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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR THE PLAT OF NATURE TRAILS, MILFORD,  
DICKINSON COUNTY, IOWA**

THIS DECLARATION, made on the date hereinafter set forth by Eastview, Inc. and its management (hereinafter referred to as "Declarants" and/or "Developer").

WITNESSETH:

WHEREAS, Declarants are the owners of certain properties situated in the City of Milford, Dickinson County, Iowa, which is more particularly described as:

Parcel E in the South One-Half of the Northeast Quarter, the Northwest Quarter of the Southeast Quarter, the Northeast Quarter of the Southwest Quarter and the Northeast Quarter of the Southeast Quarter in Section 31, Township 99 North, Range 36 West of the 5<sup>th</sup> P.M., in the City of Milford, Dickinson County, Iowa, as the same appears in a Plat of Survey by John L. Franklin, II, P.E./L.S., John Franklin Engineering, dated September 17, 2005 and filed December September 20, 2005 at Survey Record Book 12, Page 163 of the Dickinson County Recorder's Office (hereinafter referred to as the "Properties"); and

WHEREAS, Declarants are platting and will sell and convey said Properties subject to certain protective covenants, conditions, easements, restrictions, reservations, liens and charges as hereinafter set forth.

NOW THEREFORE, Declarants hereby declare that all of the Properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described Properties or any part thereof and shall inure to the benefit of each Owner thereof.

**ARTICLE 1. Definition**

Section 1.01. "Association" shall mean and refer to Nature Trails Owners' Association, Inc., its successors and assigns, a non-profit corporation organized pursuant to Chapter 504. of the 2003 Code of Iowa, as amended (hereinafter referred to as "Association" and/or "Owners' Association").

Section 1.02. "Properties" shall mean and refer to that certain real property hereinbefore described.

Section 1.03. "Common Area(s)" shall mean all real property, including improvements thereon, owned by the Association for the common use and enjoyment of the Owners and any real property on which a perpetual easement has been granted to the Association. Common Areas shall include, but not be limited to:

- a. Lot 39, Outlots 2, 3, 4 and 5, which are permanent wetlands (referred to herein as "wetlands").
- b. Lot 2 and the recreation facilities located thereon, including without thereby limiting, the recreation building (the "club house") and swimming pool to be located thereon. The Association shall adopt rules and regulations for the reservation and use of the recreation facilities. The recreation facilities located on Lot 2 shall be controlled, maintained, repaired or replaced by the Association and the cost thereof shall be assessed by the Association in equal shares against all the Lot Owners within the Plat of Nature Trails;

- c. The 16 foot access easement to Lot 2 shown in the James R. Blum Plat of Survey;
- d. The 15 foot drainage easement and access shown in between Lot 21 and Outlot 2 and in between Lot 7 and 8 of the James R. Blum Plat of Survey;
- e. 30' by 40' landscape easements shown in Lot 3 and 38 of the James R. Blum Plat of Survey;
- f. Drainage and other easements and notations shown in the James R. Blum Plat of Survey, not specifically recited herein, which, by this reference are incorporated herein as if fully set forth herein;
- g. Outlot 1, designated as "Nature View Park" in the James R. Blum Plat of Survey, is a private park for all the Lots Owners of the Plat, and at this time is a Common Area to be maintained by the Association and not dedicated to the City of Milford, Iowa. The Developer reserves the right to convey this park to the City of Milford, Iowa without obtaining consent from any of the Lot Owners, their mortgagees or lienholders, and/or the Owners' Association. Upon sale of 2/3rds of the Lots (both on Phase I and II) by the Developer, this right to convey this park to the City of Milford, Iowa shall pass to the Owners' Association. In the event this park is conveyed to City of Milford, Iowa, then it shall be removed from the Common Areas and no longer be deemed Common Area and shall become property of the City to be maintained by the City and not by the Owners' Association; and

Section 1.04. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision of the Properties, with the exception of the Common Area(s). In the event any part of the Properties is replatted and a subsequent plat is recorded, then "Lot" shall refer to the numbered Lots shown on such replatting and such subsequent recorded Plat.

Section 1.05. "Owner" shall mean and refer to the record owner, including a contract buyer and/or life tenant, whether one or more persons or entities, of title to any Lot (or Unit as defined below) which is a part of the Properties, but excluding those having a lien upon the Properties by provision or operation of law.

Section 1.06. "Declarant" shall mean and refer to the Developer, Eastview, Inc. and its management; their successors and assigns.

Section 1.07. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions to which the Properties are subject.

Section 1.08. "Developer" or "Developers" shall mean and refer to Eastview, Inc.

Section 1.09. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.10. "House" shall mean and refer to any building situated on a Lot and designated and intended for use and occupancy as full-time residence by a single family.

Section 1.11. "Guest House" shall mean and refer to any building situated on a Lot and designated and intended for use and occupancy on a part-time basis. A garage cannot be used as a guest house.

