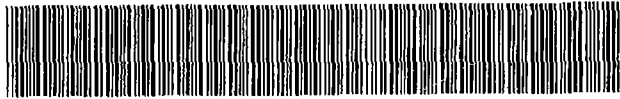





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#16

TA - COURTESY

## **Fairacres Place Townhome Protective and Restrictive Covenants**

WHEREAS the undersigned are the respective owners of Lots 1, 2, 3, 4, 5, 6, 7, and 8, and owners in common of Outlots A, B, and ~~E~~, adjacent and appurtenant to the aforesaid Lots in Fairacres Place Replat, an addition to the City of Omaha, Douglas County, Nebraska; and, the aforementioned and described property being commonly known and described herein as "The Fairacres Townhomes," and referred to as Lots 1-A, 1-B, 2-A, 2-B, 3-A, 3-B, 4-A, 4-B, 5-A, 5-B, 6-A, 6-B, 7-A, 7-B, 8-A, 8-B; and

*\* Outlot C, Fairacres Place*

WHEREAS the owners of the properties described aforesaid recognize the unique nature and design of The Fairacres Townhomes and desire individually and collectively to impose upon their ownership interests a series of Covenants and Restrictions intended to run with the land and intended to preserve, enhance and protect the value of their respective interests; and to require all current and future owners of record to be subject to the Covenants and Restrictions contained herein; and

IN CONSIDERATION of the mutual promises exchanged by and between the signatories, for themselves and on behalf of others who have provided proxies for same

NOW THEREFORE, these Covenants and Restrictions are hereby established upon the afore described real estate as follows:

**1. ASSOCIATION.** Every person or entity who becomes a record titleholder of a fee interest in any Fairacres Townhome shall by virtue of such ownership be a member of **The Fairacres Place Association, Inc.** and agrees (including contract buyers) to be bound by the Articles of Incorporation and By-Laws. Any person or entity who holds an interest merely as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any Townhome interest which is subject to the terms of the Covenants.

**2. DUTIES OF THE ASSOCIATION.** The Association shall have the responsibility to enforce the Covenants and Restrictions regarding usage and maintenance of the property, to enter into contracts for services, to levy and collect assessments for the work performed on behalf of the Association, and to utilize its powers and good efforts to preserve and enhance the value the homes and property.

The Association shall be separately constituted and incorporated and operated through its directors (president, vice-president, secretary, treasurer) and members (one member for each housing unit not represented by a director.)

An annual meeting of the Association shall be held for the purpose of electing officers, addressing the business of the Association, informing the membership, and any and all other business deemed appropriate. The annual meeting shall be called by the president of the Association with 14 days written notice to all directors. In the event of the termination of the Association for any reason, the covenants and restrictions contained herein shall remain valid and may be enforced at law or in equity by any individual or combination of individual owners of any townhome or townhomes.

### **3. Definitions.**

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the properties, including contract buyers, but excluding those having such interest merely as a security for performance of an obligation.

Section 2. "Properties" shall mean and refer to that certain real property hereinafter described, said Lots 1-8, inclusive, Fairacres Place Replat.

Section 3. "Lot" shall refer to any plot of land shown upon any recorded subdivision map or plat of the properties.

Section 4. "Declarants" shall refer to the owners of record at the date of the filing of these Covenants, Conditions and Restrictions.

Section 5. "Owner's property" shall be that real estate interest upon which owners dwelling unit is located and which was deeded in fee simple.

Section 6. "Association" shall mean **The Fairacres Place Association, Inc.** which shall have the power and duty to maintain the "common area" and "limited common area" and to perform certain building exterior maintenance in conformity with the provisions hereinafter set forth, for which the association shall have the power to levy and collect assessments for the work it performs. The Association will own for the benefit of its members the "common area" and "limited common area."

Section 7. "Common area" shall mean that property designated on the attached plat of Fairacres Place Replat Exhibit "A" as: Outlots "A" and "B" and "C", any easements as described on said plat, that area beyond five feet outside the

"owners property" and "limited common area", and any other property subsequently acquired by the association and designated as common area.

Section 8. "Limited common area" shall be that portion of any lot not described as "common area" above. The "limited common area" for any townhome shall be that portion of the lot upon which its "owners property" is situated, on the side of a line dividing the townhome units and the lot as depicted on the Fairacres Place Replat. The right to the use and benefit of the "limited common area" adjacent to each particular "owners property" shall be with the lot owner and not association members in general.

