

3021 CLARK
REGISTER OF DEEDS
SAUNDERS CO. NEBR.

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BOOK 217 PAGE 76
OF G.W. INST# 166

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THESE DECLARATIONS, made on the date shown on the close of this instrument, by the party or parties hereto who are, at the close of this instrument, 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:

Lots 1 through 10, Oxbow Addition being a part of the East 596.30 feet of the Southeast Quarter of the Southeast Quarter of Section 35, Township 13, Range 9, Saunders County, Nebraska.

WHEREAS, Declarant desires to make all of the above said property, together with such additions thereto as may hereafter be brought within the jurisdiction of the Association, subject to the covenants, conditions and restrictions hereinafter set forth,

NOW THEREFORE, Declarant hereby declares that all of the property hereinabove described 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 all of said real property and shall be binding on all parties having any right, title or interest in said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.
DEFINITIONS

Section 1. "Association" shall mean and refer to the OXBOW LAKE TOWNHOMES ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to:

- (a) The record owner, whether one or more persons or entities of fee simple title to any parcel or Lot which is a part of the Properties, 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 parcel or Lot, under which Seller retains title solely as security

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for the performance of the purchaser's obligation under the contract.

Section 3. "Properties" shall mean and refer to Lots 1 through 10, Oxbow Addition being a part of the East 596.30 feet of the Southeast Quarter of the Southeast Quarter of Section 35, Township 13, Range 9, Saunders County, Nebraska or any part thereof sold as a parcel thereof, in Saunders County, Nebraska, as surveyed, platted and recorded, together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any part or parcel of said Properties as surveyed and platted. There are currently ten lots on said property.

Section 5. "Improved Lot" shall mean and refer to any Lot included within the Properties, upon which shall be erected a dwelling, the construction of which shall be at least 80 percent completed, according to the plans and specifications for construction of said dwelling, the construction of which shall be less than 80 percent completed, according to the plans and specifications for construction of said dwelling, shall be defined as "Unimproved Lots".

Section 6. "Declarant" shall mean and refer to William D. Sapp and Lucille M. Sapp.

ARTICLE II.
PROPERTY RIGHTS

Section 1. 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 by any such Owner, or members of such Owner's family, or guests or tenants of such Owner, or the published rules and regulations of the Association.

Section 2. Parking Rights. Ownership of any Lot shall entitle the Owner or Owners thereof to such parking rights as shall be available upon such Lot and upon all public streets included on the property. No vehicle that cannot be put in a garage equal in size to those located on the properties will be parked overnight in parking areas.

ARTICLE III.
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to any assessment.

Section 2. The Association shall have two classes of voting members, Class A Members and Class B Members, defined as follows:

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.

CLASS B: Class B Member shall be Declarant, which shall be entitled to two votes for each Lot owned. The Class B membership shall terminate and be converted into Class A membership upon the occurrence of the first of the following dates:

(a) The date on which the total votes outstanding in the Class A membership shall equal the total votes outstanding the Class B membership, or

(b) January 1, 2008.

ARTICLE IV.
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each improved Lot, according to the plans and specifications which is at least 80 percent completed and owned within the Properties, hereby covenants, and each Owner of any other lot, by acceptance of a deed therefore, or by entering into a contract for the purchase thereof, 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:

- (1) Annual assessments or charges, and
- (2) Special assessments for capital improvements, and
- (3) Annual assessments and special assessments for Oxbow Lake Townhomes Association, Inc.,

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 property 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 Property at the time when the assessment

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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 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents in the properties and surrounding land, and for exterior maintenance and other matters, as more fully set out in Article V herein.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first improved Lot to an Owner the maximum annual assessment shall be \$600.00 per year payable in 12 equal monthly installments of \$50.00 per month per improved lot.

(a) From and after January 1 of the year immediately following the conveyance of the first improved Lot to an Owner, the monthly assessment may be increased by not more than the greater of: (1) Five percent (5%) or (2) the percentage rise in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the month of October preceding the subject year, over the month of October one year prior to that, all without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first improved Lot to an Owner, the monthly assessment may be increased over and above the amount permitted under the preceding paragraph (a), by a vote of not less than two-thirds (2/3) of Members who are voting, in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessment for Capital Improvements. In addition to the monthly 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 costs of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, and for the cost of exterior maintenance, as set out in Article V herein, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of members who shall vote, in person or by proxy, at a meeting duly called for such purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or under Section 4 shall be sent to all Members 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 one-half (1/2) of the required quorum at the preceding meeting. Any such subsequent meetings shall be held within 60 days following the preceding meeting.