Section 1.12. "Outbuilding" shall mean and refer to any structure or improvements on a Lot other than a House or Guest House.

Section 1.13. "Utility" shall mean and refer to water, sanitary sewer, electric,

telephone, cable television and gas.

Section 1.14. "Plat" and/or "Nature Trails" shall mean and refer to the Plat of Nature Trails, Milford, Dickinson County, Iowa.

Section 1.15. "Bylaws" means the Bylaws of the Association, attached hereto and by this reference made a part hereof, as amended from time-to-time.

Section 1.16. "Common Expenses" means and includes:

- (a) All sums lawfully assessed against the Owners by the Board of Directors;
- (b) All expenses of administration and management, maintenance, operation, repair or replacement of and additions to the Common Area(s);
- (c) Expenses agreed upon as common expenses by the Owners; and
- (d) Expenses agreed upon as common expenses pursuant to his Declaration or by the Bylaws.

Section 1.17. "Majority" or "Majority of Owners" means more than fifty percent (50%) of the votes as determined by Sections 4.01 and 4.02 of Article 4 hereof.

Section 1.18. "Occupant" means a person or persons in possession of all or any part of a Lot, regardless of whether said person is an Owner. The term includes family, guests, tenants and invitees of an Owner, and the terms and provisions hereof shall be binding upon all Occupants.

Section 1.19. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 1.20. "Context." Whenever the context so permits or requires, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.

Section 1.21. "Successors". References to an Owner, the Association, or any person or entity shall include the respective successors, grantees and assigns thereof.

Section 1.22. "Partial Invalidity". The invalidity of any covenant, restriction, agreement, undertaking, or other provision of this Declaration, Articles or Bylaws shall not affect the validity of the remaining portions thereof.

Section 1.23. "Exhibits". Exhibits attached hereto and referred to herein are by this reference made a part hereof with the same force and effect as other provision of this Declaration.

Section 1.24. "Unit". Unit(s) shall refer to the unit(s)/apartment(s)/townhome(s) located within Lot 38, Lot 3 or Lot 1.

Section 1.25. "Phase I". Phase I is the current attached Plat of Nature Trails, consisting of Lots 1 through 56 and Outlots 1 through 6. Phase II is the future planned development of Parcel E, described in the attached James R. Blum Survey Plat of Nature Trails, including but not limited to, the development and subdivision of Outlot 6, shown on the attached James R. Blum Survey Plat.

## ARTICLE 2. Property Subject to This Declaration

Section 2.01. "The Properties". The Properties, as defined above, shall be held, transferred, sold, conveyed and occupied subject to and in accordance with this Declaration.

## ARTICLE 3. Owners Association

Section 3.01. Every person or entity who is an Owner of any Lot shall be a

member of the Association, as used herein "member" shall not mean a member as defined in Iowa Code Section 504.A(11) and the Association shall have no members as so defined. In the event of a sale of a Lot by real estate contract, the contract vendee shall be the member for purposes of membership in the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Owners shall be entitled to one vote for each lot owned, with the exception of Lot 38, which shall have a total number of votes of 12; Lot 3, which shall have a total number of votes of 6; and Lot 1, which shall have a total number of votes of 4. The foregoing votes for Lots 38, 1 and 3 represents the units/apartments/townhouses to be built on said lots. Lot 2 has no vote as it is a Common Area. Membership shall be appurtenant to and may not be separated from ownership of any Lot, or Unit. Ownership of such Lot (or Unit) shall be the sole qualification for membership. In the event of multiple, corporate, or fiduciary ownership of a Lot (or Unit), said Owner(s) shall designate a person in writing, filed with the Secretary of the Association, said person to act as Owner in connection with the voting rights and administration referred to in this Declaration and Bylaws. Notices to be given by the Association are properly given to the Owner(s) of the respective Lot (or Unit) if given to the designated person. Each Lot shall be entitled to have one vote and that vote may not be split, with the exception of Lot 38, which shall have a total number of votes of 12; Lot 3, which shall have a total number of votes of 6; and Lot 1, which shall have a total number of votes of 4; the foregoing votes for each of these lots representing the units to be built on said lots. The owner of a Lot (or Unit) shall be a member of the Association and shall remain a member of said Association until such time as ownership of the Lot/Unit ceases.

Section 3.02. Quorum. A quorum for any meeting of the Owners Association shall be more than 50% of the allowable votes as provided in Article 4, in person or by proxy. If the required quorum is not forthcoming at any meeting, another meeting may be called, upon due notice, and the required quorum at any such subsequent meeting shall be  $\frac{1}{2}$  of the required quorum at the preceding meeting.

Section 3.03. Each Owner shall be a member of the Association so long as he/she is an Owner. An Owner's membership shall automatically terminate when he/she ceases to be an Owner. Upon the conveyance or transfer of an Owner's interest to a new Owner, by operation of law or otherwise, the new Owner shall simultaneously succeed to the former Owner's membership in the Association.

