17

Doc ID: 038385290003 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 11/23/2022 at 11:35:13 AM
Fee Amt: $17.00 Page 1 of 3
Revenue Tax: $0.00
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2022-00087839
BK 19335 PG 682-684

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR RIDGEDALE HEIGHTS TOWNHOMES

Preparer Information:
Lisa R. Wilson
222 N.W. Sunrise Drive
Waukee, Iowa 50263
(515) 369-2502

Taxpayer Information:
N/A

RETURN TO:

Return Document To:
Wilson & Egge, P.C.
222 N.W. Sunrise Drive
Waukee, Iowa 50263

Grantor:
Timbercrest Homes, L.L.C.

Grantee:
N/A

Legal Description:
Lots 1 through 54, inclusive, and Lot "A", in Ridgedale Heights Townhomes Plat 1, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa; AND Lots 1 through 112, inclusive, Lot A, and Outlot Z, in Ridgedale Heights Townhomes Plat 2, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa.

Document or instrument number of previously recorded documents:
Book 18243, Page 63

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR RIDGEDALE HEIGHTS TOWNHOMES

THIS AMENDMENT TO DECLARATION is made this 19 day of October, 2022.

WHEREAS, a Declaration of Covenants, Conditions, Easements and Restrictions for Ridgedale Heights Townhomes was executed on December 3, 2020, by Timbercrest Homes, L.L.C., an Iowa limited liability company ("Declarant") and filed of record in Polk County, Iowa, on December 10, 2020 in Book 18243, Page 63 ("Declaration").

WHEREAS, Declarant has elected to replat Outlot X of Ridgedale Heights Townhomes Plat 1 to be known as Lots 1 through 112, Lot A, and Outlot Z, in Ridgedale Heights Townhomes Plat 2.

WHEREAS, the undersigned Declarant, pursuant to rights granted under Article 15(C) and Article 16 of the Declaration as filed, has the right to amend the Declaration so long as it has an ownership interest in any Townhome Lot, and it has the right to add additional common area and property to the Declaration.

NOW, THEREFORE, the undersigned Declarant does hereby modify the Declaration as follows:

1. Article 1(B)(8) of the Declaration shall be deleted in its entirety and replaced with the following:

> (8) The Common Area, including, but not limited to, Lot A in Ridgedale Heights Townhomes Plat 1, Lot A in Ridgedale Heights Townhomes Plat 2, and Outlot Z in Ridgedale Heights Townhomes Plat 2 (including equipment and features located therein), and any landscape buffer areas, private storm and sanitary sewers, private water mains and storm water drainage and detention areas, located thereon.

2. Article 1(E) of the Declaration shall be deleted in its entirety and replaced with the following:

> E. "Common Area" shall mean (i) Lot A in Ridgedale Heights Townhomes Plat 1, (ii) Lot A in Ridgedale Heights Townhomes Plat 2, (iii) Outlot Z in Ridgedale Heights Townhomes Plat 2, and (iv) all other real property owned or controlled by the Association for the common use and enjoyment of the Owners, including, but not limited to, drives, streets, landscaping, detention areas, private utilities, cluster mailboxes, project and street signs, and sprinkler system.

3. Article 1(J) of the Declaration shall be deleted in its entirety and replaced with the following:

> J. "Townhome Lot" or "Lot" shall mean and refer to (i) Lots 1 through 54 in Ridgedale Heights Townhomes Plat 1; and (ii) Lots 1 through 112 in Ridgedale Heights Townhomes Plat 2; and (iii) any additional property which may later be brought within the jurisdiction of the Association and the Declaration, but does not include the Common Areas. With respect to any single-family portion of any Building that may be constructed on a part of more than one of such lots, "Townhome Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit.

3. Article 3(B) of the Declaration shall be deleted in its entirety and replaced with the following:

B. Designation of Association Directors.

Subject to Section 15(D), Declarant shall have the right to name all members of the Board of Directors of the Association until it no longer owns an interest in any Townhome Lot in Ridgedale Heights. Thereafter the Board of Directors shall be selected in the manner specified in the Bylaws of the Association.

4. In all other respects, the Declaration shall remain unaffected and be enforceable as filed.

Dated on this day and year first written above.

TIMBERCREST HOMES, L.L.C., DECLARANT

By: _____
John W. Larson, Manager

STATE OF IOWA)
) ss:
COUNTY OF Polk)

This record was acknowledged before me on this 18 day of October, 2022, by John W. Larson, Manager of Timbercrest Homes, L.L.C.

ANNIE HAKANSON
Commission Number 793925
My Commission Expires
January 11, 2025

_____
Notary Public in and for the State of Iowa

122

Doc ID: 035966040024 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 12/10/2020 at 01:29:59 PM
Fee Amt: $122.00 Page 1 of 24
Revenue Tax: $0.00
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2020-00066233
BK 18243 PG 63-86

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR RIDGEDALE HEIGHTS TOWNHOMES

Preparer Information:
Lisa R. Wilson
475 S.E. Alice's Road, Suite A
Johnston, Iowa 50263
(515) 369-2502

Taxpayer Information:
Timbercrest Homes, L.L.C.
5721 Merle Hay Road, Suite 20
Johnston, Iowa 50131

RETURN TO:
Return Document To:
Wilson & Egge, P.C.
475 S.E. Alice's Road, Suite A
Johnston, Iowa 50263

Grantor:
Timbercrest Homes, L.L.C.

Grantee:
N/A

Legal Description:
Lots 1 through 54, inclusive, and Lot "A", in Ridgedale Heights Townhomes Plat 1, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa.

