

**PROTECTIVE COVENANTS  
HIGHLAND ESTATES SUBDIVISION**

The undersigned, being all of the owners of all of the land described below in Dodge County, Nebraska, do hereby covenant, declare and publish for the benefit of all persons now, or hereafter owning real property in the real estate described as follows, to-wit:

Highland Estates Subdivision, as platted and recorded in Dodge County, Nebraska, per final plat filed June 14, 2004 and recorded at Book 2004, Page 4306, and including Lots 1 through 5, Highland Estates Subdivision, Dodge County, Nebraska,

that said Lands and Lots, hereafter collectively referred to as Highland Estates, the five lots, the Subdivision, or as the Development, shall be owned, used, conveyed and held under and subject to the following covenants, conditions and restrictions, to-wit:

**COVERAGE**

1. These restrictive covenants shall run with the land, and each person, firm, corporation or entity taking title to the above-described property, or any part thereof, agrees to be bound by said restrictive covenants, the same as if written in the instrument under which said person, firm, corporation or entity acquires title to said real property or any part thereof.

2. These covenants may be altered, amended or modified by an instrument in writing executed by a minimum of at least 4/5 (four-fifths) of the owners of the lots above-described, which instrument shall be recorded in the manner provided by law.

3. Each of the restrictive covenants contained herein is severable and separate. Invalidation of any one of these covenants by judgment or court order shall in no way affect the validity and enforceability of any of the other covenants or restrictions herein contained.

4. All lots in the subdivision shall be known and described as rural residential lots, all of said lots being greater than 3.0 acres and less than 4.0 acres, and used for rural residential purposes only. The rural residential lots within the subdivision shall consist of single family homes only and up to three outbuildings, including detached garage if the garage is detached from the residence.

## HOMEOWNERS ASSOCIATION

5. Each lot owner, upon obtaining title to a lot within the subdivision, shall thereby immediately become a member of the Highland Estates Homeowners Association, an unincorporated association under the laws of the State of Nebraska, unless and until later replaced by a Nebraska Non-Profit Corporation by action of the Association's Board of Directors (hereafter the Association or Homeowners Association), and shall be obligated to abide by their rules and regulations, and shall pay dues or other fees as prescribed by the Association. Unpaid Association dues shall become a lien against the property and the Association may file notice of such lien following the procedures and requirements for liens set forth in Covenant No. 17 below. All lots shall have one vote for each lot to be cast by the owner of said lot.

## STRUCTURES

6. Complete plans and specifications for all structures must be approved by the Board of Directors of the Homeowners Association or an architectural committee appointed by said Board prior to the commencement of any construction in said development. Until all five lots are sold, the architectural committee shall consist of the following four individuals: William A. Brabec, Janet L. Brabec, J. Marlin Brabec and Marla E. Brabec, or whichever of them is able to serve. Thereafter, either the Board or the appointed architectural committee of the Board shall serve as the architectural committee. A plot plan must be included with said specifications. All approved construction must be completed no later than 12 months after commencement. All structures must be approved including placement of culverts, all grading, and fences plus any other structure permitted under these Covenants including outbuildings and the residence.

7. All zoning and building permit requirements of Dodge County, Nebraska, shall be complied with, including the applicable set back and utility easements. In addition, no structure of any kind other than boundary fences shall be placed closer than 50 feet from County Road O which abuts the Subdivision on the south; nor closer than 50 feet from Highland Circle which is the platted entrance road and turning circle shown and established by the Plat of the Subdivision; nor closer than 25 feet from any other side lot line unless a greater distance is required by County Zoning.

8. The minimum size of permanently enclosed living space of each single family residence shall be no less than 1,150 square feet. Such 1,150 square feet measurement shall pertain to the ground floor only, and shall exclude basement, porch, second story and garage areas.

9. Each residential lot may also have up to three outbuildings. An outbuilding shall include the garage if the garage is not attached to the residence.

10. A garage is not required. If owner chooses to have a garage it must have at a minimum either an enclosed two-car or greater garage connected to the residence, or else a separate nonattached two-car or greater garage. The maximum size of any outbuilding or auxiliary building is 50 feet by 100 feet. No shed or garage or outbuilding shall be allowed prior to construction of the house on a lot.

11. All private driveways from the garage to the road may be surfaced as chosen by the homeowner, but a paved driveway apron is required for the first 30 feet adjacent to the garage, and must be constructed and completed at the time or before the house or residence is completed.

