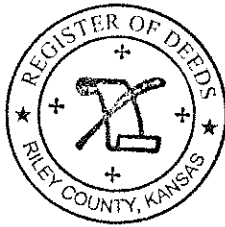


Book: 862 Page: 4519



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Riley County, Kansas
Book: 862 Page: 4519
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Title(s) of Document: MILLER RANCH HOMEOWNERS' ASSOCIATION DECLARATION

Date of Document: MAY 1, 2015

Grantor(s): MILLER RANCH HOMEOWNERS' ASSOCIATION

Grantor's Address:

Grantee(s): PUBLIC

Grantee's Address:

Full Legal Description is located on page: See DOCUMENT.

Reference Book(s) and Page(s), if required:

MILLER RANCH HOMEOWNERS' ASSOCIATION DECLARATION

THIS DECLARATION, is made on this 1st day of MAY, 2015 by MILLER RANCH HOMEOWNERS' ASSOCIATION, hereinafter referred to as "MRHOA."

This MRHOA Declaration document, hereinafter referred to as "Declaration," is a simplified consolidation of and supersedes all prior declaration and restriction documents for "Miller Ranch Units One and Two" made January 7, 1997 and June 14, 1999, respectively, along with all amendments made thereto, and as previously recorded in the office of the Register of Deeds, Riley County, Kansas.

WHEREAS, the MRHOA is comprised of the people who own property within the plat of land known as Miller Ranch, an addition to the City of Manhattan, Riley County, Kansas, as recorded in the office of the Register of Deeds of Riley County, Kansas as follows:

MILLER RANCH Unit One: Plat Book K on page 281, and Book 705 on page 385, and LOTS 1-57
 MILLER RANCH Unit Two: Plat Book K on page 327, and Book 760 on page 196. LOTS 58-124
CITY of MANHATTAN, RILEY COUNTY, KS

WHEREAS, the MRHOA's desire is to create and maintain a residential neighborhood possessing features of more than ordinary value to the community in which said land is situated.

NOW, THEREFORE, the MRHOA does hereby subject all of the above-described lots and tracts located within the boundaries of the MRHOA to the covenants, charges and assessments set forth and contained in this Declaration; subject, however, to the limitations hereinafter provided.

DEFINITION OF TERMS USED

The following terms as used herein are presented alphabetically and defined below.

1. The term "**Board**" shall mean the Board of Directors of MRHOA, comprised of Officers (President, Vice President, Treasurer, and Secretary) and members at large who are elected by the Owners during an Annual Meeting. The management of the affairs, business, and property of MRHOA is vested in the Board for the benefit of the MRHOA and its governance.
2. The term "**Common Areas**" shall mean any tract hereinabove specifically described and designated by letter of the English alphabet on the recorded plat thereof, located within the Miller Ranch as it exists from time to time, which tracts if any shall be owned, managed and maintained by the MRHOA for the use, benefit and enjoyment of the present and future Owners of land within the Miller Ranch, as well as the public pedestrian use of any designated easement.
3. The term "**Declaration**" (this document) shall mean "MILLER RANCH HOMEOWNERS' ASSOCIATION DECLARATION" which is being concurrently herewith filed of record in the office of the Register of Deeds, Riley County, Kansas, and all amendments thereto. In the event that additional lots and tracts are in the future made subject to these Restrictions as hereinafter provided, the term "Declaration" shall refer to

and mean the same aforesaid document with the same effect as though the instrument subjecting such additional lots and tracts to these Restrictions had been originally concurrently recorded at the time of recording of the above-described Declaration.

4. The term "**lot**" shall mean either any numbered lot, or any conveyance of land which may consist of one or more such numbered lots, situated within the boundaries of the recorded plat herein below described, and upon which a residence may be constructed in accordance with the restrictions herein set forth, or as set forth in individual deeds from the MRHOA. A "**corner lot**" shall be deemed to be any such aforesaid lot or conveyance of land having more than one street contiguous to it.
5. The term "**outbuilding**" shall mean an enclosed, covered structure not directly attached to the residence to which it is appurtenant.
6. The term "**Owner**" (or "Member") shall refer to any entity who is an owner of property within MRHOA as referenced in this Declaration.
7. The term "**plat**" shall mean the recorded plat designated Miller Ranch as first hereinabove identified in this Declaration which encompasses and identifies the lots and tracts herein described and restricted, or the recorded plat which encompasses and identifies lots and tracts hereafter subjected to the restrictions herein set forth as hereafter provided.
8. The term "**residence**" shall mean a single-family dwelling unit as further described subsequently in this document.
9. The term "**Restrictions**" as given in the Appendix to this document shall mean the constraints placed on a given Owner as to the use, modification, and maintenance of "his, her, or its" (hereinafter referred to as "his") property.
10. The term "**street**" shall mean any street, road, drive, court, place, circle or terrace of whatever name, as shown within the boundaries of the plat.
11. The term "**tract**" shall mean any area identified by a letter of the English alphabet shown in part or entirely within the boundaries of the plat or identified as a common area.

SECTION 2. MEMBERSHIP IN MRHOA:

The owners of all the lots hereinabove described, together with the owners of any other land that may from time to time be made subject to all of the terms and provisions of this Declaration in the manner hereinafter provided, shall be the members of the MRHOA. The MRHOA shall be incorporated under the laws of the State of Kansas as a corporation not for profit. Membership in the MRHOA shall be limited to the Owners of lots within the boundaries of Miller Ranch.

SECTION 3. VOTING RIGHTS:

Each Owner shall be entitled to one (1) vote for each such lot owned in fee. When more than one person holds an interest or interests in the fee simple title to any such lot, all such persons shall be members, and the vote for such lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one (1) vote be cast with respect to any such lot.

The voting rights of any owner shall be suspended for any period during which any assessment, including interest and fees, against his lot remains unpaid. The MRHOA shall have the right to charge reasonable fees and determine the rules for the use of any recreational facility located within any Common Area. Except as hereinbefore provided, the MRHOA shall otherwise be the sole judge of the qualifications of its members and of their rights to participate in its meetings and proceedings.

