

200802589

FILED  
OTOE COUNTY, NE  
FEE \$106.00

Page 1 of 14

2008 AUG 27 PM 12 47

*Janet Reed*  
REGISTER OF DEEDS

ENTERED  
VERIFIED  
SCANNED

**AMENDED AND RESTATED RESTRICTIVE COVENANTS**  
**(Timber Lake)**

The undersigned (Owner) is the titleholder of record or the Developer of the following-described real estate:

**Legal Description**

Lots 1-24, Block 1; Lots 1-11, Block 2; Lots 1-16, Block 3; and Lots 1-17, Block 4, Timber Lake, Otoe County, Nebraska, collectively referred to as "Residential Properties"; and

Lot 16, Block 3, Timber Lake, Otoe County, Nebraska, ("Commercial Lot")

The Residential Properties and Commercial Lot are collectively referred to as "Properties".

Outlots A, B and C Timber Lake, Otoe County, Nebraska, and the easements as shown on the plat for the community water and wastewater systems as well as an existing water well located in the northwest corner of the Commercial Lot together with a right of access from and to Outlot C, Northwood Lane, are collectively referred to as "Commons".

**Corporation**

Timber Lake Homeowners Association (Corporation) has been incorporated in Nebraska for the purposes of enforcing the Restrictive Covenants established upon the Residential Properties and administering and maintaining the Commons and providing services to its Members and the Commercial Lot.

**Nemaha NRD Facility and Easement**

Located upon the Residential Properties and Commons is a flood control structure built by the NRD with funding provided by the State of Nebraska ("State") and the Federal Emergency Management Agency ("FEMA"). The "NRD Facility" consists of a dam and water impoundment feature ("Lake"). The normal operation of the NRD Facility results in water level fluctuations between the elevations of 1,241.0' and 1,251.5' ("Flood Pool") after heavy precipitation events. The NRD is obligated to operate the NRD Facility in accordance with state statutes so as to preserve its ability to serve its flood control function according to the conditions established by the State and FEMA at the time of its construction. The NRD has the right to enforce and perform its obligations with regard to the NRD Facility upon the Residential Properties and Commons pursuant to the terms and conditions of Easements dated January 2, 2002 and recorded at Book 81, Page 393 and Book 81, Page 403 with the Otoe County Register of Deeds (collectively "NRD Easement") specifically including the right of access. The NRD will normally contact property owners in advance prior to exercising its right of access.

A condition of approval for the Timber Lake development was to notify future property owners of the interests of the NRD in the NRD Facility and its rights under the NRD Easement and to impose certain additional conditions and restrictions upon those portions of the Residential Properties and Commons that are subject to the NRD Easement pursuant to the provisions of these Covenants.

Please Return To:

**CAPITOL TITLE**  
**P.O. Box 6577**  
**Lincoln NE 68506**

200802589

**EXISTING COVENANTS**

Restrictive Covenants have been established for the Timber Lake Development, which were recorded on May 3, 2005, as Instrument No. 2005-01347 covering the Properties within Timber Lake and are referred to as "Covenants."

**ADDITION OF PROPERTIES**

Pursuant to paragraph 29 of the Covenants originally filed, the Owner is exercising its right to add additional real estate to the Properties and Commons. The Commercial Lot and additional Commons are hereby added and made subject to the Covenants as amended and restated below.

**AMENDMENT**

Owner, who currently controls forty-seven (47) of the sixty-eight (68) lots within the Residential Properties which is greater than the required two-thirds and pursuant to Paragraph 30 of the Covenants originally filed, is exercising its right to amend the Covenants in order to clarify the rights of the Commercial Lot with regard to the Commons. The amended and restated language Covenants are set forth below.

