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300% STATE OF KANSAS  
COUNTY OF JOHNSON) SS  
FILED FOR RECORD

GLEASON GLEN  
DECLARATION OF RESTRICTIONS

2002 JUN 26 P 12: 54 3/4

REBECCA L. NAVIS  
REGISTER OF DEEDS

THIS DECLARATION, made as of the 26 day of JUNE,  
2002 by Aspen Properties, a Kansas Partnership;

WITNESSETH:

WHEREAS, Aspen Properties, a Kansas Partnership, has executed and filed with the Register of Deeds of Johnson County, Kansas a plat of the subdivision known as "GLEASON GLEN" and

AND WHEREAS, such plat creates the subdivision of GLEASON GLEN, composed of the following described lots, to-wit:

Lots 1 through 33, and Tracts A, B, C, D & E, GLEASON GLEN, a subdivision in the City of Lenexa, Johnson County, Kansas.

WHEREAS, Aspen Properties, a Kansas Partnership as the present owner of the above-described lots, desires to place certain restrictions on such lots to preserve and enhance the values, desirability, and attractiveness of the development and improvements constructed thereon and to keep the use consistent with the intent of the development, all of which restrictions shall be for the use and benefit of Aspen Properties, and its future grantees, successors and assigns;

NOW, THEREFORE, in consideration of the premises, Aspen Properties, for itself and for its successors and assigns and for its future grantees, hereby agrees and declares that all of the above-described lots shall be, and they hereby are, restricted as to their use and otherwise in the manner hereinafter set forth.

1. **Definitions.** For the purposes of this Declaration, the following definitions shall apply:
  - a) The term "Lot" shall mean any lot as shown as a separate lot on any recorded plat of all or part of the District; provided, however, that if an Owner, other than the Developer, owns all or part of one or more adjacent lots upon which only one residence has been, is being, or will be erected, the such adjacent property under common ownership shall be deemed to constitute only one "Lot".
  - b) The term "District" shall mean all of the above described lots in GLEASON GLEN, all Common Areas if any, and all additional

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property which hereafter may be made subject hereto in the manner provided herein.

- c) The term "Developer" shall mean and refer to Aspen Properties, and its successors and assigns.
- d) The term "Owner" shall mean the record owner in fee simple of any Lot, including the Developer, and for purposes for all obligations of the Owner hereunder, shall include where appropriate, all family members and tenants of such Owner and all of their guests and invitees.
- e) The term "Common Areas": if any, shall mean (i) street right-of-ways, (ii) streets and street islands, (iii) entrances, monuments, berms and other similar ornamental areas and related utilities, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any assessments related thereof, and (iv) all other similar areas, if any, and places, together with all improvements thereon and thereto (including any swimming pool, tennis courts, clubhouse or similar recreational facilities, if any, that may be constructed or erected) the use, benefit or enjoyment thereof is intended for all of the Owners within the District, whether or not any "Common Area" if any, is located on any Lot.
- f) The term "street" shall mean any public street, road, terrace, circle or boulevard shown on any recorded plat of all or part of the District.
- g) The term "Home Association" shall mean the Kansas not-for-profit corporation to be formed by the Developer for the purpose of serving as the home association for the District.
- h) The term "Exterior Structure" shall mean any structure erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse or other animal shelter or run, outbuilding, fence, privacy screen, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, basketball goal, trampoline, satellite dish, playhouse, treehouse or other recreational or play structure.
- i) The term "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged and recorded by the Developer stating that all or at the Developer's discretion, substantially all, of the Lots in the District (as then composed or contemplated by the Developer) have been sold by the Developer and the residences to

be constructed thereon are substantially completed provided, however, that the Developer may execute and record a Certificate of Substantial Completion or similar instruction in lieu thereof in its discretion at any time and for any limited purpose hereunder.

- i) The term "Approving Party" shall mean
  - i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees)
  - ii) subsequent to the recording of the Certificate of Substantial Completion, the Homes Association.
  
- k) The term "Architectural Committee" for purposes of certain Exterior Structures as provided in Section B below, shall mean
  - i) prior to the recording of the Certificate of Substantial Completion the Developer (or its designees)
  - ii) subsequent to the recording of the Certificate of Substantial Completion, a committee comprised of at least three members of the Homes Association who shall be appointed by the Board in an impartial manner from the Homes Association members who indicated a willingness to serve on the committee.
  
- l) The term "Board" shall mean the Board of Directors of the Homes Association.

