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DELAWARE COUNTY IOWA

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SPACE ABOVE THIS LINE FOR RECORDER

# DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND GRANTS OF FAWN TRAIL SUBDIVISION, DELAWARE COUNTY, IOWA

## ARTICLE I
## DECLARATION - PURPOSES

SECTION 1. GENERAL PURPOSES: The Declarant (also referred to herein as Developer) is the owner of certain property located in Delaware County, Iowa, and desires to create thereon a planned community development.

SECTION 2. DECLARATION: Declarant desires to establish uniform building restrictions and restrictions upon the use and occupancy of real estate described in Exhibit "A" attached hereto and made a part hereof.

## ARTICLE II
## GENERAL RESTRICTIONS

SECTION 1. On and after the date hereof, title to the aforesaid property shall be subject to the following covenants to run with the land which are restrictive covenants applicable to all of the property in Fawn Trail Subdivision, Delaware County, Iowa. No building or other structure shall be erected, moved on, altered or permitted to remain on any lot within said subdivision that does not comply with the following minimum restrictions:

A. All lots described in said plat shall be known, described and used solely as residential lots, and no part or portion thereof shall be used or occupied for a trade or business of any nature whatsoever.

B. No structures shall be erected on any residential lot other than one single family dwelling with a garage sufficient for the automobiles used privately by the resident members of the family residing in the dwelling. The eves of any garage shall have a height of no greater than eight feet. One unattached patio or gazebo shall be permitted on all lots, but no prefabricated structures shall be allowed.

C. No building shall be constructed nearer than 50 feet to any front lot line and 15 feet from any side lot line and 20 feet from any rear lot line. No septic field shall be placed on any lot other than in the location designated in the building plan approved by the Developer.

D. No tents, shacks, trailers, or garages shall be occupied as living quarters on said premises at any time.

E. Said lots may be divided into smaller parcels for the purpose of conveyance to a contiguous property owner, however, no structure may be constructed on any lot which is smaller than an existing lot.

F. No dwelling shall be permitted on any lot described herein, having a ground floor square foot area (exclusive of porches, porticoes, entrance-ways, areaways or garages) of less than 1,450 square feet in the case of a one story structure nor less than 1,100 square feet in the case of a one and a half or a two story structure, and no building shall be erected, altered, placed or permitted to remain on any lot which exceeds two (2) stories in height above the existing ground level, a third story the top of which is below such level not being prohibited.

G. Once excavation has commenced on a lot for the purpose of building thereon, the dwelling on said lot shall be fully completed within one year of the time of commencement.

H. No trailer, camper, mobile home, basement, tent, shack, garage, barn or other out-building erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted.

I. No animals of any kind shall be raised, bred and kept on any lot property, with exception that dogs, cats or other ordinary household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose. No outside pets of any kind are permitted nor shall any outside structure be erected on any lot for the housing of any animals domesticated or otherwise.

J. Titleholders of any lot, vacant or improved, shall keep his or her lot(s) free of weeds and debris, nor shall any materials, junk, rubbish, trash, garbage or other waste be kept or stored on any lot or portion of a lot, except that building materials may be temporarily stored for the purpose of immediate construction of a structure thereon.

K. No business, trade, industrial, commercial or animal agricultural activity shall be carried on in any dwelling, building, or any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

L. No vehicles shall be parked on any area on a residential lot other than in the driveway. Parking on the street or any portion thereof is prohibited except for guest parking not to exceed 72 hours in length. Further, at no time shall any commercial vehicles and/or agricultural equipment (including trailers) be parked on any residential lot.

No storage of recreational vehicles, campers, snowmobiles, trailers, boats or similar items shall be permitted on any lot except within an enclosed garage. RV's may be parked in a driveway for one (1) week in any 30 day period.

