

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Application of Sundowners, Inc.)  
For a Certificate of Convenience and Necessity )  
To Transact Business of a Water Public Utility in ) Docket No. 24-SUNW-590-SHO  
Certain Areas of Saline County, KS )

**APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY  
AND RESPONSE TO THE SHOW CAUSE ORDER**

COMES NOW, Sundowners, Inc. (“Applicant”), by and through its attorneys Foulston Siefkin LLP and pursuant to K.S.A. 66-104, 66-131 and any and all relevant provisions of Kansas law and submits its Application to the State Corporation Commission of the State of Kansas (“Commission”) for a Certificate of Public Convenience and Necessity (“Certificate of Convenience”). In support of its Application, Applicant represents and states as follows:

1. The Applicant is a Kansas corporation.<sup>1</sup> The predecessor to Applicant was incorporated in 1970. Since then, Applicant has had multiple owners. But on or about August 26, 2021, Scott Kolling became Applicant’s owner and the water system permittee.

2. The Applicant is the owner of the Sundowner water system which serves the Sundowner West Meadows and Sundowner West Mobile Home Park area (the “Service Area”). The Service Area is located west of the City of Salina in Saline County, Kansas approximately 0.5 miles north of the intersection of I-70 and North Hedville Road. Specifically, the Service Area is described and depicted in the attached Exhibits 2 and 3, respectively.

3. The Applicant has been providing water service in the Service Area for several years. The Sundowner water system currently in operation was put into service in approximately 1974.

---

<sup>1</sup> A copy of the Applicant’s Certificate of Good Standing is attached hereto as Exhibit 1.

4. The Service Area is not within or served by an incorporated municipality. There are no other utilities of the same classification as this Applicant now operating in the proposed Service Area.

5. According to the Commission Staff's Report and Recommendation in Docket No. 24-SUNW-590-SHO, the Applicant is engaged in the business of a public water utility in the State of Kansas but does not currently possess a Certificate of Convenience.

6. Applicant does not dispute this conclusion. However, Applicant asserts that its failure to have a Certificate of Convenience is not an indication of any intent to skirt the legal requirements for public utilities. Until recently, Applicant was under the mistaken impression that it was not required to have a Certificate of Convenience, given Applicant's affiliation and relationship to the Homeowner's Association ("HOA") created by applicant in 1976 shortly after the water system was installed.

7. Under Kansas law, nonprofit public utilities like HOAs are exempted from Commission regulation subject to certain requirements. *See* K.S.A. 66-104c. Applicant currently functions as a HOA and its bylaws are on file at the Saline County Register of Deeds and are attached to this Application as Exhibit 4.

8. In KCC Docket No. 20-DTRW-120-SHO, for example, the Commission examined whether an HOA subdivision was subject to Commission regulation by examining the subdivision's bylaws. In that case, the Commission decided that if the bylaws reserved the rights of the HOA to govern the water utility and if it met the statutory requirements, the subdivision would not be subject to regulation. Ultimately, the Commission determined that the HOA subdivision constituted a public utility in need of a Certificate of Convenience because the bylaw provisions had been amended and no longer reserved its rights to manage the water utility.

9. Here, Applicant's owner believed that the HOA's rights to manage the water system were preserved in the bylaws. The Applicant's owner has since learned that the HOA's rights to manage the water system were not reserved in the bylaws and as mentioned earlier, agrees that a Certificate of Convenience is necessary to operate the water system in the Service Area and is filing this Application to ensure compliance as a water utility with the Commission.

10. The Commission should grant Applicant's request, as the Applicant has sufficient managerial, technical, and financial experience to provide efficient and sufficient water utility services to the customers in the Service Area. The Commission's application of the above referenced standard has not been rigid and most of the available decisions and interpretation of this standard have been given in the context of large utilities, and Applicant could find no discussion of the application to the four small water utilities that the Commission currently regulates. *See e.g.*, KCC Docket No. 06-CTST-1089-COC *and* KCC Docket No. 21-GLPE-160-ACQ.<sup>2</sup>

11. Applicant has the necessary experience to operate this water system consistent with the Commission's standards. The current owner, Scott Kolling, currently possesses a KDHE Certified Operator Certificate and has possessed one for over twenty years. In his career, he has gained extensive experience with water systems and the operation of such systems. In addition, he also previously managed a company that specialized in underground utility installation including water, storm, and sewer.

