

BYLAWS  
WESTLAKE HOMES ASSOCIATIONS

Article I

MEETING OF MEMBERS

Section 1. ANNUAL MEETING. The annual meeting of Members shall be held at the principal office of the Corporation, in Shawnee, Johnson County, Kansas, at 7:30 p.m. on the 1st day of June of each year, or at such other place in Johnson or Wyandotte County, Kansas, as the Board of Directors may determine. Fifteen days prior to the annual meeting, the Secretary shall serve, personally or by mail, a written notice thereof, addressed to each member at his address as it appears on the records of the corporation.

Section 2. QUORUM. Any number of members present at a regular or special meeting of members shall constitute a quorum. A majority of all votes cast, whether in person or by proxy, at any meeting of the members shall determine any question, unless otherwise provided by the Bylaws.

Section 3. SPECIAL MEETINGS. Special meetings of members other than those regulated by statute may be called at any time by a majority of the directors. Notice of such meeting stating the purpose for which it is called shall be served personally or by mail, not less than ten (10) days before the day set for such meeting. If mailed, it shall be directed to a member at his address as it appears on the records of the corporation. The Board of Directors shall also, in like manner, call a special meeting of members whenever so requested in writing by 51% of the members of the Corporation. No business other than that specified in the call for the meeting shall be transacted at any meeting of the members.

Section 4. VOTING. At all meetings of the Members, all questions, the manner of deciding which is not specifically regulated by the Articles of Incorporation of this Corporation or by these Bylaws or by the "Home Owner's Association Declaration" filed in the Office of the Register of Deeds of Wyandotte County, Kansas, on June 6, 1988, in Volume 3298, beginning at Page 767, and any amendment thereto, shall be determined by a majority vote of the members present, in person or by proxy, provided, however, that any qualified voter may demand a membership vote, in which case each member present, in person or by proxy, shall be entitled to cast one vote for each assessable lot or tract owned by him within the

District as the same is defined by the Articles of Incorporation of this Corporation; provided, however , that the Developer shall have three (3) votes for each lot owned by it. All voting shall be viva voce, except that a membership vote shall be by ballot, each of which shall state the name of the member voting and the number of assessable lots or tracts within the District, as hereinbefore defined, owned by him, and in addition, if such ballot be cast by proxy the name of the proxy shall be stated. In the event of a membership vote, aforesaid, not more than one vote shall be cast for each assessable lot or tract within said District, except the vote of the Developer, which shall have three (3) votes for each lot owned by it .

Section 5. ORDER OF BUSINESS. The order of business at all meetings of the members shall be as follows:

1. Roll Call.
2. Proof of notice of meeting or waiver of notice.
3. Reading of minutes of preceding meeting.
4. Reports of Officers.
5. Reports of Committees.
6. Election of Inspectors of Election.
7. Election of Directors.
8. Unfinished Business.
9. New Business.

## Article II

### DIRECTORS

Section 1. NUMBER. The affairs and business of this Corporation shall be managed by a Board of not less than one (1) nor more than ten (10) directors, who shall be members of record. For purposes hereof, a corporate member may serve on the Board through its designated representative, who individually shall not be required to be a member. Chairpersons of committees of the Corporation shall be directors. However, the number of directors shall at no time exceed ten (10).

Section 2 . HOW ELECTED. At the annual meeting of members , those persons receiving a majority of the votes cast shall be directors and shall constitute the Board of Directors of the ensuing year; provided, however, that the total number of directors elected shall not exceed the number set forth in Section 1 above .

Section 3. TERM OF OFFICE. The term of office of each of the directors shall be three (3) years. At the first meeting of the Board of Directors subsequent to the meeting wherein the directors are elected in 1991, the Board shall, through random drawing, determine the length of the directors' terms. One-third of the directors shall serve for the following three (3) years, one-third of the directors shall be designated to serve for the following two (2) years, and one-third of the directors shall be designated to serve for the following one (1) year. In 1992, those directors' positions which were designated to run for a term of one (1) year shall be up for reelection. Those elected in 1992 shall serve for a period of three (3) years or until successors have been duly elected. In 1993, the Directors' positions which were designated to run for a period of two (2) years shall be up for election and the Directors elected at that time shall serve for a period of three (3) years or until successors have been duly elected and qualified. It is intended by this section that one- third of the Board of Directors' positions will be voted upon each year.

Section 4. DUTIES OF DIRECTORS. The Board of Directors shall have the control and general management of the affairs and business of the company. Such Directors shall in all cases act as a Board, regularly convened, by a majority, and they may adopt such rules and regulations for the conduct of their meetings and the management of the corporation as they may deem proper, not inconsistent with these Bylaws and the laws of the State of Kansas, the Articles of Incorporation of this Corporation, and the aforementioned "Home Owner's Association Declaration" as may be hereinafter amended. The Directors shall have the duty and obligation to determine and cause to be determined and levied on or before July 1 of each calendar year the annual assessment as authorized by Section 7 of the Home Owner's Association Declaration dated June 3, 1988, and filed June 6, 1988, in Volume 3298 beginning at Page 767, in the office of the Register of Deeds, Wyandotte County, Kansas.

