

WINDHAM PARK
AMENDED DECLARATION OF RESTRICTIONS

This Amended Declaration of Restrictions ("Declaration") is made this ____ day of _____, 2008 by and among the persons who have consented to this document in their capacities as owners of record of the lots described below (collectively the "Owners" identified in Exhibit B).

RECITALS

WHEREAS, 131 Antioch, a Kansas Limited Partnership , was the developer (hereafter "Developer") of the residential subdivision in the City of Overland Park, Johnson County, Kansas commonly known as "WINDHAM PARK;" and

WHEREAS, on August 21, 1990 the developer filed a certain Home Owners Declaration dated August 20, 1990 recorded in Volume 3225, at page 9, et. seq. in the records of the Register of Deeds of Johnson County, Kansas; and

WHEREAS, on August 21, 1990 the Developer filed a certain Declaration of Restrictions for Southwind of Windham Park dated August 21, 1990 and recorded in Volume 3225, at page 1, et. seq. in the records of the Register of Deeds of Johnson County, Kansas ("Restrictions").

WHEREAS, the Developer annexed additional residential lots into the subdivision by recording the following: (collectively referred to as Additional Restrictions);

Declaration of Restrictions and Home Owners Association Declaration for Bridgestone of Windham Park, Third Plat, dated October 1, 1991 and recorded on October 14, 1991 at Volume 3440, beginning at page 979;

Declaration of Restrictions and Home Owners Association Declaration for Bridgestone of Windham Park, Fourth Plat, dated January 21, 1992 and recorded on February 12, 1992 at Volume 3516 beginning at page 975;

Declaration of Restriction and Home Owners Association Declaration for Southwind of Windham Park, Second Plat, dated April 3, 1991 and recorded on April 8, 1991 at volume 3329 beginning at page 435; and

Declaration of Restrictions and Home Owners Association Declaration for Southwind of Windham Park, Fourth Plat, dated October 1, 1991 and recorded on October 11, 1991 at volume 3440 beginning at page 985; and

Declaration of Restrictions and Home Owners Association Declaration for Terrace Place of Windham Park, Plat, dated October 1, 1991 and recorded on October 14, 1991 at volume 3440 beginning at page 982; and

Declaration of Restrictions and Home Owners Association Declaration for Bridgestone of Windham Park, Second Plat, dated April 3, 1991 and recorded on April 8, 1991 at volume 3329 beginning at page 437;

Declaration of Restrictions and Home Owners Association Declaration for Southwind of Windham Park, Sixth Plat, dated January 22, 1992 and recorded on August 6, 1992 at volume 3670 beginning at page 590;

Declaration of Restrictions and Home Owners Association Declaration for Bridgestone of Windham Park, First Plat, dated October 30, 1990 and recorded on November 7, 1990 at volume 3261 beginning at page 802;

WHEREAS, the Restrictions and Additional Restrictions place certain obligations and restrictions upon the residential lots (the "Lots") described in Exhibit A, all of which were for the use and benefit of the developer and for its future grantees and assigns; and

WHEREAS, the Owners of the Lots desire to amend the Restrictions and Additional Restrictions as provided herein;

WHEREAS, pursuant to Section 13 of the restrictions, this shall become effective as the Restrictions and binding upon all of the Lots upon the consent of Owners of record a majority of the Lots within the District, and

WHEREAS, Notice of a special meeting of the Association for the purpose of considering this Amendment was given to each Voting Member on _____, 2008; and

WHEREAS, a special meeting of the members of Windham Park Home Owners Association was held on _____, 2008, for the purpose of considering this Amendment, at which meeting _____ votes were cast against the Amendment and _____ votes were cast in favor of this Amendment, and

WHEREAS, a majority of the total votes in the Association voted to amend the restrictions and additional restrictions by adopting this Amended Declaration of Restrictions

SECTION I - DEFINITION OF TERMS USED

For the purpose of these restrictions, the word “Developer” shall mean 131 Antioch, a Kansas General Partnership.

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

The word “outbuilding” shall mean an enclosed or unenclosed, covered structure, not directly attached to 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 individual deeds. 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 or as otherwise identified and shown on said plat.

The term “district” as used in this agreement shall mean all of the lots shown on said plats of Southwind of Windham Park, Bridgestone of Windham Park and Terrace Place of Windman Park (herein “Windham Park”). 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.