M. No privacy fencing shall be built except to house an in-ground pool or attached patio and such privacy fencing shall not exceed six (6) feet in height. A child's restraining fence is permitted with the restriction that said fence shall be no more than four (4) feet high and shall be placed on the lot line only with the permission of the adjoining lot owner. No fence of any kind shall be built between the front line of the home and the front lot line on any particular lot.

N. If the parties hereto, or any of them, or their heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein as long as these covenants are in effect, it shall be lawful for any other person or persons owning any other lots in said Development or Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction and either to prevent him or them from so doing or to recover damages for such violation.

O. All structures shall be constructed in accordance with applicable government building codes and with more restrictive standards that may be required by the Developer or this Declaration.

P. The Developer deems that the establishment of standard inflexible building setback lines for location of structures on individual lots would be incompatible with the objective of preserving the natural setting of the area and preserving and enhancing existing features of natural beauty and visual continuity of the area. The Developer, therefore reserves the right to vary setback lines on a lot by lot basis.

Q. Radio or television transmission or receiving towers, antennas, receivers or other reception dishes are permitted within the interior portion of a dwelling. One exterior satellite dish is permitted per dwelling.

R. No owner shall accumulate or allow to accumulate on his lot junked vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles provided therefore and, if outside, they shall be properly screened. Tarpaulins and similar covering materials are prohibited.

S. All United States Postal Service mailboxes, media deliver boxes or other such receptacles shall be located in an area designated by the Developer. The intent being to provide a common area for all development residents.

## SECTION III
## ROAD MAINTENANCE AND UPKEEP

SECTION 1. All owners of lots in the Subdivision shall be entitled to non-exclusive use of the roadways in the Subdivision as platted. In addition, the owners of all lots of any attached or extended Subdivision owned by the Developer shall have the non-exclusive use as needed of the roadways in the Subdivision to obtain access for said attached or extended Subdivisions of the Developer. All owners of lots in the Subdivision shall be responsible for maintenance and upkeep of said roadways according to the following terms and conditions.

A. The Developer shall be responsible for constructing roadways serving the Subdivision. Said roadways must be completed by the Developer to provide access from the County Road to any lots in the Subdivision which are sold. In addition to the additional construction of said roadways, the Developer shall be responsible for maintenance and upkeep of the roadways, including snow removal until such time as five (5) lots in the Subdivision are sold or two (2) years from the date of this Declaration, whichever occurs earliest.

B. Once five (5) lots have been sold in the Subdivision or two (2) years from the date of this Declaration has expired, maintenance and upkeep of the roadways, including snow removal, shall be shared prorata between the dwelling owners in the Subdivision. Owners of lots in the Subdivision which are not developed shall not be responsible for a proportionate share of the cost of maintenance and upkeep until such lot is developed. Lot owners shall be liable for a prorata share of the cost when their dwelling is completed, but no later than one year after construction is commenced.

C. The owners of developed lots in the Subdivision shall meet annually and designate one owner to act as agent for the others in contracting for necessary maintenance, upkeep and snow removal. Said agent shall be responsible for apportioning the costs among the lot owners. Any amount that remains unpaid by any lot owner more than thirty (30) days after demand by the designated agent shall constitute a lien against said lot owner's property. Said lien shall be established by filing of an Affidavit by the designated agent. Said amount may thereafter be collected by the designated agent on behalf of all developed lot owners who shall also be entitled to recover reasonable attorney fees and court costs incurred in collecting said amounts.

D. Any improvements to the roadways in the Subdivision shall be agreed upon by at least three-fourths of the developed lot owners of the Subdivision at the time of said improvement. Notice shall be mailed to each developed lot owner at least ten (10) days prior to any vote taken by the developed lot owners on the question of roadway improvement. If approved by three-fourths of the developed lot owners, the proportionate share of the improvement cost shall be paid by each developed lot owner and shall become a lien against those developed lots as provided in "C" above. Any owner of any lot that is not improved by a dwelling at the time said improvements are made shall not be responsible for any share of the cost of said improvement. If and when improvements are made, the owners of the lots in the Subdivision that are subsequently developed shall be responsible for the maintenance and upkeep of the roadways as improved.