SECTION 4. MRHOA MEETINGS, QUORUMS, and AFFIRMATIVE VOTES

1. **ANNUAL MRHOA MEETINGS:** The MRHOA Board will hold an annual meeting for and of the Owners of Miller Ranch. The agenda of annual MRHOA meetings will be determined by the President of the MRHOA Board. At a minimum, the annual budget is approved at this time.
2. **MRHOA BOARD MEETINGS:** The MRHOA Board will hold quarterly (or as-needed) meetings to conduct business throughout the year. The agenda of the MRHOA Board meetings will be determined by the President of the MRHOA Board.
3. **SPECIAL MEETINGS:** At any time, the MRHOA President/Board can call a special meeting of the MRHOA Board and/or Owners as needed for specific purposes.
4. **NOTIFICATION AND SUBJECT:** Notification of all meetings with agenda will be made available to Owners of Miller Ranch. Notifications will happen in a timely manner.
5. **QUORUMS and VOTING:**

Meeting subjects (including, but not limited to), quorums for voting, and affirmative vote limits are given below.

HOA-approved Declaration amendments are to be recorded with the Kansas Riley County Register of Deeds.

Meeting body	Subjects for deliberation and/or decisions	Frequency	Voting quorum	Affirmative vote (Presiding officer decides in event of tie)
Board	HOA concerns	Quarterly or as-needed	Officers plus at least 3 at-large members	Majority of those present, or by proxy.
	Draft budget			
	Spending within overall budget confines			
	ACC proposals			
	Special project proposals			
	Draft Declaration amendment or termination proposal			
Owners	Annual budget, including annual dues	Annual	10% of Owners, inclusive of Board officers	Majority of those present or by proxy.
	Special projects or capital projects in excess of \$10,000, not to exceed Reserve Fund	Annual or ad-hoc	10% of owners, inclusive of Board officers	
	Declaration amendment, special assessment, or new loan		60% of owners, inclusive of Board officers	
	HOA termination		75% of Owners, inclusive of Board officers	

SECTION 5. LAND ENTITLED TO BENEFITS:

No land shall be entitled to any of the benefits, improvements or services provided by this MRHOA unless the fee owner thereof with the written consent of the MRHOA, shall have subjected his land to the terms of this Declaration and to the assessments provided for herein.

SECTION 6. HOW OTHER LAND MAY BE ADDED:

The MRHOA may from time to time add to Miller Ranch such other land as is now or hereafter owned or approved for addition by them, provided that the land so added to Miller Ranch shall at that time be bound by all of the terms of this Declaration and all amendments thereto.

SECTION 7. USE OF COMMON AREAS:

The owners of land within Miller Ranch shall have the exclusive right to the use of any and all Common Areas within Miller Ranch as may from time to time exist, subject to public pedestrian use of any easement so designated therein upon the recorded plat thereof. The MRHOA shall have the right and the power to make, revoke and/or amend reasonable rules and the regulations,

which shall govern the use of Common Areas within Miller Ranch, and to enforce all of the same, subject always to the provisions of the Restrictions applicable thereto.

SECTION 8. POWERS AND / OR DUTIES OF THE MRHOA:

The MRHOA will have the duty an / or authority to engage in the following:

1. MAINTENANCE

The following table summarizes property type, ownership, and maintenance responsibility:

#	PROPERTY TYPE	DESCRIPTION	OWNER	MAINTENANCE RESPONSIBILITY
1	Lot, including adjacent sidewalks	Platted for single-family home	"Owner"	"Owner (includes sidewalk repair and snow removal)
2	Easement	Utilities access	"Owner"	City and MRHOA
3	Cul-de-sac island	Cul-de-sac Island	MRHOA	MRHOA (discretionary)
4	Thoroughfare median	Amherst Avenue & Miller Parkway	City of Manhattan	MRHOA (discretionary)
5	Other common-area tracts	Eg. Military Trail, Swimming Pool Complex, Burton Natural Habitat Area	MRHOA	MRHOA (discretionary)

Additional explanation follows:

- a. **ENTRANCES:** To provide for the maintenance of any gateways, entrances and ornamental features now existing or which may hereafter be erected or created in said Miller Ranch in any public street or park, or on any Common Area within Miller Ranch; and also to provide for the maintenance of any improvements, ponds, streams or natural water-courses which now exist or which may hereafter be included, created or erected in any Common Area within Miller Ranch. To provide such lights as the MRHOA may deem advisable on gateways, entrances or other features, and in other public or semi-public places, when such facilities are not available from any public source.
- b. **MRHOA PROPERTY:** To mow, care for, maintain all Common Areas of Miller Ranch. Also, the MRHOA has the authority to similarly maintain unimproved lots and to do any other things necessary or desirable in the judgment of the officers of the MRHOA to keep any vacant and unimproved lots and the parking in front of any such lots in Miller Ranch neat in appearance and in good order; and to assess against and collect from the Owner of any such lots the costs and expenses thereof. This includes repair of and snow removal from lot-adjacent sidewalks.