12. In early 2024, in response to recent community questions and concerns regarding the quality of water in the Service Area, in addition to Applicant's own testing and KDHE testing, Applicant retained a third party, Waterwise Enterprises ("Waterwise"), to provide services to

---

<sup>2</sup> *See also* Kansas Corp. Comm'n, 2023 Utilities and Common Carriers Report 27, [https://www.kcc.ks.gov/images/PDFs/legislative-reports/2023\\_Utilities\\_and\\_Common\\_Carriers\\_Report.pdf](https://www.kcc.ks.gov/images/PDFs/legislative-reports/2023_Utilities_and_Common_Carriers_Report.pdf).

Applicant related to additional BART testing on the Service Area's water system to ensure safe water quality assurance. Waterwise will also operate Applicant's water system and conduct daily chlorine residual checks after Applicant's employee receives training from Waterwise on how to do so.

13. In addition, Waterwise is working with Applicant to create a three-to-five-year plan to manage the water system that includes, but is not limited to, bringing additional wells online as backups, well cleaning, and replacing valves as needed.

14. In response to the recent concerns raised by Commission Staff related to Applicant's billing procedures, in addition to providing Commission Staff requested documentation related to Applicant's billing practices, Applicant purchased a new billing system through Advantaged Computer Jayhawk Software and Nexbill pay to better organize and operate the Applicant's billing system in accordance with the Commission's Billing Standards.

15. Altogether, in the last several months, Applicant has spent approximately \$10,000 to ensure that the water and billing systems are consistent with KDHE and Commission standards, which is a significant investment for a small utility.

16. Granting the Applicant's Petition would promote the public convenience and necessity as a provider of water utility services in the Service Area because it would ensure that Applicant has on-going oversight and guidance by the Commission and its Staff, and it would simultaneously ensure that the public interest is protected in a way that the public continues to have safe and adequate water supply and service at a reasonable rate.

17. To that end, if the Commission grants the Applicant's request, the Applicant agrees that within sixty (60) days of receiving its Certificate of Public Convenience and Necessity,

Applicant will file with the Commission a rate case to obtain the Commission's approval of its rates.

WHEREFORE, Sundowners, Inc. respectfully requests that a Certificate of Convenience and Necessity be issued granting the right to transact the business of a public utility in the above referenced territory.

Respectfully submitted,



---


C. Edward Watson, II #23386  
Molly E. Morgan #29683  
FOULSTON SIEFKIN LLP  
1551 N. Waterfront Parkway, Suite 100  
Wichita, KS 67206  
[cewatson@foulston.com](mailto:cewatson@foulston.com)  
[mmorgan@foulston.com](mailto:mmorgan@foulston.com)

**VERIFICATION**

STATE OF KANSAS            )  
  )  
COUNTY OF SEDGWICK    )


ss:

C. Edward Watson, II being duly sworn upon his oath deposes and says that he is the attorney for Sundowner, Inc.; that he is familiar with the foregoing Application for a Certificate of Public Convenience and Necessity and Response to the Show Cause Order; and that the statements therein are true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
C. Edward Watson, II

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of May, 2024.



  
\_\_\_\_\_  
Notary Public

My Appointment Expires: 12/07/2024

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that a true copy of the attached Application for a Certificate of Public Convenience and Necessity and Response to the Show Cause Order has been served to the following by means of electronic service on May 10, 2024.

Carly Masenthin, Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, KS 66604  
[c.masenthin@kcc.ks.gov](mailto:c.masenthin@kcc.ks.gov)

Brian G. Fedotin, General Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, KS 66604  
[b.fedotin@kcc.ks.gov](mailto:b.fedotin@kcc.ks.gov)

Scott Kolling  
Sundowner, Inc.  
7592 Remington Rd.  
Salina, KS 67401  
[sckolling64@gmail.com](mailto:sckolling64@gmail.com)



---

C. Edward Watson, II #23386

STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE  
CERTIFICATE OF GOOD STANDING

I, SCOTT SCHWAB, Kansas Secretary of State, certify that the records of this office reveal the following:

Business ID: 149427

Business Name: SUNDOWNER, INC.

