

After recording return to:  
Edstrom, Bromm, Lindahl & Sohl  
551 North Linden  
P.O. Box 277  
Wahoo, Nebraska 68066  
(402) 443-3225

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DON CLARK  
REGISTER OF DEEDS  
SAUNDERS CO. NEBR.  
00 APR 13 PM 1:10 ✓  
BOOK 243 PAGE 704 ✓  
OF 66 INST# 192  
*Clark* *Es*

**DECLARATION**  
**OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**      2430784  
**OF**  
**HERITAGE HEIGHTS**

THESE DECLARATIONS, made on the date shown on the close of this instrument, by the signatories hereto who are described as Declarant,

**WITNESSETH:**

WHEREAS, Declarant, whether one or more, is the owner of certain property in Saunders County, Nebraska, more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

herein called Property, and,

WHEREAS, a part of Property has been platted into a residential subdivision to be known as Heritage Heights Subdivision, the legal description of which is as follows, to wit:

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Lots 1 through 81, inclusive, Heritage Heights Subdivision, an Addition to the City of Wahoo, Saunders County, Nebraska, and,

WHEREAS, Declarant desires to make all of Property, together with such additions thereto as may hereafter be platted, to be within the jurisdiction of these Declarations and subject to the covenants, conditions and restrictions hereinafter set forth, and,

WHEREAS, Declarant desires to provide for the preservation of the values and amenities of Property, for the maintenance of the residential character of Property and for the acquisition, construction and maintenance of the streets, easements, and common areas of Property for the use and enjoyment of the residents of Property,

NOW, THEREFORE, Declarant hereby declares that all of Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purposes of enhancing and protecting the value, desirability, and attractiveness of owning Property, or any portion thereof, and for the enjoyment of the residents of Property. These restrictions, covenants, conditions, and easements shall run with all of the real estate in Property and shall be binding on all parties having any right, title or interest in Property, or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I.**  
**DEFINITIONS**

Section 1.01 "Association" shall mean and refer to the HERITAGE HEIGHTS ASSOCIATION, its successors and assigns, which at present is an unincorporated association of Owners of Lots in Property.

Section 1.02 "Owner" shall mean and refer to:

- (a) The record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of Property, but excluding those having such interest merely as security for the performance of an obligation, and

- (b) The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which Seller retains title solely as security for the performance of the purchaser's obligation under the contract.

Section 1.03. "Property" shall mean and refer to the real estate as previously described herein by its metes and bounds description.

Section 1.04. "Lot" shall mean and refer to any part or parcel of Property as surveyed and platted.

Section 1.05. "Streets and Easements" shall be those areas designated in the Final Plat, or any Replat, as streets, roads, and easements.

Section 1.06. "Common Areas" shall refer to all real property designated in the Final Plats, or Replats, as common areas. Said common areas shall be for the common use and enjoyment of the Owners of Lots in Property. Common areas may include, but shall not be limited to, recreational facilities, dedicated and non-dedicated streets, pathways, green areas, and signs at the entrances for Property. Declarant shall convey the common areas to the Association free and clear of all liens, prior to the date on which Declarant's Class B Membership in the Association is converted to Class A Membership. Such facilities may be situated on Property owned or leased by the Association, on public property, or private property subject to an easement in favor of the Association.

Section 1.07. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.08. "Declarant" shall mean and refer to Wahoo View, L.L.C., a Nebraska Limited Liability Company, its successors and assigns, which includes the Association.

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**ARTICLE II.**  
**HERITAGE HEIGHTS SUBDIVISION ASSOCIATION**

Section 2.01. Every Owner of a Lot within Property shall be a Member of the Association. Membership shall be appurtenant to and shall not be separated from membership of any Lot. The Association shall have as its purpose the promotion of the health, safety, recreation, welfare, and enjoyment of the Owners of Lots within Property, including, but not limited to the following:

- (a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of streets, easements, and common areas for the general use, benefit and enjoyment of the Owners.
- (b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of Property, or any portion thereof, not inconsistent with this Declaration, provided always that such rules and regulations are uniformly applicable to all Owners. The rules and regulations may permit or restrict the use of the common areas by Owners and their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the common areas.
- (c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Property, and the protection and maintenance of the residential character of Property.
- (d) All powers conferred upon not-for-profit corporations by the Nebraska Nonprofit Corporation Act, and any amendments thereto, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the association not inconsistent with this Declaration.