#### **4. Severability**

Section 1. Severability of Covenants. These covenants are severable and the invalidation of one shall not invalidate any other covenant, term or condition herein contained.

#### **5. Covenants**

Section 1. Owner's Legal Remedies. If there shall be a violation or threatened or attempted violation of any covenant, it shall be lawful for any member of **The Fairacres Place Association, Inc.** on behalf of its members to prosecute under proceedings at law or in equity against all persons violating or attempting to violate these covenants to secure an injunction against or required compliance herewith, or recover damages from such person violating these covenants.

Section 2. Restrictions. Every owner shall have full rights of ownership and enjoyment to his individual lot, subject to the following restrictions:

- A. No trade, business or commercial activity shall be carried on upon any lot, nor shall any recreational activity be done thereon which may become an annoyance or nuisance to the neighborhood.
- B. No outside, above-ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any lot.
- C. No outside storage of motor vehicles, boats, or any other items that do not conform with the design, attractiveness, and harmony of the appearance of the Fairacres Townhomes shall be permitted.

- D. Because the quality and harmonious appearance of the exterior of any townhome may affect the value of all townhomes, any and all exterior modifications including paint, roofing, remodeling, garage door replacement, gutter replacement and any other exterior modification shall be first reviewed and approved by the Association Board of Directors and must receive a majority vote to proceed forward.
- E. Outbuildings, sheds, playhouses, tents, gyms, swings, slides and all other similar appliances are prohibited from the townhome lots and common areas. No fences, basketball standards or recreational equipment whether permanent or temporary of any sort may be located in the driveways or front halves of the townhome lots or mounted or affixed to any townhome.
- F. Plantings on any townhome lot shall be harmonious with adjacent gardens in style and scale. It is the intention of the covenants to provide an attractive environment planted with seasonal, native flowers, shrubs, trees and bushes. The construction of any garden in the front half of a townhome lot shall require the written approval the Fairacres Place Association Board of Directors.
- G. Excavations, walls, berms, water features, monuments and sculpture shall all require prior written approval from the Board of Directors Fairacres Place Association.
- H. No exterior antennas of any kind or type shall be allowed on any townhome unless granted prior permission in writing by the Board of Directors of the Fairacres Place Association.
- I. All exterior lighting on the front of townhomes is intended to provide lighting for the individual townhome and also a portion of the lighting for the street. Lighting on the front of townhomes is expected to light at dusk and extinguish at dawn. Fixtures are to be harmonious in design with the townhomes.
- J. Mailboxes are to be placed facing the street for the convenience of the United States Postal Service and are to be uniform in appearance and size. The Fairacres Place Association shall determine the type, size and style of the mailboxes. The upkeep of said mailboxes is the duty of the individual home owner.

- K. The number of motor vehicles allowed at each townhome shall be limited to the number of garages on each townhome site. Parking of motor vehicles is to be inside the closed garage of each townhome. Parking on the street is not permitted except for visiting service vehicles or guests and is not permitted over night. No vehicle of any ownership, guest, service or trade may be parked in the driveway of any townhome for more than 5 successive days.
- L. Pet ownership in the Fairacres Townhomes shall be limited to domesticated dogs and cats and such pets shall be restricted by their owners to the limited common area immediately surrounding the pet owners residence. Such pets must not be left outside overnight nor create noise so as to disturb Townhome residents. Specific rules, regulations and requirements furthering implementing this provision (including the banning of individual animals, types or specific breeds) may be adopted by the Directors of the Fairacres Place Association and with written notice shall be binding upon and enforceable by the Association on any Townhome owner and against all Townhome lots.
- M. No townhome shall be divided or used for occupancy by more than members of an immediate family. No apartments, timeshares or other subdivision of interest shall be allowed.
- N. The wall between each townhome and the appurtenant townhome shall be considered to be a party wall and shall not be penetrated, weakened or invaded by either party. Repairs as needed to the party wall shall be considered the joint responsibility of the appurtenant owners.
- O. The term of these covenants and restrictions shall be 30 years unless no less than three quarters (3/4) of the members of the Association shall vote to abandon them.
- P. Grants for easements for utilities shall be the right and responsibility of the Townhome Owners Association.
- Q. Dues for the Association, or charges for maintenance, services or other costs assumed by the Association on behalf of a property owner shall constitute a lien and may, at the discretion of the Association, be enforced by actions at law or in equity.
- R. Assets of the Association are considered to be owned one sixteenth (1/16) per townhome.