Section 5. DIRECTORS MEETINGS. Regular meetings of the Board of Directors shall be held immediately following the annual meeting of the members, and at such other times as the Board of Directors may determine. Special meetings of the Board of Directors may be called by the President at any time, and shall be called by the President or the Secretary upon the written request of two directors.

Section 6. NOTICE OF MEETINGS. Notice of meetings, other than the regular annual meetings, shall be given by service upon each Director in person, or by mailing to him or her at his or her last known post office address, at least five (5) days before the date therein designated for such meeting, including that day of

mailing, of a written or printed notice thereof , specifying the time and place of such meeting, and the business to be brought before the meeting and no business other than that specified in such notice shall be transacted at any special meeting. At any meeting at which every member of the Board of Directors shall be present, although held without notice, any business may be transacted which might have been transacted if the meeting had been duly called.

Section 7. QUORUM. At any meeting of the Board of Directors, two of the Board shall constitute a quorum for the transaction of business; but in the event of a quorum not being present, a lesser number may adjourn the meeting to some future time, not more than five (5) days later.

Section 8. VOTING. At all meetings of the Board of Directors, each Director is to have one vote.

Section 9. REMOVAL OF DIRECTORS. Any one or more of the Directors may be removed either with or without cause, at any time, by a 3/4 vote of the members, at any special meeting called for the purpose.

### Article III

#### OFFICERS

Section 1. NUMBER. The officers of this Corporation shall be:

1. President
2. One or more Vice Presidents (optional)
3. Secretary
4. Treasurer

Section 2. ELECTION. All officers of the Corporation shall be elected annually by the Board of Directors at its meeting held immediately after the meeting of the members, and shall hold office for the term of three (3) years or until their successors are duly elected.

Section 3. DUTIES OF OFFICERS. The duties and powers of the officers of the Corporation shall be as follows:

#### PRESIDENT

The President shall preside at all meetings of the Board of Directors and members.

He or she shall present at each annual meeting of the members and Directors a report of the conditions of the business of the corporation.

He or she shall cause to be called regular and special meetings of the members and directors in accordance with these Bylaws.

He or she shall appoint and remove, employ and discharge and fix the compensation of all servants, agents, employees and clerks of the Corporation other than the duly elected officers, subject to the approval of the Board of Directors.

He or she shall sign and make all deeds, contracts and agreements in the name of the Corporation.

He or she shall sign all notes, drafts or bills of exchange, warrants or other orders for the payment of money duly drawn by the Treasurer.

He or she shall enforce the aforementioned Home Owner's Association Declaration and these Bylaws and perform all the duties incident to the position and office and which are required by law.

#### VICE PRESIDENT

During the absence and inability of the President to render and perform his or her duties or exercise his or her powers, as set forth in these Bylaws or in the acts under which this Corporation is organized, the same, including the execution of deeds of the Corporation, shall be performed and exercised by the Vice President, successively in the order named (i.e., First Vice President, Second Vice President, etc.); and when so acting, he or she shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the President.

#### SECRETARY

The Secretary shall keep the minutes of the meetings of the Board of Directors and of the members in appropriate books.

He or she shall give and serve all notices of the Corporation.

He or she shall be custodian of the records and of the seal, and affix the latter when required.

He or she shall keep accurate records reflecting the owners of the real estate within the District, alphabetically arranged, their respective places of residence, their post-office address, the number of lots or tracts owned by each, and the time at which each person became such owner; and keep such records, subject to the inspection of any member of the Corporation, and permit such member to make extracts from said books to the extent and as prescribed by law.

He or she shall present to the Board of Directors at their stated meetings all communications addressed to him or her officially by the President or any officer or member of the Corporation.

He or she shall attend to all correspondence and perform all the duties incident to the office of Secretary.

### TREASURER

The Treasurer shall have the care and custody of and be responsible for all the funds and securities of the Corporation, and deposit all such funds in the name of the Corporation in such bank or banks, savings and loans, trust company or trust companies or safe-deposit vaults as the Board of Directors may designate.

He or she shall sign, make and endorse in the name of the Corporation all checks, drafts, warrants and orders for the payment of money, and pay out and dispose of same and receipt therefore, under the direction of the President or the Board of Directors.

He or she shall exhibit at all reasonable times his or her books and accounts to any director or member of the Corporation upon application at the office of the Corporation during business hours.

He or she shall render a statement of the condition of the finances of the Corporation at each regular meeting of the Board of Directors and at such other times as shall be required of him or her and a full financial report at the annual meeting of the members.

He or she shall keep at the office of the Corporation correct books of account of all its business and transactions and such other books of account as the Board of Directors may require.

He or she shall notify members of their annual assessment as levied by the board of Directors and, under direction of the Board, effect collection of same.

