

**58-3702. Definitions.** As used in this act, unless the context otherwise requires:

(a) "Townhouse unit" means one single-family townhouse residential unit which may be joined together with at least one additional single-family townhouse residence by a common wall or walls, and/or roof, and/or foundation: *Provided, however,* That in any event, the term "townhouse unit" shall not mean an apartment as defined in K.S.A. 58-3102, and any amendments thereto.

(b) "Townhouse owner" means the person or persons owning the real estate in fee simple on which a townhouse unit is located.

(c) "Association of townhouse owners" referred to hereinafter as the "association," shall mean and refer to a nonprofit corporation formed pursuant to article 60 of chapter 17 of the Kansas Statutes Annotated, which owns, in fee simple, the common areas and facilities for the common use and enjoyment of the townhouse owners, as set forth in the declaration and articles of incorporation. Every person or entity who is an owner of fee simple title to a townhouse unit in a townhouse project area subject to this act, shall be a member of the corporation, with voting rights as set forth in the declaration and articles of incorporation. The association shall exercise all of the powers and duties reasonably necessary to provide for the management, maintenance, preservation, architectural control and as insurance trustee for the benefit of each townhouse unit owner in accordance with the bylaws and articles of the association and the declaration.

(d) "Common areas and facilities" shall mean any portion of the real estate and all improvements located thereon submitted to the provisions of this act owned by the association for the common use and enjoyment of the townhouse unit owners. Unless otherwise provided in the declaration or lawful amendments thereto, common areas and facilities shall mean and include:

(1) All real estate owned in fee simple by the association;

(2) all community buildings, swimming pools, tennis courts, playground equipment, recreational facilities, structures, trees, landscaping or other improvements located upon real estate owned by the association;

(3) all paved private drives, streets and open parking areas located upon real estate owned by the association;

(4) all installation of central services for the benefit of more than one owner, such as television antennas, incinerators, trash receptacles, pipes, wires, conduits and other public utility lines and facilities situated thereon;

(5) all easements, rights and appurtenances thereto necessary to the existence, maintenance and safety of the townhouse units; and

(6) all personal property owned by the association intended for use in connection with the operation of swimming pools, tennis courts, recreational facilities, building, structures or other facilities of the association.

(e) "Common expenses" means:

(1) All sums lawfully assessed against the townhouse unit owners by the association pursuant to the declaration;

(2) expenses of administration, maintenance, repair or replacement of the common areas and facilities incurred by the association pursuant to the declaration;

(3) expenses agreed upon as common expenses by the association at special or regular meetings held pursuant to the declaration; and

(4) expenses declared common expenses by provisions of this act or by the declaration or the bylaws of the association.

(f) "Declaration" means covenants and restrictions which run with the land and create certain land use restrictions, maintenance assessments which become liens against the real estate and easements in favor of all townhouse unit owners and the association.

Said declaration shall be recorded in the office of the register of deeds in the county where the real estate is located and shall be the instrument by which real estate is submitted to the provisions of this act.

**History:** L. 1975, ch. 291, § 2; July 1.