Section 2.02. The Association shall have two classes of voting Members, Class A Members and Class B Members, defined as follows:

- (a) CLASS A: Class A Members shall be all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one vote for each Lot owned. When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities or both, shall be Members; PROVIDED, HOWEVER, that the vote for such Lot shall be exercised as such persons or entities or both shall determine, but in no event shall more than one vote be cast with respect to any one Lot.
- (b) CLASS B: Class B Members shall be Declarant, who shall be entitled to one more vote than the total votes of the Class A Members. Class B Membership shall terminate and be converted into Class A Membership upon either Declarant no longer having an ownership interest in any lot in Heritage Heights Subdivision or Declarant relinquishing Declarant's Class B Membership in Association.

Section 2.03. The Members shall hold annual meetings. Written notice of the annual meeting shall be delivered or mailed to each Member entitled to vote. At each annual meeting, the Members shall elect officers and transact such other business as shall be stated in the notice of the meeting.

Section 2.04. At all meetings of the Members, a quorum is present throughout any meeting of the Association if Members entitled to cast 60% of the total votes of the Association are present in person or by proxy unless these Declarations specifically require otherwise.

Section 2.05. The Members of the Association may adopt rules and regulations for the governance of the Association not inconsistent with the provisions of these Declarations.

Section 2.06. At any meeting of the Members, every Member may vote in person or by proxy appointed by an instrument in writing by such Member.

Section 2.07. Special meetings of the Members for any purpose may be called by the President or at the request in writing of at least four (4) Members entitled to vote. The request shall state the purpose of the meeting. Written notice of any special meeting, stating the purpose of the meeting, shall be delivered or mailed to each Member entitled to vote.

Section 2.08. The officers of the Association shall be elected by the Members and shall consist of a President, Vice President, Secretary and Treasurer. Each officer shall be a Member of the Association. Any two or more offices may be held by the same person, except the office of President and Vice President and except the offices of President and Secretary. At the first annual meeting of the Members, the Members shall choose a President and a Vice President, Secretary and Treasurer. The Members may appoint other officers and agents, and delegate such authority as the Members may determine. Until such time as there is more than one Owner of Lots, Declarant may hold all of the offices.

Section 2.09. The officers of the Association shall hold office for one year or until their successors are elected. Any officer elected by the Members may be removed at any time by the affirmative vote of the majority of all the Members. If any office becomes vacant, the Members shall elect a successor who shall hold office until the next annual meeting.

Section 2.10. The President shall be the chief executive officer of the Association, preside at all meetings of the Members, and carry out all orders and resolutions of the Members. The President shall execute contracts on behalf of the Association, except when such authority is expressly delegated by the Members to some other officer or agent of the Association.

Section 2.11. The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and shall perform such other duties as the Members may prescribe.

Section 2.12. The Secretary shall attend all meetings of the Members, and shall record all votes and the minutes of all proceedings on books belonging to the Association. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Members, and shall perform such other duties as the Members or the President may prescribe.

Section 2.13. The Treasurer shall have the custody of the Association funds, keep accurate accounts of receipts and disbursements on books belonging to the Association and deposit all monies in the name of the Association in such depositories as may be designated by the Members. The Treasurer shall disburse the funds of the Association as directed by the President or the Members, and shall file, at least annually, a report of all transactions and the financial condition of the Association. If required by the Members, the Treasurer shall give bond for the faithful performance of the duties of the office if required by a majority vote of the Members of the Association.

Section 2.14. The property and the daily business of the Association shall be managed by its officers.

Section 2.15. The officers shall prepare a proposed annual budget for the Association and a schedule of annual and/or special assessments for approval by the Association, send written notice of each assessment to every Member assessed, collect the assessments, issue a certificate upon request setting forth whether any assessments are paid or due, and exercise all other powers of the Association.

Section 2.16. A majority vote of the Members at any meeting of the Association at which a quorum is present shall be sufficient to transact the business of the Association unless these Declarations specifically require otherwise.

**ARTICLE III.**  
**COVENANT FOR ASSESSMENTS**

Section 3.01. The Declarant and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed or in such contract, is and shall be deemed to covenant and agree to pay to the Association:

- (a) Annual assessments, and
- (b) Special assessments for capital improvements,

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 each Lot and shall be a continuing lien upon each Lot against which each such assessment shall be made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person, persons, or entity who, or which, was the Owner of the Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title, unless expressly assumed by such Owner's successors.