- c. EASEMENTS: To exercise control over such general or landscape easements as it may be shown on plats of the Miller Ranch or acquire from time to time.
2. LANDSCAPING: To care for, spray, trim, protect, replace and replant trees, shrubbery, bushes, flowers, grass and sod along Amherst Avenue and Miller Parkway, in other public places where trees, shrubbery, bushes, flowers, grass and sod have once been planted or located; and to care for, spray, trim, protect, place, replace, plant and replant trees, shrubbery, bushes, flowers, grass and sod in landscape easements and Common Areas within Miller Ranch. The MRHOA shall have the power and duty to maintain islands located within the MRHOA which have been dedicated to the City of Manhattan, Kansas.
3. MODIFICATION: To enforce, either in its own name or in the name of any Owner within Miller Ranch, any or all building restrictions which may have been heretofore, or may hereafter be, imposed upon any of the land in such Miller Ranch, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications as are permissible in the deeds, declaration, contracts, plats or certificate of survey in which such restrictions or reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and cost of any enforcement proceedings shall be paid out of the general fund of the MRHOA as provided for herein. Nothing herein contained shall be deemed or construed to prevent any Owner having the contractual right to do so from enforcing in his own name any such restrictions.
4. IMPROVEMENTS: To manage and control as trustee for its members all improvements located upon any Common Area within Miller Ranch, provided that such management and control of said improvements shall at all times be subject to that had and exercised by the City, County and State, or any one of them, in which the lands within Miller Ranch are located.
5. SNOW REMOVAL: To provide for the plowing and removal of snow from sidewalks along Miller Parkway and Amherst Avenue, when such services are not available from any public source.
6. CLEANING: To provide for the cleaning of Common Areas as warranted.
7. REAL ESTATE ACQUISITION: To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the MRHOA, and to pay taxes on such real estate as may be owned by it.
8. SECURITY CONTRACTS: To contract for duly qualified security services for the purpose of providing such security and protections as the MRHOA may deem necessary or desirable in addition to that rendered by the public authorities.
9. LIENS: To levy and collect the assessments and fines which are provided for in this Declaration.

SECTION 9. METHOD OF PROVIDING GENERAL FUNDS:

1. **ANNUAL DUES:** For the purpose of providing a general fund to enable said MRHOA to exercise the powers and maintain the improvements and render the services herein provided for, each lot within the Miller Ranch upon which a dwelling has been constructed and at any time theretofore occupied as a residence, shall be subject to an annual general fund assessment which may be levied by the MRHOA from year to year, which assessment shall be paid to the MRHOA annually. The MRHOA may from year-to year fix and determine the total amount required in this general fund and may levy and collect an annual assessment as determined by the Board and voted on by the Owners for each lot owned.

Payment date is established by the Board. Annual dues are typically due March 1 and are considered delinquent by March 15, after which a late fee of 100% is added to the amount due. In addition, the Board will file and maintain a lien on the property until total payment is received.

2. **ANNUAL DUES INCREASES:** The maximum annual assessment upon each lot as aforesaid may be increased on all the lots in the Miller Ranch from one year to the next as determined by the MRHOA Board, with said increase not to exceed ten percent (10%) of the annual assessment for the prior year; provided, however, that at a meeting of the members specially called for that purpose, in January of any assessment year, a greater increase may be approved by a majority vote of the total combined votes of all members present in person or by proxy at such meeting.

Within fifteen (15) days from the levying of each assessment, the MRHOA shall notify all Owners of assessable lots of the amount of such assessment. Failure of the MRHOA to levy a new or amended assessment at the time noted above of any assessment year shall constitute an automatic levy of the amount the general assessment levied for the prior year. In no event shall the failure to levy a new or amended assessment for any year affect the right of the MRHOA to do so for any subsequent year. The MRHOA may elect to permit collections of assessments in quarterly or semi-annual payments in lieu of the annual payments provided for herein.

3. **SPECIAL ASSESSMENTS:** It is recognized that during the period of time this Declaration may be in effect, that circumstances may exist in which it may become appropriate for the benefit of all Owners for the MRHOA to levy and collect a special assessment against each aforesaid lot and from each Owner. It is, therefore, provided that at a meeting of the members specifically called for that purpose, the MRHOA may, by resolution approved by affirmative vote of the majority present in person or by proxy at such meeting, levy and collect a special assessment in the amount, for the specific purpose and for the specific period of the time stated in such a resolution, payable in one or more installments at the time or times provided within such resolution. Any such special assessment may be for any MRHOA purpose, including without limitation a deficit (actual or projected) in the general funds of the MRHOA, extraordinary damage or catastrophe to any Common Area, or for capital improvements upon any Common Area.

Whenever the MRHOA may deem it advisable to submit to the members such a proposal, it shall notify the members of the MRHOA of such meeting, giving the time and place at which it is to be held and describing generally the annual or special assessment proposed to be voted upon at such meeting; and such notice must be given not less than thirty (30) days proceeding the date established for such meeting.

4. NOTIFICATION: A written or printed notice delivered by e-mail or in person, or deposited with the United States postal service, with first class postage prepaid thereon, and addressed to the respective Owners entitled to notice, at the last address therefor shown in the records of the MRHOA, shall be deemed to be sufficient and proper notice for these purposes, or for any other purpose under this Declaration for which notice may be required, unless otherwise provided herein.
5. OWNER AGREEMENT: The Owner of each lot subject to assessment under this Declaration shall, by acceptance of a deed of conveyance to such lot, be deemed to have agreed and does by these presents agree to pay the MRHOA all assessments placed against such lot in accordance herewith, and said MRHOA is hereby granted the power or right to proceed against such Owner personally for the collection of said assessments; and said right shall be in addition to and not to be construed as a limitation upon the remedies and rights of said MRHOA otherwise herein granted.

SECTION 10. LIEN ON REAL ESTATE:

1. LIEN: Any assessment provided for herein shall automatically become a lien upon each lot against which it is levied as soon as it becomes due and payable as above set forth; provided, however, that such lien shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on any such lot.
2. DELINQUENCY: In the event of failure of any of the Owners to pay such assessment on or before the date upon which it becomes due and payable, then such assessment shall from that date be deemed to be delinquent and shall bear interest at the maximum rate of interest then allowed in Kansas on non-UCC (Universal Commercial Code) second mortgage notes.
3. CONTINUATION OF LIEN: Any assessment not paid on or before its due date, together with accrued interest thereon as above provided, shall constitute a continuing lien upon and against the lot upon which the unpaid assessment was levied, and it may be enforced at any time thereafter by foreclosure as a lien on such lot, in the same manner as which mortgages may be foreclosed upon in this State, in proceedings in any court in Riley County, Kansas having jurisdiction of suits for the enforcement and foreclosure of mortgages and liens against real estate.