**RESTRICTIVE COVENANTS**

The following Restrictive Covenants are established upon the Residential Properties and Commons, and as may be applicable, the Commercial Lot:

1. **USE:** No lot within the Properties other than the Commercial Lot shall be used other than for residential purposes. The Commercial Lot is presently zoned for commercial use which use shall continue and that Lot shall not be subject to the Covenants except as specifically provided for below. The Commercial Lot may be further subdivided and developed.
2. **COMPLETION OF CONSTRUCTION:** Any building placed or constructed upon any lot within the Residential Properties shall be completed within twelve months after the commencement of construction.
3. **ANTENNAS:** No wiring or antenna for electrical power, telephone, television, radio, or any other use shall be permitted above ground, except within a building. Small satellite dishes shall be permitted subject to the requirements of paragraph 6.d.
4. **APPROVAL OF PLANS:** Owner or its assignees shall have the exclusive right to establish grades and slopes for all lots within the Residential Properties and to fix the grade at which any building or other improvement shall be placed or constructed upon any lot, in conformity with the general plan for the development of the Residential Properties. Plans for any structures, fences or other improvements to be placed or constructed upon any lot within the Residential Properties shall be submitted to Owner and shall show the design, size, and exterior material for the building or other

200802589



improvement and the plot plan for the lot. One set of plans shall be left on permanent file with Owner. Construction of the building or improvement shall not be commenced unless written approval of the plans has been secured from the Owner. The Owner shall give written approval or disapproval of the plans within 30 days after receipt. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. The Owner shall have the exclusive right to disapprove the plans, if in the Owner's opinion, the plans do not conform to the general standard of development in the Residential Properties. The rights and duties of the Owner under this paragraph, except as to lots of which the Owner is the titleholder, may be assigned by the Owner in writing to the Corporation at any time.

5. **GENERAL STANDARDS FOR DWELLING STRUCTURES.** The following general standards of development shall guide the Owner in the review of any plans for dwelling structures submitted for approval within the Timber Lake Addition. These standards shall not be relied upon, interpreted or applied as absolute requirements for plan approval. The Owner shall have the right, in its sole and absolute discretion, to modify the application and interpretation of these standards when exercising its plan approval authority. The Owner shall have the right to reduce, increase or otherwise explicitly modify these standards within other additions to the Properties.

a. **Minimum Floor Area.** The minimum floor area for any dwelling exclusive of basements, garages, porches, patios, decks or enclosed decks shall be as follows based upon an individual lot's designation as an (A) (B) or (C) class lot :

	(A)	(B)	(C)
i. Single story ranch style:	1,500 sq. ft.	1,300 sq. ft.	1,150 sq. ft.
ii. Two story:	2,100 sq. ft.	1,600 sq. ft.	1,400 sq. ft.
iii. Multi-level/split entry:	1,600 sq. ft.	1,300 sq. ft.	1,300 sq. ft.
iv. One and one-half story:	1,700 sq. ft.	1,500 sq. ft.	1,300 sq. ft.

b. **Setbacks.** Setbacks of dwellings from the lot lines shall comply with Otoe County zoning requirements, unless the County agrees to reduce the front yard setbacks upon the request of the Owner.

c. **Exterior Finish**

i. **Approval.** All exterior finish materials and colors shall be approved by the Owner.

ii. **Front Elevation.** The front elevation of any dwelling shall be faced 75% for (A) lots, 50% for (B) lots and 25% for (C) lots with brick masonry or stone or with 100% dryvitt, STO or stucco.

- iii. Exposed Foundation. Exposed foundation walls shall not exceed 30 inches and shall be painted or sided to match the exterior color scheme of the dwelling.
  - iv. Roofing Materials. Roofing materials shall be equal to or better than an architectural-grade shingle that provides an appearance of depth such as the Horizon shingle.
  - d. Roof Pitches. All roof pitches shall be a minimum of 6:12 or as may be dictated by a unique architectural style.
  - e. Solar Panels. Any active solar panels shall be flush with the roof or side wall of a dwelling and shall not be located in any required yard or upon any accessory structure.
6. GENERAL STANDARDS FOR IMPROVEMENTS AND STRUCTURES OTHER THAN DWELLINGS. The following general standards shall be satisfied in the construction and installation of improvements and structures other than the dwellings upon the Residential Properties and shall not be applied to the Commercial Lot. Written approval for other improvements and structures is not required but shall comply with these standards. The Corporation and members of the Corporation shall have the right to enforce these standards.
- a. Fencing. No fencing shall be permitted other than those constructed of wood, vinyl, concrete, or decorative iron fences. Woven wire, chain link and similar type fencing type materials are prohibited. All fences shall be approved by the Owner or Corporation prior to construction. Fencing shall not be constructed closer to the street than the front elevation of the dwelling and shall be constructed with the finished side facing the lot line. No fences shall be placed along or within the area subject to the NRD Easement surrounding the Lake.
  - b. Accessory Structures. As may be allowed by governmental land use and zoning restrictions, accessory structures including detached storage buildings, garages, shops, storage sheds, playhouses and other outbuildings are permitted provided they are constructed of compatible and similar materials and design with the dwelling. All other accessory improvements such as swing sets and sand boxes shall be compatible with the quality of the overall development and shall be maintained in good order and an attractive condition. Docks shall be permitted for Lots 20 thru 24, Block 1 and Lots 1 thru 4, Block 3 with the docks being approved by the Owner/Association or their assigns. All docks must be of the floating variety and be removed from the Lake November 1 thru March 31. A gazebo, or similar type structure, may be located within the NRD Easement area and permanent pool of the Lake subject to approval by the NRD and the Owner/Association or their assigns. The NRD will not be held liable for any damages to boat docks specifically damages from flood waters or fluctuating water levels. The Association shall be allow one (1) dock located at its discretion on Commons