Section 3.02. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the Owners of Lots in Property.

Section 3.03. The Association shall fix the annual assessment for regular maintenance of the Streets, Easements and Common Areas of Property and for all other necessary annual expenditures for the Association not deemed capital improvements, based on a budget approved by the Members of the Association.

Section 3.04. In addition to the annual assessment authorized above, the Association may levy a special assessment for the purpose of paying, in whole or part, the cost of capital improvements, and in particular, the cost of any construction, reconstruction, or repair or replacement, or additions or appurtenances thereto, of Streets, Easements, and Common Areas of Property and of any appurtenances located thereon, including any central water and/or sewage disposal system for the benefit of

Property and including fixtures and personal property related thereto. Special assessments shall be approved by the affirmative vote of two-thirds (2/3) of the Members of Association entitled to vote.

Section 3.05. Written notice of any meeting called for the purpose of taking any action authorized under Section 3.03 or under Section 3.04 shall be sent to all Members at their respective addresses as appears on the books of the Association not less than 30 days nor more than 60 days in advance of such meeting. At the first such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be fifty (50%) percent of all votes of each class of Membership. Any such subsequent meetings shall be held within 60 days following the preceding meeting. Written notice as to all other meetings of the Association shall be sent as above noted at least 10 days prior to the meeting to each member at their respective addresses as appears on the books of the Association.

Section 3.06. Annual assessments shall be uniform in amount as to all Lots, may be payable annually or in installments, and shall have a due date or dates. Special assessments may be uniform in amount as to all Lots or may be assessed against those Lots receiving the benefit of the capital improvement, may be payable annually or in installments, and shall have a due date or dates which may be more than one year from the date of assessment. Assessments payable in installments may accrue interest as specified by the Association.

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Section 3.07. Written notice of an assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether or not the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot shall be binding upon the Association as of the date of its issuance by the Association.

Section 3.08. Any assessment not paid within thirty (30) days after the date due shall be delinquent and said assessment shall bear interest from the due date at the rate of fourteen (14%) percent per annum. Any assessment payable in installments shall be paid within thirty (30) days after the installment due date. Any assessment payable in installments not paid within thirty (30) days after the installment due date shall cause an acceleration of the full amount of the assessment and said assessment shall be due and payable in full and said assessment shall bear interest from said installment due date at the rate of fourteen (14%) percent per annum. The Association may bring any action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot assessed. No Owner may waive or escape liability for the assessment provided herein by non-use or abandonment of Owner's Lot or conveyance of Lot or by renunciation of Membership in the Association.

Section 3.09. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, and the holder of any first mortgage on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. An officer of the Association may release the lien of any delinquent assessment on any Lot as to which the first mortgage thereon is in default, if such officer determines that such lien has no further value to the Association.

Section 3.10. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period not to exceed 60 days for any infraction of the published rules and regulations of the Association by any such Owner, or members of such Owner's family, or guests or tenants of such Owner.

Section 4.01. Declarant shall have the exclusive right to establish grades and slopes for all Lots within Property and to fix the grade at which any buildings shall be constructed upon any Lot, in conformity with the general plan for the development of Property. Plans for any buildings or other improvements to be placed or constructed upon any Lot within Property shall be submitted to the Declarant and shall show the design, size, and exterior material for the building or improvement and the plot plan for the Lot, including the proposed landscape plan. One set of plans shall be left on permanent file with the Declarant. Construction of the building or improvement shall not be commenced unless written approval of the plans has been secured from the Declarant and shown of record. Written approval or disapproval of the plans shall be given by the Declarant within 30 days after receipt thereof. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. Declarant shall have the exclusive right to disapprove the plans, if in Declarant's opinion, the plans do not conform to the general standard of development in Property.

Section 4.02. Declarant may access a fee for the review of plans, which shall be paid by the Owner submitting plans for approval. The Declarant shall adopt a fee schedule for the review of plans, which may be amended from time to time by Declarant as Declarant deems necessary or appropriate. No submission for approval of plans will be considered until the designated fee has been paid. Such fee shall be commensurate with the cost of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

Section 4.03. The approval of plans for any landscaping, building or other improvement to be placed or constructed on any Lot within Property, or for any other matter requiring prior approval, should not be deemed a waiver of the right to withhold approval of any similar plans subsequently submitted for approval.