It shall be the duty of the MRHOA to collect such assessments and bring such suits, as may be appropriate or necessary to enforce the payment thereof. The MRHOA may in its discretion file appropriate notices or certificates of non-payment of assessments, or lien statements in the office of the Register of Deeds whenever any such assessments are delinquent. The validity, force or effect of any such lien shall not be dependent upon the filing of any such notice, certificate or lien statement. Any such notice, certificate or lien

statement shall not be filed any earlier than the Sixtieth (60th) day following the date upon which the assessment first becomes delinquent.

For each notice, certificate or lien statement so filed, the MRHOA shall be entitled to collect from the Owners of each lot described therein a fee equal to one hundred percent (100%) of the amount of the assessment, which fee is hereby declared to be, and to constitute upon such filing, a lien upon the lot(s) so described in any such notice or certificate, provided that such a lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. Such fee shall bear interest and shall be collectible, and such lien shall be enforceable, all as provided for original assessments under Section 9 and this Section 10.

4. ENFORCEMENT: Such foregoing liens shall be enforceable and shall be subject to an action of foreclosure for a period of five (5) years following the date of each delinquency unless an action to foreclose such lien is then pending in a court of competent jurisdiction, in which case the lien shall not expire until a final adjudication thereon by such court.

SECTION 11. EXPENDITURES LIMITED TO ASSESSMENT FOR CURRENT YEAR:

Except for special assessments outlined in Section 9, the MRHOA shall not expend more money within any calendar year than equals the total amount of assessments for that particular year plus any surplus which it may have on hand from previous assessments. The MRHOA shall not enter into any contract whatsoever which obligates or commits the assessments of any future year to the payment of any obligation represented thereby, and no such contract shall be valid or enforceable against the MRHOA except for contracts for utilities. It is the intention herein that the assessments for each year shall be applied as far as practicable toward the payment of obligations incurred for that year.

The Board is responsible for preparing and presenting to the Owners for approval during the Annual Meeting the budget for the coming year. Budget preparation includes obtaining competitive bids for applicable items, such as for lawn mowing and landscape maintenance. To obtain best pricing, bids may be accepted for up to, but no more than, three years. The Board will review multiyear contracts annually for supplier performance.

Once the budget has been ratified by the voters during the Annual Meeting, spending authority is granted by the Board to its various members and delegates as directed. Bills are submitted to and received by the Treasurer for payment. Spending by the Board's delegates in a given year is not to exceed the accepted budgeted amounts without further consideration and approval by the Board.

SECTION 12. NOTIFICATION:

The MRHOA shall notify all Owners in Miller Ranch as it may exist from time to time, insofar as the addresses of such Owners are listed with said MRHOA, of the official address of said MRHOA, the place and time of the regular meetings of the MRHOA, and the place where payments shall be made and any other business in connection with said MRHOA may be

transacted, in the event of any change in any of the foregoing, the MRHOA shall so notify all Owners thereof.

SECTION 13. MODIFICATIONS OF MILLER RANCH COMMON PROPERTY:

Any common property of MRHOA that may be deemed of interest by the Board to re-purpose shall remain subject to this Declaration.

SECTION 14. TO OBSERVE ALL LAWS:

Said MRHOA shall at all times observe all applicable State, County, Municipal and other laws or regulations which may be applicable to the conduct of its affairs under this Declaration. Should any provision(s) of this Declaration be determined to be in conflict therewith or in violation thereof, then such provision(s) of this Declaration as may be found to be in conflict with law shall be stricken from this Declaration unless a court of competent jurisdiction can, by a finding of clear purpose and intent of this Declaration, reform any such provision(s) so as to eliminate any such conflict or violation of law and to give force and effective thereto in furtherance of the clear purpose and intent hereof. In no event shall the conflict or violation of law of any provision(s) of this Declaration otherwise affect in any manner this instrument or the other provisions herein contained. The MRHOA shall have the right and power to make such reasonable rules and regulations, and to otherwise provide the means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration.

SECTION 15. INDEMNIFICATION

To the fullest extent permitted by law, every Officer, appointed committee member, and every other person serving as direct agent of or on behalf of MRHOA shall at the discretion of the Board be indemnified by MRHOA against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement thereof to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of MRHOA; provided, however, that prior to agreeing to any such indemnification, the Board shall determine in good faith that such person did not act fraudulently, criminally, or with gross negligence in the performance of his duties. The foregoing right of indemnification shall be in addition to and not exclusive of all rights to which such person may be entitled by law.

SECTION 16. NON-LIABILITY

To the fullest extent permitted by law, neither the Officers, committee members, nor Owners shall be liable to any other MRHOA Owner, occupant, or other person for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether defective or not), course of action, inaction, omission, error, or negligence, made in good faith and believed to be within the scope of their duties.

SECTION 17. DECLARATION RUNNING WITH THE LAND:

All provisions of this Declaration shall be deemed to be running with the land and shall be binding upon the MRHOA and upon the successors, assigns and grantees thereof, and upon all subsequent successors, assigns and grantees in title to the land subject hereto.

SECTION 18. REFERENCE:

All of Lots of MRHOA as shown on the plat of Miller Ranch, an addition to the City of Manhattan, Riley County, Kansas.

APPENDIX: RESTRICTIONS

PERSONS BOUND BY THESE RESTRICTIONS:

All persons, corporations and entities who may own or shall hereafter acquire any interest in any above-described lot or tract hereby restricted shall be taken to hold and agree and covenant with the owners of all other such lots and tracts, and with the successors, assigns and grantees thereof, to conform to and observe the following covenants, restrictions, and stipulations contained herein; provided, however, that these Restrictions may be renewed and extended in the manner hereinafter provided.