2. Use of Land. None of the Lots may be improved, used or occupied for other than single-family, private residential purposes, and no duplex, flat or apartment house, although intended for residential purposes, may be erected thereon. No residential building, which has previously been at another location, shall be moved onto any Lot. No "earth" homes shall be permitted. No trailer or outbuilding erected on any Lot shall at any time be used for human habitation, temporarily or permanently, nor shall any residence of a temporary character be erected on any of such Lots or used for human habitation; provided, however, that nothing herein shall prevent the Developer or others (including, without limitation, builders and real estate sales agencies) authorized by the Developer from erecting temporary buildings and using such temporary building or any residence for model, office, sales or storage purposes during the development of the District. No lot shall be subdivided, provided however, Developer retains the right to modify lot lines, re-draw boundaries and re-plat as it determines necessary.

3. Building Material Requirements. Exterior walls of all residences and all appurtenances thereto shall be constructed of stucco, brick, natural stone, cedar or redwood wood shingles, engineered wood siding (excluding the front elevation), plate glass, engineered wood lap siding, as may be deemed by the Developer in writing to be compatible therewith. **(All engineered wood products and all manufactured stone or brick must be pre-approved by the approving party.)** All windows shall be constructed of glass, vinyl clad wood, vinyl, cedar, redwood or any combination thereof; provided, however, that storm windows may be constructed of colored metal (other than silver). Roofs with a pitch of three inches or more per foot shall be covered with a 30 year (minimum) guaranteed asphalt composition shingle with a gray color closely resembling natural weathered wood shakes including a simulated shadow line. The color and pattern must match existing roofs in the development and be approved by the Developer. Replacement roofs must also be 30 year (minimum) guaranteed and the color and pattern shall match the color and pattern of the roof being replaced. Any building products that may be or come into general usage for dwelling construction of comparable quality and style in the area shall be acceptable if approved in writing by the Approving Party. All wood exteriors shall be covered with a workmanlike finish of two coats of high quality paint or stain. No building shall be permitted to stand with its exterior in any unfinished condition for longer than five months after commencement of construction. All exterior basement foundations and walls that are exposed in excess of 12 inches above final grade shall be painted the same color as the residence or covered with siding compatible with the structure. All exterior fireplace flue chases must be supported by foundation and capped with a flue cap.
4. Minimum Floor Area. No residence shall be constructed upon any Lot in the District unless it has a total finished floor area of not less than 2,000 square feet. The Developer, in its discretion, may allow variances under the foregoing minimum square footage requirement, provided the total reduction for any residence may not exceed 10 percent of such minimum floor area requirement for such residence.
5. Approval of Plans and Post-Construction Changes. Notwithstanding compliance with the provisions of Section 3 and 4 above;
  - a) No residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, materials, location, elevations, lot grading plans, general landscaping plans, and exterior color scheme have been submitted to and approved in writing by the Developer, or in the case of Exterior Structures as provided in Section 9 below, the Architectural Committee.

- b) No change of alteration in such building plans, specifications, materials, location, elevations, grading plans, landscaping plans or exterior color scheme thereof be made until such change or alteration has been submitted to and approved in writing by the Approving Party. All building plans and plot plans shall be designed to minimize the removal of existing trees. Plot plans shall designate those trees that are to be removed. During the construction phase, Builder shall protect those trees that are to remain.
- c) Following the completion of construction of any residence or Exterior Structure, no exterior colors thereof shall be changed and no exterior additions or alterations to any structure shall be made unless and until the changes have been submitted to and approved in writing by the Developer or the Architectural Committee, as the case may be.
- d) All replacements of all of any portions of a structure because of age, casualty loss or other reason, including, without limitation, roofs and siding, shall be of the same material as the original structure unless the changes have been submitted to and approved in writing by the Approving Party.

(All final grading of any Lot shall be in accordance with the master grading plan approved by the Developer. No changes in the final grading of any Lot shall be made without the written approval of the Approving Party.)