Type: Domestic For-Profit Corporation

Jurisdiction: Kansas

was filed in this office on July 08, 1970, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



In testimony whereof:  
I affix my official certification seal.  
Done at the City of Topeka,  
on this day May 10, 2024.

A handwritten signature in cursive script that reads "Scott Schwab".

SCOTT SCHWAB  
KANSAS SECRETARY OF STATE

**EXHIBIT**

**1**



**EXHIBIT**  
**2**

Attachment 1: Sundowner West Map

PARCEL 2

PARCEL 3

PARCEL 4

PARCEL 1

PARCEL 5

PARCEL 7

PARCEL 6

Chemical feed and controls building.



**Parcel 1:**

An irregular tract of land, known as Sundowner West Meadows lying in the South One-Half of Section Twenty- Eight (28), Township Thirteen (13) South, Range Four (4) West of the Sixth Principal Meridian, Saline County, Kansas, containing Seventy-Six and Sixty-One Hundredths (76.61) acres, as described in the Plat recorded in Plat Book PA5 Page 13 on July 18, 1975 in the real estate records of Saline County Kansas.

**Parcel 2:**

A parcel of land located in the Southeast Quarter (SE1/4) of Section Twenty Eight (28), Township Thirteen (13) South, Range Four (4) West of the 6th P.M., Saline County, Kansas, particularly described as follows: Commencing at the Northeast corner of the Southeast Quarter (SE 1/4); thence on an assumed bearing of S 00°00'00" E along said East line of said SE1/4, a distance of 411.96 feet to the point of beginning of the parcel to be described: Thence continuing S 00°00'00" E along said East line a distance of 300 feet; thence N 90°00'00" E, a distance of 460.35 feet to the point of beginning. Said parcel contains 3.17 acres, more or less, subject to easements, reservations and restrictions of record.

**Parcel 3:**

A portion of the Southeast Quarter of Section 28, Township 13 South, Range 4 West of the 6<sup>th</sup> Principal Meridian, Saline County, Kansas described as follows by Nicholas D. Schmid PS #1492, this 15<sup>th</sup> day of February 2022:

Commencing at the Southeast corner of said Southeast Quarter; thence on NAD 83 Kansas North Zone bearing of North 00°07'58" East on the East line of said Southeast Quarter a distance of 1,513.55 feet to the point of beginning; thence South 69°12'19" West a distance of 617.65 feet; thence North 82°33'55" West a distance of 222.34 feet; thence North 16°35'16" East a distance of 300.08 feet; thence North 68°48'36" East a distance of 699.24 feet; thence North 00°59'04" East a distance of 71.68 feet to the South line of a parcel described as exception Exhibit "A" recorded in Book 1329, page 720 of the Saline County Register of Deeds Office, thence South 89°52'02" East on said South line a distance of 60.00 feet to said East line; thence South 00°07'58" West a distance of 421.37 feet to the point of beginning. (except that part taken for road, highway and right-of-way).

**Parcel 4:**

The South Half (S2) of Section Twenty Eight (28), Township Thirteen (13) South, Range Four (4) West of the 6th P.M., Saline County, Kansas except and subject to easements and restrictions of record and except the following tracts:

Exhibit A (Firestation)

A parcel of land located in the Southeast Quarter (SE1/4) of Section Twenty Eight (28), Township Thirteen (13) South, Range Four (4) West of the 6th P.M., Saline County, Kansas, particularly described as follows: Commencing at the Northeast corner of the Southeast Quarter

(SE 1/4); thence on an assumed bearing of S 00°00'00" E along said East line of said SE1/4, a distance of 411.96 feet to the point of beginning of the parcel to be described: Thence continuing S 00°00'00 E along said East line a distance of 300 feet; thence N 90°00'00" E, a distance of 460.35 feet to the point of beginning. Said parcel contains 3.17 acres, more or less, subject to easements, reservations and restrictions of record.

