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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made on the date hereinafter set forth by Liberty Capital Corporation (hereinafter referred to as "Declarant"), and those other signatories hereto who join in this Declaration and all of the actions taken by the Declarant herein by their signatures below.

WITNESSETH:

WHEREAS, Declarant, whether one or more, is the owner of certain property in Douglas County, Nebraska, more particularly described as follows: Lots 41 through 81, inclusive, in Ranch View Estates 2, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, (the "property") does hereby create, adapt, declare and establish the following restrictions upon all the described properties; and

WHEREAS, All the above-described property has been zoned SF-3 and, therefore, is available for single-family homes; and

WHEREAS, Declarant is desirous of providing easements, restrictions, covenants and conditions for the use of the Property for the purpose of protecting the value and desirability of the said property.

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

Declarant has heretofore caused the organization of Ranch View Estates Property Owners Association, Inc., and Ranch View Estates 2 Lots 41 Through 81 Property Owners Association, Inc., which are a non-profit corporations organized under the laws of the State of Nebraska, formed for the purpose of providing for the construction, repair, maintenance, preservation and architectural control, as granted by the Declarant and described herein, of the dwelling amenities and common area within the above described property. Said property area may be expanded in the future as described herein.

ARTICLE I**DEFINITIONS**

Section 1. "Association" shall mean and refer to either the Ranch View Estates Property Owners Association, Inc., or Ranch View Estates 2 Lots 41 Through 81 Property Owners Association, Inc., their successors and assigns.

Section 2. "Common Association" shall refer to the Ranch View Estates Property Owners Association, Inc.

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Section 3. "Special Association" shall mean and refer to the Ranch View Estates 2 Lots 41 through 81 Property Owners Association, Inc.

Section 4. "Board" shall mean and refer to the Board of Directors elected by a majority vote of the respective members of each Association, their successors and assigns.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

Section 6. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of each Association.

Section 7. "Common Area" shall mean all real property (including the improvements thereto) owned, granted to by easement or maintained by agreement by each Association for the common use and enjoyment of the Owners and for the Common Association shall also include all Common Area owned, granted to by easement or maintained by agreement by the Common Association in connection with the Ranch View Estates Subdivision and all other lots and phases of Ranch View Estates 2 subdivision. For purposes of the Special Association, the Common Area shall mean the streets, sewers, utilities and the pedestrian/bike trail within the boundaries of the Plat of Lots 41 through 81 Ranch View Estates 2, Douglas County, Nebraska, filed at Book ___, Page ___ of the Register of Deeds of Douglas County, Nebraska, (the "Plat"). The Common Area may be owned, granted or maintained, either now or in the future, as determine by the Board or as described herein.

Section 8. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area or an outlot.

Section 9. "Declarant" shall mean and refer to Liberty Capital Corporation, its successors, assigns and legal representatives.

Section 10. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

Section 11. "Improved Lot" shall mean and refer to any lot on the properties exclusive of the Common Area or outlot upon which shall be erected a dwelling, the construction of which shall be at least 80% complete, according to the plans and specification for the construction of said dwelling. All other lots, exclusive of the Common Area or outlot, which shall be vacant or upon which shall be erected a dwelling, the construction of which shall be less than 80% complete, according to the plans and specifications for construction of said dwelling, shall be defined as "Unimproved Lots".

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) The right of each Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) The right of each Association to suspend the voting rights and right to use any recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules

and regulations; and

- (c) The right of each Association, if said right exists, to dedicate or transfer all or any part of the Common Area owned by either Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. Except as otherwise provided herein, no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of all the votes for each class of members has been recorded. The Common Area of the Special Association is already dedicated for public use.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

COMMON ASSOCIATION

Section 1. Membership and Voting Rights.

- (1) Every Owner of a Lot which is subject to assessment shall be a member of the Common Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.
- (2) The Common Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to six (6) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership exceed the total votes outstanding in the Class B membership. Class B lot owners (Declarant) Lots shall not be subject to, or carry any accrual of, any assessments, charges, dues or fees of any nature until July 1, 2005.