He or she shall do and perform all duties pertaining to the office of Treasurer.

Section 4. BOND. The Treasurer shall, if required by the Board of Directors, give to the Corporation such security for the faithful discharge of his or her duties as the Board may direct.

Section 5 . VACANCIES, HOW FILLED. All vacancies in any office shall be filled by the Board of Directors without undue delay, at its regular meeting, or at a meeting specifically called for that purpose.

Section 6. COMPENSATION OF OFFICERS. The officers shall receive such salary or compensation as may be determined by the Board of Directors.

Section 7. REMOVAL OF OFFICERS. The Board of Directors may remove with any officer by 2/3 vote at any time with or without cause.

#### Article IV

##### SEAL

Section 1. The seal of the corporation shall be as follows:

#### Article V

##### BILLS, NOTES, ETC.

Section 1. HOW MADE. All bills payable, notes, checks or other negotiable instruments of the Corporation shall be made in the name of the Corporation, and shall be signed by the President and countersigned by the Treasurer. No officer or agent of the Corporation, either singly or jointly with others, shall have the power

to make any bill payable, note, check, draft or warrant or other negotiable instrument, or endorse the same in the name of the Corporation, or contract or cause to be contracted any debt or liability in the name or on behalf of the Corporation, except as herein expressly prescribed and provided.

## Article VI

### FISCAL YEAR

Section 1. The fiscal year of the Corporation shall be July 1 to June 30.

## Article VII

### AMENDMENTS

Section 1. HOW AMENDED. These Bylaws may be altered, amended, repealed or added to by a 2/3 vote of the Board of Directors at any regular meeting, or at a special meeting called for such purpose. However, if all Directors be present at any special meeting, these Bylaws may be amended by an affirmative vote, without any previous notice.



DECLARATION OF RESTRICTIONS  
WESTLAKE

WHEREAS, CONSTRUCTION MANAGEMENT COMPANY, INC., a Corporation (hereinafter referred to as “Developer”), has filed with the Register of Deeds of Wyandotte County, Kansas, as pages 35 of Plat Book 36, a plat of the land known as Westlake, a subdivision in Wyandotte County, Kansas; and

WHEREAS, said plat creates said WESTLAKE subdivision, composed of the following described lots and tracts, to-wit:

Lots 1-40, WESTLAKE, FIRST Plat, a subdivision in Kansas City, Wyandotte County, Kansas, and Tract A shown on the plat thereof as private, common park and recreation land,

WHEREAS, said Developer has heretofore dedicated to the public all of the streets and roads shown on said plat for use by the public; and

WHEREAS, said Developer has heretofore dedicated certain land on said plat shown as Tract A thereon for private, common park and recreation use; and

WHEREAS, Developer is the owner of all of the lots so shown on the aforesaid plat and now desires to place certain restrictions on all of said lots, all of which restrictions shall be for the use and benefit of Developer as the present owners thereof and for its future grantees and assigns.

NOW, therefore, consideration of the premises, the Developer for itself and its successors and assigns, and for its future grantees, hereby agrees that all of the lots and tracts shown on the above-described plat shall be and they are hereby restricted as to its use in the manner hereinafter set forth.

DEFINITION OF TERMS USED:

For the purpose of these restrictions, the word “Developer” shall mean Construction Management Company, Inc.

The word “street” shall mean any street, road, drive, or terrace of whatever name, as shown on said plat of Westlake.

The word “outbuilding” shall mean an enclosed or unenclosed, covered structure, not directly attached the residence to which it is appurtenant.

The word “lot” may mean either any numbered lot as platted, or any tract or tracts of land as conveyed, which may consist of one or more numbered lots, as platted, or part or parts of one or more numbered lots, as platted, and upon which a residence may be erected in accordance with the restrictions hereinafter set forth, or as set forth in the individual deeds from the Developer, or from its successors and assigns. A “corner lot” shall be deemed to be any lot as platted, or any tract of land as conveyed, having more than one street contiguous to it.

The word “tract” shall mean any area identified by a letter of the English Alphabet shown on said plat.

The term “district” as used in this agreement shall mean all of the lots shown on said plat of Westlake. If or when other land shall, in the manner hereinafter provided for, be added to that described above, then the term “district” shall thereafter mean all land which shall from time to time be subjected to the terms of this agreement, including any further modifications thereof. The term “improved property” as used herein, shall be deemed to mean a single tract under a single ownership and use, and on which tract a residence has been erected or is in the process of erection or on which any other building not in violation of the restrictions then of record thereof is erected or is in the process of erection. Any such tract may consist of one or more contiguous lots or part or parts thereof. Any other land covered by this agreement shall be deemed to be vacant and unimproved.

The term “public places” as used herein shall be deemed to mean all streets.

The term “owners” as herein used shall mean those persons or Corporations who may from time to time own the land within the district.