The term “Commercial Vehicle” as herein used shall mean any vehicle that is restricted by Overland Park Municipal Code or pertaining to Commercial vehicles in residential districts.

SECTION II - PERSONS BOUND BY THESE RESTRICTIONS

Those who execute this instrument and 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 improvements thereon.

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 unless the owners of the fee title shall by resolution at a regular or special meeting called for that purpose upon mailed notices containing a description of the desired changes, to all such owners, release, change or alter any or all of the said restrictions.

The owners of the fee title may release, change or alter any of the said restrictions at any time and become effective immediately at any regular or special meeting called for that purpose upon mailed notices, containing a description of the desired changes provided there are at least a majority of the owners of the fee title voting either in person, by proxy or by mail.

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, and/or the imposition of a fine to be taxed as a lien against the property. Any fine must be in accordance with a policy of the association board in existence at the time of the offense. The association may recover its reasonable attorney's fees in connection with such proceedings.

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 Windham Park 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.

SECTION III - ARCHITECTURAL CONTROL COMMITTEE

The chairperson(s) of the ACC (Architectural Control Committee) will be composed of members of the Board of Directors of the Windham Park Home Owners' Association. The President of the Board of Directors shall appoint the chairperson(s). The chairperson(s) of the committee shall appoint members of the committee. All members of the committee shall be approved by a majority of the Board of Directors.

It is expressly agreed that the Architectural Control Committee referred to above shall have control over homes whose owners are members of the WINDHAM PARK HOME

OWNERS' 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 the Architectural Control Committee.

The Board shall establish architectural standards and guidelines for the ACC. The ACC shall have the absolute discretion to approve or reject any proposed additions or alterations in the WINDHAM PARK community and shall consider same in connection with their restrictions, quality and type of workmanship and materials, harmony of external design and colors with existing structures and landscape, and location with respect to topography and finished grade elevation. All requests must be submitted in writing to the ACC for review and approved by the ACC prior to beginning work on the project.

SECTION IV - RESTRICTIONS

- A. No lot in Windham Park shall be used except for residential one-family residences. No building shall be 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, with an attached private garage for not less than two cars. Split-level construction shall be permitted.

No residence or lot or any portion thereof may be leased or rented for a period of less than six (6) months. All leases or rental agreements shall be in writing and the owner of the lot shall be responsible for compliance by the renter or lessee of these restrictions and the rules and regulations of the Association.

All single story residences shall have a total finished ground floor area of not less than 2,000 square feet; all two story residences shall have a finished ground floor area of not less than 1,200 square feet and a total finished floor area of not less than 2,600 square feet; all one and one-half story residences shall have a finished ground floor area of not less than 1,800 square feet and a total finished floor area of not less than 2,500 square feet; all such measurements shall exclude cement slab floors whether finished or not.

The Board of Directors shall have the absolute discretion to approve any building or fencing products and materials that may come into general usage provided they are of comparable quality and style in the area and also upon finding that the use of such materials will not be injurious to the values of existing homes in Windham Park.

For the purposes of this covenant, eaves, steps and open porches shall not be considered a part of a building, provided, however, that this shall not be construed to permit any portion of a building, on a lot to encroach upon another lot.

- B. 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 by the Architectural Control Committee. The ACC will evaluate proposals to ensure quality of workmanship and materials,

harmony of external design and colors with existing structures and landscape, and as to location with respect to topography and finished grade elevation. Approval shall be as provided in Section III

- C. Lots may be improved, used or occupied for private residence, and no flat, duplex or apartment house though intended for residential purposes, may be erected thereon.
- D. No building shall be located nearer than twenty-five (25) feet to the existing street lot line as shown in the recorded plat of Windham Park, or the setback required by city ordinance, whichever is more restrictive.

No building shall be located nearer than five (5) feet to any interior lot line, or as required by city ordinance, whichever is more restrictive.

- E. All constructed houses shall have driveways consisting of properly constructed concrete surfaces. Driveways must be maintained and replaced as needed.
- F. No solar panels or solar collectors shall be installed or maintained on the exterior of any residence without approval from the Board of Directors.
- G. All residences shall have wood windows, wood clad windows or windows constructed of other materials which the Board of Directors deems to be of equal or better quality. In all instances the windows must have similar exterior appearance as that of wood or wood clad windows.
- H. Every residence shall have a cedar or wood shake shingle roof, or other materials approved by the Board of Directors.
- I. 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.
- J. 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. In the event of fire, windstorm, or other damage, no building shall be permitted to remain in damaged condition longer than three (3) months.
- K. No school bus, commercial vehicles, camper, trailer, camper-trailer, recreational vehicle, tractor, trucks with a capacity in excess of 3/4 ton, truck with camper attached or boat shall be parked or left outside on any lot for more than twenty-four (24) 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 operational condition or whose presence might create 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. No trash, old appliances, junk or other refuse shall be allowed to accumulate on any lot, or upon any driveway, in the subdivision.

