

(Exhibit C)

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DECLARATION OF RESTRICTIONS

THIS DECLARATION is made this 28<sup>th</sup> day of Sept, 2001, by R. J. Investments Properties, Inc., herein referred to as "Developer".

WHEREAS, R. J. Investments Properties, Inc. is the owner of the following described property located in Leavenworth County, Kansas, to-wit:

Lots 1 - 42, Prairie Gardens, 1<sup>st</sup> Plat, a subdivision of land in the City of Basehor, Leavenworth County.

AND, WHEREAS, the Developer will convey the said property, subject to certain protective covenants, conditions, restrictions, reservations and charges as hereinafter set out.

NOW, THEREFORE, the Developer hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real estate. These easements, covenants, restrictions and conditions, shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall be for the benefit of each owner thereof.

1. DEFINITIONS.

(A) "Association" shall mean the Prairie Gardens Homes Association, a Kansas not for profit corporation.

(B) "Board" shall mean the Board of Directors of the Association.

(C) "Common Areas" shall mean any tract of land, designated as such on the plat of the Subdivision, or subsequently acquired by the Association, which tracts shall be owned, managed, and maintained by the Association for the use, benefit and enjoyment of the present and future owners of land within the Development.

(D) "Common Expenses" shall mean the costs incurred by the Association in conducting activities for which the Association is responsible pursuant to the terms hereof. Common expenses shall include, but not be limited to, the following:

(1) the cost of maintenance, management, operating, repair and

replacement of all areas and facilities within the Development that are owned , maintained or operated by the Association, including utilities provided directly to the Association;

(2) the cost of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, superintendents, attorneys, and employees;

(3) taxes of any nature owing by the Association and the cost of insurance maintained by the Association;

(4) reasonable reserves for contingencies, replacements and other proper purposes as deemed appropriate by the Association; and

(5) the costs of any other item or items to be provided or performed by the Association pursuant to these Restrictions or in the furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

(E) "Review Committee" shall mean and refer to a committee composed of the above Developer, or its nominees, until such time as the Developer has conveyed 100% of the lots within the Development. At such time as 100% of the above described lots have been conveyed, a Review Committee, consisting of three (3) lot owners, shall be appointed by the Board of Directors of the Association.

(F) "Developer" shall mainly refer to R. J. Investments Properties, Inc., for purposes of the application of this Declaration of Restrictions to the Subdivision, and as to any further phases or subdivisions within the Development shall refer to the Owner and Developer of such future phases and subdivisions.

(G) "Development" shall mean and refer to the Subdivision, and all subsequent phases and subdivisions developed on the property described on "Exhibit A", attached hereto and incorporated herein by reference.

(H) "Subdivision" shall mean and refer to Prairie Gardens, 1<sup>st</sup> Plat, a subdivision of land in the City of Basehor, Leavenworth County, Kansas.

(I) "Lot" shall mean refer to the various lots, tracts or parcels of ground



designated on the plat of the above described Development. With specific reference to the lots described within the subdivision, Prairie Gardens, First Plat. It is understood that each of said lots will be divided approximately in half, upon each half of such lots, a one-half of a duplex living unit shall be constructed. Each of said divisions within the Subdivision, shall be considered a lot for the purposes of this agreement.

(J) "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot or portion thereof which is a part of the above described Development, but excluding those having such interest merely as security for the performance of an obligation such as lenders and holders of mortgages. "Lot Owner" shall also mean buyers in possession under a contract for deed.

2. PRAIRIE GARDENS HOMES ASSOCIATION. The Developer shall establish the Association, which unless later changed by the members, shall be formed as a not for profit corporation under the laws of the State of Kansas. The Association shall be responsible for the protection, improvement, alteration, maintenance, repair, replacement, administration, and operation of the Common Areas within the Prairie Gardens Development, including taking such action as is necessary for the assessment of expenses, payment of losses, disposition of casualty insurance proceeds (if any), the enforcement of these Restrictions, and other matters as provided in or contemplated by these Restrictions, the Association Articles of Incorporation, the Association Bylaws, and the Association Rules and Regulations.

It is anticipated that the properties located within the Subdivision will be the first of a number of separate development phases within the Development. The Association shall be composed of Lot Owners from all phases of the Development and shall serve as an umbrella organization serving the above stated purposes for the entire Development.