#### PERSONS BOUND BY THESE RESTRICTIONS:

All persons and corporations who or which may own or shall hereafter acquire any interest in the above-described lots hereby restricted shall be taken to hold and agree and covenant with the owner of said lots, and with their successors and assigns, to conform to and observe the following covenants, restrictions, and stipulations as to the use thereof and the construction of residence and improvements thereon for a period of time ending on December 31, 2008,

provided, however, that each of said restrictions shall be renewable in the manner hereinafter set forth.

These covenants are to run with the land and shall be binding on all owners within this subdivision and their heirs and assigns and all persons claiming under them until 2008, and shall be automatically continued thereafter for successive periods of twenty (20) years each, unless the owners of the fee title to the majority of said lots shall by resolution at a special meeting called for that purpose upon mailed notices to all such owners, release, change or alter any or all of the said restrictions at the end of any such twenty (20) year period at least two (2) years prior to said expiration. The following restrictions or protective covenants shall be kept by all persons owning, occupying or using said land and may be enforced by injunction, mandatory or otherwise.

If the party herewith, or any of its assigns, shall violate or attempt to violate any covenants herein, it shall be lawful for any other person or persons owning any real estate in Westlake to prosecute any proceedings of law or equity against the person or persons violating or attempting to violate any such covenants and either prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one of these restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

1. No lot in Westlake so subdivided in lots by the owner herein shall be used except for residential one-family residences. No building shall erected, altered, placed, or permitted to remain on any lot, other than one detached single family dwelling not to exceed three (3) stories in height and an attached private garage for not less than two cars.

2. No lot shall be in any way subdivided. No building shall be erected, placed or altered on any lot until construction plans and specifications and a plan showing the location of the structure have been approved in writing by the Architectural Control Committee as to quality of workmanship and materials, exterior color, roof composition, harmony of external design with existing structures and landscape, and as to location with respect to topography and finished grade elevation. No fence or wall shall be erected, placed or altered without the

prior approval of the Architectural Control Committee. Approval shall be as provided in paragraphs 2A and 2B herein.

- A. The Architectural Control Committee will be composed of the Board of Directors, then current of the WESTLAKE HOMES ASSOCIATION. Until such time that there exists a Board of Directors of the Westlake Homes Association, the developer and his associates will act as the Architectural Committee. A representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.
- B. It is expressly agreed that the Architectural Control Committee referred to in (A) above shall have control over completed homes whose owners are members of the WESTLAKE HOMES ASSOCIATION at or after the recording of this Declaration of Restrictions; exclusive control of new homes to be constructed after the date of the filing of these Declarations shall be vested solely in developer, until such time as the homes are sold and the owners thereof become subject to these Declarations of Restrictions and homeowner's declarations at which time said homes will then become subject to the Architectural Control Committee.
- C. No fencing shall be permitted upon any of the lots unless fencing shall be approved by the Architectural Committee. No fencing shall be allowed which impairs or impedes the use of easements as shown on the plat of Westlake. All fencing shall be built with materials which harmonize with external design of buildings in the Westlake subdivision.
- D. All constructed houses shall have external driveways consisting exclusively of properly constructed concrete or asphalt surfaces; all lots, regardless of house location thereon, shall be fully sodded provided, however, no sodding shall be required where, in the opinion of the Architectural Control

Committee soil, lighting or topographical conditions would make sodding impractical or unreasonably expensive, and provided further that no duty to clear any tract of trees, bushes, shrubs or natural growths which are kept reasonably attractive shall be implied.

- E. All lots to be used for one family residence only.
- F. The above lots, may be improved, used or occupied for private residence, and no flat or apartment house though intended for residential purposes, may be erected thereon.
- G. No residence shall be more than three stories in front, except that split-level construction shall be permitted.
- H. No trailer, basement, tent, shack, garage, barn or other outbuildings shall at any time be used as a residence, temporarily or permanently, nor shall any residence of temporary character be permitted.
- I. No dwelling or residence shall be occupied until fully completed, except for exterior painting and minor trim details, 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 damaged condition longer than three (3) months.
- J. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose, and further provided that not more than (3) dogs or three (3) cats or three (3) other household pets shall be kept on any residence lot, and dogs shall be kept in fenced areas when outside.
- K. No school buses, autos, campers, camper-trailers, recreational vehicles, tractors or trucks shall be parked at the curb for more

than forty-eight (48) hours at any one time. No major repair work shall be done on any car, truck, trailer or other vehicle while parked outside the garage or in the street. No cars, buses, boats, trucks, race cars, wrecked cars, modified stock cars, trailers, or vehicles that are not in operating condition or whose presence might make an unsightly appearance or create a nuisance or be a hazard to life or health shall be allowed to be parked or left on any lot or at the curb for more than forty-eight (48) hours. No trash, old appliances, junk or other refuse shall be allowed to accumulate on any lot in the subdivision.