200802589



- c. Dog Kennels. Any dog run or kennel shall be adequately screened from view and shall not be located in the front yard or within 7.5 feet of any lot line. Dog runs and kennels shall not be located in the front yard or side yard setback or within any NRD easement.
  - d. Satellite Dish. Any satellite dish shall be located and screened so as to be as unobtrusive as is reasonably possible.
  - e. Landscaping/Fescue Grass. All front, side and rear yard areas, including the NRD easement area on the Lake Lots shall be seeded or sodded within six (6) months after completion of any dwelling constructed within the Residential Properties. During construction and while lawns are becoming established, builders and lot owners shall be responsible for taking steps to prevent erosion. All turf grass shall be a variety of fescue. Within one year of the occupancy of the dwelling, not less than \$500 shall be spent on each lot within the Residential Properties for landscaping other than the turf.
  - f. Mailboxes. A standard mailbox type will be designated by the Owner for all properties.
7. NRD STANDARDS AND RESTRICTIONS: The following standards and restrictions shall be applied to all Properties and Commons that are subject to the NRD Easement:
- a. Structures. All structures shall be located above the 1,251.5' elevation line other than open, recreational or other outdoor structures that will not be damaged by periodic water level fluctuations and that have permission from the NRD. The NRD may have available a structure type or design that would meet these criteria.
  - b. Use Restrictions. The following uses shall be prohibited at an elevation of 1,247.5' and below:
    - i. Floating Hazards. No lumber, refuse, firewood, debris or other small items that may float and create problems with the operation of the NRD Facility or negatively impact water quality shall be placed or permitted to remain.
    - ii. Animals. No pets or other animals shall be permitted to permanently reside at or below this elevation specifically excluding any kennels, stables or fenced areas that do not include an adequate area for the fenced animals above the restricted elevation.
    - iii. No Grade Alteration. The grade at or below the restricted elevation shall not be altered with out the prior approval of the Corporation and the NRD.
  - c. Grass Buffer. A native grass buffer of not less than 30 feet from and above the 1,247.5' elevation line shall be maintained. The buffer strip may not be burned or

200802589

treated with chemicals. The NRD will allow property owners to mow a portion of the 30 foot buffer area on their property given the following conditions:

- 1.) The mowed path within the 30 foot grass buffer area will be mowed in an "S" shaped pattern and shall be mowed no more than 5 feet in width. In addition, the NRD will allow additional mowing within the buffer area consisting of an area 15 feet wide and 30 feet long on each individual lot directly adjacent to the lake. The "S" shaped path and this additional mowed area shall be connected.
- 2.) In the event excessive mowing or foot traffic kills the existing grass, the NRD will require the property owner/s to reseed the affected area/s with a grass mix that will withstand these conditions. Reseeding will be conducted by and at the full expense of the property owner/s.
- 3.) At no point in time will the NRD allow any area within the grass buffer area to be converted to individual sand beaches.
- 4.) The grass buffer area is a direct benefit to all property owners at Timber Lake in that the grass buffer acts as a filter and prevents unwanted fertilizers and chemicals from entering Timber Lake thereby protecting and enhancing the water quality of Timber Lake.