Section 2. Covenants for Maintenance and Assessments.

- (1) Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any 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 Common Association:
- (a) Annual assessments or charge; 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 fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property 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.

- (2) Purpose of Assessments. The assessments levied by the Common Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and recreational facilities except for the Common area maintained by the Special Association as provided below.
- (3) Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for the Common Association shall initially be determined by the Declarant.
 - (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment may be increased by not more than the greater of either: (i) ten percent (10%); or (ii) the percentage rise in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding October over the prior year's October, without a vote of the membership.
 - (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment may be increased above said percentage (Paragraph (a) above) by a vote of two-thirds (2/3) all the votes for each class of members who are voting by person or 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.
- (4) Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Common 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: PROVIDED THAT, any such assessment shall have the assent of two-thirds (2/3) of all the voters of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
- (5) Notice and Quorum for Any Action Authorized: Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days or 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 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 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 sixty (60) days following the preceding meeting.
- (6) Uniform Rate of Assessment. Both annual and special assessments, with respect to all improved Lots, shall be uniform in amount. In recognition of the fact that a substantial portion of the budget for the Working Fund for maintenance will be attributable to upkeep, maintenance and security upon improved Lots as opposed to unimproved Lots, the regular assessment for each unimproved Lot will be equal to the equivalent of twenty-five percent (25%) of the regular assessment due for each improved Lot. Said assessments may be collected on a monthly basis.
- (7) Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of each month following the conveyance of the Common Area. The first annual assessment 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. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates 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 the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

- (8) Effect of Non-Payment 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 twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. 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 Lot.
- (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 or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.
- (10) Insurance. The Association may provide and pay for, as determined by the Board, property, casualty, liability, or any other type of insurance, if and as it deems it necessary, on the Common Area, the Association, the Declarant, its Agents, the Board of Directors of the Association and the members. Under no circumstance will the Association be obligated to do so. Each Owner, including the Declarant, shall individually procure and maintain insurance on such Owner's Lot(s), improvements thereto and on the contents, decorations, furnishings and personal property therein.
- (11) Access to Lots. The Association, the Declarant, its officers, employees and agents, and contractors and repairmen designated by the Association or Declarant, shall have the right to go on any Lot for the purpose of performing maintenance, construction and repair, making inspections and performing the duties of the Association and the Declarant herein, and are hereby granted a specific easement for such purposes.

ARTICLE IV

SPECIAL ASSOCIATION

Section 1. Membership and Voting Rights.

- (1) Every Owner of a Lot which is subject to assessment shall be a member of the Special Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.
- (2) The Special Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to six (6) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the

total votes outstanding in the Class A membership exceed the total votes outstanding in the Class B membership. Class B lot owners (Declarant) Lots shall not be subject to, or carry any accrual of, any assessments, charges, dues or fees of any nature until July 1, 2005.

Section 2. Covenants for Maintenance and Assessments.

- (1) Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Special Association:
- (a) Monthly and Annual assessments or charges; and
 - (b) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The monthly, annual, and special assessments, together with interest costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property 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.