Document or instrument number of previously recorded documents:
N/A

DECLARATION OF
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR
RIDGEDALE HEIGHTS TOWNHOMES

THIS DECLARATION, made on the date hereinafter set forth by Timbercrest Homes, L.L.C., an Iowa limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Johnston, Polk County, Iowa, to be known as Ridgedale Heights Townhomes, which is more particularly described as Lots 1 through 54, inclusive, and Lot "A", in Ridgedale Heights Townhomes Plat 1, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa (the "Properties").

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

1. DEFINITIONS.

A. "Association" shall mean and refer to Ridgedale Heights Townhomes Owners Association, Inc., its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 Revised of the Code of Iowa.

B. "Association Responsibility Elements" shall mean the following, whether located upon a Townhome Lot or upon the Common Area:

(1) The exterior surface of the Buildings upon a Townhome Lot, excluding windows, doors, patios and decks.

(2) The structural portion of the Building upon a Townhome Lot.

(3) The roof, gutters, downspouts, and foundations of the Buildings upon a Townhome Lot.

(4) Any common wall between residential or garage structures upon Townhome Lots, except the interior surfaces thereof.

(5) The yard surrounding the residential or garage structure upon a Townhome Lot, except for trees and shrubbery, including all private utilities located therein.

(6) Streets, driveways and sidewalks upon a Townhome Lot or in the Common Area.

(7) Conduits, ducts, plumbing, wiring, pipes and other facilities within the attic or basement of a residential or garage structure which are carrying any service to more than one Townhome Lot.

(8) The Common Area, including, but not limited to, Lot A, and any landscape buffer areas, private storm and sanitary sewers, private water mains, storm water drainage and detention areas, and other improvements located thereon.

(9) Landscaping sprinkler system, if any.

C. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

D. "Building" shall mean and refer to any single-family attached or detached dwelling unit that may be constructed on a Townhome Lot or a part of more than one Townhome Lot, and shall include any attached garage.

E. "Common Area" shall mean Lot "A" and all real property (including the improvements thereto) owned or controlled by the Association for the common use and enjoyment of the Owners, including, but not limited to, drives, streets, landscaping, detention areas, private utilities, cluster mailboxes, project and street signs and sprinkler system.

F. "Declarant" shall mean and refer to Timbercrest Homes, L.L.C., an Iowa limited liability company, and its successors and assigns, as to the entirety of the Lots that has not theretofore been conveyed to homebuilders or homeowners, unless the context indicates otherwise.

G. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restrictions to which the Properties are subject, as the same may be amended from time to time.

H. "Federal Mortgage Agencies" shall mean and refer to those federal agencies who have or may come to have an interest in the Properties, or any portion thereof, such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, or successors to their interest.

I. "Living Unit" or "Unit" shall mean and refer to any portion of a Building situated upon a Townhome Lot and designed and intended for use and occupancy as a resident by a single family or individual.

J. "Townhome Lot" or "Lot" shall mean and refer to the lots numbered 1 through 54, as shown on the recorded plat of Ridgedale Heights Townhomes Plat 1, and any

additional property which may later be brought within the jurisdiction of the Association and the Declaration, but does not include the Common Areas. With respect to any single-family portion of any Building that may be constructed on a part of more than one of such lots, "Townhome Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit.

K. "Member" shall mean and refer to those persons entitled to membership as provided in the Articles of Incorporation of the Association and the Bylaws of the Association.

L. "Owner" shall mean refer to the record owner, whether one or more persons or entities, including the Declarant, of a fee simple title to any Townhome Lot, but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the property by provision or operation of law. A vendee in possession under a recorded contract of sale of a Townhome Lot shall be deemed the owner of the Townhome Lot.

M. "Properties" shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

2. PROPERTY RIGHTS IN COMMON AREAS.

A. Management and Maintenance by the Association

The Association, subject to the rights of the Owners as set forth in the Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners, of the Common Area conveyed to it and all improvements thereon, and the Association Responsibility Elements and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with the standards of sound property management.

No person other than the Owner of a Townhome Lot and his invitees shall have the right to enter upon, use or affect an Association Responsibility Element located within a Townhome Lot, except that the Association and its designees may enter upon and within a Townhome Lot and the Buildings and Living Unit located thereon at reasonable times for the following purposes:

(1) Installation, repair, removal, replacement, maintenance or inspection of an Association Responsibility Element.

(2) Enforcement of any provision of this Declaration or the Articles of Incorporation or the By-Laws of the Association.

(3) Mowing and maintenance of grass and landscaped areas.

In the event that the need for maintenance, replacement or repair of any portion of the Common Area, the improvements thereon, or of any Association Responsibility

Elements is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests or invitees of an Owner, the cost of such maintenance, replacement or repair shall be added to and become part of the assessment to which the Owner is subject and a lien upon the Townhome Lot and Living Unit of such Owner and shall become due and payable upon demand.

B. Owner's Easement and Right of Enjoyment.

Every Owner of a Townhome Lot shall have a right and easement of enjoyment in and to the Common Area which rights may be delegated to family members, lessees and guests of every Owner (subject to any reasonable and non-discriminatory rules and regulations which may be enacted by the Association), which shall be appurtenant to and shall pass with the title to every Townhome Lot, subject to the following provisions:

(1) The right of the Association to suspend the voting rights of the Owner for any period during which any assessment against his Townhome Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; provided, however, that nothing contained in this paragraph shall be deemed to deny an Owner access to and from his Townhome Lot.