Should the grass strip be damaged or destroyed, it shall be replaced at the property owner's expense with a grass species approved by the NRD. The NRD may approve in its absolute discretion the reseeding or periodic mowing of the grass buffer strip.

- d. No NRD Liability. The NRD shall have no liability for any damage caused to property or structures as a result of water level fluctuations within the Flood Pool.
  - e. Enforcement of NRD Requirements. In the event any member fails or refuses to fully perform any required maintenance or satisfy NRD requirements set forth above or in any manner are violating the terms and conditions of the NRD Easement, then the Owner, Corporation or NRD, after seven (7) days written notice to the member, may perform the required work or maintenance or otherwise correct the problem or cure the default. The actual cost of performing the work, maintenance, correcting the problem or curing the default together with a 10% administrative fee shall be the personal obligation of the member who is or was the owner of the lot failing to perform their maintenance obligations, shall bear interest at the rate of 14% per annum and shall be a lien upon the lot when assessed and recorded.
8. COMMON FENCING: Owner shall have the option to install on the lot line of the Commons or any lot within the Properties abutting State Highway 2 or County Road No. 2, a common fence and shall have a temporary construction easement as may be necessary to exercise this option. Upon construction of any such common fence, Owner shall record a notice upon the lots affected and any fence so constructed shall become Commons as provided for in these Covenants. Owner's option under this paragraph shall terminate upon the conversion of Class B membership to Class A membership.

200802589



9. **COUNTY REQUIREMENTS:** All buildings within the Properties shall be constructed in conformity with the requirements of the applicable building codes of Otoe County, Nebraska. Public sidewalks and street trees shall be installed during the construction of the dwelling as required by law.
10. **TEMPORARY STRUCTURES:** No partially completed dwelling or temporary building and no trailer, tent, shack, or garage on any lot within the Properties shall be used as either a temporary or permanent residence.
11. **NUISANCE:** No noxious or offensive activity shall be conducted or permitted upon any lot within the Properties, nor anything which is or may become an annoyance or nuisance to the neighborhood or which endangers the health or unreasonably disturbs the quiet of the occupants of adjoining lots.
12. **SIGNS:** No advertising signs, billboards, or other advertising devices shall be permitted on any lot within the Residential Properties larger than 24 inches by 36 inches. However, Owner may erect signs of any size advertising lots for sale within the Properties, and a sign advertising a single lot for sale may be erected upon any lot. The Commercial Lot is not subject to this restriction.
13. **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot within the Residential Properties for any commercial purpose. No farm or show animals of any kind shall be kept upon any lot within the Residential Properties.
14. **RECREATIONAL VEHICLES:** No trailers of any kind, unlicensed or non-operational motor vehicles, or recreational vehicles, such as campers, boats, jet skis, snowmobiles and any similar type vehicles shall be parked or stored upon any lot within the Residential Properties, except within an enclosed structure. Recreational vehicles may be temporarily parked or stored upon a lot for a period of time not more than 7 consecutive days or to exceed a total of 14 days per year.
15. **CONSTRUCTION VEHICLES AND ROLLOFF SERVICE.** Owner may designate and enforce locations through and over which all construction vehicles shall enter and exit the Properties during development. Owner shall also have the exclusive right to designate a single provider of rolloff service within the Residential Properties. The purpose of designating a single provider is to limit and control the number of service trucks operating within the Residential Properties. The rights of the Owner under this paragraph to designate a rolloff provider shall be assigned to the Corporation when residences shall have been placed or constructed upon all of the lots within the Residential Properties.
16. **HOMEOWNERS ASSOCIATION:** Every person or entity who owns a lot within the Residential Properties shall be a member of the Corporation. However, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.
17. **MANAGING AGENT.** The Owner or the Corporation may contract for the performance of any of the Corporation's rights, obligations or responsibilities with any entity or individual ("Managing Agent"). The Managing Agent shall exercise such authority which

200802589

may be granted by the Owner or Corporation. The fee charged by the Managing Agent shall be a common expense of the members.