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Section 6. Uniform Rate of Assessment. Both annual and special assessments, with respect to all improved Lots, shall be uniform in amount, and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments; and Due Dates. The annual assessments provided for herein shall commence as to each improved Lot on the first day of the month following the conveyance of such improved Lot from Declarant to an owner. The first annual assessment 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 the annual assessment against such improved Lot not less than thirty (30) days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every Owner subject thereto. The dates payments are due shall be established by the Board of Directors. 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 improved Lot has been paid. A properly executed certificate of the Association as to the status of assessments on a particular improved Lot shall be binding upon the Association as of the date of its issuance by the Association.

Section 8. Effect of Nonpayment of Assessment; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at 16 percent per annum. Should any assessment remain unpaid more than sixty (60) days after the due date, the Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any Court having jurisdiction of actions of the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment or title transfer of such Owner's Lot.

Section 9. Subordination of the Lien to Mortgages. 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

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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. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessment on any Lot as to which the first mortgage thereon is in default, if such Board of Directors determines that such lien has no value to the Association.

ARTICLE V.
EXTERIOR MAINTENANCE

The Association shall provide exterior maintenance upon each improved Lot which is subject to assessment hereunder as follows:

(a) Exterior maintenance and repair will be provided to the roofs of the units.

(b) Maintain and repair, including painting, of all exterior walls, with the exception that the Association shall not assume the duty to repair or replace any glass surfaces, including, but not limited to window glass and door glass, nor repair or replace exterior walls of porches or additions added by an individual owner after the purchase of said property. The Association shall not assume the duty to repair or replace any exterior concrete surfaces for each lot's individual drive, any doors, door openers, and condenser units for air conditioning systems through normal wear and tear. However, the Association shall assume the duty to paint the exterior surfaces of exterior doors when necessary due to reasonable wear and tear. The association shall assume any and all repairs to all streets and parking areas with and upon said property, including concrete surface repair or replacement.

(c) Maintenance, repair and replacement of gutters and downspouts.

(d) Maintain trees and shrubs, lawns, walks, and other exterior landscapes and improvements, except such as may be within the confines of any fenced in area on any improved Lot and excluding all interior concrete surfaces.

(e) Operation and maintenance of an underground watering system.

Notwithstanding the foregoing, in the event the need for maintenance or repair of any of the foregoing on any improved Lot shall result from the willful or negligent acts of the Owner of any Lot, or of such Owner's family, guests, invitees, or tenants, the cost of such exterior maintenance shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VI.
ARCHITECTURAL CONTROL

No building, fence, wall, or other structure shall be commenced, erected or maintained on the Properties, nor shall any exterior addition or change or alteration therein be made nor shall any trees, shrubs or plants be planted or maintained on the properties, until the plans and specifications therefore, showing the nature, kind, shape, height, materials, color 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 and in relation to other trees, shrubs and plantings, by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by said Board of Directors. If said Board, or its designated architectural committee, as the case may be, shall fail to either approve or disapprove any such matter so submitted, as hereinabove provided, within thirty (30) days after such plans and specifications shall have been submitted, then the Owner submitting such plans and specifications shall be deemed to have received approval thereof, and such Owner may proceed in accordance with said plans and specifications.

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ARTICLE VII.
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of any dwelling upon the Properties, and which is placed on the dividing line between any adjoining Lots, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repairs and maintenance of any party wall shall be shared by the Owners who make use of such party wall in proportion to the length of each lot and party wall.

Section 3. Destruction by Fire or Other Casualty. 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 Owner or Owners shall thereafter make use of such party wall, such other Owner or Owners shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner or Owners to call for a larger contribution from other Owners under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weather Proofing. Notwithstanding any other provision of this Article, an Owner who, by his negligent or

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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 and repair of damage caused by the elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each Owner involved shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and all Owners shall be bound by any decision arrived at by a majority of all such arbitrators.

ARTICLE VIII.

GENERAL RESTRICTIONS AND OTHER PROVISIONS

Section 1. Restrictions. Every Owner shall have full rights of ownership and full use and enjoyment of his Lot, subject to the following restrictions:

(a) No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on any Lot within the Properties, unless such fences or enclosures shall have first been authorized in writing by the Association. No clothes line or clothes hanger shall be constructed on any Lot or used on any Lot outside of the building located thereon, except in patio area. No exterior television or radio antenna shall be erected on any Lot within the Properties.

(b) No animals, livestock or poultry of any kind shall be raised or kept on any Lot in the Properties, other than household pets, which shall be limited to one (1) per household. All pets shall be leashed when outside of the residential structure and patio area. No such pet shall be kept, bred or maintained for commercial purposes.

(c) No noxious, offensive or illegal activity shall be carried on upon the Properties, 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 neighborhood. No outside above-ground trash receptacles or incinerators shall be permitted on any Lot.

(d) No advertising signs or billboards shall be permitted on any Lot with the exception of "for sale" or "for rent" signs, which shall not exceed four square feet in size. Nothing herein contained shall prevent the use of any Lot by Declarant as a sales and rental office, or as a model home or both, and while any Lot is so used, it shall

have the right, for itself, or its nominee to place signs of the premises advertising such office or model home, or both.

