

## **DECLARATION OF RESTRICTIONS**

Originally filed in the State of Kansas,  
County of Johnson, June 29, 1987

Rubie M. Scott  
Register of Deeds

This declaration made this 25<sup>th</sup> day of June, 1987 by Acuff Rhodes Group, a Kansas general partnership having its principal place of business in Johnson County, Kansas.

Witnesseth: That

Whereas, ACUFF RHODES GROUP is the owner of OAK VALLEY, first plat, a subdivision in Johnson County, Kansas, which plat was recorded in the Office of the Register of Deeds in Johnson County, Kansas, on June 3, 1987, in Plat Book 66, at page 22; and

Whereas, the said ACUFF RHODES GROUP has heretofore dedicated to the public all streets and roads shown on said plat for use by the public; and

Whereas, ACUFF RHODES GROUP is the developer of OAK VALLEY and desires to place certain restrictions on the following described land, to wit:

Lots 1 through 76, both inclusive, of OAK VALLEY, First Plat, a subdivision in the City of Lenexa, Johnson County, Kansas; and

Lots 77 through 124, both inclusive, of OAK VALLEY, Second Plat, a subdivision in the City of Lenexa, Johnson County, Kansas; and

Lots 125 through 127, both inclusive, of OAK VALLEY, Third Plat, a subdivision in the City of Lenexa, Johnson County, Kansas; and

Lots 128 through 166, both inclusive, of OAK VALLEY, Fourth Plat, a subdivision in the City of Lenexa, Johnson County, Kansas;

Now, therefore, in consideration of the presises, Acuff Rhodes Group for itself and for its successors and assigns, and for its future grantees, hereby agrees that all of the lots herein above described shall be and are hereby restricted as to their use in the manner set forth hereinafter.

### **DEFINITION OF TERMS USED**

For the purpose of these restrictions, the word "street" shall mean any street, road, drive or avenue or whatever name as shown on the plats of OAK VALLEY.

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

The word "lot" may mean either any lot as platted or any tract or tracts of land as conveyed, which may consist of one or more lots or part or parts of one or more 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 ACUFF RHODES GROUP or from the successors and assigns of it. 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.

### **PERSONS BOUND BY THESE RESTRICTIONS**

All persons and corporations who now own or shall hereafter acquire any interest in the above enumerated lots hereby restricted shall be taken to hold and agree and covenant with ACUFF RHODES GROUP, and with its successors and assigns, to conform to and observe the following covenants, restrictions, and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending on May 1, 2012, provided, however, that each of said restrictions shall be renewable in the manner hereinafter set forth.

## **SECTION 1 USE OF LAND**

None of the lots hereby restricted may be improved, used or occupied for other than private residence purposes, and no flat, apartment house, condominium, townhouses or other structure using a party wall, though intended for residence purposes, may be erected thereon. Any residence erected or maintained on any of the lots hereby restricted shall be designed for occupancy by a single family. No business buildings shall be erected, nor business of any nature conducted on the land herein described. Nor shall anything be done thereon which may be or become a nuisance to the neighborhood. This prohibition shall not preclude original builders from temporarily operating a sales office or a general office or both on the lots hereby restricted.

Where any portion of any plat of OAK VALLEY is dedicated or otherwise designated as common area or for use by a homes association created for the benefit of the owners of all lots within any plat of OAK VALLEY, ACUFF RHODES GROUP or the homes association may erect such buildings, swimming pool or recreational facilities as either of them undertakes, and the restrictions pertaining to residences and residential lots shall not apply to preclude or limit such building or other facilities.

## **SECTION 2 REQUIRED HEIGHTS OF RESIDENCES**

Any residence erected on any of the lots hereby restricted shall not be more than two stories in height, provided, however, that a residence more than two stories in height may be erected thereon with the consent of ACUFF RHODES GROUP, in writing.

## **SECTION 3 FRONTAGE OF RESIDENCE ON STREETS**

Any residence erected wholly or partially on any corner lot, or any part or parts thereof, shall front or present a good frontage on the street or streets designated by ACUFF RHODES GROUP, its deed to the lot or parts thereof relating to such residence to be erected. It is provided, however, that if any part less than the whole of any corner lot is acquired by the owner of any inside lot, contiguous to said corner lot, then, as to the part of such corner lot so acquired, the provisions hereof requiring a residence erected on a corner lot to front or present a good frontage on the street or streets designated by ACUFF RHODES GROUP shall not be operative, but the part of the corner lot so acquired shall be deemed to be a part of the inside lot to which it is contiguous, as to the restrictions governing the frontage of the residence on the street, and said part of any such corner lot so acquired be subject to the restrictions applicable to the inside lot.

