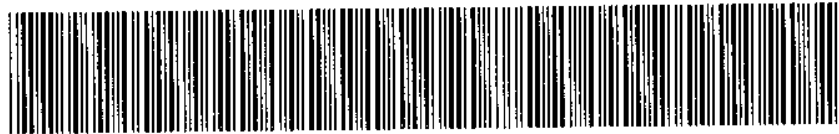


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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ELKHORN VILLAGE**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (hereafter "this Declaration"), made on the date hereinafter set forth by 208<sup>th</sup> & Maple, L.L.C., a Nebraska limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, the Declarant is the owner of the following legally described property located within the City of Elkhorn, Douglas County, Nebraska:

Lots 1 through 66, inclusive, in Elkhorn Village, a subdivision in the City of Elkhorn, Douglas County, Nebraska, as surveyed, platted and recorded.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation, protection and enhancement of the values and amenities of such community and for the maintenance of the character, value, desirability, attractiveness and residential integrity of the Lots.

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

**ARTICLE I**  
**Definitions**

Section 1. "Association" shall mean and refer to the Elkhorn Village Homeowners Association, its successors and assigns.

Section 2. "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 for the performance of an obligation.

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Section 3. "Properties" shall mean and refer to that certain real property described on the attached Exhibit A, and such additions thereto as may hereafter be brought within the jurisdiction of the Association. "Properties" shall include all of the real property within the perimeter of the final plat of Elkhorn Village, a subdivision in the City of Elkhorn, as surveyed, platted and recorded in Douglas County, Nebraska, and shall include all real property that is a replat of any portion of the final plat of Elkhorn Village.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, and shall mean, refer and include all of the Lots that are legally described on the attached Exhibit A. It is intended that single-family dwelling units be constructed on the Properties hereinabove described, with one single-family dwelling unit being constructed on each Lot.

Section 5. "Declarant" shall mean and refer to 208<sup>th</sup> & Maple, L.L.C., and an assignee that receives a written assignment from the Declarant that assigns the Declarant's rights hereunder.

Section 6. "Common Area" shall mean and refer to Outlots A, B and C, all in Elkhorn Village, a subdivision in the City of Elkhorn, as surveyed, platted and recorded in Douglas County, Nebraska, which may be used as open green space and which shall be privately owned and maintained.

## **ARTICLE II**

### **Property Rights**

Section 1. Owners' Easements 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:

- a. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- b. the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- c. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

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**

### **Membership and Voting Rights**

Section 1. Elkhorn Village is a subdivision that is comprised of 66 separate single-family residential Lots. No duplexes shall be allowed unless approved by the City of Elkhorn Planning Commission. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot.

Section 2. The Association shall have two 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 (or an assignee of the Declarant under a written assignment of the Declarant's rights herein) who shall be entitled to three (3) 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 equal the total votes outstanding in the Class B membership.

#### ARTICLE IV

##### Purposes of the Association and Powers and Responsibilities

Section 1. Purposes of the Association. In addition to any other purpose expressed herein, the Association has as its purposes the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Elkhorn Village, and the promotion and protection of the aesthetics, the value and desirability of the Properties, which shall include, but not be limited to, the following:

- A. The ownership, landscaping, improvement, maintenance, operation, repair, and upkeep of the Common Areas, including but not limited to any Common Facilities located on the Common Areas (such as any recreational facilities including playground or park equipment, paths or linear trails), and the performance of the duties and obligations of the Maintenance Agreement between the City of Elkhorn and the Association, which Maintenance Agreement is hereby incorporated herein by this reference..
- B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities and Common Area, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members. The rules and regulations may permit or restrict use of the Common Facilities and Common Areas by Members, 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 Facility.

- C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Elkhorn Village; and the protection and maintenance of the residential character of Elkhorn Village.

**Section 2. Powers and Responsibilities.** The Association shall have all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and, upon authorization of the Board of Directors, by the officers, shall include, but shall not be limited to, the following:

- A. The ownership, maintenance, repair, replacement, operation and administration of Common Area including any landscaping located thereon, and continuous upkeep and maintenance of all subdivision and entrance signs, and the upkeep and maintenance of that part of the sidewalk constructed by the Declarant that is located outside the Elkhorn Village subdivision that is described in Section I, paragraph H(3) of the Subdivision Agreement with the City of Elkhorn relating to Elkhorn Village, and the enforcement of the rules and regulations relating to the Common Area.
- B. The performance of the duties and obligations of the Maintenance Agreement between the City of Elkhorn and the Association.
- C. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- D. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Area or any other area in which the Association has an interest against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.
- E. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.
- F. The acquisition by purchases or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.
- G. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.
- H. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.
- I. General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.
- J. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

**ARTICLE V**  
**Covenant for Maintenance Assessments**

Section 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 Association: (1) annual assessments or charges, and (2) 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 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's 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.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents in the Properties, for the other purposes described herein, and for the improvement and maintenance of the Common Areas, including all subdivision and entrance signs and the upkeep and maintenance of that part of the sidewalk constructed by the Declarant that is located outside the Elkhorn Village subdivision that is described in Section I, paragraph H(3) of the Subdivision Agreement with the City of Elkhorn relating to Elkhorn Village.