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Section 4.04. No Owner or other person or persons shall have any right to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed plans. No responsibility, liability or obligation shall be assumed by or imposed upon the Declarant by virtue of the authority granted to it in this Article, or as a result of any act or failure to act with respect to any proposed plans. The Declarant shall not be liable to any Owner or to any other person for any damage suffered or claimed on account of any act or omission which occurs in connection with review, approval, or disapproval of plans, so long as the persons involved acted in good faith on the basis of information they then possessed.

Section 4.05. Declarant may, at Declarant's sole discretion, transfer all or any part of Declarant's rights pursuant to this Article to the Association.

**ARTICLE V.**  
**MINIMUM STANDARDS FOR APPROVAL OF PLANS**

Section 5.01. All Lots in Property shall be used exclusively for single family residential purposes. There shall be no more than one building, which shall be the main residence, constructed upon any Lot within Property.

Section 5.02. A one (1) story single family residence shall contain at least 1,450 square feet of floor space on the first floor level exclusive of basement, garages, and other attached accessory floor area, i.e. deck/patio.

Section 5.03. A multi story single family residence shall contain at least 1,250 square feet of floor area on the first floor exclusive of basement, garage, and other attached accessory floor area, i.e. deck/patio and at least 500 square feet of floor area on the second floor.

Section 5.04. The square footage of any other style of single family residence shall be subject to the approval of Declarant.

Section 5.05. No outbuildings shall be constructed on any Lot.

Section 5.06. Each single family residential structure shall have an attached garage containing not less than two nor more than three car stalls. Each car stall

shall be a minimum of 10 feet by 21 feet. Garages containing more than three car stalls for single family residential dwellings shall be subject to the approval of Declarant.

Section 5.07. No log cabin homes, dome homes, earthen homes, A-frame type homes, prefabricated homes, house trailers, single wide or double wide, mobile homes, shall be permitted on any Lot in Property, provided, however, that new factory built modular housing may be permitted if approved by Declarant.

Section 5.08. All buildings in Property shall have, as a minimum, a 6/12 pitch roof and heritage type asphalt shingles upon the roof of each building.

Section 5.09. All exposed foundation walls facing any street must be constructed of or faced with brick or other material consistent with the overall design of Property. All driveways must be constructed of concrete from street to garage with a minimum width of 22 feet. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick or other material consistent with the overall design of the Property.

Section 5.10. No wood decks or steps shall be permitted on the front side of any residential structure constructed on Property.

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Section 5.11. All buildings within Property shall be constructed in conformity with the requirements of the applicable building codes of the City of Wahoo, Nebraska.

#### ARTICLE VI.

#### GENERAL RESTRICTIONS AND OTHER PROVISIONS

Section 6.01. Every Owner shall have full rights of ownership and full use and enjoyment of Owner's Lot, subject to the following restrictions:

- (a) No fences, hedges, or enclosures of any type or nature whatsoever shall be constructed, erected, placed or maintained on any Lot within Property, unless such fences, bridges, or enclosures shall have first been authorized in writing by Declarant. In no event shall front yard fences be permitted. No perimeter fences or hedges shall be allowed. Limited privacy fencing, up to six (6) feet in height, may be permitted around swimming pools and patios. Perimeter plantings may be permitted, but shall not exceed four (4) feet in height and may not be located within twenty (20) feet of the rear lot line or ten (10) feet of any side lot line.
- (b) No clothesline or clothes hanger shall be constructed on any Lot or used on any Lot except a folding type clothes hanger may be permitted and then only in the deck/patio area.
- (c) No exterior radio antenna shall be erected on any Lot within Property.
- (d) No livestock, or poultry of any kind, which shall include but not be limited to cattle, swine, sheep, goats, horses, or fowl, shall be raised or kept on any Lot in Property, other than household pets, which shall be limited to two per household. Household pets shall mean a dog or a cat. All household pets shall be leashed when outside of the residential structure and deck/patio area. Excessive barking by a dog, either during the day or night, shall be cause for removal of the dog whether it is owned by guests or the Lot Owner. No household pets shall be kept, bred, or maintained for commercial purposes.
- (e) No noxious, offensive, or illegal activity shall be carried on upon Property, nor shall any trash, ashes, or other refuse be thrown, placed, or dumped upon any Lot, nor shall anything ever be done which may be or become an annoyance or nuisance to the residents of Property.
- (f) No recreational vehicles shall be parked or stored upon any Lot within Property, except within an enclosed structure. Recreational vehicles

may be temporarily parked or stored upon a Lot for a period of time not to exceed 14 days per year.

