

## GLADACRES HOMES ASSOCIATION DECLARATION

THIS DECLARATION made this 1st day of FEBRUARY 2000, by the Gladacres Homes Association Inc., a Kansas corporation of Johnson County, Kansas, hereafter called "Declarants".

WHEREAS, Declarants are the owners of Lots 1 through 34 inclusive, GLADACRES MEADOWS, and Lots 1 through 31 inclusive GLADACRES, and all Lots in GLADACRES SOUTH PLAT #1, and all Lots in GLADACRES SOUTH PLAT #2, subdivisions in Johnson County, Kansas, according to the recorded plat thereof.

NOW, THEREFORE, Declarants hereby declare that all of the following described property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and the desirability of and which shall run with, the real property and be binding upon all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall in sure to the benefit of each owner thereof:

Lots 1 through 34 inclusive, GLADACRES MEADOWS, a sub-division in Johnson County, Kansas; Lots 1 through 31 inclusive, GLADACRES, a sub-division in Johnson County, Kansas; All Lots in GLADACRES SOUTH PLAT #1, a sub-division in Johnson County, Kansas; All Lots in GLADACRES SOUTH PLAT #2, a sub-division in Johnson County, Kansas.

Subject only to such exceptions as hereinafter may be set forth, all of the property shall be used solely for residential purposes.

# ARTICLE I

## DEFINITION OF TERMS USED

1. The term "properties" as used in this Declaration shall mean and refer to the real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
2. The term "Association" shall mean and refer to the Homes Association authorized and to be created under provisions in the deed restrictions, its successors and assigns, to be known as Gladacres Homes Association Inc. a Kansas not for profit corporation.
3. The term "owner" shall mean and refer to the recorded owner, whether one or more persons or entities of a fee simple title to any lot which is part of the properties including contract sellers but excluding those having such interest merely as security for performance of an obligation. The term shall not include any person who holds title to any lot solely for the purpose of constructing or developing a structure thereon for resale.

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17777 Goddard  
Olathe KS 66062

4. The term "lot" shall mean and refer to any plot of land shown upon any recorded subdivision, plat, survey or map of the properties. For purposes of voting and/ or assessments, if a property owner has more than one "lot " adjacent to each other with a single residence upon it, they will have one vote and be assessed as one lot.

## ARTICLE II MEMBERSHIP AND VOTING RIGHTS

Section 1. Every property owner, which is subject to assessment thereunder, is entitled to be a member of the Association. Membership shall be appurtenant to and may not be separate from ownership of any lot which is subject to assessment. Members may vote at any meeting of the Association in person or by written proxy duly filed with the Secretary of the Homes Association.

Section 2. Every property owner subject to assessment shall have one vote. The Association shall be the sole judge of the qualifications of each owner to vote and their rights to participate in its meetings and proceedings, except when more than one person holds an interest in any lot, only one vote shall be exercised as the lot owners might among themselves determine.

## ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

Subject to the provisions of Section 2 of this Article, the Declarants, for each lot owned within the properties, hereby covenants and each owner of any lot, by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The special assessments, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to the successor in title of such owner unless expressly assumed by them.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties, and to provide funds for enforcement and implementation of Powers and Duties established in Article IV.

Section 3. MAXIMUM ANNUAL ASSESSMENT. Until January 1 of the year immediately following the filing of the Declaration for the Association with the Register of Deeds of Johnson County, Kansas, the annual assessment shall be \$50 per member for each full calendar year, beginning January 1, 2000. Assessment dues may be increased or decreased as deemed necessary by the Board, and approved by a 2/3 majority vote of members present, or proxies present, at the Annual Association Meeting.

Thereafter, assessments shall be for the fiscal year 2001 beginning January 1 and there shall be fixed and levied prior to January 1 of each such year as annual assessment for that year which shall be due and payable on that date or in installments if approved by the Association. It shall be the duty of the Association to notify all owners whose address is listed with the Association on or before January 1 of each year, of the amount of the assessment for each member and the date when such assessment is due. Failure by the Association to levy the assessment prior to January 1 of each year for the next succeeding fiscal year shall not invalidate any such assessment made thereafter for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to January 1 of any year, then it shall become due and payable not later than 30 days from the date of the levy, but shall in any event be due and payable for the full fiscal year.

A written or printed notice, deposited in the United States postal service, with postage thereon prepaid, and addressed to the owner at the address last listed with the association, shall be deemed to be sufficient and proper notice for these purposes, or for any other purpose of this Declaration where notice is required

The maximum annual assessment may be increased by an amount not to exceed 100% of the prior annual assessment, provided that at the annual meeting or a special meeting called for that purpose prior to the date on which the assessment is levied, a 2/3 majority of all the members or their proxies present at the meeting authorize such an increase by an affirmative vote.

Written notice of any meeting called for the purpose of taking any action authorized under the above paragraph shall be sent to each member of the association, giving the time and place at which it is to be held and the fact that an increase in the amount of the annual assessment is to be voted on at the meeting. No increase in the annual assessment may be made for more than one year at a time.