#### Exhibit B (Platted Area)

An irregular tract of land, hereinafter to be known as Sundowner West Meadows lying in the South One-Half of Section Twenty- Eight (28), Township Thirteen (13) South, Range Four (4) West of the Sixth Principal Meridian, Saline County being more particularly described as follows:

From the Southeast corner of said Section 28, thence on an assumed bearing of N 90°00'00" W along the South line of said Section 28, a distance of 1,013 feet, thence N 00°00' W perpendicular to said South line, a distance of 20 feet to the point of beginning, thence N 90°00' W parallel with said South line, a distance of 1,930 feet; thence N 001,930 feet; thence N 00°00 W perpendicular to said South line, a distance of 80 feet; thence N 25°45' W, a distance of 810 feet; thence N 26°45' E, a distance of 1,60 feet' thence N 90°00' E, a distance of 1,060 feet; thence N 90°00' E parallel with the South line of said Section 28, a distance of 1,554.80 feet; thence S 21°45' E, a distance of 297.19 feet; thence S 68°15' W, a distance of 150 feet; thence along a curve to the left, having a radius of 95 feet, a distance of 149.23 feet; thence S 21°45' E, a distance of 852.37 feet; thence along a curve to the right, having a radius of 230 feet, a distance of 424.15 feet to the point of beginning. Said irregular tract of land containing 76.61 acres more or less.

#### **Parcel 5:**

A tract of land located in the Northeast Quarter (NE1/4) of Section Thirty-three (33), Township Thirteen (13) Range Four (4) West of the Sixth P.M., which is more particularly described as follows: Beginning at a point on the North Line of said NE1/4 and 517.8 feet East of the Northwest Corner thereof; thence East along said North line, NE1/4, 1,100.2 feet; thence South 32.14251° West, 354.3 feet; thence South 22.98872° East, 712.55 feet; thence West and parallel with said North Line NE1/4 1,196.2 feet; thence North, 956.0 feet to the point of beginning, said tract containing 22.8 acres more or less;

#### **Parcel 6:**

Land situated in the County of Saline in the State of KS

A tract of land situated in the Northeast Quarter (NE1/4) of Section Thirty Three (33), Township Thirteen (13), South, Range Four (4) West of the 6<sup>th</sup> Principal Meridian in Saline County, Kansas, which is more particularly described as follows:

Beginning at the Northwest corner of said Northeast Quarter (NE1/4); thence East along the North line of said Northeast Quarter (NE1/4), Five Hundred Seventeen and Eight-Tenths (517.8) feet;

thence South One Thousand Ninety-Nine (1099) feet; thence Westerly five hundred sixteen and Two-Tenths (516.2) feet to the West line of said Northeast Quarter (NE1/4); thence North along said West line, One Thousand One Hundred Thirty-Six (1136) Feet to the point of beginning.

**Parcel 7:**

The East One-Half of the Northwest Quarter (E/2 NW/4) of Section Thirty-Three (33), Township Thirteen (13) South, Range Four (4) West of the Sixth (6<sup>th</sup>) Principal Meridian, Saline County, Kansas.

CERTIFICATE TO PLAT OF SURVEY AND DECLARATION  
OF RESTRICTIONS REGULATING THE USE  
OF THE LAND THEREIN

SECTION 1

CERTIFICATE TO PLAT

KNOW ALL MEN BY THESE PRESENTS:

1.1 That SUNDOWNER, INC., is the owner of the following described real estate:

An irregular tract of land, hereafter to be known as Sundowner West Meadows lying in the South One-Half of Section Twenty-Eight (28), Township Thirteen (13) South, Range Four (4) West of the Sixth Principal Meridian, Saline County, Kansas, being more particularly described as follows:

From the Southeast corner of said Section Twenty-Eight (28) thence on an assumed bearing of North 90°00' West along the South line of said Section Twenty-Eight (28) a distance of Ten Hundred Thirteen (1,013.00) feet: Thence North 0°00' West perpendicular to said South line a distance of Twenty (20) feet to the point of beginning;