- (2) Purpose of Assessments. The assessments levied by the Special Association shall be used exclusively for the maintenance and repair of the streets dedicated as part of the Plat and those sewers, utilities, and public improvements located within the boundaries of the Plat, the payment of the costs of providing street lighting within the boundaries of the Plat, and the construction and maintenance of the pedestrian/bike trail in the trail easements granted for such purpose within the boundary of the Plat, and for such other uses to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and recreational facilities as the Board of Directors of the Special Association shall determine.
- (3) Monthly and Annual Assessments. The Board of Directors of the Special Association shall levy such monthly and annual assessments as they deem necessary to fulfill the obligations of the Special Association (i) under the Subdivision Agreement with the City of Elkhorn for the lots within the Plat, (ii) under the agreements of the Special Association with Omaha Public Power District and all other providers of utilities or services to the Common Area of the Special Association, (iii) to adequately maintain and repair the Common Area of the Special Association, and (iv) all such costs related or incidental to the foregoing including, but not limited to costs of insurance, professional fees, and administrative fees incurred by the Special Association in fulfilling its obligations and purposes.
- (4) Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board of Directors of the Special 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.
- (5) Date of Commencement of Monthly and Annual Assessments; Due Dates. The Monthly annual assessments provided for herein shall commence as to all Lots on the date determined by the Board of Directors of the Special Association and shall be due of the first day of each month thereafter. The first annual assessment 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. Written notice of the monthly and annual assessments shall be sent to every Owner subject thereto. The due dates for the annual assessments 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 the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

- (6) Effect of Non-Payment 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 twelve percent (12%) per annum. The Special Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. 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 Lot.
- (7) Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.
- (8) Insurance. The Special Association may provide and pay for, as determined by the Board, property, casualty, liability, or any other type of insurance, if and as it deems it necessary, on the Common Area, the Association, the Declarant, its Agents, the Board of Directors of the Association and the members. Under no circumstance will the Association be obligated to do so. Each Owner, including the Declarant, shall individually procure and maintain insurance on such Owner's Lot(s), improvements thereto and on the contents, decorations, furnishings and personal property therein.
- (9) Access to Lots. The Association, the Declarant, its officers, employees and agents, and contractors and repairmen designated by the Association or Declarant, shall have the right to go on any Lot for the purpose of performing maintenance, construction and repair, making inspections and performing the duties of the Association and the Declarant herein, and are hereby granted a specific easement for such purposes.

ARTICLE V

STAGED DEVELOPMENTS

Additional land adjacent or close to Ranch View Estates, a Subdivision in Douglas County, Nebraska, may be developed by the Declarant. The Declarant, at its discretion, can require the Board to expand the area of the Association to include the new subdivisions as they are platted and recorded. At that time, the new areas, as they are brought on, must be merged into the present existing Association by any legal means necessary, including all new common areas and amenities to be included in the Association. The Declarant may also require new language be adopted and added to the Associations terms, conditions and by-laws in order to adapt and conform, as necessary, to the subdivision, lots and common area being added to the then current Association. The above right is granted to the Declarant without the vote of any members of the Association.

ARTICLE VI

RESTRICTIONS AND COVENANTS

Section 1. Residential Purposes Only. The Property shall be used only for single-family, residential purposed, except for such Parcels or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a church, school, park, or for other non-profit

use. Provided, however, this prohibition shall not apply: (a) To any building or structure that is to be used exclusively by a public utility company in connection with the furnishings of public utility services to the Property; or to any portion of the building used by the Declarant or Liberty Capital Corporation, a Nebraska Corporation hereafter referred to as "Liberty Capital" (Developer), its licensees or assigns, for a manager's office or a sales office. Construction of residential dwellings must be completed within one year after excavation for footings, or three (3) years from date of conveyance by the Declarant to the owner, whichever occurs first. The Declarant may construct and maintain at its discretion any private or public recreation facility, including club house, on any lot, common area or outlot as zoned, platted and approved for said use.

Section 2. **Subdivision of Parcels Prohibited.** No lot shall be used as a building site for a residential structure if the lot has been reduced in area below its originally platted size, unless such lot split or subdivision has been approved in writing by the Declarant or Liberty Capital, and the governing jurisdiction. Declarant and Liberty Capital hereby establish, the policy that at this time, does not intend to approve any lot splits or subdivisions.