Section 4. EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty days after the due date shall be deemed delinquent and shall bear interest from the due date at the highest rate allowed by law for judgements. The association may bring an action at law against the owner personally obligated to pay the same, and/or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of their lot.

The association may, at its discretion, file a certificate of non-payment of assessment in the Office of the Register of Deeds whenever any such assessment becomes delinquent, which certificate shall continue for a period of five years from the date of filing and no longer unless within such time suit shall be instituted for collection of assessment and foreclosure of the lien, in which event the certificate shall remain a lien against the property until such time as judgement is entered and/or the property is sold pursuant to an order of execution.

Section 5 EXPENDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR. The association shall at no time expend more money in any one year than the total amount of assessments for that particular year, or any surplus it may have on hand from a previous year. Nor shall the association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the association other than utilities.

Section 6. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon any property subject to assessment. Sale or transfer of any lot shall not affect the assessment lien, however, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceedings in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

#### ARTICLE IV POWERS AND DUTIES OF THE ASSOCIATION

The association shall have the following powers and duties:

1. To levy and collect the assessments which are provided for in this Declaration.
2. To enforce, either in its own name or the name of any owner, any or all building restrictions which may have been heretofore or may hereafter be imposed on any of the property, either in the form as originally placed thereon or as modified subsequently thereto; provided however, that this right of enforcement shall not serve to prevent such changes, releases or modifications as are permissible in the deeds, declarations contract, or plats in which such restrictions or reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any such enforcement proceedings shall be paid out of the general fund of the association as herein provided for. Nothing herein contained shall be deemed or construed to prevent any owner, from enforcing on their own, any such restrictions.

3. To provide for the collection and disposal of rubbish and garbage when adequate services of that type are not available from any public or private source.
4. To mow, care for, and remove rubbish from vacant and unimproved lots, and to do things necessary and desirable in the judgement of the officers of the association, to keep any vacant lot in the district neat in appearance and in good order.
5. To provide such lights as the association may deem necessary on streets, parks, parkings, pedestrian ways, gateways, entrances or other features, and in other public and non- public places, when such facilities are not available from any public source.
6. To provide for the cleaning of streets, ditches, catch basins, sidewalks and pedestrian ways, and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.
7. To erect and maintain signs for the marking of streets, and safety signs for the protection of children and other persons, when such signs are not available from any public source.
8. To employ duly qualified peace officers for the purpose of providing such police protection as the association may deem necessary or desirable in addition to that provided by public authorities.
9. To exercise control over such easements as it may acquire from time to time.

## ARTICLE V

### GENERAL PROVISIONS

Section 1. **ENFORCEMENT.** The association, or any owner, shall have the right to enforce, by proceeding at law or by equity, all restrictions, conditions, covenants, reservations, liens 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 way be deemed a waiver of the right to do so thereafter.

Section 2. **ANNEXATION.** Additional residential property may be annexed to the property at any time, with the consent of 2/3 of its members.

Section 3. **DURATION OF COVENANTS.** The covenants and restrictions of this declaration shall run with and bind the land for a term which shall expire on the 31st day of December, 2005, after which time they shall automatically be continued for successive periods of five years each provided, however, that a majority of the members of the association may release the land or any part of it from any one or more of the restrictions

on December 31st, 2005, or at the expiration of any five year period thereafter by an affirmative vote of such members at a meeting called specifically for that purpose and upon filing in the office of the Register of Deeds, Johnson County, Kansas, of a document executed by the association.

Section 4. AMENDMENTS. This Declaration may be amended by an instrument signed by not less than 2/3 of the members present, or proxies of members, at the annual meeting or a special meeting called for that purpose, which instrument must be recorded.

Section 5. SEVERABILITY. Invalidation of one or more of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 6. RULES AND REGULATIONS. The Association shall have the right to make such reasonable rules and regulations and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration subject, however, to the limitations of its rights to contract as provided for herein.

IN WITNESS WHEREOF, GLADACRES HOMES ASSOCIATION INC., by authority of its Board of Directors, has caused this instrument to be executed by its President and Board Members, and its corporate seal to be hereto affixed the day and year first written above.

GLADACRES HOME OWNERS ASSOCIATION, INC

By: Gary Pickert  
Gary Pickert, President

Ronna Mack  
Ronna Mack

Tom Meyer  
Tom Meyer

Mike Collins  
Mike Collins

Paul Sundby  
Paul Sundby

STATE OF KANSAS ] ss  
COUNTY OF JOHNSON ]  
FILED FOR RECORD

2000 FEB -3 P 2: 34.6

SARA F. ULLMANN  
REGISTER OF DEEDS

State of Kansas, County of Johnson

County of Johnson

BE IT REMEMBERED that on this 1st day of February, 2000, before me the undersigned, a Notary Public, in and for the County and State aforesaid came Gary Pickert, President, and other board members of GLADACRES HOMES ASSOCIATION INC., who executed the foregoing Homes Association Declaration, in writing, and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

Barbara C. Carter

Notary Public

My appointment expires: 1-13-2003

BARBARA C. CARTER  
Notary Public - State of Kansas  
My Appt. Expires 1-13-2003