Thence North 90°00' West parallel with said South line a distance of Nineteen Hundred Thirty (1,930.00) feet; thence North 0°00' West perpendicular to said South line a distance of Eighty (80.00) feet; thence North 25°45' West a distance of Eight Hundred Ten (810.00) feet; thence North 26°45' East, a distance of Ten Hundred Sixty (1,060.00) feet; thence North 90°00' East parallel with the South line of said Section Twenty-Eight (28) a distance of Fifteen Hundred Fifty-Four and Eighty Hundredths (1,554.80) feet; thence South 21°45' East a distance of Two Hundred Ninety-Seven and Nineteen Hundredths (297.19) feet: thence South 68°15' West a distance of One Hundred Fifty (150) feet: thence along a curve to the left, having a radius of Ninety-Five (95.00) feet, a distance of One Hundred Forty-Nine and Twenty-Three Hundredths (149.23) feet: thence South 21°45' East a distance of Eight Hundred Fifty-Two and Thirty-Seven Hundredths (852.37) feet: thence along a curve to the right having a radius of Two Hundred Thirty (230.00) feet, a distance of Eighty-Seven and Thirty-One Hundredths (87.31) feet: thence South 0°00' East perpendicular to the South line of said Section Twenty-Eight (28), a distance of Four Hundred Twenty-Four and Fifteen Hundredths (424.15) feet to the point of beginning.

Said irregular tract of land containing Seventy-Six and Sixty-One Hundredths (76.61) acres.

and has caused said real estate to be surveyed and platted under the name of SUNDOWNER WEST MEADOWS; and has caused the same to be subdivided into lots, streets and easements as particularly set forth on the plat recorded in the office of the Register of Deeds of Saline County, Kansas, in Plat Book A-5, page 13, which plat is made a part hereof by reference.

**EXHIBIT**  
**4**

1.2 This instrument does not and shall not constitute a grant or declaration of street easements for public purposes.

1.3 Utility easements lying within and between those certain broken lines as indicated on the plat are reserved for the purpose of installing, repairing, replacing and maintaining sewers, sewer lines, waterlines, electric power lines, gas lines, telephone lines, television lines and all forms and types of utilities now or hereafter utilized subject to the terms, conditions and provisions of the restrictions as hereinafter set forth.

1.4 Said plat of survey has been prepared in accordance with all applicable laws and regulations.

SECTION 2

DECLARATION OF RESTRICTIONS

2.1 SUNDOWNER, INC., hereby declares that all of the property described above is held and shall be held, conveyed, leased, encumbered, rented, used, occupied and improved subject to the limitations, restrictions, conditions and covenants, as herein contained, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of real estate property and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the real estate and every part thereof. All of the limitations, restrictions, conditions and covenants as herein contained shall run with the land and shall be binding on all parties using, having or acquiring any right, title or interest in the described real estate or any part thereof.

SECTION 3

DEFINITIONS

3.1 The term "lot" as used herein shall apply to each lot as shown and described on the plat which is included herein by reference.

3.2 The term "lot line" means the boundary line of each lot as shown on the plat.

3.3 The term "building limit line" means the building limit line as applicable to each lot on the plat.

3.4 The term "owner" means the person or persons who now or who shall from time to time hereafter own the fee simple title to a lot.

3.5 The term "person" includes any firm, partnership, joint venture, corporation or other legal entity.

3.6 The term "dwelling" means any structure or any portion thereof, designed and used for residential occupancy, including one-family, two-family and multiple dwellings.

3.7 The term "one-family dwelling" means a detached building arranged, intended or designed for occupancy by one family.

3.8 The term "two-family dwelling" means a detached building arranged, intended or designed for occupancy by two families.

3.9 The term "multiple dwelling" means a building or portion thereof arranged, intended or designed for occupancy by three or more families.

3.10 The term "family" shall mean any number of individuals living together as a single housekeeping unit.

3.11 The term "garage" means an accessory building for storage only of motor vehicles, boats, trailers or related items.

3.12 The term "story" shall mean that part of a building included between the surface of the floor and the surface of that part of the building which is above the floor.

3.13 The term "height of building" shall mean the vertical distance measured from the average finished grade level adjoining the building to the level of the highest point of the roof.

3.14 The term "sign" shall mean any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency or of any civic, charitable, religious, patriotic, fraternal or similar organization.