Section 3. Annual Assessments. The Association has the power and authority to assess (and shall assess) an annual assessment against the Properties each year to pay for all costs and expenses of any kind or nature relating to the maintenance of the following areas: the Common Areas; all subdivision and entrance signs; and the upkeep and maintenance of that part of the sidewalk constructed by the Declarant that is located outside the Elkhorn Village subdivision that is described in Section I, paragraph H(3) of the Subdivision Agreement with the City of Elkhorn relating to Elkhorn Village; and such other similar areas as determined by the Association. It is intended that the amount of the annual assessment be sufficient to take care of all operations of the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in an assessment year, a special assessment applicable to the 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 (2/3rds) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all members not less than 10 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast Fifty Percent (50%) of all the votes of either 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 ten percent (10%) of all the votes entitled to be cast. Any such subsequent meeting shall be held within 60 days following the preceding meeting.

Section 6. Rate of Assessment. The annual and special assessments shall be paid pro rata by the Owners of all Lots based on the total number of Lots. The annual assessments may be collected on an annual or other periodic basis by the Association. The Board of Directors of the Association shall fix the amount of the annual or other periodic assessments against each Lot. Written notice of the assessment shall be sent to every Owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Lot for which the costs of such construction, reconstruction, repair or replacement of any capital improvements occurs. 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 all assessments on a specified Lot have 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 issue by the Association.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of ten percent (10%) 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 for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment of title or transfer of such Owner's Lot.

Section 8. Subordination of Assessments. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security interest or device, and the holder of any first mortgage, first deed of trust or other initial purchase money security interest or device, 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. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of trust or other initial purchase money security interest or device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have sole responsibility to collect all assessments due.

Section 9. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by Declarant.

Section 10. Access. The Association, its officers, employees and agents, contractors and repair persons designated by the Association, shall have the right to go on any Lot for the purpose of performing the duties of the Association hereunder, and the Association is hereby granted a specific easement for such purpose.

Section 11. The Association is a nonprofit corporation originally formed by the Declarant, and the Association's Articles of Incorporation and Bylaws, to the extent not

inconsistent with this Declaration, are hereby incorporated herein by this reference. In the event of any conflict between the Articles and/or Bylaws of the Association and this Declaration, then this Declaration shall control.

**ARTICLE VI**  
**RESTRICTIONS AND COVENANTS**

Section 1. Each Lot shall be used for residential purposes.

Section 2. The ground floor finished and enclosed living area of main residential structures, exclusive of porches, breezeways, basements and garages, shall be not less than the following minimum sizes:

i) One-story house with attached garage	1500 sq.ft.	On the main floor, exclusive of garage area (garage must be approximately at the same level as the main floor)
ii) One and one-half	1800 sq.ft.	Total area above the basement level; minimum 1500 sq.ft. on the main floor
iii) Two-story houses	2000 sq.ft.	Total area above grade

For each dwelling, there must be erected a private garage for not less than two (2) cars, (each car stall to be a minimum size of ten feet by twenty-one feet).

Section 3. No residence, building, fence, wall, driveway, patio enclosure, rock garden, swimming pool (provided that said swimming pool shall be in-ground or shall not exceed two feet above the grade of the Lot under and circumstances), tennis court, dog house, tree house, antenna, satellite receiving station ("dish"), flag pole, solar heating or cooling device, shed, wind mill, wind generating equipment, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by the Declarant as follows:

(i) An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to the Declarant (herein collectively referred to as the "Plans"). Such Plans shall reflect the type of structure, quality and use of exterior materials, exterior design, exterior color or colors, and location of structure proposed for such Improvement. Concurrent with submission of the Plans, owner shall notify the Declarant of the owner's mailing address.

(ii) Declarant shall review such Plans in relation to the type and exterior of improvements and construction, or approved for construction, on neighboring Lots and in the surrounding area and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a developed residential community with homes constructed of high quality

materials. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(iii) Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the Plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the Plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by the Declarant.