18. **MEMBERSHIP:** The Corporation shall have two classes of membership:

Class A membership shall include all members of the Corporation except the Owner and any successor in interest. Each Class A member of the Corporation shall be entitled to all the rights of membership and to one vote for each lot.

Class B membership shall include only the Owner and any successor in interest. The Class B member shall be entitled to five votes for each lot, including all lots to be developed by Owner at a future time. However, the Class B membership shall be converted to Class A membership when the total number of votes entitled to be cast by Class A members equals the total number of votes entitled to be cast by the Class B member.

19. **CONVEYANCE OF COMMONS:** Owner shall convey any Commons to the Corporation, free from encumbrance, but subject to easements and restrictions then of record and any requirements of Otoe County, Nebraska at any time but no later than one year after the conversion of Class B membership to Class A membership.

20. **USE OF COMMONS:** The Owner of the Commercial Lot as well as each member of the Corporation shall have the right to use and enjoy the Commons as established by the rules, regulations and requirements of the Corporation and shall have an easement upon the Commons for its use which shall be appurtenant to the interest requisite for membership. No motorized boats or other recreational vehicles shall be permitted to operate upon the Lake. No boat may exceed twelve feet (12') in length. Access to the Lake from lots that are not contiguous, shall only be on and over the Dam portion of the Commons.

21. **RIGHTS IN COMMONS:** The rights and easements of the members of the Corporation and the owner of the Commercial Lot shall be subject to:

- a. The right of the Corporation to borrow money for the purpose of improving the Commons and to mortgage the Commons. In the event of default, the mortgagee shall have the right, after taking possession of the Commons, to charge admission and other fees as a condition of the continued use of any recreational facilities within the Commons by the members, and to open the facilities to a wider public until the mortgage debt is satisfied. Any mortgage of the Commons shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed mortgage is contained in the notice of the special meeting.
- b. The right of the Corporation to take any steps reasonably necessary to protect the Commons against foreclosure.

200802589



- c. The right of the Corporation to suspend the enjoyment of the facilities by any member for any period during which an assessment remains unpaid, and for a period not to exceed 30 days for any infraction of the published rules and regulations governing the use of the facilities.
  - d. The right of the Corporation to charge reasonable admission and other fees for the use of the facilities.
  - e. The right of the Corporation to dedicate or convey all or any part of the Commons to any public entity.
22. MAINTENANCE OF LANDSCAPE SCREENS: Each member of the Corporation shall be responsible for the upkeep and maintenance of any fence or landscape screen placed upon their lot (unless designated by the Owner as Commons) which responsibility shall be deemed a covenant to maintain enforceable by the Corporation.
23. GENERAL MAINTENANCE OBLIGATIONS. Each member of the Corporation shall be responsible for the proper storage and disposal of all construction debris and materials associated with the construction of any improvements upon their lot. Lots shall be periodically mowed and loose debris and materials picked up and properly stored to prevent them from being spread and blown throughout the Properties. Each member shall be responsible for the enforcement and monitoring of these obligations for all contractors and suppliers performing work upon their lot.
24. FAILURE TO MAINTAIN. In the event any member fails or refuses to perform any required maintenance the Owner or Corporation after seven (7) days notice to the member, may perform the required work or maintenance. The actual cost of performing the work or maintenance together with a 10% administrative fee shall be the personal obligation of the member who is or was the owner of the lot failing to perform their maintenance obligations, shall bear interest at the rate of 14% per annum and shall be a lien upon the lot when assessed and recorded.
25. CORPORATION RESPONSIBILITIES: The Corporation shall provide such services to its members as they may determine. These services and responsibilities of the Corporation shall include, but are not limited to, the following:
- a. Maintenance of Commons. The Corporation covenants and each member of the Corporation, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Commons to the extent not otherwise provided for by these Covenants, which Covenants by the members shall be satisfied by the payment of annual and special assessments for the administration, maintenance or improvement of the Commons.
  - b. Refuse Services. The Corporation shall provide to each member refuse collection services through a single designated provider. The cost of these services shall be paid for by the members directly to the provider. All members shall use the designated provider and may not elect to self serve trash

200802589

removal. If a member uses an alternate provider, that member shall remain obligated to also pay for the services of the designated provider as the contracted price contemplates services being provided to all members.