3.15 The term "mobile home" means a factory built structure or

structures not less than 12 feet in width and not less than 50 feet in length, equipped with the necessary service connections and made so as to be readily movable as a unit or units and designed as a dwelling unit or units.

3.16 The terms "modular, sectional and component" mean factory built structures which, as assembled, shall constitute residential units with necessary service connections.

3.17 The term "building" means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

3.18 The term "garbage" includes every accumulation of animal, vegetable or other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruit, vegetables, food and food ingredients, including the cans, containers or wrappers wasted along with such materials.

3.19 The term "refuse" means all putrescible and non-putrescible solid waste except body waste. Refuse includes garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial waste.

3.20 The term "rubbish" means nonputrescible solid waste except ashes. Rubbish consists of both combustible and noncombustible materials, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, metals and similar objects.

#### SECTION 4

##### USE OF LAND AND BUILDING TYPE

4.1 No dwelling shall be placed, erected, altered or permitted to remain on any lot except a mobile, modular, sectional or component home. No shack, shed, basement, garage, tent, barn or other outbuilding whether of a temporary or permanent nature erected on or moved onto any lot, shall at any time be used as a dwelling. No building shall be placed, erected, altered or permitted to remain on any lot except in compliance herewith.

#### SECTION 5

##### ARCHITECTURAL CONTROL

5.1 No building shall be placed, erected or altered on



any lot until the construction plans and specifications and a plan showing the location of the building on the lot have been approved by the Management Committee as to the quality or workmanship and materials, harmony of exterior design with existing buildings or buildings to be placed on lot in the area where such building is to be built or placed and as to location with respect to topography and finish grade elevation.

SECTION 6

MANAGEMENT COMMITTEE

6.1 The Management Committee shall be composed of three (3) members to be appointed by SUNDOWNER, INC. No building or structure shall be placed, erected or altered on any lot until the structure, construction plans and specifications and a plan showing the location of the structure on the lot have been approved by the Management Committee as to the quality of workmanship and materials, harmony of external design with existing structures or structures to be placed on lots in the area where such structure is to be built or placed and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as hereinafter provided.

SECTION 7

PROCEDURE TO BE FOLLOWED BY MANAGEMENT COMMITTEE

7.1 The Management Committee's approval or disapproval as required in these covenants shall be in writing and filed with the committee. In the event the committee, or its designated representative, fails to approve or disapprove any request within sixty (60) days after such request has been made and plans and specifications as required by the committee have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

SECTION 8

AREA AND YARD REQUIREMENTS

8.1 Except as otherwise provided herein, no building shall be located on any lot nearer to the lot line than as follows:

- (a) Twenty (20) feet from any platted roadway,
- (b) Twenty-five (25) feet - front yard,
- (c) Ten (10) feet - side and rear yard,

SECTION 9

HEIGHT OF BUILDINGS

9.1 No building shall be more than one story, twenty (20) feet in height.

SECTION 10

GARAGES

10.1 Garage buildings shall not exceed four (4) spaces.

SECTION 11

DWELLING UNITS

11.1 One-family, two-family and multiple dwelling units may be placed on any lot, provided, however, there shall be a lot area of not less than forty-five thousand (4,500) square feet per family for two-family and multiple family dwellings.

SECTION 12

EXTERIOR COMPLETION

12.1 Within a period of forty-five (45) days after the location of any building on any lot, the exterior of such building shall be completed to ground level in a workmanlike manner using a uniform color and material.

SECTION 13

PROTECTIVE SCREENING

13.1 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 seventy-five (75) feet 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 a street property line with the edge of a driveway surface. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

SECTION 14

FENCING

14.1 Fencing in the easement areas is permitted subject to the terms and conditions of such easement and all uses in connection therewith, provided, however, all details regarding the location, construction, type and height of any fence shall be approved by the Management Committee prior to commencement of erection of any such fence.

SECTION 15

DRAINAGE AND SURFACE WATERS

15.1 It is recognized that the reasonable use of any lot will include some changes and modifications in the natural surface water drainage resulting from excavation and placement of materials on the surface in order to erect or place buildings thereon. All changes and modifications in the natural flow of surface water shall be reasonable and in each instance shall avoid increasing the flow or changing the direction of any surface water onto the adjoining lot or area. No planting, structure or materials shall be placed or permitted to remain or other activities undertaken which may obstruct or change the course of established drainage channels or waterways.