(iv) The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the values, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by or against the Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligations shall be assumed by or imposed upon the Declarants by virtue of the authority granted to the Declarant in this Section or as a result of any act or failure to act by the Declarant with respect to any proposed Improvement. The Declarant may assign the Declarant's rights under this Section to the Association at any time.

Section 4. The exposed foundation wall for the front yard of all main residential structures must be constructed of or faced with brick or stone or stucco. The exposed foundation wall for any street side yard any main residential structure must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed interior side and rear concrete or concrete block foundation walls not facing a street must be painted. The terms "front yard", "street side yard", "interior side yard" and "rear yard" shall have the same meaning as the zoning ordinance for the City of Elkhorn. All driveways must be constructed of concrete, brick, paving stone, asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding. The roof of all improvements shall be covered with shingles that have been approved in writing by the Declarant.

Section 5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one 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 retail business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by the Declarant, its agents or assigns, during the construction and sale of the Lots.

Section 6. No exposed exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot or on any structure on any Lot, except that a satellite dish not exceeding 18" in diameter may be permitted on the rear of a house provided that the Declarant and the Association have given their approval. No radio or television signals, or any other form of electromagnetic radiation or any type of signal of any kind or nature, be permitted to



originate from any Lot, which may unreasonably interfere with the reception of television or radio signals within the Properties.

Section 7. No vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the Properties, shall be allowed on the Properties. The Association is expressly authorized to tow away, at an offending owner's expense, any vehicle referred to in this Section which is in violation hereof or in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat, trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked in the subdivision, except in an area, if any, designated by the Board of Directors or except as otherwise permitted by the Declarant, or if the Declarant has released and relinquished this power, by the Association's Board of Directors.

Section 8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, motorcycle, motor home, recreation vehicle, 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). No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this restriction shall not apply to trucks, tractors, or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.

Section 9. No outside trash or garbage pile, burner, receptacle or incinerator shall be erected, placed or permitted on any Lot. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. 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 clothes line shall be permitted outside of any dwelling at any time.

Section 10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted to extend beyond the rear or back line of a main residential structure unless written approval is first obtained from the Declarant. No chain link fences or vinyl covered chain link fences shall be permitted. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. All produce or vegetable gardens shall be maintained only in rear yards.

Section 11. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.

Section 12. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built-upon corner Lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof.

Section 13. No livestock, fowl or poultry of any kind shall be permitted on any Lot. 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 dog runs and no dog houses shall be permitted. No more than a total of three dogs or cats (of any combination) shall be permitted on any Lot.

Section 14. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. 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 (12) inches.

Section 15. No structure of a temporary character, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings or modular housing improvements shall be moved to any Lot from outside Elkhorn Village

In addition to the restrictions above, the Declarants and the Association shall have the right to make and to enforce reasonable rules and regulations governing the use of the Lots.

## **ARTICLE VII** **Architectural Control**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications 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 Declarant pursuant to the procedure set forth in Article VI, Section 3. No exterior painting shall be commenced upon the Properties except such painting as shall be approved by the Declarant. In the event the Declarant fails to act upon such design and location within thirty (30) days after said plans and specifications have been submitted to the Declarant, approval will not be required and this Article will be deemed to have been fully complied with. The Architectural Control referred to in this paragraph shall not be applicable to initial construction by any builder or Owner, provided that the plans and specifications of which have been approved by the Declarant. The Declarant may assign the Declarant's rights of Architectural Control under this Article to the Association at any time.

## **ARTICLE VIII** **Insurance**

Section 1. Liability Insurance. The Association shall purchase and provide general liability coverage insurance in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association may provide liability coverage insurance for the Association's Officers, and members of the Board of Directors. In addition, the

Association may purchase such additional insurance against other hazards that may be deemed appropriate by the Board of Directors.

Section 2. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient.

## **ARTICLE IX**

### **Utility, Pipeline and Other Easements**

Section 1. A perpetual easement is hereby reserved in favor of and granted to the Omaha Public Power District, Qwest Corporation, and any company which has been granted a franchise to provide cable television system within the Lots, Metropolitan Utilities District, Aquila, Inc., and City of Elkhorn, Nebraska, their successors and assigns, to erect, operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits, and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat, and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, and the reception on, over, through, under and across a five-foot (5') wide strip of land abutting all front and side boundary lot lines; an eight-foot (8') wide strip of land abutting the rear boundary lines of all lots; and a sixteen-foot (16') wide strip of land abutting the rear boundary lines of all exterior lots. The term exterior lots is herein defined as those lots forming the outer perimeter of the above-described addition. Said sixteen-foot (16') wide easement will be reduced to an eight-foot (8') wide strip when the adjacent land is surveyed, platted and recorded. A perpetual easement is further reserved for the Metropolitan Utilities District, Aquila, Inc., and the City of Elkhorn, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five-foot (5') wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot Lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the said 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 uses or rights herein granted.