SECTION 2. The Developer shall construct and erect a Subdivision sign on an area near the entrance to the Subdivision. Said sign shall be maintained pursuant to the following terms and conditions.

A. Until five (5) lots in the Subdivision have been sold or until two (2) years have elapsed from the date of this Declaration, Developer shall be responsible for the maintenance and upkeep of the Subdivision sign.

B. After five (5) lots have been sold or after two (2) years have elapsed from the date of this Declaration, the owners of developed lots in the Subdivision shall be responsible prorata for the cost of maintenance and upkeep of the Subdivision sign. The land on which the sign is erected shall also be maintained by the lot owners and all such costs shall be contracted for and paid by the designated agent as provided in Section 1 of this Article.

## ARTICLE IV
## ARCHITECTURAL REVIEW PROCESS

SECTION 1. MATTERS REQUIRING APPROVAL OF DEVELOPER: The following matters require the prior written approval from the Developer pursuant to the procedures set forth in Article IV, Section 2:

(1) All plans and specifications for any buildings, fences, walls, driveways and any other structures of any kind which are to be erected, constructed, placed or maintained upon the properties;

(2) All plans and specifications for any landscaping, including without limitation trees, shrubs, bushes, similar landscaping materials, and any change to the grade or slope of the ground, which is to be constructed, placed or maintained upon the properties;

(3) All plans and specifications for any exterior addition, or change or alteration in, any dwelling, dwelling accessory building, any other building, fences, walls, driveways, and any other structures or any additions to, or changes in alterations in, any landscaping;

(4) All site plans showing the proposed location of any of the matters set forth above. The erection, construction, placement or maintenance of any of the matters requiring approval, as set forth above, shall not be commenced without the written approval of the Developer having first been obtained. The erection and construction for a dwelling shall not be commenced without the prior written approval of the Developer having first been obtained for the matters set forth in this Section 1 and Section 2;

SECTION 2. PROCEDURE FOR APPROVAL OF PLANS SPECIFICATIONS:

A. Except as otherwise provided herein, whenever approval is required of the Developer of matters set forth in Article IV, Section 1, two complete sets of the plans and specifications shall be submitted to the Developer. Upon receipt of such plans and specification, the Developer shall either approve or disapprove said plans and specifications within thirty (30) days after said plans and specifications have been submitted. Approval of such plans and specifications shall be evidenced by a stamped or written endorsement on such plans and specifications. One complete set of such plans and specifications showing the approval shall then be delivered to the owner of the lot to which the plans and specifications apply. No changes or deviations in or from the approved plans and specifications shall thereafter be made without first obtaining the written consent of the Developer which shall be obtained pursuant to the submittal process set forth herein. The Developer shall not be responsible for any structural defects in such plans or specifications, or in any building or structure erected according to such plans or specifications.

B. If the plans and specifications are disapproved by the Developer in any respect, then the Developer shall notify the owner who submitted the plans and specifications of the reasons for such disapproval, including the particular items on such plans and specifications which are deficient. The Developer may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld capriciously or unreasonably. The owner shall then be entitled to resubmit the plans and specifications as revised to correct the deficiencies. Upon resubmittal, the Developer shall then have an additional twenty (20) days to either approve or disapprove the revised plans and specifications. The owner shall be entitled to resubmit revised plans and specifications pursuant to the above procedure as often as necessary until the revised plans and specifications are either approved by Developer or are permanently withdrawn by owner. Owner shall not commence the erection, construction, placement or maintenance of any item contained on the original or revised plans and specifications, regardless of whether or not that item was deemed by the Developer to be deficient, until such time as the plans and specifications have been approved in all respects by the Developer.

C. The landscape plans shall be submitted for approval within thirty (30) days after the building permit is issued unless such time is extended by the Developer.