Section 3. **Noxious Activities.** No noxious or offensive activity shall occur on the Property, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any vacant building site nor shall anything ever be done which may be or become an annoyance or nuisance to the neighborhood. Any exterior lighting installed on any lot shall either be indirect or of such controlled focus and intensity as not to disturb the residence of any adjacent property. No outside repair of any boats, automobiles, motorcycles, trucks, campers, or similar vehicles shall be permitted on any lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any lot. No unused building material, junk or rubbish shall be left exposed on the lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck, or similar chattel shall be maintained or stored on any part of a lot (other than in an enclosed structure) for more than four (4) days within a calendar year unless such item is parked or stored in a building or on the rear one-half of the lot and in a manner so as not to be visible from neighboring properties, and must be approved by the Declarant, its successors or assigns. No motor vehicle may be parked or stored outside on any lot except vehicles driven on a regular basis by the occupants or guests of the dwelling located on such lot. No grading or excavation equipment, tractor or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Section shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction. Nor shall the land likewise be used in any manner that will or might cause any noise which could, would or does disturb the peace, quiet, and comfort or serenity of the occupants of the surrounding property. No firearms or guns of any type or nature whatsoever shall be fired or discharged upon, over or across any lands in the subdivision. All of the above shall also apply to any and all streets and Right of Ways. Garage doors must remain closed at all times except when cars are entering or exiting from the garage space. No garbage cans or trash receptacles are to be permitted outside unless fully screened from view in a manner approved in writing by the Declarant. Private barbecue grills will be subject to regulation, restriction or exclusion by the Declarant. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. Automobile parking will be subject to regulation and restriction by the Declarant.

Section 4. **Temporary Structure.** No trailer, basement, tent, shack, garage, barn, or other outbuilding erected on the Property shall at any time be used as a residence (temporarily or permanently), nor shall any structure of a temporary character be used as a residence; prior to occupancy, the entire building must be substantially completed and the exterior must be fully completed.

Section 5. **Accessory Buildings.** All approved accessory buildings including detached garages, shall be of wood, brick, EFIS, stone, or decorative masonry (excluding Quonset huts and non-factory designed and built metal buildings, which are prohibited on the Property), and shall conform to good architectural design, and shall be harmonious and compatible with neighboring properties. All detached garages and accessory buildings shall be of the same architectural design as the residence and shall be located behind the rear building line of same.

Section 6. **On-Site Construction.** No dwelling constructed in another location shall be moved to the Property.

Section 7. General Building Restrictions. The finished and enclosed living area of residential structures, exclusive of porches, breezeways, basements and garages shall be not less than the following minimum sizes: All residential structures must have basements equal to the main floor living space.

- A. For a ranch style (one level) home, the ground floor (or main level) shall contain not less than 1,775 square feet of finished living area on the main floor.
- B. For a one and one-half (1 ½) story home, the ground floor (main level) shall contain not less than 1,650 square feet of finished living area, and the total finished living area for the first and second floors shall contain not less than 2,500 square feet.
- C. For a two-story home, the ground floor (main level) shall contain not less than 1,450 square feet of finished living area and the total finished living area for the first and second floors shall contain not less than 2,650 square feet.
- D. No split entry or split level homes shall be allowed.

The maximum height for any building shall be two and one-half (2 ½) stories, and all residences shall be built with an attached, enclosed garage for not less than three (3) cars and 600 square feet.

Section 8. Building Set-back Requirements for Homes. The minimum, front, thirty-five (35) feet, side; SEVEN (7) feet, rear; twenty-five (25) feet, and corner side yards; eighteen (18) feet.

Yard requirements shall conform to the City of Elkhorn's SF-3 zoning and shall govern this subdivision, unless these covenants are different, then the Ranch View Covenants shall override the City of Elkhorn's jurisdiction as long as they fit into that (jurisdictions) zoning. Any waiver or change of such restrictions by the City of Elkhorn shall not be effective to alter this covenant unless the undersigned likewise consents in writing to such waiver or change. This subdivision is zoned in accordance with the City of Elkhorn's SF-3 zoning district and all ordinances must apply.