The Association shall be governed by Bylaws it enacts, which shall include, but shall not be limited to, the following required provisions:

(a) MEMBERSHIP.

Every person or entity who is a record owner of a fee or undivided fee interest in any lot within the Development, including buyers in possession under a contract for deed, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership. Membership shall not be separated from ownership of any lot. Ownership of such lot

shall be the sole qualification for membership.

(b) VOTING RIGHTS.

Each Lot Owner shall be entitled to vote one vote for each lot in which he or she holds the interest required for membership by paragraph 2( a). When more than one person holds such 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.

All decisions made at any meeting at which there is present a quorum as defined in Section 2 (c) below, shall be made by a majority vote of those lots present.

(c) QUORUM.

At any meeting, the presence at the meeting of members or of proxies entitled to cast 51% of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at the first called meeting, another meeting may be called, subject to the notice requirements set forth in the Bylaws and the quorum required on any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(d) PROXIES.

Every person entitled to vote or execute consents shall have the right to do so either in person or by one or more agents authorized by a written proxy executed by such person or his duly authorized representative; provided that no such proxy shall be valid after the expiration of one (1) year from the date of its execution, unless the person executing it specified therein the length of time for which such proxy is to continue in force.

(e) BOARD OF DIRECTORS.

The Association shall be managed by a Board of Directors elected and empowered as determined by the Bylaws of the Association. Except for directors that may be appointed by the Developer, as provided in Section 2 (g) below, each director shall be a member of the Association.

(f) ASSOCIATION RULES AND REGULATIONS.

In order to be able to address specific matters relating to the administration, operation and development of, or other matters relating to, the Development, the Board of Directors shall be empowered to adopt, amend or repeal such rules and regulations as it deems reasonable and appropriate. The Rules and Regulations may include the establishment of a system of fines and penalties enforceable as Special assessments or otherwise. The Rules and Regulations shall not



be inconsistent with the terms of these Restrictions, nor shall they be unreasonably applied to the Association members. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of these Restrictions, and shall be binding on the members, and all other persons having any interest in the Association, whether or not actually received thereby. The Rules and Regulations shall be available at the principal office of the Association to each member, or other person entitled thereto, upon request. To the extent of any conflict between the Rules and Regulations and any provisions these Restrictions, the provisions of the Rules and Regulations shall be superseded.

(g) DEVELOPER'S CONTROL OF ASSOCIATION.

Notwithstanding anything in this Section 2 or elsewhere in this Declaration to the contrary, the Developer shall maintain absolute and exclusive control over the Association and the Review Committee, including appointment of the Board of Directors of the Association, and the members of the Review Committee until such time as all Lots within the Subdivision and the Development have been conveyed. Until such time, only the Developer will be entitled to cast any votes with respect to the election and removal of Association officers and directors and members of the Review Committee, or any other matters requiring the vote or approval of the Association members. The Developer voluntarily may (but shall not be required to) at any time relinquish all or any part of the Developer's control and rights under this section by written assignment, without affecting any rights of control not relinquished.

3. COMMON AREAS. The Board of Directors of the Association shall have the authority to establish, within the Rules and Regulations, such guidelines and rules as they shall deem appropriate for the use and enjoyment of the Common Areas, including, but not limited to, the following provisions:

(a) The right of the Association to limit the number of guests of members or occupants.

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility, if any, situated upon the common area.

(c) The right of the Association to suspend the voting rights and right to use the recreational facilities by a member or occupant for any period during which any assessment against his lot remains unpaid; and for a period not to exceed ninety (90) days for any infraction of its published rules and regulations.

(d) The right of the Association to dedicate or transfer any or part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board. No such dedication or transfer,

other than transfers of easements required for utilities servicing the Development, shall be effective unless it shall be approved by a majority vote of the Association membership present at a regularly called membership meeting, at which a quorum is present, agreeing to such dedication or transfer, and unless written notice of such proposed action is sent to every member not less than 30 days nor more than 60 days in advance of the vote.

(e) Any member may delegate, in accordance with the Bylaws, his right of enjoyment to the common area and facilities to the members of his family, his guests, or contract purchasers who reside on the property.

4. COVENANT FOR ASSESSMENTS.

(a) CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

Each owner of any lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay the association annual assessments or charges necessary for the upkeep and maintenance of any common areas and enforcement of this Declaration, special assessments for maintenance and enforcement, and maintenance assessments, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The assessments and interest, costs and reasonable attorney's fees to collect same, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. If any Lot is owned by more than one person, the obligations for such assessments shall be deemed joint and several. The personal obligation shall not pass to his successors in title unless expressly assumed by them, but shall remain a lien upon the subject lot until paid.

