

93-17660

RESIDENTIAL LOTS DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF SOUTHGATE ESTATES SUBDIVISION  
IN SARPY COUNTY, NEBRASKA

THIS DECLARATION, made on the date hereinafter set forth, is made by F & J ENTERPRISES, INC., a Nebraska corporation, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Sarpy County, Nebraska and described as follows:

Lots One (1) through Forty-five (45), Southgate Estates, a subdivision as surveyed, platted, and recorded in Sarpy County, Nebraska.

Such lots are herein referred to collectively as the "Estate Lots" and individually as each "Estate Lot".

The Estate Lots are situated in Southgate Estates Subdivision situated south of Capehart Road and west of Highways US 6 and State 31 in Sarpy County, Nebraska and herein referred to as Southgate Estates.

The Declarant desires to provide for the preservation of the values and amenities of Southgate Estates, for the maintenance of the character and residential integrity of Southgate Estates, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Southgate Estates.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Estate Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Estate Lots, and the enjoyment of the residents of the Estate Lots. These restrictions, covenants, conditions and easements shall run with such Estate Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Estate Lot, or any part thereof, as is more fully described herein. The Estate Lots are, and each Estate Lot is and shall be subject to all and each of the following conditions and other terms:

|         |                |
|---------|----------------|
| Proof   | _____          |
| D.E.    | _____ <i>W</i> |
| Verify  | _____          |
| Filmed  | _____          |
| Checked | _____          |
| Fee \$  | 67.50          |

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If the present or future owners of any of said Estate Lots, or their grantees, heirs, or assigns, shall violate or attempt to violate any of these covenants, it shall be lawful for the Declarant, the Southgate Estates Homeowners Association, or any other person or entity owning any part of said real estate to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent or enjoin him or them from so doing, or to recover damages or obtain other legal remedies for such violations.

Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect. These covenants may not be modified, altered, or waived without the written approval of the owners of at least 75 percent of the Estate Lots in the said subdivision.

Nothing herein contained shall in any way be construed as imposing upon the undersigned Declarant any liability, obligation or requirement to enforce any of the provisions contained herein. The rights, powers and responsibilities of the undersigned Declarant as outlined and contained herein may be assigned and delegated by the undersigned Declarant. Until such time as all tracts are improved, the undersigned Declarant shall have the right, in his discretion, to waive any one or more of the covenants, conditions or restrictions herein contained for hardship or other just cause.

A. Said Estate Lots shall be used only for single family, residential purposes, except such Estate Lots, or portions thereof, as may hereafter be conveyed or dedicated by the undersigned or its assigns for recreational, public, church, educational or charitable use. All accessory buildings shall be of wood or metal construction, and shall conform to overall architectural design that is harmonious and compatible with the subdivision and shall require written approval of the Declarant.

B. No noxious or offensive trade or activity shall be carried on upon any Estate Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or unreasonably disturb the owner or owners of any Estate Lot or any resident thereof.

C. The owner of each Estate Lot shall be responsible for the upkeep and maintenance of said Estate Lot prior to and after building completion. Should the owner of the Estate Lot not keep the area clear of debris and mowed prior to building completion, the original Declarant shall mow and maintain the Estate Lot at the rate of \$45.00 per hour. The total charge not to exceed \$500.00 per year. The owner shall take whatever steps are necessary to control noxious

weeds on his property, and shall maintain necessary ground cover in order to prevent erosion.

D. No trailer, basement, tent, shack, garage, barn, or other out building erected on said real estate shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence; and before any building shall be occupied as a residence, the entire building must be substantially completed and the exterior must be fully completed. Prior to the erection of any out buildings on any Estate Lot, the residence must already have been started and upon the commencement of construction in any event, the residence must be completed within twelve (12) months thereafter.

E. No residence or building shall be constructed, erected, placed or permitted to remain on any Estate Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

1. An Owner desiring to erect an Improvement on any Estate Lot shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. In the event owner contemplates construction of a fence, such plans shall include the type of materials to be used and the location. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

2. Declarant shall review such plans to determine their compliance with these covenants and to determine that such plans conform to the type and exterior of Improvements constructed, or approved for construction, on neighboring Estate Lots and in the surrounding areas, and any general scheme or plans formulated by Declarant. Homes are to be constructed with high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in his sole discretion to promote development of the Estate Lots and to protect the values, character and residential quality of all Estate Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Estate Lots and neighboring lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

3. Written Notice of any approval of a proposed Improvement shall be mailed to the Owner at the address specified by the Owner upon submission of the plans. Such notice shall be mailed, if at all, within fifteen (15) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

4. No Estate Lot owner, or combination of Estate Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

F. The minimum dwelling sizes for Lots One (1) through Forty-five (45) in Southgate Estates are as follows:

(1) For a ranch style (one level) or split-entry home, the ground floor (or Main level) shall contain not less than 1,650 square feet of finished living area.

