

HOMES ASSOCIATION DECLARATION

THIS DECLARATION, Made on this 27th day of September 1985, by J. C. Nichols Company, a Missouri corporation of Kansas City, Jackson County, Missouri.

WITNESSETH: That,

WHEREAS, J. C. Nichols Company is the owner of all the lots shown on the plat of Woodsonia, a subdivision of land in the City of Shawnee, in Johnson County, Kansas, filed for a record on August 29, 1985, in the Office of the Register of Deeds of Johnson County, Kansas, and recorded in Book 60 of Plats, at Page 15; and

WHEREAS J. C. Nichols company is now developing said Woodsonia for residence purposes and it is its desire to create and maintain a residential neighborhood possessing features of more than ordinary value.

NOW, THEREFOR, to provide the means necessary to achieve such purpose, J. C. Nichols Company does now and hereby subject Lots 1 to 4, both inclusive, and Lots 9 to 12, both inclusive, in Block 1 and Lots 1 to 4, both inclusive, and Lots 39 to 42, both inclusive, in Block 2 of Woodsonia, as shown on the aforesaid plat, to the covenants, charges and assessments set forth, contained and provided for in this Declaration.

DEFINITIONS OF TERMS USED.

The term "district" as used in this Declaration shall mean all of the lots enumerated above and shown on the aforesaid plat of Woodsonia, together with all other land which shall from time to time be subjected to the terms of this Declaration. The term "improved property", as used herein, shall be deemed to mean a single tract of land under a single ownership and use, on which a residence or other structure not in violation of the recorded restrictions has been or is being erected; and such tract may consist of one or more contiguous lots or part or parts thereof. Any other land covered by this Declaration shall be deemed to be vacant and unimproved. The term "public place" as used herein shall be deemed to mean all streets, all parks at street intersections or elsewhere, and all similar places the use of which is dedicated to or set aside for the use of the general public, or for the general use of all of the owners within the district, or which may, with appropriate consent, be used by all of the owners of the district. The term "owners" as used herein shall mean those persons or corporations who may from time to time own the land within the district.

SECTION 1. MEMBERSHIP IN ASSOCIATION.

The owners of all the Lots 1 to 4, both inclusive, and Lots 9 to 12, both inclusive, in Block 1, and Lots 1 to 4, both inclusive, and Lots 39 to 42, both inclusive, in Block 2, of Woodsonia, as shown on the recorded plat thereof, together with the owners of any other land which may from time to time be made subject to all of the terms and provisions of this Declaration in the Manner hereinafter provided for, shall be the members of an Association, which is hereby created and established, to be known as the WOODSONIA HOMES ASSOCIATION. The Association shall be incorporated under the laws of the State of Kansas as a corporation not organized for profit. Membership in the Association shall be limited to the orders of land within the boundaries of the district as it exists from time to time. The Association

shall be the sole judge of the qualifications of its members and of their right to participate in its meetings and proceedings.

SECTION 2. LAND ENTITLED TO BENEFITS.

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

SECTION 3. OTHER LAND – HOW THEY MAY BE ADDED.

J. C. Nichols Company may from time to time add to the district such land as is now or hereafter owned or approved for addition by said Company, provided that land so added to the district shall at that time be bound by all of the terms of this Declaration and any future modifications thereof, except that in the addition to the district of land owned by a church and used for church purposes or land devoted to park purposes, J. C. Nichols Company shall have the right to provide that such land shall not be obligated to pay the assessments herein provided for so long as it is used for such purposes. The Association may unite or combine with any other association similarly organized, operation on a similar basis, and having jurisdiction of land lying within Johnson County, Kansas.

SECTION 4. POWERS AND DUTIES OF THE ASSOCIATION.

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

(1) To enforce, either in its own name or in the name of any owner within the district, any and all restrictions which have been or hereafter may be imposed upon any of the land in the district, either as originally place thereon or as modified subsequently. This right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right so to do under the terms of the deeds, declarations, contracts or plats in which such restrictions and 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 costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for. 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.

(2) To manage and control as Trustee for its members all public improvements upon and to the land in the district, or improvements in public places, provided that such management and control of said improvements shall at all time be subject to that had and exercised by an City, Township, County and State in which land within the district is located.

(3) To provide for collection and disposal of rubbish and garbage.