- c. Commercial Lot Services. The legal titleholder(s) of the Commercial Lot shall have the right, but not the obligation to connect to and use the community water and wastewater systems operated by the Corporation. The Commercial Lot shall also have the right, but not the obligation, to take access from and two Northwood Lane. The Commercial Lot owner(s) shall pay a fair and proportionate share of the costs and expenses incurred by the Corporation in providing the water and wastewater services based upon actual use as compared to average residential use of a dwelling. The fair and proportionate share may always be determined by actual metering, or may be based upon any industry recognized standard of average water use for the type of business conducted on the Commercial Lot or if no other basis has been selected, then on the equivalent basis of one (1) dwelling unit or lot equivalent for each 10,000 square feet of commercial building area. If the Commercial Lot takes any Northwood Lane access, the Commercial Lot shall share in one-half of the costs for the street maintenance, repair and replacement for that portion of the street adjoining the Commercial Lot.

26. UNIFORMITY AND LIEN OF DUES AND ASSESSMENTS: Annual dues and any special assessment for the services provided to the members shall be uniform as to each lot within the Residential Properties. The Commercial Lot shall pay assessments for any services as provided for in paragraph 25c above. The lien of any dues or special assessment shall, until shown of record, be subordinate to the lien of any mortgage placed upon the lot against which the assessment is levied.
27. ANNUAL ASSESSMENTS AND LIENS: Annual dues, any Commercial Lot assessments and special assessments, other than for capital improvements, may be levied by the Board of Directors of the Corporation. Any special assessment for capital improvements may be rejected at any time within 30 days of the notice of the levy by the vote of a majority of each class of members affected and entitled to vote, at a regular meeting of the members or at a special meeting of the members, if notice of a special assessment is contained in the notice of the special meeting.

The titleholder(s) of the Commercial Lot shall pay the assessments levied and members shall pay annual dues and special assessments to the Corporation or Managing Agent as billed. Each member's dues shall be determined on an annual basis for each fiscal year, prorating a fractional year which may occur by issuance of a building permit for any dwelling. The initial annual dues are established at \$500 per year per lot. Changes in the amount of future annual dues shall be based upon an estimate of the Corporation's costs for administration, maintenance and improvement of the Commons and each member shall pay the annual dues so established in advance. At the end of each fiscal year, a statement of the total year's Common's operating costs may be presented to the members of the Corporation and the members shall pay any excess charge to the Corporation within thirty (30) days of the statement.

200802589



- a. Budgets. The Corporation or Managing Agent shall prepare, approve and make available to each member a pro forma operating statement (budget) containing: (1) estimated revenue and expenses on an accrual basis; (2) the amount of any cash reserves of the Corporation currently available for replacement or major repair of the Commons and for contingencies; (3) an itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Commons; and (4) a general statement setting forth the procedures used by the Corporation in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Commons.
- b. Additional Charges: In addition to any amounts due or any other relief or remedy obtained against a member or the Commercial Lot titleholder(s) who is delinquent in the payment of any dues or assessments, each member agrees to pay such additional costs, fees, charges and expenditures ("Additional Charges") as the Corporation or Managing Agent may incur or levy in the process of collecting from each member or the Commercial Lot titleholder(s) monies due and delinquent. All Additional Charges shall be included in any judgment in any action brought to enforce collection of delinquent dues or assessments. Additional Charges shall include, but not be limited to, the following:
- i. Attorney's Fees: Reasonable attorney's fees and costs incurred in the event an attorney(s) is employed to collect any dues, assessment or sum due, whether by suit or otherwise;
  - ii. Late Charges: A late charge in an amount to be fixed by the Corporation to compensate the Corporation for additional collection costs incurred in the event any dues, assessment or other sum is not paid when due or within any "grace" period. The late charge shall not exceed ten percent (10%) of the delinquent assessment or twenty dollars (\$20), whichever is greater.
  - iii. Costs of Suit: Costs of suit and court costs incurred as allowed by the court;
  - iv. Filing Fees: Costs of filing notice of lien in the Office of the Register of Deeds;
  - v. Interest: Interest on all dues and assessments at the rate of 14% per annum, commencing thirty (30) days after the assessment becomes due; and
  - vi. Other: Any other costs that the Corporation may incur in the process of collecting delinquent dues and assessments.
- c. Lien. The dues and assessments shall be the personal obligation of the member or the Commercial Lot titleholder(s) who is the owner of the lot assessed at the time of the assessment and when shown of record shall be a lien upon the lot assessed.