(e) No trailer, tent, shack, barn or other outbuilding shall be constructed upon said property or shall at any time be used for human habitation, either temporarily or permanently. This shall not prevent the location of a temporary real estate and/or construction office on any Lot in the Properties for use during the period of construction and sale of the Properties.

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(f) The use of private barbecue grills and the outside use or storage of barbecue grills on any Lot shall be subject to written regulation, restriction or exclusion by the Association.

(g) No awnings or sun screen of any type shall be affixed to any building or structure on any Lot without the written consent of the Association.

(h) All gardens are subject to regulation and possible prohibition by the rules of the architectural committee.

(i) No vehicles may be parked outside of the garages or left unattended for longer than 24 hours, including recreational vehicles, boats, trailers or any other vehicle or accessory thereto.

ARTICLE IX.
INSURANCE

Section 1. The Association shall purchase and provide comprehensive general liability coverage insurance against any other hazards and in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association, in addition to the foregoing, shall provide directors and officers liability coverage insurance for the Association and for its officers and Board of Directors. Finally, if the Association has any employees, the Association shall purchase and provide workmen's compensation insurance for all employees who may come within the scope of the Nebraska Workmen's Compensation laws.

Section 2. The Association is hereby irrevocably appointed as agent for each Owner of each and every Lot in the Properties and or the holder of any Mortgage on any Lot in the Properties, to adjust all claims arising under insurance policies purchased by the Association on the improvements on the Properties, and to execute and deliver releases upon payment of claims without joinder by any such Owner or mortgagee. All insurance proceeds shall be applied by the Association toward repairing the damage covered by such insurance, provided that reconstruction or repair shall not be compulsory where the damage exceeds two-thirds (2/3) of the value of all the buildings and improvements on all of

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the Lots covered by such insurance. The deductible portion of the applicable master insurance policy shall be borne by these lots which suffered the loss as determined by the Board of Directors. In such case, insurance indemnity, if any, shall be credited to each Owner in accordance with such Owner's prorata share of the loss sustained from the casualty for which the proceeds shall be payable and such sums shall be first applied toward satisfaction of any recorded first mortgage against such Lots, next toward satisfaction of junior recorded liens in order of their priority, next toward the cost of razing the improvements or any remnants thereof from said Properties, and the filling and leveling of any of said Lots, as needed, and the remainder shall then be paid to such Owner of such razed properties on a prorata basis. In case the insurance proceeds do not equal the cost of the repairs or rebuilding, the excess cost shall be considered a maintenance expense to be assessed and collected by the Association from the Owner of the damaged improvements. In any cases of over insurance, any excess proceeds of insurance received shall be credited to the working fund of the Association.

Section 3. Each Lot Owner should obtain insurance for the Owner's benefit at such Owner's own expense. Each Lot Owner should obtain insurance to cover specific improvements and betterments on and in the Owner's Lot, personal liability, specific personal property items, and insurance for full replacement cost of the improvements.

ARTICLE X.
ACCESS

The 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 maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Association is hereby granted a specific easement for such purposes.

ARTICLE XI.
UTILITY METERS AND SERVICE LINES

In order to facilitate the installation and operation, maintenance and repair of an underground watering system, such Lots as shall be designated from time to time by the Association, shall have a dual metering system for trees and other vegetation located upon the Lots. It is understood that the amount of water metered for such purposes shall be paid for by the Association, and that the meter will be maintained by the Association. The Association will pay the deductible portion of any loss which is caused by the exterior underground water system and the water usage associated therewith. The water metered for the residential structure on any such Lot is paid for by the owner of such Lot.

Each Lot shall have a separate water, electric, gas and/or other applicable utility meter, and shall be serviced by separate utility service lines.

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ARTICLE XII.
GENERAL PROVISIONS

Section 1. Enforcement. The 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 the provision of this Declaration. Failure of the 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 2. Severability. 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 3. Amendment. These Declarations may be amended at any time during the initial twenty (20) year term referred to in Section 4, hereafter by an instrument signed by the Owners of not less than eighty-five percent (85%) of the Lots then covered by these Declarations, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) 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 4. Term. 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 period of ten (10) years each.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed these Declarations of Covenants, Conditions and Restrictions this 15th day of January, 1998.

ATTEST:

William D. Sapp
William D. Sapp

Lucille M. Sapp
Lucille M. Sapp

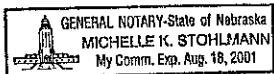
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STATE OF NEBRASKA)
) ss.
COUNTY OF SAUNDERS)

Before me the undersigned, a notary public, personally came, William D. Sapp and Lucille M. Sapp, Husband and Wife, to me personally known to be the identical persons who signed the above Declaration and they acknowledged the execution of the above to be their voluntary act and deed.

WITNESS my hand and notarial seal the day and year last above written.



Michelle K. Stohlmann
Notary Public

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