good repair and condition following any work or activity within such Easement Area pursuant to the provisions of this Article XII.

Section 5. Walking Trails. Common areas may include walking trails. An easement and right-of-way is hereby expressly reserved to the Developer and the Association, their agents, designees, successors and assigns, in, on, over and under the walking trails.

- 1) The trails and easements may be used by all Members, their families and guests, for walking and jogging.
- 2) No Owner shall in any way block or obstruct the use of the trails for the purposes above set forth.
- 3) Trails and common areas are reserved for walking and jogging. Recreational vehicles shall on trails shall be limited to UTV's at idle speeds. No motorcycles, go carts, racing ATV's, UTV's shall be permitted.

#### **Article XIV - Duration of Restrictions**

This Declaration is binding upon the parties, their heirs, administrators, successors and assigns, for a period of twenty (20) years from date hereof, and will automatically be continued for successive periods of ten (10) years each, unless terminated as set forth in Article XVII.

#### **Article XV - Notice**

A Notice is sufficient and proper notice of any matter to which any Member, Owner or other interested person is entitled under the terms of this Declaration.

#### **Article XVI - Modification, Amendment and Termination**

This Declaration may be modified, amended or terminated at any time by the execution and acknowledgement of an appropriate agreement or document by a two-thirds (2/3's) vote of the Members, which instrument shall be recorded in the Office of the Register of Deeds of Miami.

#### **Article XVII - Assignment by the Association**

The Association may, with the approval of a majority of its Members, by appropriate agreement made expressly for that purpose, assign or convey all or any part of the rights, reservations and privileges herein reserved by or granted to it. The assignee shall be subject to the duties, obligations and restrictions imposed upon the Association.

#### **Article XVIII - No Personal Liability**

Neither the Developer or any member of the Board, officer of the Association, member of the DRC or member of any committee of the Association, whether such committee is specifically described in this Declaration or later created by the Association, shall be personally liable for any damage, loss or prejudice suffered or claimed for any act, omission, error, failure to act, or negligence of any member of the Board, Developer, officer or committee member of the DRC and, further, neither the DRC nor any member thereof shall be liable to the Association, prejudice suffered by 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 upon the property, (c) the execution and filing of any estoppel certificate, whether or not the facts therein are correct, or (d) any other act, action or conduct of such party, (e) the developer or Association does not guarantee or warrant the obligations or construction by any builder or contractor. Such limitation of liability shall apply in all cases, provided that such person has, on the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

By acceptance of a Deed to a Lot, All Owners acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with any lakes, ponds, creeks that are part of the common area or otherwise in or near the subdivision. The developer and the association and the officers, directors, managers, representatives and agents of the developer have no liability or responsibility to any owner or other party with respect to such inherent risks and hazards. To the maximum extent permitted by law, each owner, for himself, the members of his family, his guests, his tenants and invitees, shall be deemed to have released and agreed to never make a claim against the developer, the association, officers, agents, directors and managers for the personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of any lakes, ponds or creeks, and each of them shall have deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.

#### **Article XIV - To Observe All Laws**

The Association will at all time observe all applicable State, County, City and other laws. If the provisions of this Declaration are in conflict, then the parts of this Declaration in conflict shall become ineffective, but no other part of this Declaration not in conflict with such laws shall be affected. Each of the various provisions of this Declaration and of the covenants, restrictions, rights, duties and obligations created or imposed, are each separate and distinct of the others. The invalidity or unenforceability of any part of this Declaration shall not affect the remainder.

#### **Article XX - Association to Notify Members of Address**

The Association shall notify all Owners of the official address of the Association and any address changes, the place, time and purpose of the regular and special meetings of the Association, and the place where payments shall be made and other business of the Association may be transacted.



**Article XXI - Land or Person not Bound, if any**

If for any reason this Declaration shall be ineffective or not binding as to any Lot or other part of the Property or is not enforceable against any Owner or Member, then as to that Lot or Owner or Member, nothing in this Declaration will alter, change, terminate or affect any of the assessments, restrictions, limitations, covenants or agreements of this Declaration which were effective with respect to such Lot, Owner or Member.

**Article XXII - Equal Opportunity Housing**

Covenants of Owners. Any person when he or she becomes an Owner or Member agrees that neither he nor she nor anyone authorized to act for them will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the Lot to any persons because of race, color, religion, sex, age (if old enough to contract) or national origin or because such person receives financial assistance from the local, state or Federal government. This covenant shall run with the land and shall remain in effect without limitation in time. Any restrictive covenant on the Property relating to race, color, religion, sex, age (if old enough to contract) or national origin is recognized as being illegal and is specifically disclaimed.