(b) PURPOSE OF ASSESSMENTS.

Except as otherwise herein set forth, the Assessments levied by the Association shall be used:

1. To promote the health, safety, and welfare of the Owners;
2. To enhance the value of the Development;
3. To pay the costs of administration of the Association;
4. To pay all of the Common Expenses;
5. And /or to otherwise further the interests of the Development.

(c) ANNUAL ASSESSMENTS.

The annual assessment shall be that which is established and approved by the Board of Directors of the Association. Not later than sixty (60) days prior to the beginning of each calendar year, the Board shall make available for review by each Lot



Owner at the Association's office, a pro forma operating statement or budget for the upcoming calendar year, estimating the total Common Expenses to be incurred by the Association during the upcoming year. Such proposed budget shall also set forth the amount of the Annual Assessment to be paid by and assessed to each Lot, and the Association shall notify each Owner thereof.

If the Board subsequently determines that the total Annual Assessments for the current year are, or will become, inadequate to meet all Common Expenses for whatever reason, the Board shall then immediately determine the approximate amount of such inadequacy and issue a supplemental Annual Assessment. If the total Annual Assessments for a current year exceed the actual Common Expenses, the Board may, in its discretion, retain such excess as additional working capital or reserves, or reduce the amount of the Annual Assessment for the next ensuing year.

The Annual Assessments shall commence as to a Lot Owner on the date when the residence is first available for occupancy, and shall be prorated based on a 365 day year and shall be measured from the date the residence is first available for occupancy.

(d) SPECIAL ASSESSMENTS.

In addition to the Annual Assessments authorized above, the Board may levy, at any time, a Special Assessment applicable to a specific Lot Owner or Owners for:

1. Costs incurred in bringing the Owner or his Lot into compliance with the provisions of these Restrictions, the Association Articles of Incorporation or Bylaws, or the Association's Rules and Regulations.
2. Fines levied or fixed by the Board as provided herein.
3. Attorneys' fees, interest, and other costs or charges provided to be paid as, or which are incurred in connection with, the enforcement of these Restrictions, a Special Assessment, or the Rules and Regulations.
4. Any costs incurred to maintain a Lot pursuant to Section 5 below, plus a penalty equal to 25% of the cost of such maintenance.
5. Any other charge designated as a Special Assessment in these Restrictions or the Rules and Regulations.

(e) MAINTENANCE ASSESSMENT.

In addition to any Annual or Special Assessment that might be levied above, each Lot (townhome) within the Subdivision shall be subject to a Maintenance

Assessment assessed by the Board sufficient to offset the Association's expense in providing snow removal from driveways and sidewalks, and lawn mowing and grass trimming service to each Lot (townhome) within the Subdivision. Such Maintenance Assessment shall be initially established with an initiation fee of \$200.00 to be paid to the Association at the time of closing on the acquisition of each Lot (townhome), and two (2) semi-annual payments of \$240.00 each, and said payments may be adjusted from time to time at the discretion of the Board.

(f) ASSESSMENTS: DUE DATES.

The assessments provided for herein shall be due and payable within thirty (30) days of the levy unless otherwise changed by the Association. Written notice of any annual, special or maintenance assessment shall be sent to the owner subject thereto. The Association shall upon demand at any time furnish a certificate in writing signed by a representative of the Association setting forth whether the assessments on a specified lot have been paid.

(g) EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

Any assessment not paid by the due date shall bear interest from the due date at the rate of 15% per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for mortgage foreclosures in Kansas. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of any common area or abandonment of his lot.

(h) SUBORDINATION OF THE LIEN TO MORTGAGES.

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. However, such subordination shall apply only to the assessments or installments thereof which have become due prior to the sale of such property pursuant to a foreclosure of such mortgage. No such sale shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

(i) EXEMPT PROPERTY.

All properties owned by the Association, the Developer and all properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments provided herein.