Section 2. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which Qwest Corporation files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then Qwest Corporation may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not been commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority.

Should such charge be implemented by Qwest Corporation and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) Qwest Corporation sends the owner of record a written statement or billing for Four Hundred Fifty and no/100 Dollars (\$450.00) for each unimproved Lot.

#### **ARTICLE X** **Covenant for Reimbursement**

Section 1. 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 and reimburse the Declarant at closing of the purchase of any Lot within the Properties, the outfall sewer/wastewater treatment facility charge required by Section 13.205 of the Municipal Code of the City of Elkhorn.

#### **ARTICLE XI** **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 provisions of this Declaration. Failure by the Association or by 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 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 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by the Declarant, or by any entity designated by the Declarant, in writing, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years from the date that this Declaration is recorded with the Register of Deeds in which the Properties is located. In addition, this Declaration may be amended by an instrument signed by not less than seventy percent (70%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property may be annexed to the Properties with the consent of two-thirds (2/3) of the members of the Association. There will be no annexation or dedication of Common Area.

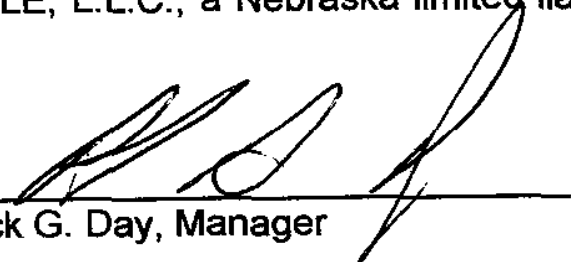
Section 5. Declarant, or its successors or assigns, may assign all or in part of its rights under the Declaration to any entity, including but not limited to the Association. Declarant, or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as

the Declarant, and such appointee shall thereafter serve as the Declarant with the same authority and powers as the original Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto executed this document on this 17 day of Feb, 2006.

**DECLARANT:**

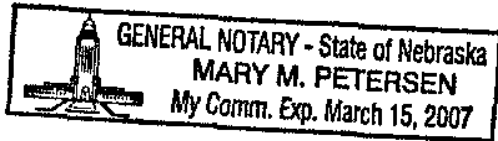
208<sup>th</sup> & MAPLE, L.L.C., a Nebraska limited liability company,

By:   
Patrick G. Day, Manager

State of Nebraska            )  
  ) ss.  
County of Douglas         )

On this 22 day of Feb, 2006, before me, a Notary Public in and for said county and state, personally came Patrick G. Day, Manager of 208<sup>th</sup> & MAPLE, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

  
Notary Public



CONSENT

The undersigned, PARKSIDE HOMES OF WYOMING, LLC, a Wyoming limited liability company, hereby consents to the recording of the Declaration of Covenants, Conditions, Restrictions and Easements with the Register of Deeds for Douglas County, Nebraska.

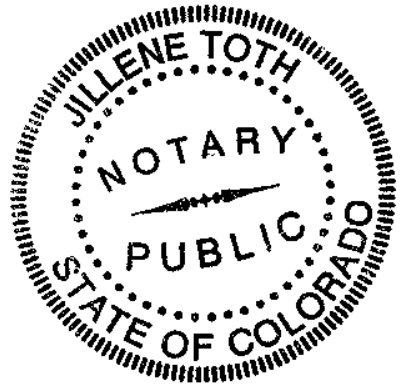
Dated this 22 day of FEBRUARY, 2006.

PARKSIDE HOMES OF WYOMING, LLC, a Wyoming limited liability company,

By: [Signature]  
Matt Deal, Managing Member

State of Colorado )  
County of Lincoln ) ss.

On this 22 day of February, 2006, before me, a Notary Public in and for said county and state, personally came Matt Deal, Managing Member of Parkside Homes of Wyoming, LLC, a Wyoming limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.



[Signature]  
Notary Public

**Exhibit A**

The following lots in Elkhorn Village: 1 through 66, inclusive, all located in Elkhorn Village, a subdivision in the City of Elkhorn, in Douglas County, Nebraska, as surveyed, platted and recorded.

And

Outlots A, B and C, Elkhorn Village, a subdivision in the City of Elkhorn, in Douglas County, Nebraska, as surveyed, platted and recorded.