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- (g) No advertising signs or billboards shall be permitted on any Lot with the exception of "for sale" signs, which shall not exceed nine square feet in size.
  - (h) No trailer, recreational vehicle, tent, shack, barn, or other outbuildings shall be constructed or placed upon a Lot to be used for human habitation, either temporarily or permanently, except a tent may be used for a limited time for recreational purposes.
  - (i) No boats, trailers, or any similar type vehicle, or accessories thereto, shall be parked outside of a garage or left unattended for longer than 21 days on any Lot.
  - (j) All garbage and refuse containers, or other unsightly objects, shall be housed or shielded from public view by a building, enclosure, or decorative fence. Outside storage of materials, supplies, garden, lawn, or maintenance equipment of any kind whatsoever shall be prohibited, except when in actual use.
  - (k) Any damaged or destroyed single family residence or other building on a Lot shall be promptly reconstructed or removed in a timely manner, but no later than within one year of the date of occurrence.
  - (l) No buildings of any kind whatsoever shall be moved onto any Lot, except that temporary buildings may be used for storage of tools and materials during construction of homes and development of Property.
  - (m) All improvements, including fences, and hedges, on all Lots in Property shall, at all times, be kept in good condition and repair, the state of repair to be determined by Declarant, their successors or assigns.
  - (n) Where Lots abut a cul-de-sac, the driveway access shall be only to the cul-de-sac; where Lots abut County Road J and County Road 17 (Highway 77), the driveway access shall only be to the adjacent street in Property.
  - (o) There shall be no exterior lighting, except for decorative lighting on improvements located on each Lot, unless said exterior lighting is first approved by Declarant, and shall either be indirect or of such a controlled focus and intensity as not to distribute the residents of adjacent Lots.
  - (p) Tree houses shall not be permitted.
  - (q) Only one satellite antenna, having a diameter of twenty (24") inches or less, may be installed and maintained on any Lot but only upon compliance with the following conditions:
    - (1) Prior written approval of Declarant;
    - (2) The satellite antenna must be disguised to resemble and must be in fact, visually indistinguishable from other structures.
    - (3) The satellite antenna must not be visible from the front of the Lot upon which it is located.
    - (4) The Declarant does not guarantee or warrant that reception and/or transmission of signals will be adequate or will remain undisturbed by vegetation or improvements located on Property.
  - (r) All exterior colors for buildings located upon Lots shall be approved by Declarant.



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- (s) No incinerator or trash burner shall be permitted on any Lot.
  - (t) No firearms or guns of any type or nature whatsoever shall be fired or discharged upon, over, or across any Lot in Property.
  - (u) All rubbish, trash and garbage shall be promptly removed from any Lot and shall not be burned by any open fire, incinerator, or otherwise on any Lot.
  - (v) Any exterior air-conditioning condensing unit shall be placed in the rear yard or in any side yard so as not to be visible from public view from the street.
  - (w) Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve inches, unless such vegetation consists of native grasses which do not detract from the appearance of the surrounding area.
  - (x) Basketball backboards shall be constructed of plexiglas or acrylic materials and shall be supported by a metal post or posts, painted white or with a color which blends with the house, and anchored in concrete or mounted to the house. Backboards must be perpendicular to and adjacent to the driveway, or to the side of the house, or shall be located in the backyard. All basketball backboards shall be positioned so as not to constitute a nuisance or visual obstruction to adjacent homeowners.
  - (y) All residential dwelling units shall be equipped with address numerals which conspicuously identify the address of the dwelling unit.
  - (z) No swimming pool may extend more than one (1) foot above ground level. Pools must be in the rear of the home and must be located at least twenty (20) feet from the rear lot line. Hot tubs may be in the patio area near the home.
  - (aa) All yard areas shall be landscaped, sodded, or seeded, and maintained in a professional manner and in accordance with the approved landscaping plan. No plantings over ten (10) feet in height may be located within twenty (20) feet of the rear lot line or ten (10) feet of any side lot line.
  - (bb) No repair of any boat, automobile, motorcycle, truck, camper, all terrain vehicle, recreational vehicle or any other type of vehicle shall be permitted on any Lot outside of an approved structure, unless such repair is completed within a forty-eight (48) hour time period.
  - (cc) All firewood outside of a residential dwelling unit must be stacked neatly and screened from public view.
  - (dd) Produce or vegetable gardens may only be planted and maintained in rear yards.
  - (ee) During construction on any Lot in Property, the Owner of such Lot shall be responsible for controlling soil erosion.
  - (ff) Each member of the Association covenants to maintain their Lot and improvements in a neat and attractive manner. The Association, by and through its Board of Directors, may adopt from time to time minimum exterior maintenance standards applicable to all Lots within Property, not inconsistent with these Covenants.