Section 9. Exterior Details. The roofs of residential dwellings and outbuildings shall have a minimum front to back pitch of 6/12 and a minimum of 8/12 for side roofs and shall have Heritage asphalt shake or fiberglass laminated shake shingles (or comparable) which are premium grade and heavy weight, with a minimum 40-year warranty. Exposed portions of the foundations on the front and street sides shall be clay fired brick or stone (EFIS as follows). The sides and rear exposed foundation of each dwelling and outbuildings are to be covered with clay-fired brick, stone, EFIS, or stucco from front outside corner to front outside corner of structure. All exposed portions of fireplace chimneys shall be faced with clay-fired brick, stone, or EFIS; however, in the event a fireplace is located in the rear of the dwelling, or if less than 50 percent of an interior chimney is visible from the street, then said chimney may be covered with siding. In addition, the entire face of the house may be of an Exterior Insulation Finish System (EFIS), in which case the foundation and chimney shall be an EFIS finish; a combination of brick, stone, and/or EFIS is an acceptable exterior finish. Siding shall be six inch horizontal lap siding only, consisting of masonite, prefinished heavy steel, or concrete board, (or comparable) except that the sidewalls and rear walls may, at the approval of the Declarant, be a heavy, quality grade vinyl 6 inch lap siding (any vinyl material if approved, must have the prior approval of the Declarant). All exterior vertical siding, aluminum material, vinyl siding (see above) or sheeting is prohibited, except aluminum for soffits, fascia, and gutters. Exterior colors used in new construction or in improvements such as periodic repainting shall be neutral, earth tones, or white, and are subject to Architectural approval by the Declarant or its successors or assigns. In addition to the foundation, the Declarant or its successors or assigns may require a portion of the front of said building or dwelling to be faced in brick, stone, or EFIS. If EFIS is the only finish used on the front of said building or dwelling it must cover 100% of the front. No furnace flue may protrude more than four feet (4) from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet (4) of the roof ridge.

Section 10. Driveways. All driveways shall be constructed of concrete, brick, or brick paver. Asphalt driveways are not permitted.

Section 11. **Trash Screening Required.** Outdoor garbage and trash containers are prohibited unless screened from view of the other properties with a privacy fence.

Section 12. **No primary.** flat or mansard roof shall be permitted on any dwelling unless for porches and cosmetic uses but only after pre-approval from the Declarant, said request may be denied.

Section 13. **Public Sidewalks.** Public sidewalks are the responsibilities of, and shall be constructed by, the then owner of a lot prior to the time of completion of a dwelling and before occupancy thereof. In addition, sidewalks shall be constructed immediately abutting vacant lots on either side of any block or cul-de-sac (i.e. circle) as soon as the lots comprising sixty-five percent (65%) of the abutting footage on such side have been built upon. Sidewalks shall be constructed immediately abutting built-upon lots as soon as weather permits. In any event, all sidewalks shall be constructed upon both sides of any public streets within three (3) years of the recording of the subdivision plat. The extent of sidewalk, location, construction details, materials and grades shall be in accordance with the regulation of the City of Elkhorn and any revision thereof. (Four (4) foot wide, four (4) inches thick and five (5) foot from the curb, except that the sidewalk on Ranch View Drive will be 5 feet wide). The construction cost, maintenance and repair of said sidewalks is the sole responsibility of the owners of the lots.

Section 14. **Water Drainage.** The Declarant has created a water drainage plan by grading the properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any lot graded, to interfere with such water drainage plan or cause damage to the building or neighboring buildings or lots. The Declarant shall have the right to require each lot owner to alter or change the grade of any lot to insure proper drainage.