(4) To care for, spray, trim, protect and replant trees on all streets and in other public places in the district; to care for, protect and replant shrubbery, resow grass, and replace sod in parks which are in streets and in any parks set aside for general use of owners in the district, or to which such owners have access and the use thereof, or on landscaped easements where the maintenance thereof is for the welfare and benefit of the entire district in the judgment of the Board of Directors.

(5) 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.

(6) To provide for plowing and removal of snow from sidewalks and streets.

(7) To provide for maintenance of any pedestrian ways, gateways, entrances, fountains, gardens, pools, lighting, water sprinkling systems, landscaped areas within public rights-of-way and platted landscape easements, fences and ornamental features now existing or which may hereafter be erected or created in said district in any public street or park or on any land set aside for the general use of owners in the district.

(8) To provide for maintenance and upkeep of any streams and natural water-courses within the district.

(9) To provide such lights as the Association may deem advisable on streets, parks, parkings, pedestrian ways, gateways, entrances or other features, and in other public or semi-public places.

(10) To provide for cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways, and for repair and maintenance of storm sewers and appurtenant drainage facilities.

(11) To erect and maintain signs for marking of streets, and safety signs for protection of children and other persons, after such signs are approved by appropriate public authorities.

(12) To employ duly qualified officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

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

(14) To acquire and own title to such real estate as may be reasonable necessary in order to carry out the purpose of the Association and promote the health, safety, welfare and recreation of owners in the district; to pay taxes on real estate and facilities owned by it; and to pay such taxes as may be assessed against land in public or semi-public places within the district.

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

SECTION 5. METHOD OF PROVIDING GENERAL FUNDS.

(1) For the purpose of providing a general fund to enable the Association to exercise the powers, maintain the improvements and render the services herein provided for, all land within the boundaries of the district as now or hereafter constituted, within 200 feet of any paved street open to vehicular travel, shall be subject to an annual assessment which may be levied by the Association from year to year and shall be paid to the Association annually in advance by the respective owners of the assessable land subject thereto. The Association may from year to year fix and determine the total amount required in its general fund and may levy and collect an initial annual assessment not exceeding \$75.00 for each lot within the district as now or hereafter established. If any lot or lots be divided or combined into one or more building sites, each of which building sites shall be for a single residence and may consist of a part or parts of one or more lots as platted, then for the purpose of levying this assessment each of such building sites shall constitute one assessment unit and shall be liable for each annual assessment in the same way and manner as one platted lot under a single ownership. All building sites, consisting of either platted or unplatted land, which are now or may hereafter become a part of the

district as herein provided for, shall be at least of such size as will under the restrictions of record, if any there be, permit the erection of a residence thereon. For the purpose of levying this assessment the Association shall be the sole judge as to what may from time to time constitute a building site under the provisions of this paragraph.

(2) The annual assessment upon each lot or building site as aforesaid may be increased by an amount not exceeding the one hundred (100) per cent of the \$75.00 maximum annual assessment which the Association may levy and collect from year to year, provided that at a meeting of the members specially called from that purpose and held prior to the date on which the assessment is levied for the year for which such increase is proposed, a majority of the members present at such meeting authorize such an increase by an affirmative vote therefor; and provided, further, that the annual assessment upon each lot or building site as aforesaid may be increased by an amount not exceeding two hundred (200) per cent of the said \$75.00 maximum annual assessment, provided that at a meeting of the members specially called for that purpose and held prior to the date on which the assessment is levied for the year for which such increase is proposed, three-fourths of the members present at such meeting authorize such an increase by an affirmative vote therefor. Whenever the Association may deem it advisable to submit to the members a proposal for increasing the amount of the annual assessment for a particular year, it shall notify the members of the Association of the time and place at which the meeting is to be held and the fact that an increase in the amount of the annual assessment is to be voted upon at such meeting. No increase in the amount of the annual assessment may be made for more than one (1) year at a time.