5. MAINTENANCE. Each lot, together with all improvements located thereon, shall be maintained by the owner thereof in a reasonable manner. Maintenance shall include weed control on each lot. In the event an owner of any lot shall fail to maintain the lot in a reasonable manner, the Board of Directors of the



Association, shall have the right, through its agents and employees, to enter upon the tract of ground and perform the necessary maintenance. The costs of such maintenance shall be added to and become a part of the assessment to which such lot is subject. The Association, its employees and agents, shall have the right to go on any lot for the purpose of such maintenance and is hereby granted a specific easement for such purpose when the owner fails to perform.

If, at any time, the Association determines that an owner is not complying with the requirements of this provision, then the Association shall give notice to the offending owner requesting compliance, and if said maintenance is not properly completed within 30 days after said notice, then the Association may perform the maintenance as set forth above and assess the lien as provided in Section 4(d)(4) above.

6. REVIEW COMMITTEE-ELECTION. At such time as all of the lots of the Development have been conveyed by the owner, the Board shall appoint a Review Committee comprised of three ( 3) lot owners. The Review Committee shall be governed by these Restrictions, the Rules and Regulations adopted by the Board, and such guidelines that it may adopt.

7. REVIEW COMMITTEE-FUNCTION. It is the purpose and function of the Review Committee to insure the best use and most appropriate development and improvement of the lands located within the Development; to protect the lot owners against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of and provide for proper landscaping of the Development; to guard against the erection thereon of poorly designed and proportioned structures and structures built of improper or unsuitable materials; to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on the lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general to provide for a high quality and aesthetically pleasing type of improvements to the Development, and thereby to enhance the value of investments made by lot owners within the Development.

The Review Committee is specifically charged with plan review and approval as outlined in Section 8 below, and interpretation of the specific Development, Use and Building Standards established pursuant to Section 9.

8. REVIEW COMMITTEE-PLAN APPROVAL

In order to insure the architectural integrity and quality of the Development, the Review Committee is hereby empowered to review and approve all plans, to establish standards for the improvement of the Development, and to insure the proper appearance of the Development. In accordance with that directive, the

Review Committee shall endeavor to insure architectural integrity and conformity with the existing structures and residences within the Development and to insure a properly landscaped and maintained development. All determinations of the Review Committee shall be within the sole discretion of the Committee, and shall be conclusive.

All plans for the construction of any building, fence, wall, or structure to be erected upon any lot, and the proposed location thereof upon any lot, and any changes after approval thereof, any remodeling, reconstruction, alteration, or addition to any building, driveway, or other structure upon any lot shall require the approval in writing of the Review Committee. Before beginning the construction of any building, fence, or other structure whatsoever, or remodeling, reconstruction, or altering such structure upon any lot, the person or persons desiring to erect, construct, or modify the same shall submit to the Review Committee two sets of site, building plans, specifications and landscaping plans for the building, fence, or other structure, as is applicable, so desired to be erected, constructed, or modified. No structure of any kind, the plans, elevations, and specifications of which have not received the written approval of the Review Committee, and which does not comply fully with such approved plans and specifications, shall be erected, constructed, placed, or maintained upon any lot. Approval of such plans and specifications shall be evidenced by written endorsement on such plans and specifications, a copy of which shall be delivered to the Owner or Owners of the lot upon which the prospective building, or other structure is contemplated prior to the beginning of such construction. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the Review Committee. In the event the Review Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Section will be deemed to have been fully complied with.

In the event any owner shall attempt to construct or alter any improvements, except in compliance herewith, the Review Committee, the Board, or any owner shall have the authority to seek injunctive or other appropriate relief to enforce compliance with these Declarations.

By its approval of plans and specifications, the Review Committee shall not be deemed to have warranted or approved the same for engineering design safety, or for compliance with zoning, health and building code ordinances; by approving such plans and specifications neither the Review Committee, the members thereof, the Association, any of its members, its officers, its Board nor the Developer assumes any liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. Neither the Review committee, any member thereof, the Association, its officers, its Board nor the Developer shall be liable to any Lot Owner



or other person for any damage, loss or prejudice suffered or claimed on account of (1) the approval or disapproval of any plans, drawings or specification, whether or not defective; (2) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or (3) the improvement or manner of improvement of any property within the Development.

Any member or authorized consultant of the Review Committee, the Developer or its representatives, or any authorized officer, director, employee or agent of the Association, may, at any reasonable time, enter, without being guilty of trespass, upon any Lot, after reasonable notice to the Lot Owner, in order to inspect improvements constructed or being constructed on such Lot to ensure that such improvements have been, or are being, built in compliance with the plans and specifications approved by the Review Committee, and these Restrictions.