12. There is hereby granted a 10 feet wide utility easement along all side, back and front lot lines.

13. No mobile homes are permitted. The only type of off-site constructed house allowed is a modular home. An on-site constructed home would include one previously built on-site and previously occupied as a residence at another location and then moved to a lot in the subdivision and placed on a new foundation.

#### **MAINTENANCE AND UPKEEP**

14. On lots with a house, all grass and weeds within 100 feet of the house shall be kept under a maximum of 4 inches above ground level, and on all other areas of the lot, and on all undeveloped lots, all grass and weeds shall be kept under a maximum of 24 inches above ground level. There shall be no accumulation of debris, machinery, disabled automobiles or offensive materials of any kind on any lot. On lots without a house, the owner must keep wild trees under control by not permitting wild trees or wild underbrush to grow and, instead, must destroy or otherwise remove such growth. Planned tree and bush planting are permitted on all lots. No non-running vehicles shall be permitted on any lot for longer than 36 hours unless said non-running vehicle is placed inside a garage or outbuilding for storage or subsequent repair. Such vehicles include cars, trucks, ATVs, snowmobiles, boats, and motorized farm machinery.

15. The structure and the grounds of each lot shall be maintained in a neat and attractive manner and as set forth in Paragraph 14. Upon the owner's failure to do so, the Board of Directors of the Homeowners Association may, at its option, after giving the owner 15 days written notice sent to owner's last known address, make any necessary repair of structures or removal of offensive items or otherwise correct or remedy any needed situation, when and as often as the same is necessary in its judgment as to any lot.

16. The cost of any such maintenance, removal, mowing or remedying of structures or removal or other corrective actions as referred to in any of these Covenants shall be assessed against the lot upon which such work is done and shall be added to and become a part of the periodic maintenance, assessment or charge to which such lot is subject under the rules and regulations of the Homeowners Association. Payment for same is due within 30 days of billing sent to the owner at his or her last known address. Upon the owner's failure to pay same within 30 days, the Homeowners Association may record any and all such amounts due as a written lien notice filed at the Register of Deeds office following the procedures and requirements for liens as set forth in Covenant No. 17.

17. Any liens to which the Association may be entitled under these Covenants, shall be created and perfected by the filing of an Affidavit of Non-Payment of said costs or expenses in the office of the Register of Deeds in Dodge County, Nebraska, stating:

- a) The legal description of the property upon which the lien is claimed;
- b) the name(s) of the owner(s) of said property;
- c) the amount of the cost or expense unpaid and for which claim is made;
- d) the printed and signed name of the Chairman or Secretary of the Association, either of whom is authorized hereby to execute and file said instrument on behalf of the Association.

The lien shall be deemed created and perfected at the time of the filing and recording of the Affidavit of Non-Payment and such lien shall be superior to all other charges. Liens of encumbrances which may thereafter in any manner arise or be unpaid upon the property, whether arising from or unpaid by judgment or decrees or by any agreement, contract, mortgage or other instrument shall be inferior to the Homeowners Association lien, saving and excepting only such liens for taxes or other public charges as are by law made superior.

Any lien created and perfected according to these Covenants may be foreclosed by suit brought by the Association in like manner as a mortgage on real property is foreclosed. A suit to recover a money judgment for unpaid costs or expenses under these Covenants may be maintained by the Association without foreclosure or waiving the lien securing the same. The Chairman or the Secretary of the Association is authorized hereby to bring such suit on behalf of the Association either individually as Assignee of the Association, or in the name of the Association by them in their representative capacity as an officer of the Association.

In the event a lien is created and perfected according to these Covenants and thereafter the costs or expenses plus interest at the rate of twelve percent (12%) per annum from the date the lien is filed shall be fully paid, the Association shall, within ten (10) days following payment, file with the Register of Deeds of Dodge County, Nebraska, an Affidavit of Payment of costs or expenses, which Affidavit shall:

- a) refer to and identify the Affidavit of Non-Payment of costs or expenses which created the lien which has been satisfied;
- b) state the legal description of the property affected; and
- c) state the name(s) of the owner(s) of the property.

Recording of the Affidavit of Payment of costs or expenses shall fully and completely release the lien referred to in said Affidavit and said Affidavit shall be conclusive evidence to any purchaser or encumbrancer or as to any title insurer or title examiner that the preexisting lien has been fully released and discharged.