SECTION 3. ASSIGNABILITY: The functions of the Developer under this Article shall be assignable at the sole discretion of the Developer.

SECTION 4. EXTERIOR: In reviewing the plans pursuant to this Article IV, the Developer shall pay particular attention to the following matters:

A. The silhouette and outside elevation of the home to be constructed.

B. The type of material and color of the exterior of the home.

C. The type of material and color of any masonry including the chimneys.

D. The design and material used in any porches, garages, patios and retaining walls.

E. The location of the home on the lot and the landscaping.

## ARTICLE V
## GENERAL PROVISIONS

SECTION 1. ENFORCEMENT: Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or any entity violating or attempting to violate any covenant or restriction. Such action may be to restrain or enjoin such violation, or to recover damages, or against the land to enforce any lien created by these covenants. Should the Developer employ legal counsel to enforce any covenant or restriction, or to prosecute the violation or the attempt to violate any covenant or restriction, then all costs incurred by the Developer by reason of such enforcement or prosecution, including reasonable attorney fees and expenses, shall be recoverable against the person or entity against whom such enforcement or prosecution is brought. The Developer shall have a lien upon any lot owned by any person or entity against whom enforcement or prosecution is brought in order to secure payment of all such costs, fees and expenses. No delay or failure on the part of the Developer or the owners of any land subject to this Declaration, in exercising any rights, power, or remedy provided in this Declaration, including the right to enforce any covenant or restriction, shall be construed or deemed to be a wavier of the right to do so thereafter. No right of action shall accrue nor shall any action be brought or maintained by anyone against the Developer for or on account of its delay in bringing, or failing to bring, any action or enforcement proceeding on account of any breach of any covenant or restriction, or for imposing any covenant or restriction which may be unenforceable by the Developer.

SECTION 2. DURATION: The covenants and restrictions set forth in this Declaration shall run with the land and bind the subsequent land owners, and shall inure to the benefit of and be enforceable by the owners of any lots in the Subdivision for a term of twenty years from the date that this Declaration is recorded with the Delaware County Recorder. After such time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds of the lots within the Subdivision has been recorded agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement of change shall be effective unless written notice of the proposed agreement is sent to every lot owner at least ninety (90) days in advance of any such action taken.

SECTION 3. OCCUPANTS: All of the obligations, liabilities and covenants imposed upon owners hereunder shall also be applicable to and imposed upon all persons occupying any lot who are not owners other than the Developer.

SECTION 4. SEVERABILITY: Invalidation of any one of these covenants or restrictions by judgment or court order in no way shall affect any other provisions, which shall remain in full force and effect.

SECTION 5. MODIFICATION: By recorded supplemental declaration, the Developer may in its sole discretion modify any of the provisions of this Declaration for a period of six (6) years from date hereof, provided that it shall not substantially alter the scheme of this Declaration or of any succeeding supplemental declaration.

SECTION 6. DEEDS: Each owner and purchaser under an Installment Sale Contract accepts such conveyance subject to restrictions, covenants, obligations and liabilities hereby created, reserved or declared, all as though same were recited at length in such deed or Installment Sale Contract.

Dated this 3rd day of May, 2005.

FAWN TRAIL SUBDIVISION

Daniel A. Schulte

Ann L. Schulte
Owners of Fawn Trail Subdivision

Subscribed and sworn to before me by Daniel A. Schulte and Ann L. Schulte this 3rd day of May, 2005.




Notary Public In & For the State Of Iowa

**EXHIBIT "A"**
**Legal Description**

Fawn Trail Subdivision and all lots within Fawn Trail Subdivision including Lots One (1) through Thirty One (31), being a Subdivision of part of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section Seventeen (17) and part of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section Eighteen (18), all in Township Eighty Nine (89) North, Range Five (5), West of the 5th P.M., Delaware County, Iowa, according to plat recorded in Book 2005, Page 1694 of the records of the Delaware County Recorder.