9. DEVELOPMENT, USE AND BUILDING STANDARDS.

In order to insure the best and most appropriate development, use and improvement of the subdivision, the following specific standards are hereby established:

(a) CONSTRUCTION PERIOD REQUIREMENTS.

During the period that construction is being undertaken on any Lot, the following minimum measures will be required to minimize disturbance to adjacent sites:

1. No dumping of construction material, waste, excess concrete, or trash shall occur in the Development.
2. Each Lot shall be maintained in a clean and orderly manner during construction. Erosion shall be controlled on each Lot in a manner approved by the Review Committee while it is in a disturbed condition.

(b) NOXIOUS ACTIVITY.

No noxious or offensive activity shall be carried on within any lot nor shall any trash or other refuse be thrown, placed or dumped upon any lot nor shall anything be done which may be or become an annoyance or nuisance within or to the Development.

(c) RESIDENTIAL USE.

The lots and any development thereon shall be exclusively for residential purposes, and shall be occupied by the Lot Owner and immediate family. No Lot Owner shall rent or lease his residence to any party. No building or structure intended for or adapted to business purposes, shall be erected, placed, permitted, or maintained

on such premises, or on any part thereof.

(d) SETBACK LINES.

No building, structure, outbuilding, or appurtenance of any nature shall be located closer than the setback requirements set forth in the subdivision plat.

(e) UTILITY LINES. AND RADIO AND TELEVISION & SATELLITE ANTENNAS.

All electrical, gas, telephone, water and other utility lines shall be placed underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antennas or satellite antennas or dishes in excess of 21" in diameter shall be erected, placed, or maintained on any part of the premises. Permitted satellite dishes shall be located as approved by the Review Committee.

(f) SIGNS.

No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any lot or improvement thereon except signs advertising such property for sale, which signs shall not exceed six (6) square feet in area, further excepting the initial marketing signage that may be placed by the original Developer for the initial sale of the lots.

(g) GARAGE.

Each residence must have an attached, fully enclosed, front entry garage for not less than two or more than four vehicles. Provided, however, if the features unique to the Lot shall not reasonably permit a side entry garage, the Review Committee may ( but shall not be obligated to ) approve a rear or side entry garage. Garages shall have the same architectural treatment and be constructed of the same materials as the house. Garages shall remain closed except when vehicles are entering or existing. No garage will be permitted to be enclosed for living or used for purposes other than storage of vehicles or related uses.

(h) DESIGN.

In accordance with the general design standards set forth previously, the Review Committee, within its sole discretion, must approve all proposed building plans, including exterior materials and color selections.

(i) OUTBUILDINGS.

No out buildings or storage structures shall be allowed. Gazebos and similar ornamental structures may be approved by the Review Committee, with such



materials, dimensions, heights and construction attributes as may be determined by such Committee.

(j) OCCUPANCY.

No structure erected upon any lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed; nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein and all other covenants, conditions, reservations, and restrictions herein set forth. All construction shall be completed within six months from the start thereof. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, or other temporary structure shall be placed or erected upon any lot.

(k) BOATS AND MOTOR VEHICLES.

No school or other buses, motor homes, mobile home, autos, campers, trailers, recreational vehicles, tractors or trucks( in excess of 3/4 ton) shall be parked by the curb, or upon any lot for more than 24 hours at any one time. Such vehicles may be stored in an enclosed garage. No major repair work shall be done on any car or vehicle while parked outside the garage. No car or other vehicle not in operating condition, not registered or whose presence might create an unsightly appearance, nuisance, or hazard to life or health shall be allowed to be parked or left on any lot or curb.

(l) LIGHTS.

No spotlights, flood lights, or other lighting shall be placed or utilized upon any Lot in a manner which unreasonably interferes with the enjoyment of adjoining lots. All exterior lighting shall require the prior approval of the Review Committee. Provided, however, that decorative holiday lighting may be erected or maintained on any lot, for a period not exceeding 60 days, commencing November 15<sup>th</sup> of each calender year.

(m) COMMERCIAL VEHICLES.

No commercial vehicles, construction, or like equipment of any kind shall be permitted, parked or stored on any lot or on the curb, except during construction.

(n) MOTORCYCLES, ETC.

No motorcycles, all terrain vehicles, or other motorized recreational vehicles shall be operated within the Development except on public streets.