## ROAD

18. As set forth on the Final Plat filed June 14, 2004 at Book 2004, Page 4306, there is a private road called Highland Circle which provides access to and abuts Lots 2 through 5 of the Subdivision (hereafter the Lane). The Homeowners Association shall be solely responsible for the maintenance, repairs and snow removal of said Lane; provided, however, that said expenses shall be assessed to and paid by only Lots 2 through 5, and not by Lot 1 which does not abut the Lane. The cost of such maintenance shall be paid by the owners of Lots 2 through 5, either as a part of their annual dues over and above the general dues assessed to all five lots, or by separate assessment(s) made from time to time by the Board of Directors of the Association upon said Lots 2 through 5. The cost of road maintenance, repairs and snow removal shall be shared equally by said Lots 2 through 5. Such work shall be placed for bids and awarded by the Association.

19. Four wheelers are permitted only on the owner's own lot. Four wheelers are not allowed to travel outside the owner's lot, and are specifically prohibited from traveling on the Lane, on the county road at the south edge of the development, or on Highway 91 which runs adjacent to the Subdivision on the north. The restrictions set forth in this covenant apply equally to any other type of all-terrain vehicle including, but not limited to, four wheelers, three wheelers, snowmobiles, hovercraft or motorcycles.

## LIVESTOCK

20. Farm and ranch animals are permitted on each lot as follows:

- a. Up to 5 horses;
- b. Up to 2 bovine;
- c. Up to 2 sheep;
- d. No pigs, hogs, or other type of swine are permitted;
- e. No more than 5 total horses, bovine and/or sheep are permitted.

All such animals permitted under this Covenant are hereafter collectively referred to as livestock.

21. Lot owner must provide adequate shelter for all livestock. A barn for livestock is permitted under Covenant No. 9. All livestock shall be confined within fencing adequate to contain said livestock.

IN WITNESS WHEREOF, each of the undersigned owners of property within the Subdivision, being all of the owners of said property, have executed these restrictive covenants on the respective dates set forth below.

William A. Brabec

William A. Brabec

Janet L. Brabec

Janet L. Brabec

J. Marlin Brabec

J. Marlin Brabec

Marla E. Brabec

Marla E. Brabec

STATE OF NEBRASKA      )  
                            ) ss.  
COUNTY OF DODGE      )

The foregoing instrument was acknowledged before me on August 4, 2004, by William A. Brabec and Janet L. Brabec, husband and wife, known to me personally or who has produced satisfactory evidence of identification to me.

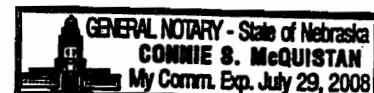
Connie S. McQuistan  
Notary Public



STATE OF NEBRASKA      )  
                            ) ss.  
COUNTY OF DODGE      )

The foregoing instrument was acknowledged before me on August 4, 2004, by J. Marlin Brabec and Marla E. Brabec, husband and wife, known to me personally or who has produced satisfactory evidence of identification to me.

Connie S. McQuistan  
Notary Public



**BYLAWS OF  
HIGHLAND ESTATES HOMEOWNERS ASSOCIATION  
An Unincorporated Association**

**I. ADOPTION AND PURPOSE**

1. On this \_\_\_\_ day of August, 2004, there is hereby established a Homeowners Association, known as the Highland Estates Homeowners Association (hereafter the Homeowners Association or Association). The Association is charged with responsibility for enforcing the covenants of Highland Estates Subdivision, as recorded at Book 2004, Page \_\_\_\_ in Dodge County, Nebraska, (hereafter the Subdivision), approving all plans and specifications for residences, fences, outbuildings, and other matters governed by said covenants. The Association shall also promulgate and enforce such other rules and regulations as necessary for the carrying out of the affairs of the Subdivision and the Association. All owners of lots in the Subdivision immediately become members of this Association upon obtaining title to a lot or upon executing a land contract on a lot as Vendee, and are obligated to pay the annual dues and any other fees as prescribed by the Association, and are obligated to abide by these covenants and all rules and regulations of the Association as established or adopted by the Association. Unpaid Association dues shall become a lien against the property upon the filing of a Notice of Lien at the Register of Deeds office.

2. The Homeowners Association shall be an unincorporated association until such time, if ever, that the Association shall be incorporated as a nonprofit corporation.

**II. BOARD OF DIRECTORS**

1. The Board of Directors, (hereafter the Board), shall be the governing body for the Association.

2. Once all five lots are sold, the Board of Directors shall consist of five members, one each from each of the five lots. Until then, the Board of Directors shall be composed of and constituted as follows:

- a. Until the first lot is sold, the Board of Directors shall consist of William A. Brabec, Janet L. Brabec, J. Marlin Brabec and Marla E. Brabec.
- b. Once the first lot is sold, the Board shall be the four individuals listed in (a) above plus a representative chosen by said sold lot.
- c. Once two lots are sold, the Board shall be composed of three of the Brabecs listed in (a) above plus a representative from each of the two additional lots that have been sold.
- d. Once a total of three lots have been sold, the said three lots shall between them elect a representative from two of the lots to serve on the Board.
- e. Once four lots have been sold, the Board shall consist of two of the Brabecs as selected by the four Brabecs listed in (a) above, and the remaining four lots shall select three of their members to serve on the Board.