IN WITNESS WHEREOF, Developer, by authority of its Members, has caused this instrument to be executed, the month, day and year first above written.

WAVERLY 215, LLC (a Kansas limited liability company)

By: [Signature], Member  
Jerot V. Pearson, Member of Waverly 215 LLC

Date: 5/28/19

By: Tonya R. Pearson, member  
Tonya R. Pearson, Member of Waverly 215 LLC

Date: 5/28/19

By: [Signature]  
Jerot V. Pearson

Date: 5/28/19

By: Tonya R. Pearson  
Tonya R. Pearson

Date: 5/28/19

State of Kansas County of Miami

On this day 30 of May 2019

before me, the undersigned notary public, personally appeared Jerot V. Pearson and Tonya R. Pearson,  
and as members,  
proved to me through satisfactory evidence of identification, which was Kansas Drivers Licenses  
type of identification  
to be the person whose name is signed on the preceding document in my presence.

Seal:



[Signature]  
Signature of Notary Public

3-25-2022  
Commission Expiration date of Notary Public

**EXHIBIT "A"**

TO COVENANT'S, CONDITIONS AND RESTRICTIONS FOR

HIDDEN PRAIRIE

Spring Hill, KS

A CONSERVATION SUBDIVISION IN MIAMI COUNTY, KANSAS

**LEGAL DESCRIPTION:**

Lot 1, Greenfield Place, a subdivision in the Northwest Quarter of Section 23, Township 15, Range 22, Miami County, Kansas, as shown on the recorded plat thereof.

**ALSO (Tract 1)**

The West Half of the Northwest Quarter of said Northwest Quarter of Section 23, Township 15 South, Range 22 East of the 6th P. M., Miami County, Kansas, excluding right of way as per Deed of Dedication in Book 884, Page 338, being more particularly described as follows: Commencing at a 1/2" at the Northeast corner of the East Half of the Northwest Quarter of the Northwest Quarter of Section 23, Township 15 South, Range 22 East of the 6th P.M., Miami County, Kansas; thence South 02 degrees 34 minutes 42 seconds East, 40.00 feet to a 1/2" rebar; thence South 87 degrees 51 minutes 56 seconds West, 661.18 feet to a 1/2" rebar, being the point of beginning; thence South 02 degrees 28 minutes 58 seconds East 1284.62 feet to a 1/2" rebar at the Southeast corner of the West Half of the Northwest Quarter of said Northwest Quarter; thence South 87 degrees 58 minutes 15 seconds West, 623.33 feet to a 1/2" rebar, thence North 02 degrees 23 minutes 13 seconds West, 1283.44 feet, thence North 87 degrees 51 minutes 56 seconds East, 621.17 feet to a 1/2" rebar at the point of beginning. Together with and subject to covenants, easements, and restrictions of record. Said property contains 18.34 acres, more or less, in Miami County, Kansas, as shown on survey by Taylor Design Group, P.A., dated April, 2008.

**AND (Tract 2)**

The East Half of the Northwest Quarter of said Northwest Quarter of Section 23, Township 15 South, Range 22 East of the 6th P.M. , Miami County, Kansas, excluding right of way as per Deed of Dedication in Book 884, Page 338, being more particularly described as follows: Commencing at a 1/2" at the Northeast corner of the East Half of the Northwest Quarter of the Northwest Quarter of Section 23, Township 15 South, Range 22 East of the 6th P.M., Miami County, Kansas; thence South 02 degrees 34 minutes 42 seconds East, 40.00 feet to a 1/2" rebar, the point of beginning; thence South 02 degrees 34 minutes 42 seconds East, 1285.82 feet to a 1 /2" rebar at the Southeast corner of the East Half of the Northwest Quarter of said Northwest Quarter, thence South 87 degrees 58 minutes 15 seconds West, 663.33 feet to a 1 /2" rebar at the Southwest corner of the East Half of the Northwest Quarter of said Northwest Quarter, thence North 02 degrees 28 minutes 58 seconds West, 1284.62 feet to a 1/2" rebar, thence North 87 degrees 51 minutes 56 seconds East 661.18 feet to a 1/2" rebar at the point of beginning. Together with and subject to covenants, easements, and restrictions of record. Said property contains 19.54 acres, more or less, in Miami County, Kansas, as shown on survey by Taylor Design Group, P.A., dated April, 2008.