Section 15. **Easements and Licenses.** A perpetual license and easement is hereby reserved in favor of and granted to the US West Telephone Company, City or County franchised cable television firms, Natural Gas provider, MUD water, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, pipes, wires etc. and other instrumentalities for the caring and transmission of electric, heat, gas, water, and power and for all telephone and telegraph and message services and cable television under, on and through and eight (8) foot strip of land adjoining the rear boundary lines of said lots, five (5) feet on all side yards, and said license is being granted for the use and benefit of all present and future owners of said lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed by hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings shall be placed in perpetual easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid used or rights herein granted. All utilities, gas, water, sewer, telephone, cable television and electric power service lines from property line to dwelling shall be underground. The above written, if it pertains, will also apply to any utility easement not mentioned but recorded such as, but not limited to water, gas, storm sewer and sewer lines. This is in addition, and does not pertain to any permanent easement for any utility, the Declarant, the Association, or SID 467 recorded with the plat or prior to the sale of the lot.

Section 16. **Fences, Etc.** No fences may be built forward of the rear wall of the house (unless said fence would enhance the development and was used to create an estate like setting but only with the prior approval of the Declarant which request may be denied) and under no circumstances, closer to any adjoining street than the property line. In those instances where the house has more than one rear wall, The Declarant shall determine in its discretion which rear wall shall be applicable. Fences shall be constructed only of aluminum, PVC plastic, decorative iron, brick, stone and certain wood fences and are subject to the approval of the Declarant. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited. No fences or walls shall exceed a height of six (6) feet. All produce or vegetable gardens shall be maintained only in the rear one-third of each lot, and must be fenced and well maintained, or they will not be allowed. No clothesline or clothes hangers may be constructed or used unless completely within enclosed patio areas. No swimming pool shall be permitted which extends more than one (1) foot above ground level and must be fenced as local codes will require. Entrance, driveway and sidewalk, posts, markers, and fences maybe constructed, but only with the prior written consent of the Declarant. The Declarant reserves the right to deny such requests with or without cause or explanation. The Declarant may request

submitted plans be amended to conform to the overall conformity of the development. The Declarant, Liberty Capital, or the Association are granted the right to install a 6 feet high fence on the north property line of all lots abutting Pacific Street. Cost and type of fence shall be borne by the responsible party and if installed will be maintained and repaired by the Association. The Association will have the free right of passage at any time on said lots to maintain, repair or replace the fence.

Section 17. **Trees.** Not less than six (6) 2 - 3 inch ornamental or deciduous shade trees and not less than four (4) evergreen trees with a minimum of eight (8) feet in height, must be planted on each lot, fifty (50) percent of which must be located in the front yard, all trees, landscaping, and sod must be installed within six (6) months after completion of the residence, and thereafter maintained in good growing condition, and replaced as necessary. Each residence must have adequate landscaping in the front yard and against the dwelling, etc. Each residence must maintain a full and complete lawn of bluegrass or fine blade fescue with adequate watering to keep it green and plush.

Section 18. **Billboards and Nuisances Prohibited.** No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any lot except one (1) sign per lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any lot or any resident thereof. Further, no business activities of any kind whatsoever shall be conducted on any lot. Provided, however, the forgoing paragraph shall not apply to business activities, signs and billboards or the construction and maintenance of buildings, if any, by the Declarant or Liberty Capital, their agents or assigns, during the construction and sale of the lots.

Section 19. **Maintenance of Equipment and Vegetation.** Any exterior air conditioning condenser unit shall be placed in the rear yard or side yard so as not to be visible from public view. None of the Property shall be used in whole or part for the storage of any property or thing that will cause the land to appear in an unclean or untidy condition, or that will be obnoxious to the eyes, or not compatible to the surrounding dwellings; nor shall any substance or materials be kept upon the land that will emit a foul or noxious odor. Yard clippings and composted materials used for land conditioning must meet the above conditions and restrictions. All rubbish, trash and garbage shall not be permitted to remain on any lot in the subdivision, and shall be removed from the subdivision and shall not be burned within the subdivision by open fire, incineration or other means.