3. The Board meetings will be held as needed, including regular and special meetings. The directors may establish a policy, which may be revised from time to time, to establish a procedure for the holding of meetings and for reasonable notice to the members of such meetings. This may include a regular meeting schedule, by month or quarter or other periodic basis, which would require no further notice. Meetings of the Board of Directors shall be open to any member of the Association. A quorum for Board meetings is three members. All actions of the Board shall be contingent upon a simple majority vote of all directors in attendance at a legal meeting of the Board.

4. Each lot shall be entitled to be represented by no more than one person on the Board of Directors, whether that lot is owned individually, jointly, or by a corporation or other legal entity, except as to the Brabec family members during the transition in Paragraph II.1.

5. It shall be the duty of the Board to carry out the corporate purposes set forth in Paragraph I.1 above and all other duties or functions set forth in the Subdivision covenants. Among other things, the Board is responsible for the approval of all plans and specifications for buildings, fences, outbuildings and other structures referenced in the covenants. The Board shall have the power and the obligation to enforce all of the rules, regulations and covenants of the Subdivision. It is their responsibility to serve in the best interest of the majority of the property owners.

6. The Board may establish such committees as it deems necessary or convenient for the carrying out of the affairs of the Association. All committee members must be members in good standing of the Association with no delinquent or unpaid dues.

7. The Board may enter into contracts on behalf of the Association as approved by the Board. However, no loans shall be incurred unless specifically approved by the general membership at the Annual or any Special Meeting of the Association.

8. All Board members must be members in good standing with no delinquent or unpaid dues. The other Board members, by majority vote, may declare a vacancy in event of excessive unexcused absences, failure to pay delinquent dues, or other failure to remain a member in good standing of the Association.

### III. OFFICERS

1. Each year following the Annual Meeting, the Board of Directors shall elect three officers who shall also be members of the Board of Directors, a Chairman, Secretary, and Treasurer. Each term of office shall be one year.

2. The Chairman shall be responsible for conducting all meetings of the Board and all Annual or Special meetings of the Association, as well as any other duties that may be assigned.

3. The Secretary shall record minutes of all meetings of the Board and of the Association, shall issue any needed notices of meetings, and shall correspond on behalf of the Association as needed, and shall perform other duties as may be assigned. The Secretary shall also serve as Chairman in the absence of the Chairman at any meeting.

4. The Treasurer shall collect dues and any other monies received, maintain a checking or other deposit account, and pay bills as directed by the Board. The Treasurer shall also prepare an annual report of the prior year's income and expenses, along with a proposed

budget for the ensuing year, which reports shall be presented at the Annual Meeting of the Association. The Treasurer shall perform any other duties that may be assigned.

#### IV. ELECTION OF BOARD OF DIRECTORS AND VACANCIES

1. At the Annual Meeting of the Association, nominations shall be taken from the floor for the vacant seats to be elected for the ensuing year. Nominees must be members of the Association and in good standing with dues paid. There is no limit on the number of nominees.

2. Election shall be by secret ballot. Lot owners shall be entitled to one ballot per lot. Each ballot cast shall include the selection of the number of names which will represent the number of seats on the Board that become vacant at each Annual Meeting. The individuals receiving the highest aggregate total of votes shall be elected and shall immediately assume office.

3. The Board shall meet immediately following the Annual Meeting of the Association without further notice to each of the Board members.

4. All directors serve until their successor is chosen. If a director shall resign, die, be removed, cease to be an owner of a lot within the subdivision, or is otherwise unable or unwilling to serve, the directors shall select a replacement at the next meeting of the Board, whether regular or special, unless there is no other eligible person who could serve as a director, in which case that position will remain vacant until someone becomes eligible to hold it.

#### V. ANNUAL AND SPECIAL MEETING

1. Once all five lots are sold and the Board of Directors consists of one representative from each of the five lots, it will no longer be necessary for the Association to hold a separate Annual Meeting, and instead the first meeting of the Board of Directors each calendar year shall constitute the Annual Meeting. In the interim, the Annual Meeting shall be held pursuant to Sections 2 through 7 of this Article.

2. Each year there shall be an Annual Meeting of the Association, which shall be open to all lot owners. The Annual Meeting shall be held in January each year at a date, time and place selected by the Board of Directors.