- S. Dimensions of driveways and sidewalks may not be altered without the permission of the Board of Directors of the Association.
- T. No signs other than "for sale" signs shall be allowed on any of the Townhome property whether privately owned or common area.
- U. All berms, gardens, structures, fences and general improvements in existence as of the date of the execution of this document shall be considered in compliance with these covenants.
- V. All improvements, including plantings, berms, fences or other changes made to common or limited common area shall be the responsibility of the homeowner(s) who made the improvement, and all maintenance therefor shall be the obligation of such owner or owners. This obligation shall run with the land to any succeeding owner.

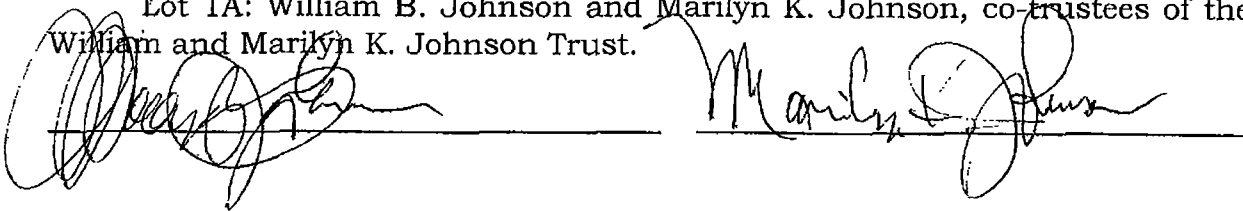
**6. General Governance**

It is understood by and between the Board of Directors and members of the Fairacres Place Association, Inc. that the customary and usual business of the Association shall be carried on by the Directors of the organization and in the absence of disagreement by more than one half of the townhome owners, the officers decisions will stand as final and as part of these covenants. All matters of variance from these covenants or design alteration of any townhome or appurtenant property shall be the subject of a directors and members meeting with notice given 14 days in advance of such meeting.

These covenants adopted by the undersigned owners on November 12, 2007.

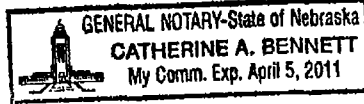
FAIRACRES PLACE REPLAT:

Lot 1A: William B. Johnson and Marilyn K. Johnson, co-trustees of the William and Marilyn K. Johnson Trust.



STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



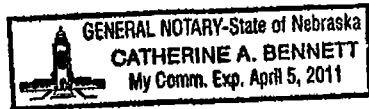
Catherine A. Bennett  
Notary Public

Lot 1B: Frank Day McMullen, Jr., thru Mary Herian ~~Dorthea Bradley~~ holding his valid proxy.

Frank D. McMullen, Jr.  
by Mary Herian

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



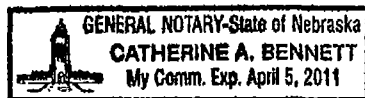
Catherine A. Bennett  
Notary Public

Lot 2A: M. Patricia Leuschen, a single person, by Susan Leuschen holder of Proxy.

M. Patricia Leuschen

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



Catherine A. Bennett  
Notary Public



Lot 2B: James D. Heater and Janice Heater, husband and wife, as joint tenants.

James D. Heater  
STATE OF NEBRASKA )  
  ) ss  
COUNTY OF DOUGLAS )

Janice Heater

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of November, 2007.



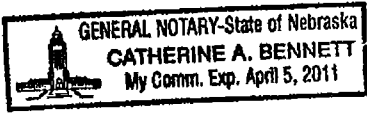
Catherine A. Bennett  
Notary Public

Lot 3A. William F. Boyle

STATE OF NEBRASKA )  
  ) ss  
COUNTY OF DOUGLAS )

William F. Boyle

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of November, 2007.



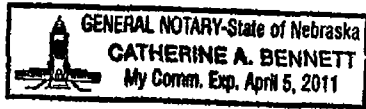
Catherine A. Bennett  
Notary Public

Lot 3B. Nellie C. Pirruccello, Trustee of the Nellie C. Pirruccello Restated Trust Agreement, thru Dortehea Brady holding her valid proxy.

Nellie C. Pirruccello by  
Dortehea A. Brady

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



Catherine A. Bennett  
Notary Public

Lot 4A: Anthony G. Laos and Andra E. Brooks, Husband and Wife

Anthony G. Laos as

Andra E Brooks

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



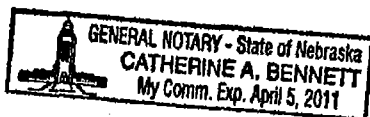
Catherine A. Bennett  
Notary Public

Lot 4B: Emily A. Bellinghiere, Trustee of the Emily A. Bellinghiere Amended and Restated Revocable Trust *She has provided proxy.*

Richard P. [Signature]

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 21<sup>st</sup> day of November, 2007.



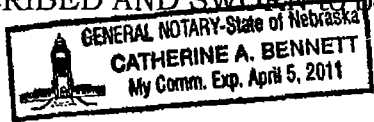
Catherine A. Bennett  
Notary Public

Lot 5A: Gary V. Kerr and Karren A. Kerr, Husband and Wife

Gary V. Kerr                      Karren A. Kerr

STATE OF NEBRASKA )  
   ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



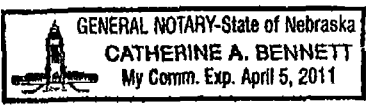
Catherine A. Bennett  
Notary Public

Lot 5B: Kathleen T. Jeffries and Richard P. Jeffries, Wife and Husband as  
Joint Tenants with Right of Survivorship

Kathleen T. Jeffries                      Richard P. Jeffries

STATE OF NEBRASKA )  
   ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



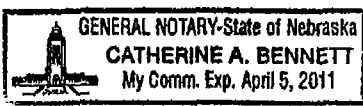
Catherine A. Bennett  
Notary Public

Lot 6A: Carl A. Brady or Dorothea A. Brady, Trustee of the Carl A. Brady and  
Dorothea A. Brady Trust

Carl A. Brady                      Dorothea A. Brady

STATE OF NEBRASKA )  
   ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 2007.



Catherine A. Bennett  
Notary Public

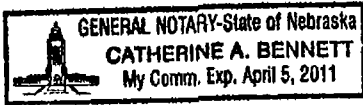
Lot 6B: Robert C. Herian and Mary C. Herian, Joint Tenants with Right of Survivorship

[Signature]

[Signature]

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of November, 2007.



[Signature]  
Notary Public

Lot 7A: Randall E. Kollasch and Connie L. Kollasch, Husband and Wife as Joint Tenants

[Signature]

[Signature]

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 12 day of November, 2007.



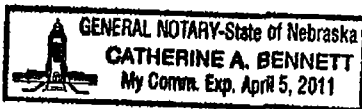
[Signature]  
Notary Public

Lot 7B: Nita Katherine Babcock

[Signature]

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of November, 2007.

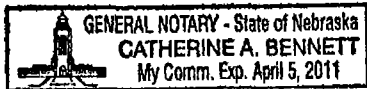


[Signature]  
Notary Public

Lot 8A: Barbara J. Ford *who has provided proxy.*  
*Richard P. Jeffries*

STATE OF NEBRASKA )  
 ) ss  
 COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of <sup>December</sup> ~~November~~, 2007.



*Catherine A. Bennett*  
 Notary Public

Lot 8B: Patricia R. Morrissey

STATE OF NEBRASKA )  
 ) ss  
 COUNTY OF DOUGLAS )

*Patricia R. Morrissey*

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of November, 2007.



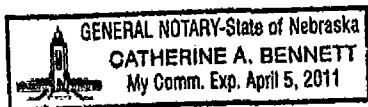
*Catherine A. Bennett*  
 Notary Public

The Fairacres Place Association, Inc., a Nebraska nonprofit corporation

*Kathleen T. Jupp*  
 President Fairacres Plac Assn

STATE OF NEBRASKA )  
 ) ss  
 COUNTY OF DOUGLAS )

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of November, 2007.



*Catherine A. Bennett*  
 Notary Public