(2) The right of the Association to dedicate or transfer all or any 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 Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3^{rds} of the Members has been recorded.

(3) The right and obligation of the Association to maintain sewer and other underground utilities located within the Properties.

(4) The right of the Declarant or the Association to designate, establish, grant, dedicate, install and/or maintain utility and drainage easements within the Common Area;

(5) The right of Declarant or the Association to provide in the Common Area, landscaping, outdoor furniture and recreational equipment, signs, decorative structures and necessary appurtenant utilities;

(6) The provisions of this Declaration and of Rules and Regulations promulgated and published by the Association's Board of Directors, the Articles of Incorporation and Bylaws and those accompanying the Declaration; and

(7) The right of the Association to mortgage any or all of the Common Area with the assent of two-thirds (2/3^{rds}) of the votes of the Members.

C. Title to Common Area.

The Declarant hereby covenants for itself, its successors and assigns, that it shall

convey to the Association the fee title to all Common Area, free and clear of all mechanic's liens or any liens or encumbrances whatsoever except covenants, easements, conditions and restrictions created by this Declaration, or granted to the City of Johnston, Iowa. The transfer of title to the Common Area shall be accomplished on or before the recorded conveyance of the first Lot by the Declarant.

Until the construction work on all Living Units within the Properties, and appurtenant improvements incidental to said Living Units, is completed, Declarant or its assignee shall have the right to enter upon the Common Area, any Townhome Lot or Living Unit for the purpose of completing such work and performing under applicable guarantees.

D. Use of the Common Area.

The Common Area shall be used strictly in accordance with the provisions of the Declaration. No Owner shall obstruct or interfere whatsoever with the rights and privileges of other Owners or the Association in the Common Area, and nothing shall be planted, altered, constructed upon, or removed from the Common Area, except by prior written consent of the Association. If an Owner violates this section, the Association shall have the right to restore the Common Area to the prior condition and charge and assess the cost thereof against the Owner who violates this section and such cost shall become a special assessment and a lien upon the Townhome Lot and Living Unit of such Owner and shall become due and payable upon demand. The Association shall have the same rights and powers to collect the cost of such restoration as provided in Article 4 for the collection of delinquent assessments. If an Owner interferes with the rights and privileges of another Owner in the use of the Common Area, the Association or the offended Owner may commence an action to enjoin such interference and the prevailing party shall be entitled to recover such reasonable attorneys' fees as the Court may allow together with all necessary costs and disbursements incurred in connection therewith.

E. Duration.

The Common Area as described in Section 1(E), shall not be changed and shall continue in perpetuity except by approval of all members of the Association, subject to the provisions for dedication or transfer in Section B(2) above and the right to mortgage in Section B(7) above.

3. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.

A. Membership.

Every owner of a Townhome Lot which is subject to assessment shall be a member of the Association and entitled to one vote in the affairs of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Townhome Lot which is subject to assessment. Ownership of a Townhome Lot shall be the sole qualification for membership.

When more than one person holds an interest in any Townhome Lot, all such persons shall be members. However, the vote for such Townhome Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Townhome Lot.

B. Designation of Association Directors.

Subject to Section 15(D), Declarant shall have the right to name all members of the Board of Directors of the Association until it no longer owns an interest in any Townhome Lot in Legacy Pointe at Johnston Plat 8. Thereafter the Board of Directors shall be selected in the manner specified in the Bylaws of the Association.

4. COVENANT FOR ASSESSMENTS.

A. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Townhome Lot owned within the Properties, hereby covenants, and each Owner of any Townhome Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges, payable in monthly installments, and (2) special assessments for capital improvements and operating deficits, and other special assessments as provided in this Declaration; such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Townhome Lot against which each such assessment is made senior to all liens except a first mortgage of record and any ad valorem taxes. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Townhome Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

B. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area (including snow removal) and the Living Units upon Townhome Lots and for other purposes specifically provided herein. In addition, the annual assessment shall include repayment of sums advanced by the Declarant on behalf of the Association.

C. Annual Assessments.

The Association may levy general annual assessments which shall commence as to each respective Lot on the first day following the conveyance by the Declarant of a Lot, and shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of such general assessments at least thirty (30) days in advance of each annual assessment period.

Written notice of such assessments shall be sent to every member of the Association subject thereto. The due dates shall be established by the Board of Directors of the Association, and the general annual assessments may be collected in equal annual, semi-annual, quarterly or monthly installments at the discretion of the Board of Directors. A portion of such annual assessments may be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area, the building exteriors or of any capital improvements which the Association is required to maintain. As long as the Declarant owns any Townhome Lot, at closing on any sale or transfer of Declarant's Lots, the Declarant may collect from the prospective Lot Owner an amount equal to two months of assessments for each Lot. Once all of the Townhome Lots have been sold by the Declarant, then the Association may collect such funds.

D. Special Assessments for Capital Improvements and Operating Deficits.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, which the Association is required to maintain, or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

E. Notice and Quorum for an Action Authorized under Section D.

Written notice of any meeting called for the purpose of taking any action authorized under Section D shall be sent to all members not less than thirty (30) days, no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty-one percent (51%) of all the votes of the members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

F. Uniform Rate of Assessment.

Both annual and special assessments must be fixed at a uniform rate for all Townhome Lots and may be collected on a monthly basis.

G. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to each respective Townhome Lot on the first day following the conveyance by the Declarant of the Townhome Lot, and shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Townhome Lot at least thirty (30) days in advance of each annual assessment period. The annual assessments for each Townhome Lot sold by the

Declarant to a third party shall become the obligation of the new Owner upon the closing of the purchase. Subsequent monthly installments of such assessments shall be paid by the new owner beginning on the first day of the month immediately following the closing of the purchase, and shall be payable to the Association until the Declarant gives further notice as to whom such assessments are to be paid. The Board of Directors may, upon reasonable notice to the Owners of Townhome Lots, change the due dates upon which monthly assessments shall be payable. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Townhome Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Townhome Lot shall be binding upon the Association as of the date of its issuance.

H. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 15% per annum or at the highest rate allowed by Iowa law, whichever is higher. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Townhome Lot in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of such assessment the cost of preparing and filing the petition in such action, including reasonable attorney's fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Townhome Lot.

I. Subordination of Assessments Liens.

If any Townhome Lot subject to a lien created by any provision in this Declaration shall be subject to the lien of a first mortgage of record: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of such mortgage or the acceptance of a deed in lieu of the foreclosure by the mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure and have not

been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting owner personally.

J. Declarant Exempt From Assessments.

Notwithstanding anything in this Declaration to the contrary, Townhome Lots owned by the Declarant shall be exempt from the assessments described in this Section 4 or elsewhere herein.

5. DECLARANT'S RIGHTS.

A. Use of and Entry Upon Townhome Lots.

Declarant reserves the right to use any of the Townhome Lots as models and to sell, assign, or conduct other businesses in connection with the construction and development of the project from any of such Townhome Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain models, erect signs, maintain an office, staff the office with employees, and to show Townhome Lots then unsold. Declarant retains the right to be considered an Owner of any Townhome Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of Buildings and other improvements. Declarant reserves the right to enter upon and within any Living Unit, Townhome Lot, and Common Area in connection with any construction activity.

B. Common Area Landscaping.

Declarant reserves the right and is hereby vested with the sole control over all Common Area landscaping, plantings and the like. Declarant shall have the right to change the plantings and other landscaping elements within the Common Area from time to time in its sole discretion.

6. MAINTENANCE OF TOWNHOME LOTS.

A. Maintenance by Owners of Townhome Lots.

The Owner of each Townhome Lot shall furnish and be responsible for, at his own expense, all maintenance, and repairs of his Townhome Lot and all structures, improvements and equipment located thereon, except for the Association Responsibility Elements. Specifically, the Owner shall be responsible for decorating and replacements within his Living Unit, including the heating and air conditioning systems and any partitions and interior walls. He shall be responsible for the maintenance, repair and replacement of all windows in his Living Unit, the doors leading into the Living Unit, all decks and patios attached to or adjacent to his Living Unit, all windows, doors and interior surfaces of his garage and any and all other maintenance, repair, and replacements of the improvements on his Townhome Lot unless otherwise provided herein.

B. Maintenance Obligations of Association.

In addition to maintenance of the Common Areas and any improvements located thereon, the Association shall provide all maintenance, repair and replacement of the Association Responsibility Elements.

C. Responsibility for Willful or Negligent Acts.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessments to which such Townhome Lot is subject.

D. Snow Removal.

The Association shall be responsible for snow removal from the streets, driveways and walkways in the Common Area. Unless and until otherwise determined by the Board of Directors of the Association, the Association shall be responsible for snow removal from all Townhome Lots and from the driveway servicing each Townhome Lot, including any portions of the driveways within the Common Area, serving the Townhome Lots.

7. INSURANCE AND INSURANCE ASSESSMENT FOR TOWNHOME LOTS

A. Insurance and Insurance Assessment.

In addition to the annual assessments and the special assessments for capital improvements, the Association may levy assessments for insurance purchased by the Association. The Association shall obtain liability and casualty insurance for the Common Area and any other real or personal property owned by the Association, and for the Association Responsibility Elements. The casualty insurance shall be "all risk" coverage for 100% of the insurable value of the fixtures and improvements in the Common Areas, or which are included in the Association Responsibility Elements or otherwise owned by the Association, providing for loss or damage settlement on a replacement cost basis. The insurance coverage obtained by the Association shall be written in the name of and the proceeds thereof shall be payable to the Association. Unless otherwise determined by the Board of Directors of the Association, each Owner of a Townhome Lot shall be responsible for obtaining homeowner's liability insurance and casualty insurance for property which is not part of the Association Responsibility Elements from insurers approved by the Board of Directors of the Association; the Board of Directors may require an Owner's casualty insurance to be obtained from the same insurer as the insurer under the Association's casualty insurance for the Association Responsibility Elements. All insurers must be authorized to conduct business in the State of Iowa. In the event of casualty loss, the Association shall be responsible for repair and restoration of the Common Area and Association Responsibility Elements, and the Owner shall be responsible for repair and restoration of all other portions of the buildings and improvements upon his Townhome Lot, except to the extent that the Board of Directors of the Association has determined to obtain casualty insurance for such portions

which are not part of the Association Responsibility Elements in which case the Association shall apply any insurance proceeds received for such portions to such repair and restoration of such portions. If the insurance proceeds of the insurance obtained by the Association is insufficient to cover the costs of repair or replacement of the insured property damaged or destroyed, the Association shall make a reconstruction assessment against all Townhome Lots Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds.

B. Distribution to Mortgagee.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and his mortgagee jointly.

C. No Limitation.

This Article shall not limit the right of the Association to purchase insurance for the Common Area and make assessments therefor.