(2) For a split-level, tri-level, or multi-level home, the top three levels shall contain a total of not less than 2,100 square feet of finished living area.

(3) For a 1 1/2 story or 2-story home, the ground floor area (first floor) shall not contain less than 1,100 square feet of finished living area and 1st and 2nd floors combined shall contain not less than 2,300 square feet of finished living area. All garages shall be attached only.

The computation of living area shall be exclusive of porches, breezeways, and garages.

The maximum height for any building shall be 2-1/2 stories, and all residences shall be built with a built-in, attached, or basement garage for not less than two (2) cars. All roofs must be of a suitable material that shall conform to overall appealing architectural design.

The exposed portion (above grade) of the front foundation walls must be faced completely with brick or stone.

G. Not less than ten (10) ornamental or deciduous shade trees must be planted on each Estate Lot in front of the front building line of any residence within one (1) year after excavation for footings, and thereafter maintained in good growing condition, and replaced as necessary.

No field crops shall be grown on any portion of a Estate Lot between the house and the front Estate Lot line, which portion of each Estate Lot must be planted in grass and maintained as lawn only.

H. Recreation-type vehicles, trailers, campers, boats, trucks, tractors, equipment, or machinery must be parked or stored behind the rear building line of any residence and shall not be left running.

I. Any and all livestock maintained on premises shall be kept in accordance with the requirements of zoning of the City of Gretna, and shall be kept only to the rear of the residence. All structures used for the housing or maintenance of livestock, and any areas where livestock is maintained or kept shall be maintained at all times in a neat, clean, and orderly manner by the owner of said Estate Lot.

No pasturing of livestock shall be permitted on any portion of any Estate Lot between the front Estate Lot line and the front building line of the residence.

The maintenance of any livestock, and poultry (excluding swine), and up to two cats and two dogs shall be permitted on each Estate Lot provided that they are not raised, bred, or maintained for any commercial purpose and shall comply with zoning regulations of the City of Gretna.

J. No residence or building shall be located on any Estate Lot nearer than fifty (50) feet to the front Estate Lot line, and twenty-five (25) feet to a side or rear Estate Lot line; however, accessory buildings may be located within 10% of lot width from side lot lines.

K. No Estate Lot shall be reduced from its original size.

L. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U. S. West Communications, any franchised TV Cable Company, and Peoples Natural Gas, their successors and assigns, to erect and operate, maintain, repair and renew cables, conduits, pipes, and other instrumentalities, and to extend thereon wires for the carrying and transmission of electric current for light, heat, and power; for all telephone, telegraph and message service, Cable TV. service, and natural gas for heat, under, and upon a five (5) foot

strip of land adjoining the side boundary lines of said Estate Lots in said Subdivision, a sixteen (16) foot strip of land adjoining the rear boundary lines, and a ten (10) foot strip adjoining the front; said license being granted for the use and benefit of all present and future owners of Estate Lots in said Subdivision; provided, however, that said side Estate Lot line easement is granted upon the specific condition that if any of said utility companies fail to install wires along any of said side Estate Lot lines within sixty(60) days after their removal, then this side line easement shall automatically terminate and become void as to such unused or abandoned easementways.

M. All streets in Southgate Estates subdivision shall be dedicated roadways and shall be available for public use.

N. The following prohibitions shall be observed on all Estate Lots:

1. No modular or dome type dwelling may be constructed on any Estate Lot within this subdivision.

2. No dwelling constructed in another Addition or location shall be moved to any Estate Lot within this Subdivision.

3. No fuel tanks on the outside of any house shall be exposed to view and must be located behind the rear building line of any residence.

4. No garage, storage building, animal shelter, or any other out building shall be erected on any Estate Lot before the residence is constructed thereon.

5. The assembly, disassembly, or general service work on any car, truck, equipment, or other machinery shall be prohibited, except in an enclosed garage.