- 6. Setbacks No building, exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys and other similar projections, shall be located closer to or further from any street than the building setback lines, if any, shown on the plat. The Developer, in its discretion, may waive or alter any such building setback lines to the extent they are:
  - a) compliant with the minimum setbacks required by the City of Lenexa, Kansas, or
  - b) compliant with any standard variance granted by the City of Lenexa, Kansas.
- 7. Commencing and Completion of Construction. Unless the following time periods are expressly extended by the Developer in writing, construction of the residential building on a Lot shall be commenced within three months following the date of delivery of deed from the Developer to the purchaser of such Lot and shall be completed within ten months after such commencement. In the event such construction is not commenced within such three month period (or extension thereof), the Developer shall have, prior to commencement of construction, the right to repurchase such Lot from such purchaser at its original sale price. No Owner of a Lot in

violation of this construction commencement provision shall be entitled to reimbursement for taxes, interest or other expenses paid or incurred by or for such Owner.

8. **Occupancy.** No dwelling or residence shall be occupied until fully completed except for exterior painting, sod, landscaping and minor trim details.
9. **Exterior Structures.** All exterior structures are subject to the following restrictions:
  - a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except with the advance written approval of the Architectural Committee in compliance with the specific restrictions set forth in the subsection below; provided, however, that the approval of the Architectural Committee shall not be required for any Exterior Structure erected by or at the request of the Developer of any Exterior Structure that has been specifically approved by the Developer prior to the issuance of a temporary or permanent certificate of occupancy as part of the residential construction plans approved by the Developer and has been built in accordance with such approved plans.
  - b) All residential fences and privacy screens shall be consistent with the standard designs, heights and materials to be selected by the Developer or the Architectural Committee. All fences and privacy screens shall be constructed with the finished side out. No metal chain link or similar fence or privacy screen shall be permitted. Wrought iron fences or other ornamental with a black enamel finish may be submitted to the Developer or the Architectural Committee for approval. No fence or privacy screen shall extend toward the front of the residence beyond the rear corners of the residence. The Developer or the Architectural Committee must approve any fence in excess of four feet in height. No fences or any other obstruction may be permanently affixed in any drainage easement as determined by the official Gleason Glen plat filed with the Johnson County, Kansas Register of Deeds. Any fence that divides any portion of a lot owners property from the primary residence constructed thereon, must include gated access to the divided portion allowing for lawn and landscape maintenance access.
  - c) All basketball goals shall be free standing and not attached to the residence unless the Architectural Committee determines that there are compelling reasons for the basketball goal to be attached to the residence. All basketball goals shall be consistent with the Architectural Committee. All backboards shall be clear or painted

white and all poles shall be a neutral color. There shall be only one basketball goal per Lot. The Architectural Committee shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots.

- d) All recreational or play structures (other than basketball goals) shall be located behind the back building line of the residence. No plastic or metal playhouses or swing sets shall be allowed. All playhouses in excess of six feet in height and all swing sets must be made of wood in a similar fashion to approved decks and gazebos.
- e) No swimming pools of any kind may be constructed or installed without approval in writing by the Developer or the Architectural Committee. All approved pools shall be fenced or otherwise adequately screened. All approved pools and hot tubs shall be kept clean and maintained in operable condition. No above ground swimming pools will be permitted.
- f) All outside doghouses and other animal shelters or runs shall be located in the back yard, no larger than 5' X 5'; shall be up against or within two feet of the residence, shall be painted (where appropriate) the same color as the residence and shall have roofs (where appropriate) that are compatible with the residence.

10. Buildings or Uses Other Than for Residential purposes; Noxious Activities; Miscellaneous.

- a) Except as otherwise provided in Section 2 above, no residence or Exterior Structure shall ever be placed, erected, or used for business, professional, trade or commercial purposes on any Lot; provided, however, that this restriction shall not prevent an Owner from maintaining an office area in his residence in accordance with the applicable ordinances of the City of Lenexa.
- b) No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area, if any, nor shall anything be done which may be or become an annoyance or a nuisance to the neighborhood. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. All residences and Exterior Structures shall be kept and maintained in good condition and repair at all times.
- c) No vehicle, trailer, bus, van, camper, r.v., boat or similar apparatus shall be parked, left or stored in any yard. No trailer, bus, camper,

r.v., boat or similar apparatus shall be parked, left or stored in any driveway or street for more than a 24 hour period. All automobiles, pickups and vans shall be kept in an enclosed garage whenever possible. Motorized vehicles shall not be operated on any Lot or Common Area, if any, other than in the street.