D. Annual Review of Policies.

All insurance policies acquired by the Association shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

8. EASEMENTS AND ENCROACHMENTS.

A. General Easements.

Each Townhome Lot shall be subject to the following easements in favor of the Association and the other Owners of Townhome Lots:

(1) Every portion of a structure upon a Townhome Lot which contributes to the support of any structure not on the same Townhome Lot is burdened with an easement of such support.

(2) Each Townhome Lot is burdened with an easement through the Townhome Lot and through the attic and basement of any structure thereon for conduits, ducts, plumbing, wiring, pipes and other facilities for the furnishing of utilities and services to other Townhome Lots, including the location of utility meters on one Townhome Lot for the service to other Townhome Lots.

(3) Each Townhome Lot is burdened with an easement of ingress and egress for construction, maintenance, repair and replacement of Association Responsibility Elements by the Association and the Declarant.

(4) Each Townhome Lot is burdened with an easement for surface drainage for the benefit of all other Townhome Lots and the Common Area.

(5) Each lot is burdened with encroachment easement for minor encroachments of common walls due to settling, shifting or inexact location during construction.

(6) Each Townhome Lot is burdened with easements for public utilities and sidewalks as may be shown upon any recorded subdivision plat.

(7) Each Townhome Lot is burdened with an easement through the Townhome Lot but outside of any structure thereon for purposes of reasonable ingress and egress by other Owners of Townhome Lots to the front and rear of the other Owners' Townhome Lots.

B. Drainage, Utility and Sewer Easements.

As may be noted on the Plat, Declarant may reserve certain areas of the Townhome Lots and Common Area for drainage, public utility and sewer easements. In doing so, it is the intention of Declarant to provide the needed flexibility to itself, for the benefit of all Townhome Lots and Owners, to properly install and allow to be maintained all electrical, telephone, water, gas, sewer and other utility services, (including all lines, pipes, wires, cables, ducts, etc.,) to the Living Units constructed on the various Townhome Lots. No other improvements or permanent structures (excluding walkways, driveways and fences) shall be placed within such utility easements and any fences so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair or remove any necessary facilities and the right of Declarant and the Association to provide for and maintain appropriate drainage.

C. Additional Easement Rights of the Declarant.

Declarant reserves unto itself, for the benefit of all Townhome Lots and Owners, an easement and full right, title and authority to relocate, alter, or otherwise leave the location of any drainage, utility, and sewer easement and to grant such further easements, licenses and rights of way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within any Townhome Lot or Townhome Lots or any portion of Common Area. Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, or other easement, license or right-of-way by written instrument, amended subdivision plat or amendment to the subdivision plat recorded in the Office of the Recorder of Polk County, Iowa and any Owner of any Townhome Lot shall take title subject to the right and easements reserved herein; provided, however, the rights reserved in this Section C shall not be exercised in a manner which unreasonably and adversely affects any Building or portion thereof located upon any Townhome Lot or any Owner's use or enjoyment thereof or which unreasonably restricts the rights of ingress or egress to any Townhome

Lot. The rights and easements reserved by Declarant in this Section C shall run with the land and Declarant's right to further alter or grant easements shall automatically terminate when Declarant shall have conveyed the last Townhome Lot within the Properties.

D. Easement for Emergency Purposes.

An easement is hereby dedicated and granted for use in case of emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon the Common Area and pedestrian walkways or sidewalks.

E. Easement for Signs.

Declarant reserves unto itself for so long as it owns any Townhome Lot, the right and easement to erect and maintain such entryway, identification and "For Sale" sign or signs within the Properties as Declarant deems reasonably necessary.

F. Encroachment on Townhome Lots.

If, by reason of the location, construction, settling or shifting of a Building, any part of a Building containing a Living Unit upon a Townhome Lot (the "Encroaching Unit") encroaches upon any minor portion of any other adjacent Townhome Lot, then in such event, an exclusive easement shall be deemed to exist and run to the Owner of the Encroaching Unit for the maintenance, use and enjoyment of the Encroaching Unit and all appurtenances thereto. Upon the written demand from the Owner of an Encroaching Unit, the owner of the Townhome Lot upon which said unit encroaches shall deed to the Owner of the Encroaching Unit that portion of the Townhome Lot upon which the Encroaching Unit is located. The deed shall be by quit claim deed free and clear of any mortgages and encumbrances. All costs of abstracting, releases of mortgages, recording fees, engineering fees and legal fees shall be paid by the owner of the Encroaching Unit.

G. Driveways and Access for Townhome Lots.

An easement is hereby reserved and granted to each Townhome Lot for driveway and access purposes over any portion of the Common Area wherein driveways are located. This easement shall extend from the Townhome Lot to the dedicated public or private street. This driveway easement shall be for ingress and egress purposes and no Townhome Lot Owner shall park or allowed to be parked any vehicle or other obstruction within the driveway area, except as provided in Section 9 below. Further, an easement is hereby reserved and granted for the use of all Townhome Lots served by one common driveway. To the extent that a driveway or portion thereof serving a Townhome Lot is located partially or wholly on another Townhome Lot or Lots, the Lot Owners served by such driveway shall have the benefit of an easement over that portion of the other Townhome Lot or Lots covered by the driveway. Further, there is hereby reserved and granted an easement for the benefit of each Townhome Lot served by a sidewalk and pedestrian walkway located partially or wholly on the Common Area or another Townhome Lot. This latter easement is for the purpose of allowing pedestrian access

from the public or private street to the Townhome Lot served by such sidewalk or pedestrian walkway. No Owner shall obstruct or allow obstructions on any sidewalk or pedestrian walkway which would impair the use or access by the Townhome Lot Owner which such sidewalk or pedestrian walkway serves. As long as any ingress or egress by driveway or sidewalk to any Townhome Lot is through the Common Area, any conveyances or encumbrance of the Common Area shall be subject to the easement right granted to Owners in this Declaration.