PART I. USE OF LAND:

1. **RESIDENCE USE:** No lot may be improved, used or occupied for any purpose other than that of a private residence. Any residence constructed, erected or maintained on any lot shall be designated for occupancy and used as a dwelling unit by not more than one single family (generally understood to mean a basic social unit consisting of one or more adults and children under their care). No business or commercial enterprise of any nature shall be conducted on or from any lot.
2. **COMMON AREA USE:** No tract shall be occupied for any purpose. All tracts identified by a letter shall be maintained and preserved for the future benefit, enjoyment and the use of the owners of each lot now or hereafter subject to these Restrictions, in common with the owners of all others so situated. All tracts shall be Common Areas as described within the Declaration, and shall be subject to the rights, restrictions and uses of any portions Easement and/or Pedestrian Easement, which rights, restrictions and uses are more particularly described under PART XXVII and PART XXVIII hereof.

PART II. REQUIRED HEIGHT OF RESIDENCES:

No residence erected on any lot shall be more than two (2) stories in height above the finished grade elevation of the front yard; provided, however, that a residence more than two (2) stories in height may be erected thereon with the prior written consent of the MRHOA.

PART III. FRONTAGE OF RESIDENCES ON STREETS:

A residence erected wholly or partially on any corner lot, or any parts of a corner lot, shall present a good frontage on both adjoin streets. It is otherwise provided, however, that if any part less than the whole of any corner lot is acquired by the owner of an inside lot, contiguous to said corner lot, then, as to the part of such corner lot so acquired, the provisions hereof requiring a residence erected on a corner lot to present a good frontage on both adjoin streets shall not be operative, and the part of the corner lot so acquired shall be deemed to be a part of the inside lot to which it is contiguous, as to these restrictions.

PART IV. SETBACK OF RESIDENCES FROM STREET:

No part of a residence, except as hereinafter provided, may be erected or maintained on any lot nearer to the front street or the side street than is shown for the front building or the side building set-back line shown on the Plat; provided, however, that the MRHOA shall have, and do hereby reserve, the right in the sale and conveyance of any lot or lots to change any building set-back

line applicable thereto, and may at any time, with the consent to writing of the then record owners of the fee simple title to any lot or lots, change the building setback line which is shown on the plat or which may be in such sale and conveyance be established for any such lot or lots; further provided, that all such changes shall be in conformity with all zoning, codes and municipal ordinances.

No part of a residence may project nearer to the front street and the side street than the building set-back lines shown on the plat.

PART V. REQUIRED SIZE OF RESIDENCES:

Each residence erected on any lot shall contain a minimum of one thousand four hundred (1,400) square feet of enclosed finished living space on the ground-floor level, and a one and one-half (1 ½) story or two (2) story residence erected on any lot shall contain a minimum of one thousand two hundred (1,200) square feet of such enclosed finished living space on the ground-floor level thereof. In the case of a split-level residence wherein there are two (2) levels of enclosed finished living space, the floor elevation of which is not greater than three (3) feet between them, the square footage of the enclosed finished living space of two (2) such levels shall be added together and such a residence treated as a one (1) story residence for the foregoing purposes. The MRHOA specifically reserve the right to reduce any of the enclosed floor area requirements set forth herein as to any lot.

The words “**enclosed finished living space**” as used herein shall mean and include, in all cases, areas on the first ground floor on level with the front yard grade elevation of the lot, enclosed and finished for all-year occupancy, as computed on outside measurements of the residence, and shall not mean or include any areas in walk-out basements, basements, garages, porches, or attics; provided, however, that certain interior areas of a second floor need not be immediately finished for occupancy in the residence is so designed and built that such area can be readily finished at a later date without any structural changes being made in the exterior of the residence.

PART VI. FREE SPACE REQUIRED:

The main body of any residence, including attached garages, attached greenhouses, decks and porches, enclosed or unenclosed, covered or uncovered, and all overhangs and projections, erected or maintained on any lot, or on any part or parts thereof, shall not violate the minimum eight (8) foot side set back lines. No changes or alterations shall be made unless in conformity with all zoning, codes and municipal ordinances.

PART VII. RIGHT TO APPROVE PLANS:

1. **ARCHITECTURAL CONTROL COMMITTEE:** No residence or other structure shall be erected, placed or altered on any lot until all building plans and documents as herein below provided, showing the particulars of the proposed residence, structure or alteration have been first approved, in writing, as being conformity and harmony with planned and existing residences on other lots hereby restricted as to external design, construction and finish, as to location upon the lot with respect to property and building lines, topography, foundation elevation, finished site grade, and other matters governed by or set forth

within these Restrictions. The right to approve plans as aforesaid shall be vested in an "Architectural Control Committee" (hereinafter referred to as "ACC"), provided such plans distinctly adhere to the MRHOA Restrictions.

2. REQUESTING APPROVAL: Any person or entity requesting such foregoing approval shall submit simultaneously with said request the following documentation:
 - a. Exterior elevations delineating the front, rear and both side elevations and the finished grade of the lot.
 - b. Plot or site plan of the house as it will set on the lot, and the location of driveways, in relation to all lot lines.
 - c. Floor plan.
 - d. List of all exterior materials to be used, which will include roof, masonry, siding, doors and windows.
 - e. Landscape plan showing proposed plantings for the yard areas.
 - f. Schedule of exterior colors to be used.

The documentation listed above is intended only as a minimum requirement and the ACC shall be free to request any and all other documentation that it may, in its sole discretion, deem necessary. All such documentation shall be submitted in duplicate, it shall identify the lot for which its approval is requested, it shall identify the owner of the lot if different than the applicant for approval, and it shall be signed and dated by the applicant.

3. REQUEST APPROVAL/DISAPPROVAL: The ACC may receive and/or approve or disapprove any such request for approval of through its designee. Such approval or disapproval shall be noted on both copies of each document, signed by a designee on behalf of the ACC and dated, and one copy of each returned to the applicant and one copy retained by the ACC.

In the event adherence to the Restrictions of submitted plans is unclear, or should the affected Owner disagree with the ACC's decision, the Owner may appeal to the Board for a final decision.

4. Anything in these restrictions to the contrary notwithstanding, the MRHOA, shall have and do hereby reserve the right to approve or reject the proposed location of a residence upon any lot, except as it may be restricted in the making of such a determination by the provisions of PART III or IV hereof, and to approve or reject the relation of the top of the foundation of a proposed residence to the street level adjoining that lot.