- d) No television, radio, citizens' band, short wave or other antenna, solar panel, clothesline or pole, or other unsightly projection shall be attached to the exterior of any residence or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be held by a court of competent jurisdiction to be unenforceable because it violated the First Amendment or any other provision of the United States Constitution, the Architectural Committee shall have the right to established rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the neighborhood and any such rules and regulations shall be binding upon all of the Lots. No lights or other illumination shall be higher than the residence.
- e) All exterior satellite dishes must be no larger than 24 inches in diameter and may not be affixed to any portion of the residence that adjoins a street.
- f) All garage doors shall remain closed except when necessary for entry or exit.
- g) No speaker, horn, whistle, siren, bell or other sound device, except intercoms and those used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any residence or in any yard.
- h) All residential service utilities shall be underground.
- i) In the event of vandalism, fire, windstorm or other damage, no buildings shall be permitted to remain in damaged condition for longer than three months.
- j) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any yard. Storage shall be permitted under a deck provided such area is fenced or otherwise screened.
- k) No fuel storage tanks of any kind shall be permitted



- l) No driveway shall be constructed in a manner as to permit access to a street across a rear lot line.
  - m) No exterior Christmas decorations (including lights) and/or holiday decorations may be erected, displayed or maintained except between November 15<sup>th</sup> and January 31<sup>st</sup>.
11. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot 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 and to not constitute a nuisance to the neighbors or neighborhood. Subject to any more restrictive law or ordinance, in no event shall more than three dogs or cats, or combination thereof, be raised, kept or maintained on any Lot.
12. Landscaping and Lawns.
- a) Prior to occupancy, and in all events within five months after commencement of construction, all lawns, including all areas between each residential building and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave a portion of the Lot as a natural area with the express written permission of the Developer. No lawn shall be planted with zoysia grass.
  - b) Prior to occupancy, and in all events within five months following commencement of construction of the residence, the Owner thereof shall landscape the Lot to the same standards as that prevailing throughout the District and in accordance with the plans approved by the Developer.
  - c) Each Lot Owner shall be responsible for planting at least one shade tree (in addition to any tree that may be planted by either the developer or the City of Lenexa) two inches caliber, or larger, in size, in the front yard.
  - d) Each Lot is required to utilize at least \$1000.00 in the planting of landscaping excluding the costs of grading and sod.
  - e) All vegetable gardens shall be located in the back yard, and the size of which shall not constitute more than 10% of a Lot's total square foot area.

- f) The Owner of each lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed four inches.
- g) Each Lot Owner shall properly maintain and replace all trees and landscaping. At no time shall any lot be allowed to have less than two shade trees of at least two inches in diameter or one tree of at least six inches in diameter in the front yard.
13. Easements for Public Utilities; Drainage; Maintenance. The Developer 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, pipelines, 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, under, upon and through all easements rights-of-way shown on the recorded plat of the District. All utility easements and rights-of-way shall inure to the benefit of all utility companies for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of the Developer, all Owners in the District and the Homes Association as a cross easement for utility line or service maintenance. The Developer shall have and does hereby reserve for itself, its successors and assigns and the Homes Association and its successors and assigns an easement over and through all unimproved portions of each Lot in the District for the purpose of performing the duties of the Homes Association and maintaining any Common Area, if any. No water from any roof, downspout, basement or garage drainage or surface drainage shall be placed in or connected to any sanitary sewer line.
14. Common Areas. The Developer and its successors, assigns, and grantees, as Owners of Lots in the District, shall have the right and easements of enjoyment in and to all of the Common Areas, if any, but only for the intended use. Such right and easement shall be appurtenant to, and shall automatically pass with, the title to each Lot and shall be subject to the rights (including ownership) of any governmental authority or any utility therein or thereto.
- a) The ownership by the Homes Association of any Common Area, if any, and the right and easement of enjoyment of the Owners in the District as to any Common Area, if any, shall be subject to the right or the Developer to convey sewage, water, drainage, maintenance and utility easements over, under, upon and through such Common Area, if any, as provided in Section 13 above.
- b) No Owner shall improve, destroy or otherwise alter any Common Area, if any, without the express consent of the Approving Party.