Section 20. **Plantings and Ground Cover.** Except for the purpose of controlling erosion on vacant lots, no field crops shall be grown upon any portion of the property. No trees, shrubs, hedges or other plants shall be maintained or permitted in such proximity to any lot as will interfere with the use or maintenance of any street or walk, or the unobstructed view at street intersections or otherwise interfere with or hinder the safety of vehicles and pedestrians. The owner shall take whatever steps are necessary to control and eliminate noxious weeds on his property. Ground cover shall be maintained on all lots sufficient to prevent erosion; each owner shall be required to seed or sod his lot, including vacant lots with grass or brome grass, and mow and maintain same to a height not to exceed twelve (12) inches. Any and all dead trees and shrubbery must be removed promptly at owner's expense. At the time of completion of the residence, the remaining lot shall consist of bluegrass or fine blade fescue and kept watered and maintained at all times.

Section 21. **Outside Antennas, Etc.** Outside radio or television antennas shall not be erected on any lot or structure with the exception that 18 inch or small television satellite dishes may be erected provided they are positioned on the residence in a way as to not be too conspicuous and as not to be obvious or readily visible from the street, subject to Architectural approval by the Declarant.

Section 22. **Animals.** No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the owner. Also each Lot Owner must comply with all governing laws and ordinances.

Section 23. **Renting or leasing of Residences,** will be prohibited unless special circumstances would arise that would deem it feasible to allow a temporary short term leasing of the residence. The Declarant will consider such a

request by the Owner of the Lot, the Owner may be requested to give details and copies of leases; the lessee's and lease information including signed statements as to the assurance of the limited time of the leasing. The Declarant shall have the right to deny such request for no apparent reason.

Section 24. **Temporary Access** is granted to the Declarant and the Developer on, over and through all Lot's until construction, maintenance, repair, grading and seeding for all improvements are complete for the entire development. Said access is granted without permission or threat of damage or liability by the Lot Owner until all the improvements for the development are complete.

Section 25. **No Residential Dwelling**, shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Declarant.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. The Declarant, its successors and assigns (may include the Board and/or its committee, if and as the Declarant grants said right or rights to the Board or its committee and as described herein) are hereby granted authority over all architectural, plan and building approvals or denials and covenants enforcement authority, under these Covenants.

Section 2. No improvements, including but not limited to: dwelling, building, fence, wall, landscaping, grading, pathway, driveway, satellite antenna, patio, patio cover or enclosure, deck, rock garden, tree house, swimming pool, tennis court, dog house, flag pole, solar heating or cooling collecting panels (which are not allowed), device or equipment, tool shed, or other external improvement, above or below the surface of the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed, planted, remodeled, altered, or otherwise maintained or permitted to remain on any lot, nor shall any grading, excavation, or tree removal be commenced without the prior approval of the Declarant.

Section 3. The Declarant shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction, size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain neutral and earth tone hues will be acceptable. In this regard, the Declarant intends that the lot within the property shall form a developed residential community with homes constructed of high quality materials consistent with these Covenants. Declarant specifically reserves the right to deny permission to construct or place any of the Improvements which it determines will not conform to the general character, plan and outline for the development of the lots.

Section 4. Documents in duplicate submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the Improvements may be required of the applicant at the discretion of the Declarant. Each applicant shall submit to the Declarant the following documents, materials, designs and/or plans (herein collectively referred to as the "plans").

- A. Site plan indicating specific improvements and indicating lot number street address, grading, location of the structures' proposed for the lot, surface drainage, sidewalks, exterior elevations of buildings and structures, landscaping plan, water lines, sewer lines including septic detail on septic tanks and related tile laterals if applicable.
- B. Complete construction plans, including but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections, exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials, and exterior color or colors.

- C. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address and phone number's.

Section 5. Written notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans or hand delivered. Such notice shall be mailed or delivered within thirty (30) days after the date of submission of the plans, said notice may be give verbally at the description of the Declarant. If written notice of approval is not mailed or delivered within such period, the proposed Improvements shall be deemed refused by the Declarant. Construction or improvement to platted lots shall not be approved by the Declarant, or by default of the Declarant's notification, if said construction will violate any provision of these covenants.