(o) MOBILE HOMES.

No single or double wide mobile home, mobile trailer, prefabricated home or modular home or used structure, shall be constructed on, or moved upon, any

lot.

(p) ROOFS.

Any structure built upon any lot shall be roofed with a material comparable to, or better than, a "Timberline" brand multi-tab laminated shingle carrying a 30 year warranty. The roof on any structure shall be constructed at not less than a 4/12 pitch. Each duplex building shall have uniform roofing materials of the same type, age and color. Roofing materials must be approved in advance by the Review Committee; other roofing materials may be utilized if approved by the Review Committee.

(q) MINIMUM SPACE REQUIREMENTS.

Minimum square footage requirements for residences shall be as follows: All single family residences shall have a total finished first floor area of not less than 1200 square feet; all duplex buildings shall have a total finished first floor area of not less than 2300 square feet. For purposes of calculation of first floor area, basements, garages, covered walks, porches and decks, shall not be considered, whether or not finished for occupancy. Provided, however, the Review Committee may approve variances for lower total first floor area, but not in an amount greater than 20% less than the minimum requirements set forth above.

→ (r) HVAC

No window air conditioning or heating units will be permitted. No exterior heating and cooling units shall be placed in the front yard of the residence.

(s) PATIOS.

No screening of a patio or other outside recreation area shall be allowed without the permission of the Review Committee.

(t) SWIMMING POOLS - SPAS.

All in-ground and above-ground swimming pools and pool areas, hot tubs, spas, equipment associated therewith (including lighting) and appropriate screening therefor, shall be subject to the approval of the Review Committee.

(u) DESTRUCTION.

→ A residence destroyed by fire or other casualty shall be removed from the lot and new construction commenced within three months following the date of destruction, and thereafter construction shall be completed with due diligence. A structure partially destroyed shall be promptly reconstructed.

(v) FENCES.

No fencing shall be permitted upon any Lot unless such fencing shall be



of cedar or redwood construction and built with methods and materials to harmonize with the external design of the residences within the Development. No fence shall exceed 48" in height, nor shall any fence be installed in front of the back corner line of the residence. No animal pens or runs shall be permitted without the written approval of the Review Committee.

(w) STRUCTURE ORIENTATION.

Any lot owner seeking to construct any residence or structure on the premises shall submit a site plan showing the proposed location and orientation of said proposed structure with relationship to the boundaries of said lot and existing structures on adjoining lots to the Review Committee. Proposed driveway routings shall also be designated. If any drainage patterns are proposed to be modified, then said proposed modification shall also be indicated on the site plans presented.

No Lot Owner shall erect, construct, maintain permit or allow any fence or structure or obstruction that would interrupt the normal drainage of the land. ←

(x) LANDSCAPING - DRIVES.

Each lot owner shall submit, along with the site plan required above, a landscape plan to the Review Committee. At the time of initial construction, the Lot owner shall expend an amount of at least \$1,000.00 (exclusive of sod), per unit, for landscaping approved by the Review Committee, which landscaping shall thereafter be maintained by the lot owner. All lots shall be fully sodded, provided, however, sod shall not be required where, in the opinion of the Review Committee, soil, lighting or topographical conditions would make sodding impractical or unreasonably expensive.

All Lots shall have external driveways leading to the street constructed of concrete surfaces.

(y) SOLAR PANELS / CLOTHESLINES.

No solar panels or exterior clotheslines may be erected or maintained on any Lot.

(z) DIVISION OF LOTS.

No lot shall be resubdivided, nor shall more than one duplex dwelling be allowed on each lot.

(aa) EARTH CONTACT HOMES.

No earth contact or below ground structures shall be constructed on any lot. This provision is not intended to exclude a normal basement, a basement level garage or a walk out basement.

(bb) ANIMALS.

Dogs, cats and other domestic pets, are allowable, not exceeding two (2) in number, so long as such pets are maintained so as not to create a nuisance. The Board may establish weight limits for such pets. In the event an otherwise permitted animal, in the discretion of the Board, constitutes a nuisance or endangers the safety or welfare of any resident of the Development, the Board may direct the owner of such animal to remove such animal from the Development. In the event the owner fails or refuses to do so, the Board may cause such animal to be removed.

(cc) OUTSIDE STORAGE.

No non-licensed or non-operating motor vehicles or equipment of any sort, outside storage, or aboveground or underground fuel tanks shall be allowed.