PART VIII. MAINTAINING SIGHT DISTANCE:

No fence, wall hedge or shrub planting which obstructs site lines at elevations between two (2) and six (6) feet above the roadways, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street center lines and a line connecting them at points thirty (30) feet from the inner part of those street center lines or, in the case of a rounded property corner, from the inner part of those street center lines as extended. The same site-line limitations shall apply to each lot within the triangular area formed by a line connecting points ten (10) feet from the inner part of the street center line with the edge of the driveway servicing such lot. No trees shall be permitted to remain within such aforesaid triangular areas unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

PART IX. REQUIRED BUILDING MATERIALS:

Exterior walls of all residences, structures and all appurtenances thereto shall be brick, stone, wood shingles, stucco, wood siding, plate glass, or any combination thereof; provided, however, that the front exterior of all residences shall be faced with not less than fifty percent (50%) brick or natural stone. All wood materials must be approved by ACC. Fireplace stacks situated on the front or either side exterior of all residences shall be faced only with brick, stucco, natural stone or wood siding. Windows, doors and louvers materials must be approved in writing by the ACC. Roofs materials must be approved in writing by ACC. Other building products, which may come into general usage and may be appropriate for dwelling construction in this subdivision after the recording of these Restrictions shall be acceptable if approved by the ACC. All wood and Masonite exteriors, except roofs, shall be covered with a workmanlike finish of paint, and/or stain, unless another finish is approved in writing by the ACC.

PART X. REQUIRED CONSTRUCTION:

1. No building shall be permitted to stand with its exterior in an unfinished state of construction. Commencement of construction shall be deemed to be the commencement of the digging of the foundation excavation. In the event of fire, windstorm, or other damages, no building shall be permitted to remain in a damaged condition for a period longer than three (3) months following the date of occurrence of damage, unless permitted in writing by the ACC. Any owner of a structure in violation of this PART may be assessed a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the violation continues, the assessment and the determination of the amount of which shall be in the discretion of the ACC.
2. The fine provided for herein, if not paid when due by the owner of the lot, shall automatically become a lien upon the lot or lots upon which the structure in violation of this PART is situated; provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage then existing or thereafter placed upon said real estate. Any such fine shall be delinquent if not paid within thirty (30) days from the date of written notification of assessment to the record owner of the lot upon which the violation occurs and, if not paid within said thirty (30) day period, Shall thereafter bear interest until paid at the maximum rate of interest per annum then allowed by Kansas law for notes secured by mortgages against real estate. Any

such interest shall also constitute an automatic lien upon the real estate as it accrues. Any such foregoing lien may be enforced and foreclosed by the MRHOA any court in Riley County, Kansas having jurisdiction over suits for the enforcement and foreclosure of such liens.

PART XI. GARAGES:

No residence shall be constructed on a lot unless an enclosed attached garage is constructed as a part thereof sufficient in size to house no less than two (2) passenger vehicles. Detached garages and carports are prohibited.

PART XII. DRIVEWAYS AND WALKS:

All driveways shall be paved with hard surface and constructed with concrete. All sidewalks shall be hard surface and constructed of concrete.

PART XIII. SODDED YARDS AND LANDSCAPING REQUIRED:

The entire front, rear and side yards of a lot (except any wooded portion of any lot which adjoins a Conservation Area, as hereinafter defined) shall be seeded, plugged or sodded with grass at the earliest time following completion of construction of a residence on said lot as the weather will permit, and in no instance shall seeding, plugging or sodding be delayed because of non-occupancy of the residence or the need to manually water such yard areas. The ACC or MRHOA may sod a lot if not properly seeded, plugged or sodded and assess the owner of the lot which shall become a lien for the cost thereof and if not paid within thirty (30) days shall be collected like a lien for assessment.

Each lot must have ground cover, shrubs and trees, with a total allowance excluding sod or grass, of not less than Three Hundred Fifty Dollars (\$350.00).

All lots shall be maintained in a clean and orderly manner during construction periods. Erosion shall be controlled on each site while the site is in a disturbed condition. This control shall be accomplished by using bales of straw or other methods approved by the MRHOA.

PART XIV. OUTBUILDINGS:

No building or other detached structures, other than a residence, may be erected on any lot without prior written consent of ACC.

PART XV. FENCES AND WALLS:

No fence, wall or similar type of structure which functions as a barrier of any sort shall be erected, constructed, or maintained upon any lot without prior written approval of the ACC as to materials, design, location, and height, and the ACC shall have complete discretion with regard to such approval; provided, however, that the ACC may not approve any such structure which either violates PART VIII hereof or is situated nearer to the adjoining street than is represented by any building set-back line shown on the plat for that lot.

Fencing requirements:

- a) The height of the fence shall be no taller than four (4) feet. The ACC will consider taller fences only where special circumstances warrant on a case-by-case basis.

- b) Construction will be of quality wood or wrought iron to include aluminum fencing which resembles wrought iron in appearance. Split rail will be considered if adjoining an existing split rail fence. The finished side of the fence must face outwards in all cases.
- c) Double fencing is not permitted. Double fencing is where two fences are located on adjoining property lines any distance apart.
- d) For any proposed fences, adjoining neighbor notification is required prior to ACC consideration.
- e) The grass/landscaping under and or behind the fence must be maintained to the same standard as the yard.
- f) Fence structures in existence prior to date of approval of this Declaration will be allowed. However, should a non-conforming fence require fifty (50) percent or more replacement, the entire fence must be replaced at the owner's expense to conform to the current policy.
- g) Fences that are not properly secured, repaired or maintained are in violation and subject to fines by the ACC.

PART XVI. SWIMMING POOLS:

No above-ground swimming pool may be erected or maintained upon any lot. Below-ground-level swimming pools may be constructed and maintained with the prior written approval of the ACC as to design, location and security fencing.