6. No signs or billboards of any type or nature whatsoever shall be placed on or constructed or erected on any Estate Lot or portion thereof without the prior written approval of the undersigned except one sign per Estate Lot consisting of not more than six (6) square feet advertising a lot or house "For Sale".

7. No firearms or guns of any type or nature whatsoever shall be fired or discharged upon, over, or across any land in the Subdivision.

8. Exterior lighting installed on any Estate Lot shall be indirect or of such controlled focus and intensity as to not disturb the residents of adjacent Estate Lots.

9. All utility service lines from each lot line to a dwelling or other improvements shall be underground.

O. Upon Capehart Road being hard surfaced from Highway 6 west to the west property line of the Southgate Subdivision, the owners of the Lots within the Southgate Subdivision shall then hard surface all public roads within the Southgate Subdivision. The hard surfacing of the public roads within the Southgate Subdivision shall be completed within two (2) years of the date that the hard surfacing of Capehart Road from Highway U.S. 6 and State 31 west to the west edge of the Southgate Subdivision is completed. The total cost for the hard surfacing of the public roads within the Southgate Subdivision shall be shared equally by all owners of lots within the Southgate Subdivision. In the Subdivision there are 45 lots, 18 of which have more than one frontage for a total of 63 frontages. Each frontage shall pay 1/63 of the total cost of the hard surface road improvement so that lots with more than one frontage shall pay 1/63 times the number of frontages. In order to accomplish the hard surfacing of the public roads within the Southgate Subdivision, the then owners may form a Homeowners Association, a sanitary and improvement district, a Rural Road Improvement District or other such entity that would facilitate the owners in completing the road improvement. The City of Gretna, Nebraska, and all owners within the Southgate Subdivision shall have the right to enforce the provisions of this paragraph. In the event the then owners in the Southgate Subdivision do not hard surface the public roads within the Southgate Subdivision pursuant to this paragraph, then the City of Gretna, after giving to all owners within the Southgate Subdivision a written notice requiring that the owners hard surface the public roads within Southgate pursuant to this paragraph, and if the owners fail to hard surface the public roads within the Southgate Subdivision within 180 days of the date of such notice, then the City of Gretna shall have the right to form a Rural Road Improvement District pursuant to Nebraska Revised Statutes, Section 39-1638 through 39-1655, and use the provisions of such act to install such improvement and to assess the cost for such improvement pursuant to such statutes. By acquiring a lot subject to these covenants, the owner of such lot hereby consents to the formation of such Rural Road Improvement District. All notices provided in this paragraph shall be given by United States Certified Mail, postage prepaid, and sent to the owner at their last known address as set forth in the records of the Register of Deeds of Sarpy County, Nebraska. However, the City of

Gretna retains the right to pave or hard surface any road within the subdivision pursuant to any authority granted to it by ordinance or state statute.

GENERAL PROVISIONS:

1. Upon 50% or more of the Estate Lots being sold by the Declarant to third parties and upon there being constructed residences upon 50% or more of the Estate Lots, the Southgate Estates Homeowners Association, and its successors and assigns, shall then assume from the Declarant the right and authority under these covenants to approve the construction and installation of all Improvements, including the approval of the plans for such Improvements, on any Estate Lot.

2. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the Estate Lots has been recorded, agreeing to change said Covenants in whole or in part.

3. No building shall be erected, constructed, altered, placed, or permitted to remain on any Estate Lot in said subdivision herein described until the plans and specifications have been approved in writing by the Declarant or assigns.

4. Enforcement shall be proceedings at law, or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

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

6. These covenants supersede any and all Protective Covenants which may have been filed against any portion of the land contained within this Subdivision.



Dated this 17<sup>th</sup> day of June, 1993.

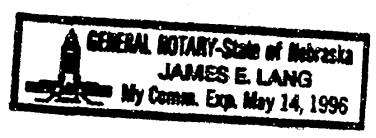
DECLARANT:  
F & J Enterprises, Inc.,  
a Nebraska corporation

By: Frank R. Krejci  
Frank R. Krejci, President

State of Nebraska )  
County of Douglas ) SS.

On this 17<sup>th</sup> day of June, 1993, before me, a Notary Public duly commissioned and qualified in and for said County and State, personally came FRANK R. KREJCI, the President of F & J Enterprises, Inc., a Nebraska corporation, who is personally known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal the day and year last above written.



[Signature]  
Notary Public in and for  
said County and State