- L. No exterior clothesline may be erected or maintained on any of the lots hereby restricted without written approval of the Board of Directors.
- M. No radio or television aerial wire, antenna, antenna tower or satellite dish shall be maintained outside of any structure, unless approved in advance 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 the ground, except when deemed necessary by the owner, subject to the exclusive prior approval of the Architectural Control Committee which shall be prerequisite to the permissible placement of said tanks.
- O. Any property owner or property subject to the restrictions herein set forth may construct, for their personal use, one in-ground swimming pool; no above ground or above grade swimming pools shall be permitted; said owners of property subject hereto shall further be allowed to construct a properly designed tennis court, however, no lighting shall be permitted on said tennis court for evening use. Hot tubs and any enclosures must be approved by the Architectural Control Committee.
- P. All fences shall be built with methods and materials that harmonize with external design of buildings in Windham Park and must be maintained in good condition. All fences must be approved by the ACC. No chain link, "chicken wire", snow fence, or other similar materials shall be permitted.
- Q. No free standing storage buildings shall be allowed.
- R. Construction of all exterior structures, including but not limited to retaining walls, large planters, patios or other exterior ornamental features must be approved by the ACC prior to installation, to ensure quality of workmanship and materials, harmony of external design and colors with existing structures and landscape in Windham Park. All such structures must also be maintained in good condition.
- S. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side, or rear of each tract. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or 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 thorough drainage channels in the easements. The easement areas 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.

- T. No exterior holiday lights and/or decorations may be erected or maintained on any of the lots hereby restricted, except during the ninety (90) day period beginning October 15th of each calendar year.
- U. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall any business be conducted thereon which may be or become an annoyance or nuisance to the neighborhood.
- V. No trash, ashes, or other refuse shall be thrown or dumped upon any undeveloped portion of said land.
- W. All lots shall be fully sodded. 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, brushes, shrubs or natural growths which are kept reasonably attractive shall be implied. Lawns shall be kept in good condition as soil, climate and other natural conditions permit, and grass shall not be permitted to create an unsightly appearance.

Trees and shrubs shall be maintained according to good forestry practices.

If the owner of any lot fails or refuses to cut weeds or brush from the lot, allows grass areas or weeds to grow taller than ten inches, or does not maintain sidewalk clearance to meet the city of Overland Park ordinances, the ACC shall have authorization to perform the work. The cost thereof plus an administrative fee of \$100, or other amount determined by the Board of Directors, for each occurrence will be billed to the lot owner. If payment is not received within 30 days, then it will be taxed as a lien against the property.

- X. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other common household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose, and further provided that not more than three (3) dogs or three (3) cats or three (3) other common household pets shall be kept on any residence lot.
- Y. No animal pens or runs shall be permitted.

EXHIBIT A

Lots 80 through 139, Bridgestone of Windham Park, 3rd Plat, a subdivision in the City of Overland Park, Johnson County, Kansas

Lots 95 through 132, Southwind of Windham Park, Sixth Plat, a subdivision in the City of Overland Park, Johnson County, Kansas

Lots 1 through 23, Terrace Place of Windham Park, a subdivision in the City of Overland Park, Johnson County, Kansas

Lots 1 through 42, Bridgestone of Windham Park, 1st Plat, a subdivision in the City of Overland Park, Johnson County, Kansas

Lots 43 through 79, Bridgestone of Windham Park, Second Plat, a subdivision in the City of Overland Park, Johnson County, Kansas

All of Southwind of Windham Park, 1st Plat, a subdivision in the City of Overland Park, Johnson County, Kansas

Lots 140 through 193, in Bridgestone of Windham Park, 4th Plat, a subdivision in the City of Overland Park, Johnson County, Kansas

Lots 45 through 48, in Southwind of Windham Park, 2nd Plat, a subdivision in the City of Overland Park, Johnson County, Kansas.

All of Southwind of Windham Park, 4th Plat, a subdivision in the City of Overland Park, Johnson County, Kansas.