- c) The Developer and the Homes Association shall have the right to make additional rules, regulations and restrictions pertaining to the use of any Common Area, if any.
15. Architectural Committee. The Board of Directors shall elect the Architectural Committee. There shall be four seats on the Architectural Committee with staggered two-year terms. The provisions of this subsection shall not apply until after the Turnover Date. Until such date, the Developer shall serve as the Architectural Committee.
- a) The Architectural Committee shall meet at least once each calendar month to consider applications with respect to any Exterior Structures that require the approval of the Architectural Committee as provided in Section 8 above. Every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Architectural Committee. The Committee chairman can suspend a monthly meeting if no applications have been submitted for review.
- b) At each meeting, the Architectural Committee shall consider and act upon applications that have been submitted to it for approval with respect to Exterior Structures. In making its decisions, the Architectural Committee may consider any and all aspects and factors that the committee members, in their absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics to the GLEASON GLEN neighborhood, including, without limitation, the plans, specifications, exterior colors, materials, location, elevation, landscaping and use of the proposed Exterior Structure. Decisions of the Architectural Committee shall be in writing and delivered to the applicant, who shall be responsible for keeping the same. The Architectural Committee may establish in advance and change from time to time certain guidelines and conditions that it intends to follow in making its decisions. If the Architectural Committee cannot reach a consensus on any given decision, the Association Presidents recommendation shall stand.
- c) Subsequent to the Turnover Date, any applicant who is dissatisfied with the decision of the Architectural Committee shall have the right to appeal such decision to the Board provided such appeal is filed in writing with a member of the Board within 15 days of the date the Architectural Committee renders its decision. Any decision rendered by the Board on appeal shall be final and conclusively binding on the applicant.
16. No Liability for Approval or Disapproval. Neither the Developer, nor the Homes Association, nor any member of the Architectural Committee or the

Board shall be personally liable to any person for any discretionary approval, disapproval or failure to approve any matter submitted for approval, for the adoption of any rules, regulations or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration.

17. Covenants Running with Land; Enforcement. The agreements, restrictions and reservations herein set forth are, and shall be, covenants, running with the land into whosoever hands any of the property in the District shall come. The Developer and its successors, assigns and grantees, and all parties claimed by, through or under them, shall conform to and observe such agreements, restrictions and reservations; provided, however, that no persons shall be obligated to enforce any such agreements, restrictions and reservations. No agreement, restriction or reservations herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during its or his seizing of title to such Lots; provided, however, that the immediate grantee from the builder of breaches committed during such builder's ownership of such Lot. The Developer, its successors and assigns, and all other Owners of any of the Lots and the Homes Association, shall have the right (but not the obligation) to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the agreements, restrictions and reservations herein set forth, in addition to any action at law for damages. The failure to enforce any of the agreements, restrictions or reservations 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.
18. Assignment of Developer's Rights. The Developer shall have the right and authority, by appropriate agreement made expressly for that purpose, to assign, convey, transfer and set over to any person(s) or entity, all of any part or the rights, benefits, powers, reservations privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for all purposes be the Developer hereunder with respect to the assigned rights, benefits, powers, reservations, privileges duties and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations privileges, duties, and responsibilities hereunder.
19. Release or Modification Restrictions. The provisions of this Declaration shall remain in full force and effect until December 31, 2022, and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the then Owners of a majority of the Lots may release the District, or any part thereof, from all or part of such provisions as of December 31, 2022, or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and

recording an appropriate agreement in writing for such purpose, at least one year prior to the original expiration date or to a subsequent expiration date, whichever is applicable. The provision of this Declaration may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by the Owners of not less than 51% of the Lots hereby restricted, including Lots owned by Aspen Properties, a Kansas General Partnership and filing of same for record in said office of Register of Deeds, Johnson County, Kansas.

20. Severability. Invalidation of any of the provisions 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 provisions, or any part thereof, but they shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer and Owners have caused this Declaration to be duly executed the day and year first above written.

Aspen Properties, a Kansas Partnership

Mike Barnhart  
Mike Barnhart, Partner

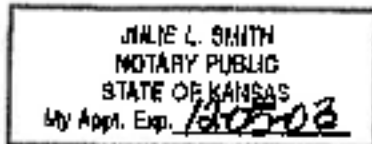
6-26-02  
Date

STATE OF Kansas  
COUNTY OF Johnson )  
  )SS.

BE IT REMEMBERED, that on this 26<sup>th</sup> day of June, 2002, before me the undersigned, a Notary Public in and for the county and state aforesaid, came Mike Barnhart, of Aspen Properties, a Kansas Partnership, who is personally known to me to be the same person who executed the within instrument on behalf of said Partnership, and such person duly acknowledged the execution of the same to be the act and deed of said partnership.

Julie L Smith  
Notary Public

My commission expires 12-05-03



RET. ASPEN PROPERTIES  
P.O. BOX 4455  
OLATHE, KS 66063