

**FINAL DRAFT
2014**

**AMENDED AND RESTATED
NOTTINGHAM PLACE
DECLARATION OF RESTRICTIONS**

The Nottingham Place Declaration of Restrictions dated May 28, 1987 is hereby amended and restated.

This Declaration Witnesses that:

Whereas, the Nottingham Place Homes Association (the Association) being comprised of the owners of:

Plat I: Lots 1 and 2, Block 1; Lots 1-23, both inclusive, Block 2; Lots 1-14, both inclusive, Block 3; and Lots 1-5 both inclusive, Block 4.

Plat II: Lots 1-18, both inclusive, Block 1; Lots 1-38, both inclusive, Block 2; and Lots 6-11, both inclusive, Block 4.

Plat III: Lots 12-24, both inclusive, Block 4 and Lots 1-12, both inclusive, Block 5.

All in NOTTINGHAM PLACE, a subdivision in the city of Overland Park, Johnson County, Kansas, as the same are shown by the recorded plats thereof, filed in the office of the Register of Deeds of Johnson County, Kansas, and whereas, the Association places certain restrictions upon said Lots for the use and benefit of itself and for the use and benefit of its future member owners, does hereby declare that the Lots identified above shall be and the same hereby are restricted as to their use in the manner herein set forth.

These restrictions are intended to ensure the proper upkeep and maintenance of the lots, common areas, and structures within Nottingham Place subdivision. Compliance with these restrictions will help ensure all properties retain the greatest aesthetic value and curb appeal. This, in turn, will maximize the value of the neighborhood and its properties.

1. **Definition of Terms Used:**

STREET-- Any street, road, terrace, drive, circle or boulevard.

COMMON AREA-- Those portions of the subdivision property not owned individually by unit owners, but which an indivisible interest is held by all unit owners.

OUTBUILDING-- Any enclosed, covered structure not directly attached to the residence to which it is appurtenant.

LOT-- Either any lot as platted, or any tract or tracts of land as conveyed, which may consist of one or more lots, or a part or parts of one or more lots as platted, and upon which a residence may be erected in accordance with the restrictions herein contained. A corner lot shall be deemed to be any lot having more that one street contiguous to it.

BERM-- The mounded strip of land on the exterior of the subdivision that runs along most of Switzer and 127th Streets. The inside of the Berm where the land rises toward each of the boundary streets, constitutes the inside boundary of the Landscape and Utility Easement.

LANDSCAPE and UTILITY EASEMENT—That portion of the exterior Lots along Switzer and 127th Streets granted by the developer of the property through each of the individual Plats of land to the Homes Association to manage for the preservation of a utility right-of-way.

OWNER-- Any individual, or group of individuals, who owns title to, or is purchasing, a Lot within the subdivision.

CITY ORDINANCE-- Any of the published ordinances of the City of Overland Park, Kansas.

2. **Use of Land.** None of the lots hereby restricted may be improved, used or occupied for other than private residence purposes. Any residence erected or maintained on any of the lots hereby restricted shall be designated for occupancy by a single family. No trailer, shed, shack, barn or any other outbuilding may be erected on any lot covered by these Restrictions. Any and all structures erected or placed on the property must either be attached to the residential structure and be constructed of the same materials as the residence and resemble the residential structure in appearance. Such structure(s) may not be attached to the front of the residential structure or placed in the front yard of the property. Any plans for the construction of any structure will require prior written approval from the Board of Directors.

3. **Building Material Requirements.** The exteriors of all residences will represent an earth-toned theme. All exterior color schemes and roofing materials must be approved in writing and in advance by the Board of Directors. Exterior walls of all buildings, structures, and all appurtenances thereto, shall be

of brick, stone, stucco, wood shingles, wood siding, wood paneling, glass blocks, concrete composite hardboard, or any combination thereof. Doors and louvers shall be of wood, wood and glass, or metal. Windows may be wood, vinyl framed or metal clad. All wood exteriors, except roofs and shake side walls, shall be covered with not less than two (2) coats of high quality paint or stain. In the event of catastrophic loss due to fire, windstorm or other damage, no building shall be permitted to remain in a damaged condition longer than four (4) months. All exterior basement foundation walls which are exposed in excess of twelve (12) inches above final grade shall be painted the same color as the house or covered with siding compatible with the structure. All roofs shall be covered with wood shakes, composite shingles with a warranted life of at least 40 years, slate, concrete, steel or ceramic tiles. All shingles will require the prior written approval of the Board of Directors.