15.2 Surface vegetation shall be planted and maintained so as to minimize soil erosion.

SECTION 16

WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS

16.1 No individual water supply system or sewage disposal system shall be permitted on any lot unless such system is located, designed, constructed and equipped in accordance with the requirements, standards and recommendations of the Saline

County Health Department, the Kansas State Board of Health and all other agencies which have jurisdiction in connection with such systems.

SECTION 17

GARBAGE, REFUSE AND RUBBISH

17.1 No lot shall be used or maintained as a dumping ground for garbage, refuse or rubbish as herein defined. Garbage, refuse and rubbish shall not be kept except in suitable containers equipped with lids to prevent the removal thereof by vermin, animals or wind. Garbage, refuse and rubbish shall be collected and removed from all lots at least every ten (10) days. No garbage, refuse or rubbish shall be burned at any time.

SECTION 18

LIVESTOCK AND POULTRY

18.1 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. No dogs, cats or other household pets shall be permitted to run at large or otherwise cause a nuisance to other residents.

SECTION 19

OIL AND MINING OPERATIONS

19.1 No oil well drilling, oil development, oil refining, quarrying, pipeline or mining operations of any kind shall be permitted upon or in any lot.

SECTION 20

OPEN FIRES

20.1 No person shall set on fire on any lot, any leaves, grass, garbage, refuse or rubbish at any time, except as otherwise provided in this section, other than in incinerators of a type approved by the Management Committee. The principal officer of the fire district within which the real estate is located may designate a period each spring and each fall when open fires will be permitted if weather conditions permit and safe practices as prescribed are followed. Such

Fire Chief or principal officer or any of their designated representatives shall have the authority to stop any open fire burning. If there shall be no such Fire Chief or other principal officer of the fire district within which the real estate is located, the times for burning and conditions imposed shall be prescribed by the Management Committee.

## SECTION 21

NUISANCES

21.1 No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

## SECTION 22

SIGNS

22.1 No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales, of not more than thirty-two (32) square feet each.

## SECTION 23

SUBDIVISION OF LOTS

23.1 No lot may be subdivided.

## SECTION 24

TERM

24.1 All of the terms, conditions and provisions of these restrictions shall remain in full force and effect for a period of thirty (30) years from the date these restrictions are recorded in the office of the Register of Deeds of Saline County, Kansas, provided, that the owners of a majority of real estate may at any time release any or all of the real estate within the area described from one or more of the restrictions and conditions heretofore contained by executing and acknowledging a written agreement for such purposes and recording the same in the office of the Register of Deeds of Saline County, Kansas.

24.2 Owners of a majority of real estate as such words are used herein shall mean such person or persons who own more than fifty percent (50%) of the total square feet of real estate except easements of record existing at the time such determination is made.

SECTION 25  
ENFORCEMENT

25.1 Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenants, to restrain such violation or recover damages resulting therefrom or both.

SECTION 26  
SEVERABILITY

26.1 Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other covenants or portions thereof which shall remain in full force and effect.

DATED this 26<sup>th</sup> day of January, 1976.

SUNDOWNER, INC.

By Frank C. Norton  
FRANK C. NORTON, President

ATTEST:

Jeanne M. Norton  
JEANNE M. NORTON, Secretary

STATE OF KANSAS, COUNTY OF SALINE, SS:

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of January, 1976, by FRANK C. NORTON, President, and JEANNE M. NORTON, Secretary, for and on behalf of SUNDOWNER, INC.

Nancy A. Bassett  
NOTARY PUBLIC

My Commission Expires: MARCH 1, 1978



STATE OF KANSAS }  
COUNTY OF SALINE } ss. (N)  
FILED FOR RECORD IN MY OFFICE

ON JAN 27, 1976 AT

9:00 O'CLOCK AM AND DULY RECORDED  
NO. 123 OF 112 AT PAGE 658-667  
John Jagers REG. OF DEEDS

12:00  
Frank Norton