**AMMENDMENT NO. 1 Dated November 10, 2019**

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR**

**HIDDEN PRAIRIE**



**SPRING HILL, KS**

**A CONSERVATION SUBDIVISION IN MIAMI COUNTY, KANSAS**

**ORIGINALLY SUBMITTED DATE: 5/29/19**

THIS DECLARATION is made and executed by Waverly 215, LLC, a Kansas limited liability company, which is called "Developer" in this Declaration.

Delete Article XII – 26) – No rental or leasing of residence shall be permitted for any duration.

Modify Article XII – 28) Exterior color and landscaping shall be modified to include exterior materials used for siding. Exterior siding permitted shall include lap siding, stucco, brick and cementous fiberboard for rainscreen cladding systems. The exterior colors, materials and landscaping shall have the prior written approval of the DRC and shall not be changed without the written approval of the DRC.

Modify Article XII - 29) Minimum Size and Height Requirements. Minimum square footage and height requirements will be set forth for the development pursuant to the Development Plan. The requirements are modified as described below:

- a. Any one-story residence erected on any Lot in the Subdivision shall contain not less than a minimum of 2,200 square feet of enclosed floor area on the ground (main) floor, and any residential structure of one and one-half (1 1/2) or two (2) stories shall have a minimum of 2,800 square feet of enclosed floor area, with 1,800 square feet on the first floor. Each Living Unit shall have an attached garage with a minimum of three bays. Automobile entry to garage shall be on side or back of residence. Residences shall be conventional housing and conventional construction. No barn houses, shed houses, shipping container houses, car ports or dome houses will be allowed.

Modify Article XII - 34) chip and seal may be used for driveways

Modify Article XII – 36) chip and seal may be used for driveways to outbuildings.

IN WITNESS WHEREOF, Developer, by authority of its Members, has caused this instrument to be executed, the month, day and year first above written.

WAVERLY 215, LLC (a Kansas limited liability company)

By: \_\_\_\_\_  
Jerot V. Pearson, Member of Waverly 215 LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tonya R. Pearson, Member of Waverly 215 LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jerot V. Pearson

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tonya R. Pearson

Date: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

On this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_

before me, the undersigned notary public, personally appeared \_\_\_\_\_

proved to me through satisfactory evidence of identification, which was \_\_\_\_\_  
type of identification

to be the person whose name is signed on the preceding document in my presence.

Seal:

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Commission Expiration date of Notary Public

**AMMENDMENT NO. 1 Dated November 10, 2019**

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR**

**HIDDEN PRAIRIE**



**SPRING HILL, KS**

**A CONSERVATION SUBDIVISION IN MIAMI COUNTY, KANSAS**

**ORIGINALLY SUBMITTED DATE: 5/29/19**

THIS DECLARATION is made and executed by Waverly 215, LLC, a Kansas limited liability company, which is called "Developer" in this Declaration.

Delete Article XII – 26) – No rental or leasing of residence shall be permitted for any duration.

Modify Article XII – 28) Exterior color and landscaping shall be modified to include exterior materials used for siding. Exterior siding permitted shall include lap siding, stucco, brick and cementous fiberboard for rainscreen cladding systems. The exterior colors, materials and landscaping shall have the prior written approval of the DRC and shall not be changed without the written approval of the DRC.

Modify Article XII - 29) Minimum Size and Height Requirements. Minimum square footage and height requirements will be set forth for the development pursuant to the Development Plan. The requirements are modified as described below:

- a. Any one-story residence erected on any Lot in the Subdivision shall contain not less than a minimum of 2,200 square feet of enclosed floor area on the ground (main) floor, and any residential structure of one and one-half (1 1/2) or two (2) stories shall have a minimum of 2,800 square feet of enclosed floor area, with 1,800 square feet on the first floor. Each Living Unit shall have an attached garage with a minimum of three bays. Automobile entry to garage shall be on side or back of residence. Residences shall be conventional housing and conventional construction. No barn houses, shed houses, shipping container houses, car ports or dome houses will be allowed.

Modify Article XII - 34) chip and seal may be used for driveways

Modify Article XII – 36) chip and seal may be used for driveways to outbuildings.

IN WITNESS WHEREOF, Developer, by authority of its Members, has caused this instrument to be executed, the month, day and year first above written.

WAVERLY 215, LLC (a Kansas limited liability company)

By: \_\_\_\_\_  
Jerot V. Pearson, Member of Waverly 215 LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tonya R. Pearson, Member of Waverly 215 LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jerot V. Pearson

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tonya R. Pearson

Date: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

On this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_

before me, the undersigned notary public, personally appeared \_\_\_\_\_

proved to me through satisfactory evidence of identification, which was \_\_\_\_\_  
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to be the person whose name is signed on the preceding document in my presence.

Seal:

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Commission Expiration date of Notary Public