**ARTICLE VII.**  
**EASEMENTS**

Section 7.01. A perpetual license and easement is hereby reserved in favor of Declarant and granted to any entity which has been granted a franchise to provide utilities, including cable television, to Property, or any portion thereof, to erect,

operate, maintain, repair and replace said utilities on, through, under and across all areas on Property indicated as Easements. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in said easement areas but the same may be used for gardens, shrubs, landscaping, sidewalks, driveways, and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

**ARTICLE VIII.**  
**INSURANCE**

Section 8.01. Insurance coverages relating to the Streets, Easements, Common Areas, and any other property controlled by the Association shall be secured by the Association. The officers shall not be liable for failure to obtain any coverages or for any loss resulting from such failure if such coverages are unavailable or available only at a demonstrably unreasonable cost. The President shall notify each Member of the procurement of, changes in, or termination of, insurance coverages secured on behalf of the Association. Each policy shall provide that the policy may not be canceled or substantially modified without sixty days written notice to the Association.

Section 8.02. The Association shall maintain a blanket, "all-risk" form policy of insurance on any property of the Association, insuring against all risks of direct physical loss commonly insured against. The policy shall cover the interest of the Association. Coverage shall be in an amount equal to 100% of the then current replacement cost of the property of the Association without deduction for depreciation, the amount to be redetermined annually by the members with the assistance of the insurance company affording coverage.

Section 8.03. The Association shall maintain general liability (including errors and omissions coverage for the officers of the Association) and property damage insurance to such limits as the Association may determine, from time to time, insuring each Member against any liability to the public or to other Members arising from the ownership and use of the property of the Association.

Section 8.04. If the property of the Association is damaged, the Association shall arrange for and supervise the prompt repair and restoration of the property.

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- (a) If the proceeds of insurance are not sufficient, the additional sum necessary to complete the restoration shall be a common expense.
  - (b) Any restoration shall be substantially similar to the original construction of the property damaged, subject to any modification required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible.
  - (c) The Association may elect not to repair insubstantial damage to the property.

Section 8.05. Each Class A Member of the Association by the acceptance of a deed by which the interest requisite for membership in the Association is required, shall be deemed to covenant to maintain fire and extended coverage insurance on the improvements thereon, in an amount equal to the full insurable value thereof. Any proceeds of such insurance shall be applied, to the extent required by the discretion of the Association, to the repair and reconstruction of such improvements. The Association, may, but shall not be required to, maintain such insurance and add the cost thereof to the annual assessments against the Lot. Each Class A Member of the Association shall provide proof of such insurance to the Association Board of Directors if so requested.

**ARTICLE IX.**  
**ACCESS**

Section 9.01. The Declarant, Association, its officers, employees and agents, and contractors and repairmen designated by the Association, shall have the right to go on any Lot for the purpose of performing construction, reconstruction, surveying, maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Declarant and Association is hereby granted a specific easement for such purposes.

**ARTICLE X**  
**RESERVED RIGHTS OF DECLARANT**

Section 10.01. Nothing contained herein shall limit the Declarant's right to:

- (a) Further subdivide adjacent property owned by Declarant into a residential subdivision;
- (b) Grant licenses and reserve rights of way easements over any portion of Property;
- (c) Complete excavation, grading and construction of improvements to and on any portion of property owned by Declarant;
- (d) Alter its excavation, grading and construction plans and designs;
- (e) Construct such additional improvements as Declarant deems advisable.

Section 10.02. Declarant may add any real estate or facilities to Property or the common areas at anytime on such terms as it, in its sole and absolute discretion, deems advisable, without the consent of the members of the Association.