- L. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Outside trash burning shall be prohibited, except on lots that have residence under construction. Outside clothes-lines shall be prohibited, except for removable umbrella type, which shall be at rear within ten (10) feet of rear of house.
- M. No basketball goals, radio or television aerial wire antenna or antenna tower shall be maintained outside of any structure, unless approved by the Architectural Control Committee.
- N. No tanks for the storage of oil or other fluids may be maintained on any portion of the premises above the surface of ground, except when deemed necessary by the owner, subject the exclusive approval of Architectural Control Committee which shall be a prerequisite to the permissible construction of said tanks.
- O. No trash, ashes, or other refuse shall be thrown or dumped upon any undeveloped portion of said land.
- P. Lawns shall kept in good condition as soil, climate and other natural conditions permit, and grass shall not be permitted to create an unsightly appearance; all lawn ornaments shall be subject to the approval of the Architectural Control Committee.

Q. All property owners or property subject to the restrictions herein set forth may construct, for their personal use, one in-ground swimming pool upon first obtaining written approval from the Architectural Control Committee; said owners of property subject hereto shall further be allowed to construct a property designed tennis court without prior committee approval, however, if lighting is constructed for nighttime use of said tennis courts, all lights shall be extinguished no later than 10:00 p.m. Further, no use of any of the land subject hereto shall constitute nuisance use which would interfere or tend to interfere with the adjoining property owners' reasonable enjoyment of the use and benefit of their property.

3. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side, or rear of each tract herein conveyed. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage interfere with the installation and maintenance of utilities, or which may change the direction of flow of 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 the tract, except for those improvements for which a public authority or utility company is responsible.

4. All residences shall have a total finished floor area of not less than 1,400 square feet.

5. All residences shall be required to have at least a two (2) car garage, and minimum size of garage shall be 17' x 20'. Garages which attached or those which are located as to appear to be attached will be permitted.

6. No noxious or offensive trade or activity shall be carried upon any tract nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

7. No structure shall be moved into said property and no outbuilding shall be erected without the prior approval of the Architectural Committee.

8. It is agreed that if the owner of any vacant lot fails or refuses to cut weeds or brush from the cleared portions of the property, then the Architectural Committee shall have authorization to do so and the cost thereof shall be taxed as a lien against the property.

OPTION TO EXCLUDE APPLICABILITY OF THE TERMS AND  
CONDITIONS OF THE FOREGOING AGREEMENT BY THE  
WESTLAKE HOMES ASSOCIATION, INC., AND  
DECLARATION  
OF RESTRICTIONS TO CERTAIN REAL PROPERTY TO WHICH  
SAID AGREEMENT APPLIES

All of the parties hereto expressly agree and stipulate that the legal owner of all the land described above, said owner being Construction Management Copmany, Inc., shall have the power to waive any or all of the restrictions or covenants contained herein as to property, remaining undeveloped and/or under the said ownership of Construction Management Company, Inc.

CONSTRUCTION MANAGEMENT COMPANY, INC.

Signed by:

L.E. Townsend, Jr., President

Attest:

Signed by:

Frank V. Reuter, Secretary

STATE OF KANSAS , WYANDOTTE COUNTY, SS.:

BE IT REMEMBERED, that on this 3rd day of June, 1988, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came L.E. Townsend, Jr.. President and Frank V. Reuter, Secretary of CONSTRUCTION MANAGEMEST COMPANY, INC., a corporation duly organized. incorporated and existing under and by virtue of the laws of Kansas, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed



my official seal, the day and year last above written.

Signed by: Mary Ann Gripka  
Notary

Public

HOME OWNERS' ASSOCIATION DECLARATION  
WESTLAKE

THIS DECLARATION, made this 3rd day of June, 1988, by CONSTRUCTION MANAGEMENT COMPANY, INC., (hereinafter referred to as "Developer"),

WHEREAS, the Developer is the owner of:

ALL of Lots 1 through 40, WESTLAKE FIRST PLAT, a subdivision in Wyandotte County, Kansas, as shown on the plat of WESTLAKE FIRST PLAT, a residential subdivision in Wyandotte County, Kansas, which plat was recorded on the 5<sup>th</sup> day of April, 1988, in the office of the Register of Deeds of Wyandotte County, Kansas, as pages 35 of Plat Book 36; and

WHEREAS, the Developer is now developing the above described land and desires to create and maintain a residential neighborhood possessing features of more than ordinary value to a residential community.

NOW, THEREFORE, in order to assist them and their grantees in providing the means necessary to bring about the development of the above-described land, the Developer does now and hereby subjects all of the lots and tracts located in WESTLAKE as shown on the recorded plat thereof, to the covenants, charges and assessments set forth and contained in this Declaration, subject, however, to the limitations hereinafter specified.