## **SECTION 4 SET BACK OF RESIDENCES FROM STREET LIMITATION ON FENCES**

- (A) No part of any residence, except as hereinafter provided, may be erected or maintained on any of the lots hereby restricted, nearer to the front street or the side street than is the front building or the side building lines shown on said plat of OAK VALLEY on the lot or lots on which such residence may be erected, provided, however, that ACUFF RHODES GROUP shall have, and does hereby reserve the right in the sale and conveyance of any of said lots, to change any building lines shown thereon, and may at any time with the consent in writing of the then record owners of the fee simple title to any such lot or lots, change any such building line which is shown on said plat on any such lot or lots, or which may in such sale and conveyance be established by it.

No fences or wall may be erected nearer the front street than as permitted in Section 18 of these restrictions.

- (b) Those parts of the residence which may project to the front of and nearer to the front streets and the side streets than the front building lines and the side building lines shown on said plat, and the distance which each may project are as follows:

1. **Window Projections:** bay, bow, or oriel, dormer and other projecting windows may project beyond the front building lines and the side building lines not to exceed three (3) feet.
2. **Miscellaneous Projections:** Cornices, spoutings, chimneys, brackets, pilasters, grillwork, trellises, and other similar projections, and any other projections for purely ornamental purposes, may project beyond the front building lines and side building lines not to exceed four (4) feet.
3. **Vestibule Projections:** Any vestibule not more than one (1) story in height may project beyond the front building lines and the side building lines not to exceed four (4) feet.
4. **Porch Projections:** Unenclosed, covered porches, balconies and porte cocheres may project beyond the side building lines not to exceed six (6) feet.

5. **Cantilever Projections:** Upper stories on any dwelling may project beyond the front building lines and the side building lines not to exceed three (3) feet.

## **SECTION 5. REQUIRED SIZE OF RESIDENCE**

Any residence erected on any lot in OAK VALLEY shall contain a minimum of two thousand two hundred (2200) square feet on enclosed floor area for residences of one and one-half (1 ½) stories, one thousand eight hundred (1800) square feet of enclosed floor area for any residence of one story or of split levels, and a minimum of one thousand nine hundred (1900) square feet of enclosed floor area for any residence two stores in height.

The words "enclosed floor area" as used herein shall mean and include, in all cases, areas on the first and second floor or the residence enclosed and finished for all year occupancy, computed on outside measurements of the residence and shall not mean or include any areas in basements, garages, porches, or attics; provided, however, that certain interior areas above the first floor need not be immediately finished for occupancy if the residence is so designed and built that such areas can be finished at a later date without any structural changes being made in the exterior of the residence.

ACUFF RHODES GROUP reserves the absolute and incontestable right to determine whether the enclosed floor area of any residence, including split-level, bi-level, one and one-half (1 ½), or two (2) story residences, whether in the aggregate total or with respect to the lower floor thereof, meets the minimum requirements provided for herein, and such determination shall be final.

ACUFF RHODES GROUP hereby also reserves the right to reduce any of the enclosed floor area requirements set forth above.

## **SECTION 6. FREE SPACE REQUIRED**

The main body of any residence, including attached garages, attached greenhouses, ells, and porches, enclosed or unenclosed, covered or uncovered, but exclusive of all other projections set forth above in Section 4, erected or maintained on any of the lots hereby restricted, or on any part or parts thereof, as shown on the aforesaid plat, shall not occupy more than eighty percent (80%) of the width of the lot on which it is erected, measured in each case on the front building line as shown on the aforesaid plat, or as established by ACUFF RHODES GROUP.

## **SECTION 7. RIGHT TO APPROVE PLANS**

No residences or out-buildings may be erected on or moved onto any of the lots subject to these restrictions unless and until the plans, elevation, location on the lot or other building sites, and grade thereof have been submitted to ACUFF RHODES GROUP and have it approved in writing; nor shall any change or alteration be made in the exterior design of any such residence or out-building after the original construction thereof, until approval thereof has been given in writing by ACUFF RHODES GROUP.

Anything in this Declaration of Restrictions to the contrary notwithstanding, ACUFF RHODES GROUP, its successors and assigns, shall have and do hereby reserve the right to determine the location of all buildings upon the respective lot or lots, except as it may be restrictive in the making of such determination by the provisions of Section 4 and 6 herein, and relation of the top of the foundation thereof to the street level.

## **SECTION 8 MAINTAINING SIGHT DISTANCE**

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended.

The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of the street property line with the edge of a driveway or alley pavement.