200802589

- d. Fines. The Corporation may create a schedule of fines for violation of Corporation rules and regulations which fine shall be treated and billed as a special assessment to the offending member's lot.

28. UNDEVELOPED LOT FEE AND FIRST YEAR PRORATE. Upon the initial sale of a lot within the Residential Properties from the Owner, the purchaser shall pay to the Corporation the sum of \$100.00 in lieu of any annual dues or assessments. The \$100.00 annual fee shall be due and owing from the titleholder on January 1st of each and every year until such time as a residence is constructed upon the lot and occupied. No portion of this fee shall be credited to the annual dues or assessments.

Upon the initial occupancy of a residence on a lot within the Residential Properties, the titleholder of the lot shall pay to the corporation the prorated amount of the annual dues or assessments, prorated from the date of occupancy to the end of the calendar year.

29. ADDITIONS: The Owner or Freedom Properties, LLC, may add additional real estate from within the real estate shown on the attached Attachment "A" to the Properties or the Commons, at any time, without the consent of the members of the Corporation. Additions shall be made by the execution and recordation of Restrictive Covenants upon the additional real estate, making the addition of any property used for residential purposes subject to these Restrictive Covenants; provided the general standards set forth in paragraphs 5 and 6 may be reduced, increased or otherwise modified within any such addition. The Owner may convey this right to add real estate to the Properties and Commons with the conveyance of any of the real estate described in the attached Attachment "A". Should any additional commercial use properties be added to the Properties, the terms and conditions that it is subject to shall be similar to those provided for the Commercial Lot.

Should the Commons need to be expanded or modified in order to provide the necessary services for the additional properties such as roads, or additional water or waste water system capacity, all of the capital costs incurred for expanding the capacity shall be paid for as a condition of adding the real estate to the Properties and permitting their use of the Commons. The provisions of this paragraph 29 may not be amended, modified or materially changed so as to restrict or limit the rights retained or granted to the Owner or Freedom Properties, LLC without their prior written consent and approval.

30. AMENDMENTS: These Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Owner, all persons claiming under the Owner and all persons that have ratified or accepted the burdens or benefits. These Restrictive Covenants may be terminated or modified, in writing, by the owners of two-thirds of the lots within the Properties, at any time; provided paragraph 29 may not be amended, modified or materially changed so as to restrict or limit the rights retained or granted to the Owner or Freedom Properties, LLC without their prior written consent and approval.
31. RATIFICATION: The acceptance of a deed to any of the Properties, the payment of any assessments or the acceptance of any benefits derived from or burdens imposed by the Corporation shall be deemed to be a ratification, acceptance and approval of these Restrictive Covenants for the Timber Lake development.

200802589



- 32. **ENFORCEMENT:** The enforcement of these Restrictive Covenants may be by proceedings at law or in equity against any person violating or attempting to violate any provision hereof. The proceedings may be to restrain the violation, or to recover damages and, by the Corporation or Owner, may be to enforce any lien or obligation created hereby.
- 33. **SEVERABILITY:** The invalidation of any one of these Restrictive Covenants shall not affect the validity of the remaining provisions hereof.

Dated: August 1, 2008.

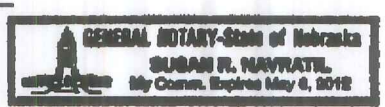
OTOE COUNTY DEVELOPMENT, L.L.C.

By: *Thomas P. Wanser*  
Thomas P. Wanser, Managing Member

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this First day of August, 2008, by Thomas P. Wanser, Managing Member of Otoe County Development, L.L.C., on behalf of the limited liability company.

*Susan R. Navratil*  
Notary Public



(C:\Documents and Settings\pwk\Desktop\Wanser - Timberlake\Amended Covenants (Timber Lake) 8-04-08.wpd)

200802589



ATTACHMENT 'A'

Page

190th Street

Hwy 2

200802589