DEFINITIONS OF TERMS USED

The term "District" as used in this Declaration shall mean, unless and until extended as hereinafter Provided, all of the lots enumerated above as shown on said plat of Westlake. The term "Lot", as used herein, shall mean any numbered lot as platted, which may consist of one or more numbered lots or parts or parts of one or more numbered lots, as platted, upon which a residence may be erected in accordance with the "Restrictions" hereinafter defined. The term "Association" shall mean and refer to the Westlake Homes Association. The term "Public Place" as used herein shall be deemed to mean all streets and similar places the use of which is expressly dedicated to or set aside for the use of general public on said plat. The term "Common Areas" as used herein shall be deemed to mean any tract, designated by letter of the English alphabet, located within the District as it exists from time to time, which tracts shall be owned, managed and maintained by the Westlake Homes Association for the use, benefit and enjoyment of the present and future owners of land within the District. The term "Owners" as used herein shall mean those person or corporations who may from time to time own the land within the District. The term "Restrictions" as used herein shall specifically include those contained in the "Declaration of Restrictions" of Westlake filed in the office of the Register of Deeds, Wyandotte County, Kansas, on June 6, 1988, beginning at Page 758 of Volume 3298, and all amendments thereto.

## SECTION 1. MEMBERSHIP IN ASSOCIATION

The Owners of all of the land hereinabove described, together with the owners of any other land that may from time to time be made subject to all the terms and provisions of this Declaration in the manner hereinafter provided for, shall be the members of an association which by this Declaration is hereby created and established, to be known as WESTLAKE HOMES ASSOCIATION". The Association may be Incorporated under the laws of the State of Kansas as corporation not for profit. Membership in the Association shall be limited to the Owners of land within the boundaries of the District as it exists from time to time.

## SECTION 2. VOTING RIGHTS

The Westlake Homes Association shall have two (2) classes of voting membership, as follows:

(1) Class A. Each Owner, with the exception of the Developer, of a Lot in WESTLAKE, First Plat, a subdivision in Wyandotte County, Kansas, shall be a Class A member. Each Class A member shall be entitled to one vote for each Lot owned by him, her or it in fee simple title. When more than one person holds such interest in any Lot, all such persona shall be members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

(2) Class B. The Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each Lot within the District owned by it in fee simple title.

The voting rights of Class A members shall be suspended for any period during which any assessment, including interest and fees, against his, her or its Lot remains unpaid.

(3) The Association shall have the right to charge reasonable fees and determine rules for the use of any recreational facility located with a Common Area.

(4) At any regular or special meeting of the Association, members may cast their vote in person or by proxy.

(5) Except as hereinbefore provided, the Association shall be the sole judge of the qualification of its members and of their rights to participate in its meetings and proceedings.

## SECTION 3. LAND ENTITLED TO BENEFITS

No land shall be entitled any of the benefits, improvements or services provided by this Association unless the owner thereof shall have subjected his, her or its land to the terms of this Declaration and to the assessments herein provided for.

## SECTION 4. OTHER LANDS - HOW THEY MAY DE ADDED

Construction Management Company, Inc., or the Association, upon approval by 75% of its members, may from time to time add to the District such land as now or hereinafter owned or approved for addition by it, provided that the land so added to the District shall at that time be bound by all of the terms of this Declaration and all amendments thereto.

## SECTION 5. USE OF COMMON AREAS

The Owners of land Within the District shall have the exclusive right the use of all Common Areas within the District as it from time to time exists.

The WESTLAKE HOMES ASSOCIATION shall have the right and the power to make reasonable rules and regulations which shall govern the use of the said Common Areas.

## SECTION 6. POWERS AND DUTIES OF THE ASSOCIATION

(1) The Association shall have the following powers and mandatory duties:

(a) To care for, spray, trim, protect, replace and replant trees, shrubbery, bushes, flowers, grass and sod along all streets in other public places where trees shrubbery, bushes, flowers, grass and sod have once been planted or located; and to care, spray, trim, protect, place, replace, plant and replant trees, shrubbery, bushes, flowers, grass and sod in the common areas set aside for the exclusive use of the Owners in the District.

(b) To provide, maintain, protect and, when necessary, design, construct, reconstruct and replace protective lighting within the District when adequate service of that type is not available from any public source.

(c) To provide for the maintenance of any gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected created in said District in any public street or park, or on any land set aside for the exclusive use of the Owners in the District; and also to provide for the maintenance of any streams or natural water-courses within the District.

(d) To provide for the operation and maintenance of and also to establish and enforce rules for the exclusive use by the members of any lakes, tennis courts, swimming pools, playgrounds, beach areas, green areas and parking areas which now exist or which may hereinafter be included, created erected in the Common Areas within said District.

(e) To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by and to pay such taxes as may be assessed against land in the semipublic places or common areas within the District.

(f) To enforce, either in its own name or in the name of any Owner within the District, any or a ll building restrictions which may have been heretofore or may hereafter be imposed upon any of the land in such District, 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, contract, 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, whoever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association 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.

(g) To manage and control as trustee for its members all improvements, including storm water improvements, located upon common areas in the District, 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 land within the District is located.

(h) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the District neat in appearance and in good order.