ARTICLE VIII

SUBDIVISION AGREEMENT

The City of Elkhorn, as is normal practice has entered into an agreement with Liberty Capital for the subdividing and developing of Ranch View Estates AND Ranch View Estates 2. Each Lot and its Owner will be subject to the terms and conditions of the Subdivision Agreement and in relationship to these Covenants and the Homeowners Association. All terms and conditions as referred to herein will be binding on each Lot, its Owner, and its successors and assigns, provided, however, the Declarant, and Liberty Capital, its successors and assigns, shall have no liability to any Lot Owner, or its successors and assigns, for any act, or failure to act, under said Subdivision Agreement.

Note: Section VI: All Lot Owners will be members of an incorporated Lot Owners Association to be established by Liberty Capital and binding on every Lot and its Owner.

Note: Section VII: Each Lot Owner is responsible to maintain proper sediment and erosion control measures.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land and the current owners thereof, and shall inure to the benefit of and be enforceable by the Declarant, its respective successors and assigns, the Association, Liberty Capital, and by any owner of any of the lots, for a term of thirty (30) years from the date this Declaration is recorded, after which time said Declaration shall automatically renew for successive periods of ten (10) years each. This Declaration may be amended at any time, after the Declarant assigns these covenants over to a Homeowners Association or an architectural Control Committee. The Amendment must be by an instrument signed and notarized by the owners of not less than 80 percent of the lots. Any amendment must be filed and recorded in Douglas County, Nebraska. This Declaration may also be amended at any time by the Declarant, Liberty Capital, or any person, firm, corporation, partnership or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of ten (10) years from the date hereof. In no case will the Lot Owners be able to amend these covenants in relationship to any bylaws, terms and conditions of an incorporated home owners association as referred to in these Covenants, said amendments for the Association would have to be carried out according to the bylaws, terms and conditions of the Association.

Section 2. Enforcement. The Declarant, Liberty Capital, each Association, or any Owner of any lot, shall have the right to enforce by any proceeding at law or in equity against any person or persons violating or attempting to violate any restriction, condition, covenant, or reservation, now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, Liberty Capital, each Association, or by any Owners to enforce any covenants or restrictions herein contained or to recover damages shall in no event be deemed a waiver of the right to do so thereafter. Nothing herein contained shall in any way be construed as imposing upon the Declarant, the Association, or Liberty Capital, any liability, obligation or requirement to enforce any of the provisions contained herein.

The Declarant, each Association and Liberty Capital, if deemed necessary, may notify in writing any Lot Owner as to any violation of these Covenants, granting the Lot Owner thirty (30) days to correct said violation, if after 30 days the violation is not corrected, the Declarant, or the Association, or Liberty Capital, shall have the right to hire an attorney to pursue said matter. If it is found that the Lot Owner is in violation, the pursuing entity may proceed to correct said violation. All cost's incurred, including attorney fees, will be charged to the Lot Owner found in violation and a lien may be filed against said Lot until all cost's, including interest, if applicable are recovered by the proper entity.

Section 3. **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. **Assignment of Status as Declarant.** The Declarant, or its successor or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Declarant may appoint the Association, another entity, or individual's to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

The Declarant, at its full discretion, may grant at any time, in full, part or shared any of its rights, obligations or responsibilities, if any, to the Association, executed as necessary, to cause to be binding and legal.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 16 day of August, 2004.

Declarant:

LIBERTY CAPITAL CORPORATION, a Nebraska corporation

By: David Broekemeier
Its: President

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 16 day of August, 2004, by David Broekemeier, President of Liberty Capital Corporation, on behalf of such Corporation.



Janelle M. Riggert
Notary Public

Return to:

Michael D. Matejka
Fitzgerald, Schorr, Barmettler
& Brennan, P.C., L.L.O.
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