PART XVII. OIL TANKS PROHIBITED:

No tank for the storage of fuel or any other petroleum product may be installed or maintained above or below the surface of any lot.

PART XVIII. OUTSIDE ANTENNAS, SATELLITE DISHES AND ALTERNATIVE ENERGY DEVICES:

Any radio or television antennas, satellite dishes, or solar collectors must be approved in writing by the ACC. Free-standing poles unattached to the dwelling for such items are not permitted. Windmills are not permitted.

PART XIX. ANIMALS AND PETS:

No wild or semi-wild mammals or reptiles shall be permitted outside of the homes, and no livestock or poultry of any kind, may be kept or maintained upon any lot except that dogs, cats and other domesticated household pets may be kept provided that no more than two (2) of any one species shall be permitted. Outside pens, runs or cages may not be constructed or maintained except in the rear yard and then only with the prior written approval of the ACC as to the composition, appearance and location thereof. All animals and pets shall be confined to the lot of the owner(s) thereof, or shall otherwise be kept under the direct control of the owner(s) thereof at all times. Owners are required to remove excrement left by their pet from neighbors' properties or Common Areas, preferably at the time of occurrence or within 24 hours.

PART XX. SIGNS AND BILLBOARDS:

The MRHOA considers all signs to be temporary, except for entrance markers and signs, signs for traffic control and safety, community "theme areas," signs for the benefit of the

community-at-large. No sign, billboards, or advertising objects or devices of any character shall be erected, posted, displayed or permitted to remain upon any lot or tract, or upon any residence or structure located thereon; provided, however, that one (1) yard sign identifying the property for sale shall be temporarily permitted as long as it is placed no closer than five (5) feet to the adjoining street curb line. No signs are permitted on HOA maintained property.

PART XXI. AUTOMOBILES, VEHICLE, BOATS, AND TRAILERS:

1. No automotive repair or rebuilding whether for hire or otherwise, shall occur on any lot except those automotive repairs on a non-commercial basis and not for hire may be conducted within an enclosed garage.
2. No commercial-type vehicle (that is, one displaying a commercial name) shall be stored or parked on any lot except within an enclosed garage located on such lot, or upon any adjoin street, for a period of more than two (2) hours, except in instances where such vehicle belongs to a business performing work upon the property and during the period that such work is being performed.
3. No other vehicle, recreational vehicle, motor home, car-van, car-truck, two or three-wheeled motorized vehicle, truck, pickup truck with camper or shell, trailer, bus, camper, inoperative motor vehicle of any nature, boat or other water craft, or other vehicle of any type or description may be stored or parked upon any lot, except within an enclosed garage located on such lot, or upon any lot, or upon any adjoining street, for a period of more than forty eight (48) hours. Nothing in this section, however, shall be so construed as to prohibit the regular and routine parking of private passenger vehicles (including passenger vans and pickup trucks smaller than $\frac{3}{4}$ ton, but not including any pickup truck with camper or shell), which are in running condition and in a reasonable state of repair and preservation, on the driveway upon the lot, or the occasional parking thereof upon any adjoining street. Parking in other than paved areas is prohibited. Operational vehicles otherwise prohibited by this PART which belong to temporary guests of the owner(s) of any lot shall be permitted for periods not exceeding two (2) weeks in duration.

PART XXII. AIR CONDITIONERS:

No air conditioning apparatus or other unsightly projections shall be placed upon, attached to, or project from, the front of any residence.

PART XXIII. OFFENSIVE ACTIVITIES:

1. No nuisance or offensive condition or activity, including excessive noise, as defined by the owners of the majority of the lots hereby restricted, shall be maintained or carried on upon any lot.
2. Noxious weeds must be controlled, and shall not be allowed to grow unchecked, in the yard area of any lot, during or following the construction of a residence thereon. In the event of violation of this restriction, the MRHOA may cause the yard to be treated and assess the cost back to the owner of the lot in the same fashion and with the same effect as provided for fines under PART X hereof.

3. Grass and weeds in the yard area, during or following the construction of a residence upon any lot, shall be kept mowed so that the same are not allowed to exceed six (6) inches in height. In the event of violation of this restriction, the MRHOA may cause the yard to be mowed and assess the cost back to the owner of the lot in the same fashion and with the same effect as provided for fines under PART X hereof.

PART XXIV. FOUNDATIONS:

[This part is eliminated.]

PART XXV. MISCELLANEOUS PROVISIONS:

1. Garage Doors: Garage doors shall not be kept open without apparent purpose, shall not be kept open overnight, and shall be routinely kept closed.
2. Exterior Clotheslines: No permanent exterior clotheslines are permitted on any lot.
3. Exterior Christmas Lights and/or Decorations: Exterior Christmas lights and/or decorations may be erected or maintained on any lot only during a sixty (60) day period beginning November 15th of each calendar year.
4. Exterior Sporting Equipment: A basketball goal/backboard must be free standing and set behind the front property or easement line. The location and type must be approved in writing by the ACC prior to installation. No other exterior basketball goal, tether pole, trampoline, volleyball or badminton post or net, swing sets, or similar sporting or play equipment shall otherwise be erected or maintained for other than temporary occasions on any lot without prior written approval of the ACC.

PART XXVI. EASEMENTS:

There is hereby created a blanket easement upon, across, over and under all of the lots for ingress and egress for the purpose of maintaining or enforcing these Declarations. By virtue of these easements, it shall be expressly permissible for the utility companies to affix and maintain pipes, wires, conduits, or other service lines on above across and under the roofs and exterior walls of any improvements constructed on lots if authorized by the MRHOA. Notwithstanding anything to the contrary contained in this paragraph, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on any property located in Miller Ranch until approved by the MRHOA during the construction period or by the Association thereafter. In the event that any utility company furnishing a service covered by the general easement herein provided requests a specific easement on the lots, or any portion thereof, by separate recordable instrument, the MRHOA during the construction period and the Association thereafter shall have the right to grant such easements, whether temporary or permanent, on the property without conflicting with the terms hereof. Any and all utility easements granted with the filing of the Plat shall not be affected by blanket easement granted hereunder.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the plat. Easements for public pedestrian's use, in addition to public pedestrian use of sidewalks, which may be constructed within the street right-of-ways, are reserved as shown on the plat.