(i) To exercise control over such easements as it may acquire from time to time.

(j) To provide for the collection and disposal of rubbish and garbage, when adequate services of that type are not available from any public source.

(k) To levy and collect the assessments which are provided for in this Declaration.

(2) The Association shall have the following additional powers and duties which it may exercise and perform whenever in its discretion it may deem it necessary or desirable, to-wit:

(a) To provide for the plowing and removal of snow from sidewalks and streets, when such services are not available from any public source.

(b) To provide such lights as the Association 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.

- (c) To provide for the cleaning of streets, gutters, catch basins and sidewalks and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.
- (d) To erect and maintain signs for the marking of streets, and safety signs for the protection of children and other persons, when such signs are not available from any public source.
- (e) To employ duly qualified peace officers for the purpose of providing such notice protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

## SECTION 7. METHOD OF PROVIDING GENERAL FUNDS

(1) For the purpose of providing a general fund to enable the Association to exercise the powers and maintain the improvements and render the services herein provided for each Lot within the District, owned by a Class A member upon which a dwelling has been erected and is then or has been at any time theretofore occupied as residence, shall be subject to an annual general fund assessment which may be levied by the Association from year to year, which assessment shall be paid to the Association annually or at such other times as the Association may determine in advance by such respective class A member. The Association may from year to year fix and determine the total amount required in this general fund and may levy and collect an annual assessment not exceeding Fifty Dollars (\$50.00) for each Lot owned by a Class A member upon which a dwelling has been erected and is then or has been any time theretofore occupied as a residence; that in respect to the year in which a dwelling constructed on any certain Lot covered by this Declaration, the assessment shall be for the full amount of the dues for such year, without proration.

(2) The maximum annual assessment upon each Lot as aforesaid may be increased on all the Lots in the District by an amount not exceeding twenty-five percent (25%) of the original maximum annual assessment which the Association may levy against such Lot and collect from year to year, provided that at a meeting of the members specially called for that purpose, prior to the date upon which the assessment is levied for the year for which such increase is proposed, a majority vote of the total votes of the Class A and Class B members present in person or by proxy at such meeting authorize such an increase by an affirmative vote therefor; and provided further, that the maximum annual assessment upon each Lot as aforesaid may be increased on all the Lots in the District by an amount not exceeding two hundred percent (200%) of the said original maximum annual assessment applicable to said Lot, provided that at a meeting of the members specially called for that purpose, prior to the date on which the assessment is levied for the year for which such increase is proposed, seventy-five percent (75%) of the total votes of the Class A and Class B members present in person or by proxy at such meeting may authorize such an increase by an affirmative vote therefor.

(3) Unless the increases provided for in paragraph (2) of this Section 7 are specifically limited by the resolutions in which they are contained to be for a specified period, they shall continue to be effective until rescinded by the Association, at a meeting specially called for such purpose, by an affirmative vote of seventy-five percent (75%) of the members present or by action taken under the terms of paragraph (4) of this Section 7 and in either such event the rescission shall be effective commencing on the first day of the next succeeding year.

(4) Whenever the Association may deem it advisable to submit to the members a proposal under paragraph (2) of this Section 7 increasing or decreasing the permissible maximum amount of the annual assessments, shall notify the members of the Association by mailing to such members at the last known address, United States postage prepaid thereon, a notice of such meeting, giving the time and place at which it is to be held and the fact that an increase or decrease in the amount of the annual assessment is to be voted upon at such meeting; such notice must be deposited in the United States mail at a post office within twenty (20) miles of Olathe, Kansas not less than fifteen (15) days prior to the date of such special meeting.

(5) The first assessment shall be for the calendar year beginning January 1, 1989, and shall be by the Association fixed at a meeting called for such purpose during the calendar year 1989, and shall be due and payable thirty (30) days after such meeting; future assessments shall be due and payable on January 1st of each year thereafter. Within fifteen (15) days from the levying of each assessment, the Association shall notify all Owners of accessible Lots whose addresses are listed with the Association of the amount of such assessment. Failure of the Association to levy the assessment prior to January 1st of each year for the next succeeding fiscal year beginning on January 1st shall invalidate any such assessment subsequently made for that particular years nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. Then the assessment is levied subsequent to the 1st day of December which proceeds such fiscal year then such assessment shall become due and payable not later than thirty (30) days from the date of levying the assessment. The Association may elect to permit collections in monthly, quarterly or semi-annual payments in lieu of the annual payments provided for herein.

(6) A written or printed notice, deposited in the United States Post Office, with postage prepaid thereon, and addressed to the respective Owners at the last address listed with the Association, shall be deemed to be sufficient and proper notice for these purposes, or for any other purpose of this Declaration where notices are required, unless otherwise provided herein.