H. Sidewalks.

An easement is hereby reserved and granted to each Owner and his invitees for pedestrian use over any sidewalk upon any Townhome Lot.

9. PARKING RIGHTS.

Subject to the provisions of Section 8(G) above, the paved driveway in front of each Owner's garage shall be for the exclusive benefit of such Owner and his guests. No one shall use these parking spaces for parking or storing of boats, snowmobiles, trailers, camping vehicles or other recreational vehicles, or for parking of trucks or other commercial vehicles except temporarily or incidentally for the making of pick-up and deliveries to neighboring Townhome Lots. No more than two vehicles per Townhome Lot may regularly be kept on the premises. Provision for storage off-site of more than two vehicles must be made by each Townhome Lot Owner. The garage shall at all times be maintained by the Owner in a condition which will allow parking of two vehicles in the garage. If parking on the driveway is necessary, the vehicles should be pulled as close as possible to the garage door, but effort should be made to avoid parking vehicles in the driveways overnight. No vehicles shall be parked so as to impede access from or to any Townhome Lot or any public street. No fence, barrier or other obstruction of any kind shall ever be placed or constructed so as to impede access from or to any Townhome Lot or public street. The drives within the Common Area are private and parking on such private drives is strictly prohibited except during construction by the Declarant.

10. PARTY WALLS.

A. Each wall which is built as a part of the original construction of the homes and garages upon the Properties and placed on the dividing lines between the Townhome Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration and the rights of the Association, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. The costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

C. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from

the others under any rule of law regarding liability for negligent or willful acts or omissions.

D. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Townhome Lot and shall pass to such Owner's successors in title.

11. ARCHITECTURAL CONTROL.

No building, fence, wall or other structure, except as originally constructed by or on behalf of Declarant shall be commenced, erected, altered or maintained upon Properties, nor shall any exterior addition to or change or alteration therein, other than by the Board of Directors, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided. This section shall not apply to any construction, improvements or alterations made by Declarant, including the construction of fences on the Common Area.

12. GENERAL USE RESTRICTIONS.

The following use restrictions are in addition to use restrictions previously filed of record and applicable to the Townhome Lots.

A. All Townhome Lots shall be known, described and used solely as residential lots and no structure shall be erected on any Townhome Lot except by the Declarant or the Association.

B. Building setback lines as shown on the plat of record shall be strictly followed.

C. The public utility easements shown on the recorded plat are hereby reserved for utility installation and maintenance.

D. No Townhome Lot shall be subdivided in any manner.

E. No Townhome Lot shall be used for any kind of trade, business, or employment except as allowed herein, nor shall any Townhome Lot be used for a multi-family dwelling, boarding house, or rooming house.

F. The use of any open carport, driveway or parking area which may be in front of, adjacent to, or part of any Townhome Lot as a parking place for recreational or

commercial vehicles or articles, including boats, is prohibited. All of said types of vehicles or articles shall be stored inside a garage at all times. No inoperable, dismantled or wrecked motor vehicles, trailers, automobiles or other vehicles or machinery or parts thereof including scrap metals of any type shall be permitted to be upon or remain upon any part of a Townhome Lot. This restriction shall furthermore apply to any vehicle, which though operable, is not in active use. This provision is intended to specifically prohibit vehicles which are not in active use from being left parked outside a garage for an extended period of time.

G. No Owner or other person shall install any telephone wire, air-conditioning Unit, or other machine or device on the exterior of the Building except as hereafter provided. No tower, antenna, satellite dish or similar reception device shall be placed on any Building or Common Area unless the tower, antenna, satellite dish or similar reception device is one which cannot be prohibited pursuant to the federal Over-the-Air Reception Devices Rule, 47 C.F.R. §1.4000, or other similar governmental mandate in effect at the time of placement. Any tower, antenna, satellite dish or similar reception device not removed by the Owner upon sale of a Unit shall be deemed to have a date of placement, as to the new Owner, as of the date of closing. The directors of the Association shall adopt regulations governing the placement and maintenance of those towers, antennas, satellite dishes and other reception devices which cannot be prohibited. No Owner shall place, or allow the placement of, a tower, antenna, satellite dish or similar reception device upon a Building or Common Area except for the personal use of the Owner or permissible tenants of the Owner. The Owner shall be responsible to the Association for any expense, liability, or damage of any kind incurred as a result of any tower, antenna, satellite dish or similar reception device placed or maintained on a Building or Common Area. The Association will not be responsible for any loss or damage to any tower, antenna, satellite dish or similar reception device.

H. Fencing shall not be erected on any part of a Townhome Lot.

I. No swimming pools, tennis courts or similar structures shall be installed on any Townhome Lot.

J. No Owner shall construct or modify any Association Responsibility Element.

K. No rubbish container shall be visible from the street except on pick-up day and one day before and one day after pick-up day.

L. All utility connection facilities and services shall be under ground. No individual water supply system or individual sewage disposal system shall be permitted on any Townhome Lot.