**ARTICLE XI**  
**GOLF COURSE EASEMENT**

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Section 11.01. Every person or entity who becomes the owner of a Lot within Property does so with notice that golfers will from time to time hit golf balls from the golf course located generally north of Property on to Lots within Property, and that normal operation and maintenance of the golf course will involve use of sprinklers, mowers, and other power equipment during the evening and early morning hours. Easements are hereby retained by Declarant and its successors and assigns upon all Lots within Property for the intrusion of errant golf shots and the intrusion noise from sprinklers and power equipment used for maintenance of the golf course at all hours of the day and night. Every person or entity who becomes an owner of any Lot within Property shall, by acceptance of a deed to Lot, waive any claim for personal injury or property damage occurring as a result of an errant golf shot hit onto the owner's Lot. Such waiver shall not apply to any shot hit negligently, intentionally, recklessly, or in violation of the rules established by the operator of the golf course or driving range.

**ARTICLE XII.**

Section 12.01. In the event a Member fails to maintain a Lot according to these covenants or according to maintenance standards adopted by Declarant, the Declarant, through its agents, may, but shall not be required to, enter upon the Lot and take such action as is necessary to place the Lot in conformity with these covenants and applicable standards adopted by Declarant. Prior to entering a Lot to perform such maintenance, Declarant shall provide the member with written notice, which shall specify the required action and time in which it must be completed. If a member fails to comply and the Declarant performs such action, the Declarant may access the cost thereof against the Lot. When shown of record, such assessment shall be a lien upon the Lot and shall bear interest on per annum basis until paid at the rate of fourteen (14%) per cent per annum.

Section 12.02. The Declarant, Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions covenants, reservations, liens and charges now or hereafter imposed by any provision of this Declaration. Failure of the Declarant, Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.03. The Declarant, Association, or any person entitled to enforce any of the terms hereof who obtains a judgment or decree in an action brought to enforce any of the provisions hereof, shall, to the extent permitted by law, be entitled

to recover reasonable fees of attorneys and other professionals and all expenses incurred or anticipated to be incurred in enforcing these covenants or any other rules or regulations adopted by the Declarant or Association with regard to the Property.

Section 12.04. Neither the Declarant nor the Association shall be liable to any person for damages arising out of the enforcement or non-enforcement of these covenants. The failure to enforce any of the covenants shall not be deemed a waiver to the right to subsequently do so.

Section 12.05. Invalidation of any one or more of these covenants or restrictions, by judgment or Court order, shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

Section 12.06. These Declarations may be amended at any time during the initial twenty (20) year term hereafter by an instrument signed by the Owners of not less than eighty-five (85%) percent of the Lots then covered by these Declarations, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots then covered by these Declarations. Any such amendment shall be valid only upon its being recorded in the same manner as deeds shall be recorded at such time.

Section 12.07. These covenants and restrictions contained in this Declaration shall run with the land, and shall be binding for an initial term of twenty (20) years from the date these Declarations are recorded, after which time they shall be automatically extended for successive periods of ten (10) years each.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed these Declarations of Covenants, Conditions and Restrictions this 21<sup>st</sup> day of March, 2000.

ATTEST:

WAHOO VIEW, L.L.C., a Nebraska Limited Liability Company

By

Gaylen R. Maly member  
Gaylen R. Maly, Member

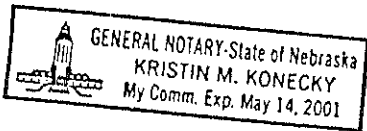
By

Robert J. Sloup member  
Robert J. Sloup, Member

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STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF SAUNDERS    )

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this 21 day of March, 2000, by Gaylen R. Maly and Robert J. Sloup, the only Members of Wahoo View, L.L.C., a Nebraska Limited Liability Company