(7) The Owner of each Lot subject to an annual assessment as herein provided in paragraph (1) this Section 7 shall by acceptance of a Deed to such Lot be taken to have agreed and does by these presents agree to pay to the Association all assessments placed against such Lot in accordance herewith, and said Association is hereby granted the power to proceed against such Owner personally for the collection of said assessments,

said right to be in addition to and not to be construed as a limitation upon remedies and rights of said Association otherwise herein granted.

#### SECTION 8. LIEN ON REAL ESTATE

(1) The assessment provided for herein shall become a lien on the real estate against which it is levied as soon as it is 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 said real estate. In the event of the failure of any owner to pay the assessment within thirty (30) days from the date same is levied, then such assessment, from the thirtieth (30) day after it has been levied shall bear interest at the maximum rate of interest then allowed in Kansas on mortgage notes.

(2) Within thirty (30) days from the date of levying the assessment for the calendar year during which and for which the assessment is levied, the assessment shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate, in proceedings in any court in Wyandotte County, Kansas, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of nonpayment of assessments the office of the Register of Deeds whenever any assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the Owner or Owners of the property described therein a fee of One Hundred Fifty Dollars (\$150.00), which fee is hereby declared to be a lien upon the real estate so described in said certificate, in addition to the amount of delinquent dues, provided that such 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 be collectable the same manner the original assessments provided for herein and in addition to the interest and principal due thereon.

(3) Such liens shall continue for a period of five (5) years from the date of delinquency and no longer, unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment establishing same.

#### SECTION 9. EXPENDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR

The Association shall at no time expend more money within any calendar year than the total amount of the assessment for that particular year plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the Association except for contracts for utilities, it being the intention that the assessments for each year shall be applied as far



as practicable toward payment of the obligations of that year, and that the Association shall have no power to make a contract affecting the assessment of any future or subsequent year except for utilities.

#### SECTION 10. ASSOCIATION TO NOTIFY MEMBERS OF ADDRESS

The Association shall notify all Owners of land in the District as it may exist from time to time, insofar as the addresses of such Owners are listed with said Association, of the official address of said Association, the place and time of the regular meetings of the Association, and the place where payments shall be made and any other business in connection with said Association may be transacted, and in the case of any change of such address the Association shall notify all the Owners of the land within the District, insofar as their addresses are listed with the Association, of the new address.

#### SECTION 11. TEMPORARY TRUSTEE

Prior to the actual organization incorporation the Association contemplated by terms of this Declaration, the Developer shall have the right at their option to perform the duties, assume the obligations, levy and collect the assessments, and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such powers and duties were hereby given directly to the Developer. The Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the consent of the Developer and its relinquishment in writing of its rights as temporary Trustee. The developer may, by appropriate agreement made expressly for that purpose, assign or convey to any person or corporation all of the rights, reservations and privileges reserved by it in this Section 11, and upon such assignment or conveyance being made, their assigns or grantees may, at their option, exercise, transfer or assign such rights at any time or times, in the same way and manner as though directly reserved by them or it, in this instrument.

#### SECTION 12. TO OBSERVE ALL LAWS

Said Association shall at all times observe all State, County, City and other laws, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other part of this declaration not in conflict therewith shall be affected thereby. The Association shall have the right to make such reasonable rules and regulations, and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration, subject, however, to the limitation of its rights to contract as are herein provided for.

#### SECTION 13. AMENDMENT

By written consent Owners of seventy-five percent (75%) of the Lots within the District, evidenced by a Declaration duly executed and acknowledged by such Owners and recorded in the office of the Register of Deeds of Wyandotte County, Kansas, this instrument may be modified and amended, provided, however, that no right to exceed the maximum annual assessment herein provided for may be given.

#### SECTION 14. HOW TERMINATED

This Declaration may be terminated, and all of the land now or hereafter affected may be released from all of the terms and provisions thereof, by the Owners of seventy-five percent (75%) of the area then subject thereto, executing and acknowledging an appropriate agreement or agreements for that purpose and filing the same for record the Office of the Register of Deeds Wyandotte County, Kansas.

#### SECTION 15. COVENANTS RUNNING WITH THE LAND

All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding upon the Developer and upon their successors and assigns.

#### SECTION. 16. COMMENCEMENT OF ASSOCIATION'S RIGHT, POWERS AND DUTIES

The Association shall have none of the powers and rights enumerated above, nor shall it have the duties placed upon it herein until a minimum of \_\_\_\_\_(\_\_\_\_\_) lots are sold by Developer and houses constructed thereon; until said minimum number of lots sold and developed aforesaid, the Developer shall have such rights, powers and duties as it deems reasonably necessary keeping within the spirit of the restrictions hereinbefore described.

IN WITNESS WHEREOF, the Developer has executed this instrument this 3<sup>rd</sup> day of June, 1988.

CONSTRUCTION MANAGEMENT COMPANY,  
Inc., a corporation

Signed by: L.E. TOWNSEND, JR., President

(SEAL)

ATTEST:

Signed by: Frank V. Reuter, Secretary

Notarized by: Mary Ann Gripka