3. Written notice of the Annual Meeting shall be provided to all lot owners at least ten days prior to the date of the Annual Meeting. Said notice shall be sent to each lot owner at his or her last known address by regular U.S. mail, or, at the option of the Secretary, hand delivered to an owner's place of business or residence. The notice shall include the date, place, time, and tentative agenda for the meeting.

4. The purpose of the Annual Meeting shall be for the election of the Board of Directors, and for such other appropriate business as may come before it.

5. Special Meetings of the Homeowners Association may be called by the Chairman, or by any two other Board members. If a special meeting is called, the Chairman shall arrange for the date, time and place and a written notice shall be mailed to all lot owners within the subdivision at least ten days prior to the date of such Special Meeting by regular U.S. mail at each lot owner's last known address, or, at the option of the Secretary, hand delivered to an owner's place of business or residence. The notice shall include the purpose of the meeting.

6. A quorum for electing the new Board members at the Annual Meeting is 10% of the member lots. A quorum for any other business at any Annual or Special Meeting of the Association is 10% of all member lots for agenda items included in the Notice of Meeting, and 30% for any topic or subject not included on said Notice.

7. The Secretary shall prepare an alphabetical list of the names of all Members who are entitled to notice of the meeting. The list will include the address and number of votes of each Member entitled to vote. The list will either be provided along with the notice of any annual or special meeting or will be available for inspection at the home or office of the Secretary by any Member beginning two business days after notice is given of the meeting. For purposes of providing said alphabetical list, the Secretary's home or business is deemed the corporation's principal office. The Association shall also make the list of Members available at each annual or special meeting of the Members. Pursuant to § 21-1959 R.R.S. Nebraska Reissue of 1997, a Member is entitled to inspect the list and at the Member's expense copy the list if said list is not provided to the Members along with the Notice of Meeting.

## VI. FISCAL YEAR AND DUES

1. The fiscal and operating year of the Association shall be the calendar year. The first year or partial year of operation shall be treated as a fiscal and operating year, even though the Association was started during the course of the year.

2. Annual dues shall be assessed and collected for each platted lot for each calendar year. The amount of the annual dues shall be set from time to time by majority vote of the lot owners at an Annual Meeting, provided a quorum is present. The amount of the annual dues shall remain the same until changed at a subsequent Annual Meeting. The initial annual dues shall be set by the Board of Directors at its first meeting during the initial year of operation. The Board may by resolution prorate the amount of dues necessary for the initial year of operation of the Association.

3. The annual dues and where appropriate the assessments shall consist of two parts: (1) the general dues that are assessed equally to Lots 1 through 5; and (2) the Road Maintenance Dues that are equally assessed only to Lots 2 through 5. This division into two types of dues is pursuant to the provisions of Paragraphs 18 and 19 of the Protective Covenants governing the Subdivision, subject to any later revisions or modifications of said Covenants.

4. Dues to the Homeowners Association shall be payable annually, and are due as of January 31 of each year. Such dues shall become delinquent on February 15 of each year. The Board may take any appropriate action for the collection of delinquent dues owed to the Association. Such action may include the filing of a lien against the subject lot any other collection remedy allowed at law or equity.

## VII. ROAD MAINTENANCE

1. As set forth in the Subdivision covenants, the Homeowners Association is responsible for the maintenance of the roads within the Subdivision that are not otherwise maintained by any political subdivision of the State of Nebraska.

2. The Homeowners Association may elect to either include the cost of the maintenance of the roads within the amount of the annual dues, or may separately assess the lot owners for the road maintenance, but in any event said dues or assessments apply only to Lots 2 through 5 as set forth in the Covenants and Paragraph VI.3 above. Such assessments will be

equally taxed per platted lot. The Association may make any needed supplemental assessments to be equally taxed in the same amount per lot for the maintenance of the roads within the Subdivision.

## VIII. CHANGING BYLAWS

1. The Bylaws of this Association may only be amended by a four-fifths majority vote of the lot owners. Such change may be made at an Annual or Special Meeting, provided a quorum is present, with prior notice of the proposed amendment, or by a written instrument signed by the owners of the required number of lots. A proposed amendment may be amended at the Annual or Special Meeting so long as the amendment as modified receives the said four-fifths majority vote of the lot owners present at said meeting.

ADOPTED AND APPROVED on August       , 2004, by the undersigned, being all of the lot owners of the Subdivision of record on said date.

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William A. Brabec

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Janet L. Brabec

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J. Marlin Brabec

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Marla E. Brabec