No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight line.

**SECTION 9.  
REQUIRED BUILDING MATERIALS**

Exterior walls of all buildings, structures and appurtenances thereto shall be of brick, stone, wood shingles, wood siding, wood paneling, plate glass, masonite, or a combination thereof. Windows, doors and louvers shall be of wood or metal and glass. Roofs shall be covered with wood shingles, wood shakes, slate or tile, or earth tone composition shingles if approved in writing by ACUFF RHODES GROUP and or successors or assigns.

Any building products which may come into general use for dwelling construction in this area after the date of these restrictions shall be acceptable if approved in writing by ACUFF RHODES GROUP. All wood and masonite exteriors, except roofs, and shake sidewalls, shall be covered with a workmanlike finish of paint or stain, unless another finish is approved in writing by ACUFF RHODES GROUP and or successors or assigns.

No building shall be permitted to stand with its exterior in an unfinished condition for longer than (9) nine months after commencement of construction. In the event of fire, windstorm or other damage, no building shall be permitted to remain in damaged condition longer than (6) months.

**SECTION 10.  
SODDED YARDS**

The entire front, rear and side yards of every lot in OAK VALLEY, and the unpaved portions of street easements and right of way contiguous thereto, shall be sodded with bluegrass at the earliest time after construction of the dwelling on said lots as the weather will permit, and in no instance will seeding or plugging be considered as a substitute for such original sodding without the consent in writing of ACUFF RHODES GROUP and or successors or assigns.

**SECTION 11.  
OUTBUILDINGS PROHIBITED**

No building or other detached structure appurtenant to the residence may be erected on any of the lots hereby restricted without the consent in writing of ACUFF RHODES GROUP and or successors or assigns.

**SECTION 12.  
FUEL TANKS PROHIBITED**

No tank for the storage of fuel may be maintained above the surface of the ground on any of the lots hereby restricted.

**SECTION 13.  
OUTSIDE ANTENNAS PROHIBITED**

No radio or television antennas or television "dish" receivers (over one (1) meter in diameter) may be kept or maintained on any lots hereby restricted except within the confines of a dwelling unit erected thereon.

**SECTION 14.  
ABOVE GROUND SWIMMING POOLS PROHIBITED**

No swimming pool may be installed, erected or maintained above the surface of the ground on any of the lots hereby restricted, without the consent in writing of ACUFF RHODES GROUP and or successors or assigns.

**SECTION 15.  
RESTRICTIONS ON MAINTAINING PETS**

No wild, semi-wild or domestic mammals, reptiles or birds may be kept or maintained on any of the lots hereby restricted, except that no more than two (2) dogs, two (2) cats, two (2) rabbits, or two (2) birds may be kept on any such lots provided that they are not kept, bred, or maintained for any commercial purpose.

**SECTION 16.  
SIGNS PROHIBITED**

No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any of the lots hereby restricted without the consent in writing of ACUFF RHODES GROUP, provided, however, that permission is hereby granted for the temporary erection and maintenance of not more than two (2) signs for each lot or tract advertising such lot or tract to be for sale or lease.

Nothing in this section shall be construed to prohibit the erection of subdivision entrance structures by ACUFF RHODES GROUP, its successors, assigns or licensees at such place or places as it or they may determine which structures may or may not display the name of such subdivision.

**SECTION 17.  
REPAIRING AND STORAGE OF AUTOMOBILES, BOATS, TRAILERS, ETC.**

No repair, rebuilding, or manufacture, whether for hire or otherwise, of automobiles, trucks, motorcycles, motorbikes, motor scooter, boat, airplane, house trailer, recreational vehicle, boat trailer, camping trailer, motor home, or vehicle of any other type or description, or of any lawnmowers or other motorized, wheeled outdoor equipment or appliances shall be performed or occur on any of the lots hereby restricted except that such repairs on a non-commercial basis and not for hire may be conducted in any enclosed garage built on said premises if not otherwise prohibited under the other provisions of these restrictions.

No automobile, truck, motor cycle, motorbike, motor scooter, boat, airplane, house trailer, recreational vehicle, boat trailer, camping trailer, motor home, or vehicles of any other type or description may be stored on any of the lots hereby restricted, except that such storage, other than storage for hire, shall be permitted within the confines of any building built on any of the lots hereby restricted if not otherwise prohibited under other provisions of these restrictions.

Nothing in this section, however, shall be construed as to prohibit the regular parking of not more than two (2) passenger automobiles in running condition and in a reasonable state of repair and preservation on any driveway permitted to be maintained on any of the lots hereby restricted.

