



Sedgwick County  
Register of Deeds - Bill Meek  
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**FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, EASEMENTS AND DISCLOSURES FOR FALCON FALLS**

This First Amendment to Declaration of Covenants, Conditions, Restrictions, Easements and Disclosures for Falcon Falls ("Amendment") is executed as of Nov. 17, 2004, by Heights, LLC, a Kansas limited liability company (hereinafter referred to as the "Developer").

WHEREAS, Developer executed and recorded in the Sedgwick County real estate records that certain Declaration Of Covenants, Conditions, Restrictions, Easements And Disclosures For Falcon Falls dated the September 22, 2003 at Film 2785, Page 2831, *et seq.* (the "Declaration"); and

WHEREAS, the Declaration includes "Property" as defined in Section 1.13 of the Declaration as follows:

Falcon Falls Addition to Wichita Sedgwick County, Kansas

WHEREAS, Developer has the right pursuant to the terms of the Declaration to further amend and modify the same and the Developer desires to do so as provided herein.

NOW, THEREFORE, the Declaration is hereby amended and modified as provided below:

1. Section 5.2 C. v. is hereby deleted in its entirety.
2. Section 5.2 C. xi. is hereby deleted in its entirety and the following is substituted therefor:

"xi. Except as provided in Section 5.2 D., pool buildings, gazebos, any shed, storage facility, playhouse or other improvement may be constructed within any rear or side yard area applicable to a Lot, if so approved by the appropriate Design Committee as to design, materials and location on a Lot; provided, that the same shall not exceed one story in height and are allowed by applicable building codes. The exterior of each such detached outbuilding shall be constructed with the same material as the exterior of the residence."

**AFTER RECORDING, RETURN TO:**  
Ron H. Harnden  
Triplett, Woolf & Garretson, LLC  
2959 N. Rock Rd., Suite 300  
Wichita, Kansas 67226

234034 - 11/17/04

3. Section 5.2 Construction Requirements is amended to add the following thereto:

"D. Prohibition of Sheds and Other Outbuildings. No building improvements may be erected, constructed, placed or installed on a Wrought Iron Fence Lot (as defined in Section 1.15 of the Declaration), other than the residence and attached garage approved as required by this Declaration. The prior sentence shall prohibit, without limitation, the following: pool buildings, gazebos, any shed, storage facility, playhouse or other improvement which may obstruct the views from other Lots."

4. Section 9.2 is hereby deleted in its entirety and the following is substituted therefor:

"9.2. Amenity Mortgage Financing. Notice is hereby given that Developer and/or Association has obtained, or will obtain, and renew and refinance from time to time, mortgage secured loan or loans in order to pay the cost of installing or constructing amenities (including, but not limited to, a swimming pool, playground equipment, sidewalks, sprinkler systems, seeding grass and landscaping, together within any other improvements listed on Exhibit "B" to this Declaration) within the Common Area for the use and benefit of the Owners. Any such amenity improvements other than those listed on Exhibit "B" shall be entirely discretionary. When the Developer initially obtains such loan(s), the Association shall continue to renew such loan(s), or obtain a different loan(s), as requested by Developer from time to time. All or any portion of the Common Area shall be mortgaged from time to time to secure such loan(s), as required by the lender(s). Assessments or funds collected by the Association under Article IV hereof (including transfer fees), along with Developer's subsidies paid under Section 3.4 hereof, shall be utilized for repayment of the interest and principal arising from any such loan(s) in accordance with the terms of such financing. Upon obtaining such loan(s) (and the renewal and refinancing thereof from time to time), neither the Developer nor the Association shall be required to give notice thereof to the members of the Association. The Association shall indemnify, defend and hold Developer, and its members, harmless from any proceedings, judgments, claims, liabilities, costs and expenses, including attorney's fees, arising out of any such loan or mortgage, and any guaranties thereof, including the failure to repay any amounts due thereunder, except to the extent the Developer fails to pay its subsidy obligations under Section 3.4 hereof."

5. The first seven lines of Section 11.10 Amendments are hereby deleted in their entirety and the following are substituted therefor:

"11.10 Amendments. Amendments including waivers, modifications, alterations, removals, changes and additions hereto to this Declaration may be made by Developer, or its successors and assigns, in its sole discretion, from time to time, so long as Developer (or its successors and assigns) retains ownership of a minimum of fifty percent (50%) of the Lots within the Property. Following the date Developer, or its successors and assigns, no longer owns a minimum of fifty percent (50%) of the Lots, any provision contained in this Declaration may be amended, repealed, or additional provisions added to this Declaration, as follows:"

6. Except as provided herein, the Declaration shall remain in full force and effect in accordance with its prior terms and provisions.

IN WITNESS WHEREOF, executed as of the day and year first above written.

DEVELOPER  
Heights, LLC

By: \_\_\_\_\_

Jay W. Russell, Manager

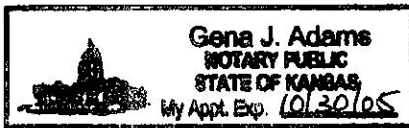
STATE OF KANSAS )

) ss:

COUNTY OF SEDGWICK )

BE IT REMEMBERED, that on this 17<sup>th</sup> day of November, 2004, before me a Notary Public in and for the County and State aforesaid, personally appeared Jay W. Russell, Manager of Heights, LLC, a Kansas limited liability company, personally known to me to be the same person who executed the above and foregoing instrument in writing on behalf of said limited liability company and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



My appointment expires:

10/30/05

Gena J. Adams  
NOTARY PUBLIC