Kristin M. Konecky  
Notary Public

2430796

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 10, TOWNSHIP 14 NORTH, RANGE 7 EAST OF THE SIXTH P.M., SAUNDERS COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10; THENCE N90°00'00"E (ASSUMED BEARING) ON THE SOUTH LINE OF SAID SECTION 10, A DISTANCE OF 246.50 FEET TO THE SOUTHEAST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN DEED BOOK 105, PAGE 633, THIS BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING N90°00'00"E ON SAID SOUTH LINE, A DISTANCE OF 1268.42 FEET TO THE SOUTHEAST CORNER OF HERITAGE HEIGHTS, A SUBDIVISION PLATTED IN SAID SECTION 10; THENCE CONTINUING N90°00'00"E ON SAID SOUTH LINE, A DISTANCE OF 650.71 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN DEED BOOK 240, PAGE 257; THENCE N00°00'00"W ON THE WESTERLY LINE OF SAID PARCEL, A DISTANCE OF 1042.08 FEET; THENCE N29°04'01"W CONTINUING ON SAID WEST LINE, A DISTANCE OF 324.50 FEET TO A POINT OF CURVATURE; THENCE ON A 267.50 FOOT RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 402.27 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS N72°08'54"W 365.43 FEET; THENCE S64°46'12"W, A DISTANCE OF 371.56 FEET TO A POINT OF CURVATURE; THENCE ON A 760.00 FOOT RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 169.23 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS S71°08'57"W 168.88 FEET; THENCE S77°31'42"W, A DISTANCE OF 35.31 FEET TO A POINT OF CURVATURE; THENCE ON A 600.00 FOOT RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 81.08 FEET TO THE NORTHEAST CORNER OF LOT 73 OF SAID HERITAGE HEIGHTS, THE CHORD OF SAID CURVE BEARS S81°23'58"W 81.02 FEET; THENCE CONTINUING ON SAID 600.00 FOOT RADIUS CURVE TO THE RIGHT ON THE NORTH LINE OF SAID HERITAGE HEIGHTS AN ARC DISTANCE OF 414.94 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS N74°55'02"W 406.72 FEET; THENCE N55°06'18"W CONTINUING ON SAID NORTH LINE, A DISTANCE OF 252.85 FEET TO A POINT OF CURVATURE; THENCE ON A 300.00 FOOT RADIUS CURVE TO THE RIGHT ON SAID NORTH LINE AN ARC DISTANCE OF 96.24 FEET TO THE NORTHWEST CORNER OF LOT 81 OF SAID HERITAGE HEIGHTS, THE CHORD OF SAID CURVE BEARS N45°54'54"W 95.83 FEET; THENCE CONTINUING ON SAID 300.00 FOOT RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 137.01 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS N23°38'30"W 135.82 FEET; THENCE N10°33'30"W, A DISTANCE OF 419.62 FEET TO A POINT OF CURVATURE; THENCE ON A 60.00 FOOT RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 10.69 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS N05°27'24"W 10.67 FEET; THENCE N00°21'18"W, A DISTANCE OF 49.69 FEET; THENCE S89°38'42"W, A DISTANCE OF 140.00 FEET; THENCE N00°21'18"W, A DISTANCE OF 5.41 FEET TO A POINT OF CURVATURE; THENCE ON A 130.00 FOOT RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 208.76 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS N46°21'36"W 187.04 FEET; THENCE S87°38'07"W, A DISTANCE OF 14.28 FEET TO A POINT ON THE EAST LINE OF U.S. HIGHWAY NO. 77; THENCE S02°27'58"E ON SAID EAST LINE, A DISTANCE OF 247.41 FEET; THENCE N78°48'56"E, A DISTANCE OF 85.46 FEET; THENCE S10°33'31"E, A DISTANCE OF 40.00 FEET; THENCE S78°48'56"W, A DISTANCE OF 91.15 FEET TO A POINT ON THE EAST LINE OF SAID U.S. HIGHWAY NO. 77; THENCE S02°27'58"E ON SAID EAST LINE, A DISTANCE OF 699.79 FEET; THENCE S08°11'09"E CONTINUING ON SAID EAST LINE, A DISTANCE OF 9.63 FEET TO THE NORTHWEST CORNER OF SAID HERITAGE HEIGHTS; THENCE CONTINUING SOUTHERLY ON SAID EAST LINE AS FOLLOWS; S08°11'09"E 90.92 FEET, S06°09'39"W 100.55 FEET, S02°30'12"E 131.67 FEET, S02°13'42"E 717.41 FEET TO THE NORTHWEST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN DEED BOOK 105, PAGE 633; THENCE N90°00'00"E ON THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; S02°13'42"E ON THE EAST LINE OF SAID PARCEL, A DISTANCE OF 218.00 FEET TO THE TRUE POINT OF BEGINNING.

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SEE CORNER 201/2  
SEC 10 - FUTURE PLATTING  
SHOWN FOR REFERENCE ONLY

HERITAGE HEIGHTS ASSOCIATION LEGAL DESCRIPTION DETAIL