PART XXVII. CONSERVATION AREAS:

Conservation Areas are as designated and shown on the plat. In the conveyance of any lot, the MRHOA may designate all or any portion of any such lot as a Conservation Area. The existing terrain, rocks, trees, bushes, undergrowth and ground cover in any such Conservation Area shall not be cut, trimmed, mowed, altered, rebuilt or otherwise disturbed from its present and natural state: excepting, only that work necessary to clear areas and/or otherwise alter the natural state thereof which may lie within the confines of any utility, drainage and/or pedestrian easement situated within a Conservation Area. No hunting or trapping of wildlife is permitted within any such Conservation Area.

PART XXVIII. PUBLIC OR COMMONS AREAS:

1. Common Areas are as designated and shown on the plat as lettered tracts and may be subject to utility easements, drainage easements, pedestrian easements and Conservation Areas to the extent shown thereon and to the uses and restrictions which apply to those easements and conservation areas. Common areas shall be further subject to the provision of PART I, Paragraph 2 hereof. The MRHOA will hereafter cause the Common Areas to be conveyed to the homes association contemplated by the Declaration only for such recreational, park and similar uses as such association shall determine, as Commons Areas, for the use, benefit and enjoyment in common of the owners of all lots hereby restricted.
2. The MRHOA anticipate that they will hereafter cause to be platted additional land which they may then own and situated within Township 10 South, Range 7 East, Riley County, Kansas, which said additional land may be made subject to these Restrictions and may contain, among other areas, recreational and parks areas similar in nature to those herein described. Upon such future plats, and the making of such additional lands subject to these Restrictions, such areas shall be designated on such plat(s) as lettered tracts to be used and conveyed as Common Areas as provided by the provisions of this PART XXVIII. In such an event, all or any of such lettered tracts shall be for the use and benefit of all numbered lots originally restricted hereby and hereafter made subject to these Restrictions, and all such lots shall then share in the use and benefit of all such Common Areas encompassed hereby and thereby.
3. Title to Commons Areas: The MRHOA retains the legal title to the Commons Areas.
4. Easements on Commons Areas: The rights and easements of enjoyment as to all Commons Areas shall be subject to the right of the MRHOA hereafter to assign or convey such sewage, water, drainage, utility or other easements over, through or under all or any part of such areas as they may in their discretion deem necessary or appropriate.
5. Rules and Regulations Pertaining to Commons Areas: The following additional rules, regulations and restrictions shall apply to all Commons Areas. In the enforcement of each such rule, regulation and restriction, each lot owner shall be

responsible for the acts of each occupant of their dwelling and each of their social and/or business invitees.

- a. No structure shall be built into or over any Common Area.
- b. No automobile or other motorized vehicle shall be driven, ridden or parked in any Common Area except at any places within such Common Areas which may be specifically designated for that use, if any.
- c. No boats or floatation devices of any kind shall be allowed on, and no swimming shall be allowed in, any pond.
- d. Access to all Common Areas shall be only from or across public street right-of-way adjoining, and no person is herein granted license or authority to access Common Areas across any lot hereby restricted without the express permission of the owners thereof.
- e. No refuse shall be discarded on or about any Common Area.
- f. The MRHOA shall have the right to make additional rules and regulations pertaining to the use of Common Areas.

PART XXIX. ACC DISCRETION:

Wherever it is provided in these Restrictions that the consent or approval of the MRHOA or the ACC is required, the MRHOA or the ACC as the case may be shall have complete discretion with regard to such consent or approval; provided, however, that such discretion shall not empower the consent to or approval of any matter which would violate any other provision of these Restrictions for which there is no provision for deviation via such consent or approval.

PART XXX. DURATION OF RESTRICTIONS:

Each of the restrictions herein set forth shall continue and be binding upon the MRHOA throughout the existence of this Declaration, subject to amendment and termination as required by this Declaration.

PART XXXI. RIGHT TO ENFORCE:

The restrictions herein set forth shall run with the land and shall 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 the lots hereby restricted and with their successors and assigns, and with each of them, to conform to and to observe said restrictions as to the use of said lots and the construction of improvements thereon. No restriction herein set forth shall be personally binding upon any person, group or entity except in respect to breaches committed during his, her, their or its seizing of, or title to, said land. The MRHOA, also the owner or owners of any of the lots hereby restricted, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the restrictions above set forth, in addition to any ordinary legal action for damages, and the failure of the MRHOA, or of any owner or owners of any lot hereby restricted, to enforce any of the restrictions herein set forth at the time of its violation shall, in no event, be deemed to be a waiver of the right to do so at any time thereafter. The MRHOA may, by appropriate agreement made expressly for that purpose, or by means of express words to that effect contained in a deed to any lot restricted hereby, assign or convey to any person, group or entity all of the rights, reservations and privileges herein reserved by or granted to them in respect to all or any part of

said lots and tracts, and upon such assignment or conveyance being made, their assigns or grantees may at their option exercise, transfer or assign those rights, or any one or more of them, at any time or times thereafter in the same way or manner as those directly reserved by or granted to the MRHOA in this instrument.

IN WITNESS WHEREOF, the undersigned MRHOA have caused these presents to be executed the day and year first above written.

MILLER RANCH HOME OWNERS' ASSOCIATION

BY

Paul Dittmar
Paul Dittmar, President

STATE OF Kansas, RILEY COUNTY: ss.

BE IT REMEMBERED, That on this 1st day of May, 2015 before me, a Notary Public in and for said County and State, came Paul Dittmar, President of MILLER RANCH HOME OWNERS' ASSOCIATION, a limited-liability entity duly organized and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the same person who executed, as such member, the within instrument on behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Lisa Daily
(Name) 7-10-2017
Notary Public

My commission/appointment expires:

