

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth, by OAKBROOK, INC., a Nebraska Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property, more particularly described as:

That part of Lot 9, Block 11, Raven Oaks, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, more particularly described as follows: Commencing at the Southwest corner of Lot 8, Block 11, Raven Oaks; thence West along the South line of said Lot 9 (assumed bearing) for 12.10 feet to the point of beginning; thence continuing West along the South line of said Lot 9 for 155.12 feet; thence North $6^{\circ}26'30''$ East for 139.80 feet; thence South $83^{\circ}33'30''$ East for 42.14 feet to the center of the common party wall; thence South $6^{\circ}26'30''$ West along said center of party wall for 18 feet; thence South $83^{\circ}33'30''$ East for 112 feet; thence South $6^{\circ}26'30''$ West for 104.4 feet to the point of beginning.

WHEREAS, Declarant desires to create thereon a suburban town-house residential development with recreational facilities, open spaces, and other common facilities for the social and recreational benefit of the residents of said development; and

WHEREAS, Declarant desires to provide for the preservation of the natural rustic nature of the development and for the maintenance of the recreational facilities, playgrounds, open spaces and other common facilities; and to this end, desires to subject the aforesaid real property to the covenants, restrictions, easements and charges hereinafter set forth, each and all of which is and are for the benefit of said property and each of the owners thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the

powers of maintaining and administering the development properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of Nebraska a nonprofit corporation, known as the Oakbrook Home Association, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, owned and occupied subject to the following covenants, easements, restrictions and charges, hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Oakbrook Home Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons, of one or more residential building lots which are a part of the properties.

Section 3. "Member" shall mean and refer to every person who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association, or upon which the Association possesses perpetual rights by way of easement, license or grant, for the common use and enjoyment of the members. The initial Common Area shall consist of the following property:

That part of Lot 9, Block 11, Raven Oaks, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, more particularly described as follows: Commencing at the Southwest corner of Lot 8, Block 11, Raven Oaks; thence West along the South line of said Lot 9 (assumed bearing) for 12.10 feet to the point of beginning. Thence continuing West along the South

line of said Lot 9 for 155.12 feet; thence North 6°26'30" East for 25.80 feet; thence South 83°33'30" East for 28.24 feet; thence South 6°26'30" West for 3.00 feet; thence South 83°33'30" East for 36.40 feet; thence North 6°26'30" East for 10.00 feet; thence South 83°33'30" East for 36.75 feet; thence North 6°26'30" East for 2.00 feet; thence South 83°33'30" East for 52.75 feet; thence South 6°26'30" West for 17.40 feet to the point of beginning.

Section 6. "Lot" shall mean and refer to any residential plot of land on which a townhouse dwelling is to be located.

Section 7. "Declarant" shall mean and refer to Oakbrook, Inc., its successors and assigns, if such successors and assigns shall succeed to all right, title and interest of Oakbrook, Inc. in and to the properties.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have the right and easement of enjoyment in and to the Common Area in common with others which shall be appurtenant to and shall pass with the deed to every Lot from Oakbrook, Inc., its successors and assigns, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees to members and guests for the use of any recreational facility situated upon the Common Area the use of which facilities will be limited to members and their guests, and to otherwise impose reasonable limitations on the use thereof;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities;

(d) The right of the Declarant and the Association to grant easements, including those presently of record, to public utilities and Sanitary and Improvement District No. 142 of Douglas County, Nebraska, and their successors and assigns for purposes of construction, installation and maintenance of access and service roads, utility lines, mains, equipment, installations for the common benefit of the inhabitants of properties, landscaping amenities, and appurtenances thereto;

(e) The right of the Association to allow placement of compressors and related air conditioning equipment on the common area for the benefit of dwellings on adjacent lots;

(f) The right of the Declarant to relocate and modify the size of the residential Lots surrounded by the Common Area prior to construction on each said Lot of a cluster townhouse dwelling unit, provided that in no event shall the total area of the Common Area be reduced in excess of twenty percent (20%) as a result thereof.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family or guests on his Lot, subject to such rules and regulations as may be adopted by the board of directors from time to time establishing reasonable restrictions on such delegated use.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each residential Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot not then owned by a Class A member. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On January 1, 1985.

ARTICLE IV

ASSESSMENTS

Section 1. Covenant to Pay Assessments; Nature of Obligation. The Declarant, for each Lot within the Properties, hereby covenants, and each Owner of any Lot, by execution of a purchase agreement therefor, whether or not it shall be so expressed in such purchase agreement, is deemed to covenant and agree to pay to the Association assessments for such purposes and in such amounts as hereinafter provided. The assessments, together with interest, court costs, and reasonable attorney's fees incurred in the collection thereof, shall be a charge on the land and shall be a continuing lien upon said property against which each such assessment is made. Each such assessment, together with interest, court costs, and reasonable attorney's fees shall also be the personal obligation of the record Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successive owners unless

expressly authorized by the Association and expressly assumed by said successive owners.

Section 2. Classes of Assessments; Purposes of Each Class; Miscellaneous Provisions. The Board of Directors is empowered to impose upon the Lots contained within Oakbrook (excluding the Common Area) the following classes of assessments, for the purposes, in the amounts, and subject to the terms and conditions as herein-after established.

A. Basic Annual Assessment

- (1) Nature of Assessment; Miscellaneous Provisions. The Board of Directors shall annually impose a basic assessment against each of the Lots (excluding the Common Area) situated upon the Properties. This assessment shall be of uniform amount as to all Lots, and shall commence as to each Lot on the first day of the first month following the initial conveyance to a Class A member of that lot. The first such assessment shall be adjusted on a pro rata basis according to the number of months remaining in the assessment year. The Board of Directors shall fix the amount of this assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of said assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Board of Directors shall determine the amount of the initial basic annual assessment, which shall not exceed \$200.00. Thereafter, the Board shall annually redetermine the amount of said assessment, provided that the increase for any one year over the preceding year for that portion of the assessment attributable to expenses within the control of the association (to-wit, all expenses with the exception of taxes and insurance relating to the common area) shall not exceed ten percent (10%) unless assent thereto is given by two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The foregoing limitations shall in no way limit the Board of Directors regarding its authority to increase the annual assessment to defray increases in the amount of taxes or insurance relating to the common area.
- (2) Purposes of Assessment. The funds acquired by the association from the basic annual assessment shall be devoted to maintenance and improvement of the common area; repair, replacement and maintenance of the exterior surfaces of the homes situated upon the Properties; payment of taxes and insurance on the common area; employment of personnel to discharge such security and maintenance functions as shall be directed by the Board of Directors; construction of a building

for the storage of maintenance and security equipment and supplies; and such other expenses as may be incurred in the interest of the health, safety, welfare and social and recreational interests of the residents of Oakbrook, as determined by the Board of Directors to be consistent with the articles and by-laws of Oakbrook Home Association.

B. Insurance Assessment

- (1) Optional nature of assessment; Coverage Requirements. It shall be the responsibility of each Owner to procure and maintain on his dwelling unit fire and extended coverage insurance in an amount not less than the entire replacement cost of said unit as from time to time redetermined by the Association. Such coverage shall be available to individual Owners through the Association from the carrier through which the Association maintains insurance coverage on the common area, provided that the individual Owners can, in the alternative, obtain such insurance coverage in such amounts and through such carriers as they desire, provided that the names of said carriers and the amounts and types of coverage afforded shall be approved in advance by the Association and current certificates of insurance shall be issued to the Association, with loss payable to the Owner or the Association as their interests may appear. It shall be the obligation of any party owning property which is damaged or destroyed, whether an individual owner or the Association, to repair or replace such property so as to restore the same to as good a condition as it enjoyed prior to the date of said damage or destruction. If at any time the fire and extended coverage insurance obtained by an individual Owner shall lapse, the Association shall be empowered to obtain coverage in such amounts and to protect against such hazards as it in its discretion shall determine. The cost of any insurance coverage obtained as the result of lapse of the existing policy on the dwelling shall be due upon payment by the Association of the premium therefore and shall be collectible as a default assessment as hereinafter provided.
- (2) Determination of Cost; Periodic Comparison of Rates. The cost of the coverage offered hereby shall be determined on the basis of floor area of the participating dwelling units, the total cost of such insurance coverage being divided among the units in the same proportion as the floor area of each dwelling unit bears to the total floor area contained within the insured dwelling units. The Board shall, prior to renewal of the blanket policy of which this coverage is a part, seek bids from qualified insurers in order to obtain rates for coverage most favorable to the Association and the participating members.

C. Special Assessment for Capital Improvements

- (1) Application of Funds; Approval Required. The Association may levy, in any assessment year, a special assessment applicable to that year only

for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The term "capital improvements" shall include recreation-oriented facilities (swimming pool, tennis courts, club house and similar amenities), as well as other buildings and physical improvements of a cost in excess of \$200.00, constructed, erected or placed upon the common area for the general benefit and enjoyment of the residents of Oakbrook.

- (2) Rate of Assessment.
Special assessments for capital improvements shall be fixed at a uniform rate for all Lots.

D. Default Assessments

- (1) Definition.
Default assessments shall consist of any charges, liens or assessments, including but not limited to basic annual assessments, insurance assessments and special assessments for capital improvements, for which timely payment is not made by the Owner to the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed a default assessment and shall bear interest from the date due until paid at the rate of nine percent (9%) per annum.
- (2) Rights of the Association.
The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property when, in its discretion, it deems such action appropriate. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 3. Notice and Quorum Requirements. Written notice of any meeting called for the purpose of taking any action authorized under Sections 2A or 2C shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty-one (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Collection of Assessments; Certificate of Payment.

- A. Collection. These assessments may be collected on a monthly, quarterly, semi-annual or annual basis, as designated by the board of directors.
- B. Certificate of Payment; Conclusiveness of Contents. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

Section 5. Exempt Property. The Common Area shall be exempt from the assessments established herein.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, sign, structure, items of landscaping or other improvement of any type or description shall be constructed, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein, including window-mounted air handling or cooling equipment, be made until the plans and specifications showing the size, nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. In the event said Board of Directors, or its designated architectural control committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article shall be deemed to have been fully satisfied.

Section 3. A majority vote of the Board of Directors or its designated committee is required for approval or disapproval of proposed improvements.

Section 4. The said Board or its designated committee shall maintain written records of all applications submitted to it and of all actions taken by it.

ARTICLE VI

USE RESTRICTIONS AND EASEMENTS

Section 1. All Lots covered by this declaration, with the exception of the Common Area, shall be known and described as residential Lots, and shall be used only as residential Lots for single family cluster townhouses, of conventional construction methods and materials.

Section 2. No noxious or offensive trade or activity shall be carried on upon any Lot covered by this declaration, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

Section 3. No house trailer, modular house, basement, tent, shack, barn, or other out-building shall be built, erected or placed upon any Lot covered by this declaration.

Section 4. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat, canoe, rowboat, motorhome, or other recreational vehicle may be maintained, stored or kept on any of the Lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said Lots by other provisions contained herein.

Section 5. No animals of any kind shall be kept or maintained on any Lot covered by this declaration, without the express approval of the Association.

Section 6. No outdoor antenna of any type and for any purpose shall be erected or placed on any Lot covered by this declaration.

Section 7. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road, or portion of the Common Area, nor on any of the Lots covered by this declaration unless placed in a suitable container discretely concealed so as to not be visible from other Lots, streets, or the Common Area.

Section 8. The grounds of each Lot and the dwelling located thereon shall be maintained in a neat and attractive manner. Garage doors shall be kept closed at all times except when vehicles are entering or exiting. Care and maintenance of lawn areas within the

individual Lot boundaries shall be provided by the Association, provided however, that maintenance of plants, shrubs and similar vegetation placed thereon shall be the obligation of the individual Owner, who shall maintain the same in a neat and orderly condition. Upon the Owner's failure so to do, the Board of Directors of the Association, or its designated architectural control committee may, at its option, after giving the Owner fifteen (15) days written notice sent to his last known address, perform such maintenance functions when, and as often as, the same is necessary in its judgment.

Section 9. The cost of such maintenance referred to in Section 8 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the periodic assessment to which such Lot is subject under Article IV hereof.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon The Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, the Association shall restore it in accordance with the insurance provision hereof, without prejudice, however, to the right of the Association to call for contribution from the Owner or Owners responsible under any rule of law regarding liability for negligent or willful acts or omissions.

Section 3. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article,

the board of directors shall act as arbitrators of such dispute and the decision of a majority of the directors shall be final and conclusive of the question involved.

ARTICLE VIII

MAINTENANCE OF EXTERIOR OF STRUCTURES ON LOTS

The Association shall be responsible for and shall provide for maintenance and repair of all exterior surfaces of the buildings, party walls and fences located on the individual residential Lots included within the properties. The cost of such maintenance and repair shall be borne by the Association, which shall provide for the payment of same out of the regular annual assessments coming into its hands. Such maintenance shall include, but not be limited to, painting or staining of wood surfaces, tuckpointing of mortar, maintenance of exterior doors (excluding garage doors), and repair and replacement of gutters, downspouts, shingles, siding panels and bricks. Exterior glass shall be replaced or repaired, when necessary provided that the cost of replacement of exterior glass shall be the responsibility of the individual owner and shall be added to his annual assessment and become due and payable as dictated by the board of directors. Maintenance required because of damage caused other than by ordinary wear and tear shall be the responsibility of the individual owner and shall likewise be added to his annual assessment and become due and payable as dictated by the Board of Directors.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Rental and Occupancy. An Owner shall not permit individuals or families to occupy his Lot and the dwelling situated thereon in his absence or in the absence of the adult members of his immediate family, during a period in excess of one week, without the prior express written consent of the Board. An Owner shall not lease or rent his lot and the dwelling unit situated thereon without the prior express written consent of the Board. The written consent contemplated in the foregoing sections shall not be arbitrarily or unreasonably withheld, the purpose of this section being rather to protect the Owner and other Owners of Lots situated upon the properties from misconduct of persons other than Owners occupying individual Lots, which misconduct could give rise to punitive measures by the Board against the Owner of record of the Lot involved.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 4. Notices. Any notice required to be sent to any member of Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 5. Maintenance Easement. The Association shall retain an easement upon the exterior surfaces of each dwelling unit, and over any portion of the residential Lots not covered by buildings for purposes of maintenance and repair of exterior building surfaces and yard vegetation.

Section 6. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date of recording of this declaration, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended

during the first twenty (20) year period by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots, provided that Declarant may, within ten (10) years of the date of this instrument, amend this Declaration without the consent of Class A members. Any amendment must be recorded.

Section 7. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the Declarant without the consent of members within ten (10) years of the date of this instrument.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 30th day of September, 1974.

OAKBROOK, INC., Declarant

By: Ralph Minschke
President

(SEAL)

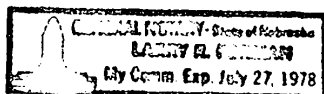
Attest:

Golden E. [Signature]
Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said county personally came Ralph Minschke, President of OAKBROOK, INC., a corporation, known to me to be the President and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on Sept. 30, 1974.



[Signature]
Notary Public

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ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA
1 DAY OF October 1974 AT 1:59 P.M. C. HAROLD OSTLER, REGISTER OF DEEDS

4225