4. **Area.** No dwelling shall be constructed or permitted to remain upon any lot in this subdivision unless it meets the following ground floor area requirements:
 - (a) One story dwelling must have a ground floor area of not less than two thousand six hundred (2,600) square feet.
 - (b) Two story dwellings must have a total floor area of not less than two thousand six hundred (2,600) square feet.
 - (c) One and one-half story dwellings must have a ground floor area of not less than one thousand eight hundred (1,800) square feet and a total floor area of not less than two thousand six hundred (2,600) square feet.
5. **Approval of Buildings.** No residential building, or other structure may be erected upon or moved onto any lot hereby restricted unless and until the building plans, specifications, exterior color scheme, materials, location, elevation and grade thereof have been submitted to and approved IN WRITING by the Association's Board. No change or alteration in said building plans, specifications, exterior color scheme, materials, location, elevation and grade thereof may be made until such change or alteration has been submitted to and approved IN WRITING by the Association's Board.

No shed, barn, detached garage, greenhouse, or other storage facility may be erected upon, moved onto or maintained upon any Lot. Storage may be permitted under a deck provided such area is fenced or otherwise screened as authorized and approved IN WRITING by the Association's Board.

No residential building which has previously been at another location may be moved onto any lot in this subdivision.

No residential building designed as a “ranch with basement garage” or a “side-by-side split level” residential building may be constructed on any Lot in this subdivision.

Anything in this Declaration to the contrary notwithstanding, the Association, its successors and assigns, shall have and does hereby reserve the right to determine the location of all buildings upon a respective lot or lots and the relation of the top of the foundation of said building to the street level. The Association shall not be liable for any approval, disapproval or failure to approve hereunder and any such approval, disapproval or failure to approve given shall not be considered as a waiver of any requirement of or any restriction in this Declaration of Restrictions. Nothing herein contained shall in any way be deemed to prevent any of the owners of any lot within Nottingham Place from maintaining any action relating to improvements within Nottingham Place as he/she would otherwise be entitled to maintain.

6. **Construction of Hedges, Fences and Boundary Walls.** No fence, or boundary wall exceeding six (6) feet in height or within any area designated as a “landscape easement” on the recorded Plats of Nottingham Place, shall be constructed without the written consent of the Association’s Board. All fences and boundary walls must be properly maintained so as not to detract from the overall aesthetics of the neighborhood. No chain link fence may be constructed.
7. **Set-back Requirements; Ground Frontage.** No residence or other structure shall be located closer than thirty-five (35) feet to any street; provided, however, that the Association shall have and does hereby reserve the right and power to permit such distance to be reduced to thirty (30) feet. The Association may exercise the powers to modify set-back requirements or ground frontages with respect to any one lot hereby restricted shall not in any way limit the right of the Association to exercise such powers or to refuse to exercise such powers with respect to any other lot hereby restricted, nor shall the refusal of the Association to exercise such powers with respect to any one lot inhibit or limit its right and power to thereafter exercise such powers with respect to any other lot.
8. **Buildings or Uses Other than for Residential Purposes; Noxious Activities.**
 - (a) No building or structure of any sort may ever be placed, erected or used for business, professional, trade or commercial purposes on any lot hereby restricted. No noxious or offensive trade or activity shall be carried on with respect to any lot hereby restricted, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any such lot, nor

shall anything ever be done which may be or become an annoyance or a nuisance to the neighborhood.