No equipment or materials may be stored outside of any enclosed building except single items kept by the occupants for ordinary household or yard use.

**SECTION 18.  
FENCES**

Fences shall be constructed of wood only as commonly used in Johnson County, Kansas, in stockade and rail types. Certain styles and sizes of wrought iron fences may be erected if approved in writing by ACUFF RHODES GROUP and or successors or assigns. No wire or chain link fences of any type shall be erected. No fences shall exceed six (6) feet in height from the ground surface.

On corner lots any properly constructed fence must not be nearer to the front street or the side street than the parallel projection of the side of the residence structure as actually built notwithstanding the fact that such residence structure may have been built inside the front or side building lines as platted.

No fences shall be constructed on any lot backing up to or adjacent to any 100 year flood plain except within fifteen (15) feet of the residence structure as actually built, or as otherwise permitted in writing by ACUFF RHODES GROUP and or successors or assigns.

**SECTION 19.  
EASEMENTS**

Easements for installation, repair and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of OAK VALLEY. In addition to the respective rights of utilities to the effective use of reserved utility easements, no trees, shrubbery, structures, buildings, or fences shall be placed or maintained within the area of the drainage easements which may interfere with the function or maintenance thereof for drainage purposes.

**SECTION 20.  
DURATION OF RESTRICTIONS**

Each of the restrictions herein set forth shall continue and be binding upon ACUFF RHODES GROUP and upon its successors and assigns, until May 1, 2012, and shall automatically be continued thereafter for successive periods of twenty-five (25) years each, provided, however, that the owners of the fee simple title to more than fifty (50) percent of the front feet of all lots hereby specifically restricted, and set forth in this instrument, may release all of the land which is hereby restricted from any one or more of the restrictions herein set forth, on May 1, 2012, or at the end of any successive five (5) year period thereafter, by executing and acknowledging an appropriate agreement or agreements in writing for such purpose and filing the same for record in the Office of the Register of Deeds of Johnson County, Kansas, prior April 30, 2012, or at least ten (10) days prior to the expiration of any successive five (5) year period after May 1, 2012.

**SECTION 21.  
RIGHT TO ENFORCE**

The restrictions herein set forth shall run with the land and bind the present owner, its successors and assigns, and all parties claiming by, through or under it shall be taken to hold, agree and covenant with the owner of the lots hereby restricted, and with its successors and assigns, and with each of them, to conform to and observe said restrictions, as to the use of said lots and the construction of improvements thereon, but no restrictions herein set forth shall be personally binding on any corporation, person or persons, except in respect of breaches committed during its, his or their seisin of, or title to said land; and ACUFF RHODES GROUP, its successors and assigns, and also the owner or owners of any of the lots hereby restricted shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of, or to enforce the observance of, the restrictions above set forth, in addition to ordinary legal actions for damages, and failure of ACUFF RHODES GROUP, its successors or assigns, or any owner or owners of any lot or lots hereby restricted to enforce any of the restrictions herein set forth at the time of its violation shall, in no event, be deemed to be a waiver of the right to do so thereafter.

ACUFF RHODES GROUP reserves the right, by appropriate declaration, executed and acknowledged by its appropriate officers and recorded in the Office of the Register of Deeds of Johnson County, Kansas, made expressly for that purpose, transfer and assign to any person or corporation, or to any homes association created by separate declaration and subjecting all of the lots located in OAK VALLEY to the terms thereof, all of the rights, powers, reservations and privileges herein reserved by it in respect to all or any part of said lots, and upon such assignment or transfer being made, its assigns or transferees may at their option exercise, transfer or assign these rights, or any one or more of them, at any time or times, in the same way and manner as though directly reserved by them, or it, in this instrument.

**SECTION 22.  
ADDITION OF OTHER LAND**

ACUFF RHODES GROUP shall have, and expressly reserves the right from time to time, to add such other land as it may now own or hereafter acquire to the operation of the provisions of this Declaration of Restrictions, by executing and acknowledging any appropriate declaration or agreement for that purpose, and filing the same for the record in the Office of the Register of Deeds of Johnson County, Kansas. When any other land is so subjected to the provisions hereof, whether the same consists of one or more times, said land so added shall be subject to all of the terms and provisions hereof, in the same manner and with like effect as though the same had been originally described herein and subjected the provisions hereof.

IN WITNES WHEREOF, ACUFF RHODES GROUP by authority of one of its partners, ACUFF HOMES, INC., has caused these presents to be executed by such partner, by its President and Secretary and upon the authority of its Board of Directors this 25<sup>th</sup> day of June 1987.