(dd) MAINTENANCE.

Each lot, together with all improvements located thereon, shall be maintained by the owner in a reasonable manner. It is the intention of this provision to require that each lot and all structures or additions thereto be maintained in an attractive and reasonable manner so as to enhance the overall value of the Development.

(ee) MINERAL OPERATIONS.

No oil, gas drilling or development operations, refining, mining of any kind or quarrying shall be permitted upon any lot.

(ff) INTERPRETATION AND WAIVER.

The Review Committee's goal in reviewing site and building plans is to assure that a high quality of compatible development is consistently achieved. In order to meet special situations that may not have been foreseen, it may be desirable, from time to time, for the Review Committee to allow variances of certain requirements; such variances shall not be considered precedent setting.

(gg) APPROVED BUILDER.

No contractor or builder shall be allowed to construct any residence, structure or improvement on any lot, unless said builder or contractor shall have been approved in advanced by the Review Committee.

10. ANNEXATION OF ADDITIONAL PROPERTY.

(A) Additional property may be annexed to and become subject to these Restrictions at such time as the Developer may elect, without the consent or assent of the Association or any Lot Owner, by a Supplemental Declaration.



(B) A Supplemental Declaration shall be a writing in recordable form which annexes additional property to these Restrictions and which incorporates by reference all of the covenants, conditions, restrictions, easements and other provisions of these Restrictions. Such Supplemental Declaration may contain such additions and modifications of the covenants, conditions and restrictions contained in these Restrictions as may be determined by the Developer in its sole discretion.

#### 11. EXEMPTION OF THE DEVELOPER FROM RESTRICTIONS.

Notwithstanding anything contained in these Restrictions to the contrary, none of the restrictions contained in this document shall be construed or deemed to limit to prohibit any act of the Developer, its employees, agents, and subcontractors, or parties designated by it in connection with the construction, completion, or sale of the Lots, or any part of the Development owned by the Developer.

#### 12. ENFORCEMENT.

(a) Enforcement. The Board of Directors, any Lot Owner or the Developer shall have the right to enforce, by any proceeding at law or in equity (including injunctive relief), all restrictions, conditions, covenants, reservations, liens and easements, now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Any party enforcing these restrictions, if successful, shall be entitled to recover the expenses of enforcement, including, but not limited to, reasonable attorney's fees, filing fees and costs, and the costs of obtaining expert witnesses, from the party defaulting on these Restrictions. Said expenses shall become a lien upon the property of the offending lot owner and may be enforced as provided below.

(b) Creation of the Lien and Personal Obligation of Assessments. Each owner of any lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay any expenses assessed against said lot in any enforcement proceeding, said amount to bear interest at a rate established by the court in any such proceeding. Said amount shall become a charge on the land and shall be a continuing lien upon the property against which such enforcement is made. Such assessment shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, but shall remain a lien upon the subject lot until paid.

13. GENERAL PROVISIONS.

(a) Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

(b) Interpretation. Should any court be called upon to construe the provisions of this Declaration, it is intended that these provisions be liberally interpreted, considering the goals and purposes as set forth herein.

(c) Term/Amendment. The covenants and restrictions of this declaration shall run with and bind the land within the subdivision, and shall inure to the benefit of and be enforceable by the Review Committee, the Owner of any lot within the Development, the Developer, their respective legal representatives, heirs, successors and assigns, for a term of 40 years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years, unless terminated by the same procedure provided for amendment. Except as otherwise provided in Section 13 (d) below, the covenants and restrictions of this declaration may be amended at a meeting of the Association members upon the approval thereof of two-thirds of all of the Association members entitled to vote, or without any meeting if a majority of the Association members have been duly notified and if two-thirds of all of the members entitled to vote at such a meeting, if held, consent in writing to such amendment. An amendment must be properly recorded.

(d) Developer/Amendment. So long as the Developer continues to own any Lots within the Development, the Developer reserves the exclusive right to amend these Restrictions without approval of the Board, the Association members or any Lot Owner.