M. No more than two dogs and two cats and one bird may be kept by the Owner of a Living Unit as pets and any such pet must weigh less than fifty (50) pounds at any stage of growth (infancy or maturity). No exotic, dangerous or vicious animals shall be allowed. In no event shall an Owner or its guests, family members and invitees, have or allow a pet considered vicious or dangerous, including without thereby limiting, dogs

which have the appearance and characteristics of being predominately of breeds of Staffordshire terrier, American pit bull terrier or American Staffordshire terrier. Any pets shall not be left unattended by the Owners, may not be tied in any common area and shall not be allowed to run free. Owners shall clean up all waste of their pet(s). All pets outside of a Living Unit must be on a leash and accompanied, at all times, by an adult. Fencing or invisible fencing is not allowed. The handling and conduct of permitted pets shall be subject to any rules and regulations adopted by the Association. In the event a pet is deemed to be a nuisance by a majority of the Board at a duly called meeting due to the pet causing a disturbance of the other occupants of the Living Units by excessive noise, disruptive or aggressive behavior, the Board may require the Owner of the Living Unit where the pet is located or staying to permanently remove the pet from the premises. In addition, any violation of this provision shall result in a fine or special assessment by the Association against such Townhome Lot.

N. No noxious or offensive activities not involving the maintenance of Townhome Lots or Common Area shall be carried on upon any Townhome Lot nor shall anything be done thereon which may be or may become an annoyance or a nuisance; nor shall any Townhome Lot be used for any unlawful purpose. Nor shall any Owner cause, or suffer or harbor the source of, any noise or activity which disturbs the peace, comfort and quiet enjoyment of other Owners or those claiming under or through other Owners.

O. No personal property shall be stored or left upon a Townhome Lot except within the Living Unit or garage located upon the Townhome Lot. Garage doors shall be kept closed except during times of access to the garage.

P. Nothing shall be altered in, constructed in, or removed from the Common Area or the Association Responsibility Elements, except upon written consent of the Board of Directors of the Association, which may be given through regulations of the Association.

Q. No structure of a temporary character, trailer, semi-trailer, tent, shack, boat, motorcycles, snowmobiles, all-terrain vehicles, campers, travel trailers, other recreational vehicles, inoperable vehicles or the like shall be maintained upon or parked in driveways or any common elements at any time. In the event of violation of this provision, the Association may, after reasonable notice, remove such boat, snowmobile, recreational vehicle, trailer or other vehicle.

R. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.

S. Nothing shall be done or kept in any Townhome Lot or in the Common Area which will increase the rate of insurance on the Common Area or the Association Responsibility Elements, without the proper written consent of the Board of Directors of the Association. No Owner shall permit anything to be done or kept in his Townhome Lot or in the Common Area which will result in the cancellation of insurance on any Townhome Lot or any part of the Common Area or the Association Responsibility

Elements, which would be in violation of any law, or which may be or become a nuisance or annoyance to the other Owners.

T. An Owner has the right to decorate windows bounding his/her Living Unit, however, this right is limited to the extent that only drapes, curtains, sheers and shutters may be used which must be lined so that they appear white from the outside of the building, or wood blinds or shutters. Nothing shall be hung between the interior surface of the window and the drapes, curtains, sheers or shutters used.

U. The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Townhome Lots, the Common Area and the Association Responsibility Elements and such rules shall be observed and obeyed by the Owners, their guest, lessees, assigns and licensees.

V. Failure of the Association or any Owner to enforce any covenant, condition or restriction, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

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

X. Garbage containers will be provided by the refuse hauler, as selected by the Association, to Townhome Lot Owners, but shall be kept by Owners within the garage of the Townhome and shall be set outside only at the end of the driveway serving a Townhome Lot on designated garbage pick-up days.

13. SIGNS AND HOME OCCUPATIONS

A. Signs.

So long as Declarant is a member of the Association, no advertising signs of any kind including sale or "for sale" signs or rental or "for rent" signs (other than interior window signs) shall be displayed, except by the Declarant, on any Townhome Lot or upon the Common Area without the prior written approval of Declarant. Further, no signs of any nature, kind or description shall be erected, placed or maintained on any Townhome Lot or upon the Common Area which identify, advertise or in any way describe the existence or conduct of a home occupation.

B. Home Occupations.

No home occupation shall be conducted or maintained on any Townhome Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Townhome Lot and which is generally or regularly conducted in another location away from such Townhome Lot, provided the same is permitted under applicable ordinances.

Elements, which would be in violation of any law, or which may be or become a nuisance or annoyance to the other Owners.

T. An Owner has the right to decorate windows bounding his/her Living Unit, however, this right is limited to the extent that only drapes, curtains, sheers and shutters may be used which must be lined so that they appear white from the outside of the building, or wood blinds or shutters. Nothing shall be hung between the interior surface of the window and the drapes, curtains, sheers or shutters used.

U. The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Townhome Lots, the Common Area and the Association Responsibility Elements and such rules shall be observed and obeyed by the Owners, their guest, lessees, assigns and licensees.

V. Failure of the Association or any Owner to enforce any covenant, condition or restriction, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

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

X. Garbage containers will be provided by the refuse hauler, as selected by the Association, to Townhome Lot Owners, but shall be kept by Owners within the garage of the Townhome and shall be set outside only at the end of the driveway serving a Townhome Lot on designated garbage pick-up days.

13. SIGNS AND HOME OCCUPATIONS

A. Signs.

So long as Declarant is a member of the Association, no advertising signs of any kind including sale or "for sale" signs or rental or "for rent" signs (other than interior window signs) shall be displayed, except by the Declarant, on any Townhome Lot or upon the Common Area without the prior written approval of Declarant. Further, no signs of any nature, kind or description shall be erected, placed or maintained on any Townhome Lot or upon the Common Area which identify, advertise or in any way describe the existence or conduct of a home occupation.