- (b) No vehicle, truck, trailer, bus, camper, boat or other apparatus, except passenger automobiles, shall be left or stored on said property, except in an enclosed garage.
 - (c) No television or radio antenna shall be placed on the exterior of any structure or constructed separately. Exception: Dish TV antennas no larger than 24 inches in diameter located in an unobtrusive spot.
 - (d) No basketball goal may be placed on the exterior of any structure but may be constructed separately. All goals will be properly maintained so as not to detract from the aesthetics of the neighborhood.
 - (e) Flag poles are allowed but must be properly maintained and, if the United States flag is to be flown, the pole must be properly illuminated.
 - (f) No permanent above ground pool may be constructed or moved onto any Lot. Above ground spas and hot tubs are permitted but must be located on a rear patio or deck and their appearance must be properly maintained.
 - (g) No additional trees, grasses, hedges, etc., may be planted on the berm/landscape easement without the written approval of the Board.
9. **Livestock and Poultry Prohibited.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot hereby restricted except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than two (2) dogs be raised, bred or kept on any lot hereby restricted.
10. **Easements for Public Utilities.** The Association shall have and does hereby reserve the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, sanitary and storm sewers, gas and water mains and lines, electric and telephone lines and other utilities, and to give or grant rights of way or easements therefore over and upon any part of any lot hereby restricted. No water from roof and downspouts, basement garage drains or surface drainage shall be placed in or connected to any sewer line nor shall any other connection of any kind be made to a sewer line without the express written approval of the Association, its successors or assigns.

11. **Appearance of Residential Structures and Lots.** To maintain the appearance of Nottingham Place as a high class residential neighborhood, all property owners shall:

- (a) Properly maintain the residential structure to ensure all exteriors, to include exterior lights are sound and otherwise in a suitable condition with a pleasing curb appeal.
- (b) Properly maintain driveways so they will not detract from the aesthetics of the neighborhood.
- (c) Properly maintain the lawn and landscaping in accordance with appropriate City of Overland Park Ordinances.
- (d) Not place commercial signs on common use areas.
- (e) Ensure that trash, yard waste and recycling containers are kept out of sight from the street until not earlier than one (1) day from the date scheduled for pick-up and removed to a place out of sight from the street not later than one day from the date of pick-up.
- (f) Other than during the season for which they are intended, no outdoor holiday decorations shall remain on structures or landscaping more than one month following the holiday date, e.g., all Christmas decorations shall be taken down not later than January 25th.

12. **Right to Enforce.** The restrictions herein set forth shall run with the land and shall 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 to observe said restrictions as to the use of said lots and the construction of improvements thereon. No restriction herein set forth shall be personally binding upon any corporation, person or persons except in respect to breaches committed during its, his, her or their ownership of title to said lots

The Association, its successors and assigns, shall have the power to require that disputes between the Association and homeowners or between two or more homeowners regarding these restrictions be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding. In such a situation, the homeowner will pay for such arbitration in the event the Association prevails.

The Association, 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 any ordinary legal action for damages, and the failure of the Association, its successors or assigns, or any owner or owners of any lot hereby restricted to enforce any of the restrictions herein set forth at the time of its violation shall, in no event, be deemed to be a waiver of the right to do so thereafter.

The Association may, by appropriate agreement made expressly for that purpose, assign or convey to any person or corporation, all of the rights, reservations and privileges herein reserved by or granted to it, and their assigns or grantees may at their option exercise, transfer or assign those rights or any one or more of them at any time or times in the same way or manner as those directly reserved by or granted to them in this instrument.

13. **Modification of Restrictions.** The covenants, restrictions and provisions of this instrument shall be deemed covenants running with the land and when properly approved and recorded shall remain in full force and effect. The covenants, restrictions and provisions may, however, be changed or modified from time to time as situations and conditions dictate provided such change(s) or modification(s) are approved, by written agreement, by the owners of more than 50% of the lots hereby restricted. Such properly approved change(s) or modification(s) shall not take effect until the date they are recorded in the office of the Registrar of Deeds of Johnson County, Kansas.

14. **Separability.** Invalidation of any restrictions set forth herein or any part thereof by an order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, but they shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed this ____ day of _____, 201_.

Nottingham Place Homes Association

President: _____
Declaration _____ of _____ Restriction _____ Committee
Representative: _____