(e) Release - Lake - Swimming Pool. It is anticipated that the Development may eventually construct ponds, lakes, and a swimming pool in the Common Areas for the benefit of the Lot Owners. There are inherent dangers associated with a body of water, including but not limited to injury or damage caused by boating, fishing or swimming activities. Each grantee of the Developer or of an Owner of a lot, by acceptance of a deed, and each purchaser under any contract for deed, and each purchaser under any agreement of sale, and each occupant of a Lot, to themselves, their heirs, grantees, representatives, guests, invitees, tenants, family members, successors and assigns hereby agree to and do hereby release Developer from any liability whatsoever relating to injury or damage sustained as a result of the use of any lake, pond or swimming pool and its proximity to their Lot.

14. PARTY WALL PROVISIONS.

It is anticipated that each Lot within the subdivision, Prairie Garden



First Plat, will be subsequently divided into two separate sublots, and that on each such divided subplot there will be constructed a townhome or duplex living unit that will share a common support wall to be constructed upon the division line between said sublots. It is intended by the Developer to create, in favor of each Lot Owner, an easement covering the party walls, said party walls to be placed equally divided on the subplot division line separating the sublots upon which the common townhome or duplex dwellings are to be erected. The undersigned, in order to protect each and every subsequent Lot Owner, his successors and assigns, hereby creates the following easements on building structures and party walls on said premises, to wit:

(a) PARTY WALL DECLARATION. The dividing walls between adjoining dwelling units are hereby declared to be party walls between the adjoining residences erected on each Lot or subplot.

(b) MAINTENANCE OF PARTY WALL. The cost of maintaining each party wall shall be borne equally by the owners of either side of said wall.

(c) DAMAGE TO PARTY WALL. In the event of damage or destruction of said wall from any cause, other than the negligence of either party thereto, the then owners of said party wall, shall at joint expense, repair or rebuild said wall, and each party, his successors and assigns, shall have the right to the full use of said wall so repaired or rebuilt. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share, or all such cost in the case of negligence, the other party may have such wall repaired or restored and shall be entitled to have the Board assess a maintenance assessment on the premises of the party so failing to pay, for the amount of such defaulting party's share of the repair or replacement cost. Such maintenance assessment shall be enforceable in the accordance of the provisions of Section 4(e) of this agreement.

(d) EASEMENT. Neither party shall alter or change said party walls in any manner, interior decorations excepted, and said party wall shall always remain in same location as when erected. Each party to said common or division wall shall have a perpetual easement in that part of the premises of the other on which said party wall is located, for party wall purposes.

(e) ALTERATION OF PARTY WALL. Neither party shall have the right to break through the party wall or alter the party wall in any manner that may impact its structural integrity without the consent of the adjoining owner.

(f) DESTRUCTION OF DWELLING UNIT. In the event of a destruction of said multiply dwelling unit or any portion thereof, the dwellings so

damaged or destroyed shall be restored at the individual and separate expense of the adjoining owners, according to a uniform architectural plan, each adjoining owner being responsible for the cost of repair or replacement of his damaged or destroyed unit, and accept as provided in Section 14(c), for one-half of the cost to repair or reconstruct the party wall.

(g) ROOF MAINTENANCE. The expense of maintaining, repairing and replacing any portion of the roof that may be in common over the party wall shall be proportionally shared by the owners of the adjoining units.

(h) COVENANT RUNNING WITH THE LAND. The easements and rights hereby created are and shall be perpetual and construed as covenants running with the land and each and every person accepting a deed to any Lot shall be deemed to accept said deed with the understanding that each and every other Lot Owner is also bound by the provisions herein contained, and each and every Lot Owner, by accepting a deed to any Lot shall thereby consent and agree to be bound by the covenants herein contained to the same extent as though he had signed this instrument.

IN WITNESS WHEREOF, we hereunto set our hands this 28<sup>th</sup> day of Sept 2001.

R. J. INVESTMENT PROPERTIES, INC.



By: Randall S. Coble  
President/Treasurer



STATE OF KANSAS  
COUNTY OF LEAVENWORTH  
FILED FOR RECORD

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ACKNOWLEDGMENT

STATE OF KANSAS

)  
) SS.

STACY M. DRISCOLL  
REGISTER OF DEEDS

COUNTY OF Dyandotte

BE IT REMEMBERED that on this 28th day of Sept., 2001, before me, the undersigned, a notary public in and for the county and state aforesaid, came Randall S. Cable who is personally known to me to be the same person who executed the within instrument of writing, who, being first duly sworn, stated that said Declaration of Restrictions is true and correct, and such person duly acknowledged the execution of same.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Margaret Morrell  
Notary Public

MARGARET MORRELL  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appt. Exp. 10/24/02