B. Home Occupations.

No home occupation shall be conducted or maintained on any Townhome Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Townhome Lot and which is generally or regularly conducted in another location away from such Townhome Lot, provided the same is permitted under applicable ordinances.

14. PUBLIC ACCESS.

Officers, employees or contracted agents of any governmental unit shall have the right and authority to enter upon the Common Area and any Townhome Lot for the administration of general public services including fire protection, law enforcement, water service and animal control.

15. GENERAL PROVISIONS.

A. Duration.

This Declaration shall run with the land and shall be binding upon all Townhome Lots and Townhome Lot Owners for a period of twenty-one (21) years from the date of recordation in the office of the Polk County Recorder, unless extended pursuant to the provisions of Section 614.24 of the Iowa Code by the proper filing of a verified claim in the office of the Polk County, Iowa Recorder by the Declarant or Townhome Lot Owner, or unless prior to the expiration of any such period it is amended or changed in whole or in part as hereinafter provided. Provided, however that the continuation of any easement rights established by the Declaration shall not be affected by the provisions of Section 624.24 of the Iowa Code but only by amendment as hereinafter provided. Invalidation of the covenants, conditions and restrictions of the Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

B. Enforcement.

If the Owner or person in possession of any Townhome Lot or portion of a Townhome Lot violates or attempts to violate any of the covenants or restrictions herein established it shall be lawful for the Association or any person or persons owning any other Townhome Lots in said plat to prosecute any proceedings in law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, and either to prevent him or them from so doing or to require removal of any violating structure or improvement or to recover damages for such violation, and shall be entitled to recover reasonable attorneys' fees and costs and expenses as a result thereof.

In addition to the foregoing, or elsewhere in this Declaration, the Association is hereby authorized to levy against any Townhome Lot in violation of this Declaration an assessment penalty not to exceed $50 for each day a violation of this Declaration continues beyond thirty (30) days after notice of a violation has been given by the Association to the Owner of said Lot by certified mail, return receipt requested, or delivered in writing in by personal service. If the Owner of the Lot cannot be located after a diligent search or inquiry, the Association shall publish notice of the violation for two (2) successive weeks in a newspaper of general circulation in Polk County, Iowa. If the Owner has not fully complied with the terms of this Declaration within thirty (30) days after receiving notice, or thirty (30) days after the publication of notice, the Association shall have the authority to levy an assessment penalty as described herein. This assessment shall be a lien on the Townhome Lot and shall have the same status as

any other assessment levied by the Association. Any Townhome Lot Owner objecting to the notice of violation shall have the right within thirty (30) days of receiving notice to request a hearing before the Association Board of Directors. Assessment of the penalty shall be stayed pending a hearing and final decision by the Association Board of Directors

C. Amendment.

This Declaration may be amended or changed at any time by an instrument recorded in the Office of the Recorder of Polk County, Iowa, signed or approved in writing by a majority of the then Owners, provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. Notwithstanding the foregoing, the Declarant retains the sole right to amend this Declaration for any reason so long as Declarant has an ownership interest in any Townhome Lot. Any such amendment shall be recorded.

D. Control of Association.

Notwithstanding anything to the contrary provided herein, so long as the Declarant retains an interest in any of the Townhome Lots subject to this Declaration, Declarant shall have sole voting control and authority relating to the Association, the Board of Directors and all other matters relating to the operation of the Association. At such time as the Declarant no longer retains an ownership interest in any Townhome Lot, or until such time the Declarant waives the right to be the sole voting member, whichever first occurs, all such voting control and authority shall automatically transfer back to the Board of Directors and the Owners.

16. ANNEXATION AND REMOVAL OF LAND

A. Additional Common Area.

Declarant shall have the sole right at any time to convey additional Common Area to the Association or to add additional association responsibility elements. Nothing in this Section, however, shall be deemed to be an obligation on the part of Declarant to convey additional common area to the Association in the future. The Association shall be obligated to accept any additional common area so conveyed by Declarant and to hold and maintain the additional common areas pursuant to the terms of this Declaration.

B. Additional Land.

Declarant shall have the irrevocable right to subject additional land to the terms of this at any time in the future without the consent of the Association or any other third party. The additional land shall be automatically subject to the applicable terms and conditions of this Declaration and Owners of Townhome Lots within the additional land shall automatically become members of the Association in the same manner as described in this Declaration. Declarant shall signify the addition of land by filing an amendment

to this Declaration with the Recorder of Polk County, Iowa. No approval of the Association or any other third party shall be necessary.

C. Removal of Land.

Declarant shall have the right now, and in the future, to remove any portion of the property from the operation of this Declaration. Declarant shall signify this removal by filing an amendment to this Declaration with the Recorder of Polk County, Iowa. No approval of the Association or any other third party shall be necessary.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed this 3rd day of December, 2020.

-SIGNATURE PAGE TO FOLLOW-

-SIGNATURE PAGE-

J. LARSON HOMES, L.L.C., Declarant

By: _____
John W. Larson, Manager

STATE OF IOWA)
) SS:
COUNTY OF Dallas)

This record was acknowledged before me on this 3rd day of December, 2020, by John W. Larson, Manager of Timbercrest Homes, L.L.C.

_____
Notary Public in and for the State of Iowa

LISA R. WILSON
Commission Number 723183
My Commission Expires
September 26, 2021