(3) The first assessment shall be for the fiscal year beginning January 1, 1986, and it shall be fixed and levied prior to that date and shall be payable on that date, and thereafter it shall be due and payable on January 1 of each year. It will be the duty of the Association to notify each owner whose address is listed with the Association on or before the date when an assessment is due, giving the amount of the assessment on each tract of land owned by him, the date when such assessment is due and the place where that payment may be made. Failure of the Association to levy the assessment prior to January 1 of any year for the next succeeding fiscal year shall not invalidate any later assessment made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to January 1 of any year it shall become due and payable not later than thirty days from the date of levying the assessment. Prior to the first assessment hereinabove provided for, if the Trustee shall deem it necessary for the purpose of carrying out the terms of this Declaration, it shall have the right to make a partial assessment within the limits herein provided for, and on a pro rate basis, for the period of time ending December 31, 1985. Thereafter all assessments shall be made annually as herein provided.

(4) A written or printed notice, deposited in the United States Post Office, with postage thereon prepaid, 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.

SECTION 6. LIEN ON REAL ESTATE.

(1) The assessment 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 and subordinate to the lien of any valid first mortgage which may hereafter be placed on said real estate securing payment of a loan which is insured or guaranteed by any agency of the United State Government. In

event of failure of any owner to pay an assessment on or before the first day of February following the levy, such assessment shall bear interest at the rate of ten (10) per cent per annum from the first day of January, but if the assessment is paid before February 1, or within thirty (30) days from the date of that assessment if the assessment is levied subsequent to January 1 for the fiscal year beginning January 1, then no interest shall be charged.

(2) On or after February 1 of each year, beginning February 1, 1986, or within thirty (30) days from the date of levying the assessment for the fiscal year during which and for which the assessment is levied, the assessment shall become delinquent and payment of both principal and interest, together with a costs of collection thereof, may be enforced as a lien on said real estate in proceedings in any court in Johnson 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 expiration thereof. The Association may at its discretion file certificates on nonpayment of assessments in the Office of the Register of Deeds whenever any such assessments are delinquent. For each certificate so filled the Association shall be entitled to collect from the owner or owners of the property described therein a fee equal to the then current fee charge for the filing of documents and certificates relative to the nonpayment of assessments or the release of the same, which fee is hereby declared to be a lien upon the real estate described in said certificate, provided that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing which may hereafter be placed on said real estate securing payment of a loan which is insured or guaranteed by any agency of the United States Government. Such fee shall be collectible in the same manner as 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 collection of the assessment, in which case the lien shall continue until termination of the suit and until sale of the property under execution of the judgment establishing same.

SECTION 7. EXPENBDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR.

The Association shall at no time expend or agree to expend more money within any one fiscal year than the total amount of the assessments which are properly and lawfully levied for that particular year, plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract 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 assessment for each year shall be applied as far as practicable toward payment of obligations of that year, and that the Association shall have no power to make a contract affecting the assessment of any future of subsequent year except for utilities.

SECTION 8. 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, time and purposes of the regular and special meetings of the Association, and the place where payments shall be made and 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 in the district, insofar as their addresses are listed with the Association, of the new address.

SECTION 9. TEMPORAY TRUSTEE

Prior to actual organization or incorporation of the Association contemplated by the terms of this Declaration, J.C. Nichols Company as Temporary Trustee for the Association shall have the right at its 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 herein given directly to J. C. Nichols Company. The Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the consent of J. C. Nichols Company and its relinquishment of its rights as temporary trustee.

SECTION 10. TO OBSERVE ALL LAWS - CONFLICTS.

Said Association shall at all times observe all State, County, City and other laws, and if at any time any provision of this Declaration shall be found to be in conflict therewith then such parts of this Declaration shall be deemed to be 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 limitations on its rights to contract as are herein stipulated.

SECTION 11. AMENDMENT.

By written consent of the owners of two-thirds of the area of the land within the district as then constituted, evidenced by a Declaration duly executed and acknowledged by such owners and recorded in the office of the Register of Deeds of Johnson 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 12. HOW TERMINATED.

This Declaration may be terminated and all of the land now or hereafter affected may be released from all of the terms, provisions and obligations herein set forth and contained, by the owners of three-fourths of the area then subject thereto executing and acknowledging an appropriate agreement or agreements and filing the same for record in the office of the Register of Deeds of Johnson County, Kansas.

SECTION 13. 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 J. C. Nichols Company, and upon its successors, assigns and grantees.

IN WITNESS WHEREOF, J. C. Nichols Company, by authority of its Board of Directors, has caused this instrument to be executed by its Vice President, and its corporate seal to be hereto affixed, the day and year first above written.

J.C. NICHOLS COMPANY

By Clarence L. Roeder, Vice President