Section 3.04. The Association is hereby irrevocably appointed attorney-in-fact for the Owners to manage, control and deal with the interest of such Owners in the Common Areas so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder. The acceptance by any person or entity of any interest in any Lot shall constitute an appointment of the Association as an attorney-in-fact as provided above.

#### ARTICLE 4. Voting Rights

Section 4.01. Owners. Owners shall be entitled to one vote for each Lot owned, with the exception of Lot 38, which shall have a total number of votes of 12; Lot 3, which shall have a total number of votes of 6; and Lot 1, which shall have a total number of votes of 4; the foregoing votes for each of these lots representing the units to be built on said lots. Lot 2 shall have not vote as it is a Common Area. When more than one person holds such interest in any Lot/Unit, the vote for such Lot/Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot/Unit, but in no event shall any fractional interest be voted.

Section 4.02. Developer Votes. The Developer shall be entitled to one (1) vote for each Lot in all phases for which it is the Owner. The Developers' rights herein shall cease on the happening of the following events, whichever occur earlier:

a. Until  $\frac{2}{3}$  of all of the lots in all phases (Phase I, Lots 1 through 56 and Phase II, the Developer reserves unto itself the right to subdivide Outlot 6 into additional

lots, which, at the Developer's discretion, may be part of these covenants and Association) have been sold by the Developer; or

- b. On July 1, 2025, unless renewed.

#### Article 5. Management

Section 5.01. There has been formed an Association having the name Nature Trails Owners' Association, Inc., an Iowa nonprofit corporation, which Association shall be the governing body of all of the Owners, for the maintenance, repair, replacement, administration and operation of the Common Area(s), this Declaration and the Bylaws. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the Bylaws. The fiscal year of the Association shall be determined by the Board, and may be changed from time-to-time, as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association and funds received by it shall be held and applied by it for the use and benefit of the Owners in accordance with the provisions of this Declaration and the Bylaws, except as provided for herein.

Section 5.02. The Board of Directors shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Common Area(s), or any part thereof, to the extent deemed advised by the Board of Directors. The Board of Directors shall also have the authority (but shall not be obligated) to engage, supervise, and control such employees as the Board of Directors deems advisable to clean and maintain all or any part of the Common Area(s) to the extent the Board of Directors deems it advisable to provide such services; and to contract with a single entity for regular and/or periodic trash removal, or other services. The cost of such services shall be a common expense.

Section 5.03. The directors, Board, and officers of the Association shall not be personally liable to the Owners for any mistake in judgment, or for any acts or omissions of any nature whatsoever as such directors, Board or officers except for any acts or omissions found by a court to constitute gross negligence, fraud or intentional wrongdoing. The Association shall indemnify and hold harmless each of the directors, Board and officers and their respective heirs, executors, administrators, successors and assigns in accordance with the provisions of the Bylaws and the Code of Iowa.

Section 5.04. In the event of any dispute and disagreement between any Owners or any questions or interpretation or application of the provisions of the Declaration or Bylaws, such dispute or disagreement shall be submitted to the Board of Directors. The determination of such dispute or disagreement by the Board of Directors shall be binding on each and all such Owners, subject to the right of Owners to seek other remedies provided by law after determination by the Board.

The Association shall have the authority to amend and adopt reasonable rules and regulations governing the use of the Common Area(s) and such rules shall be observed and obeyed by the Owners and Occupants. Such rules after being properly adopted shall have the same force and effect as if contained in this Declaration.

#### ARTICLE 6. Property Rights

Section 6.01. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area(s), except the wetlands (subject to any reasonable and non-discriminating rules and regulations which may be enacted by the Association) and such easement(s) shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area(s) and facilities and in aid thereof to mortgage said Properties, provided that the rights of such mortgagee in such Properties shall be subordinate to the

rights of the Owners hereunder.

- b. The right of the Association to suspend the voting rights of and use of the Common Area(s) 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.
- c. The right of the Association to dedicate or transfer all or any part of the Common Area(s) to any public agency, political or governmental entity, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument is signed by the Owners entitled to cast a majority of the votes as provided in Section 4.01 and 4.02 of Article 4 agreeing to such dedication or transfer, or unless written notice of the proposed action is sent to every Owner not less than thirty (30) days nor more than sixty (60) days in advance.
- d. The right and/or obligation of the Declarants to designate, establish, grant, dedicate, install and/or maintain utilities and drainage easements within the Common Areas.
- e. The wetlands are to remain in their natural state and may not be used by any Owners or Occupants, excluding the Developer. These wetlands are to be maintained by the Association in accordance with the requirements of the Natural Resources Conservation Services (NRCS).
- f. The right of the Declarants and/or such other builders so designated by Declarants to maintain a sales office within a model home.
- g. The right of the Declarants to provide landscaping, outdoor furniture and recreational equipment, signs, decorative structures and necessary appurtenant utilities in the Common Area(s); and
- h. The rules and regulations promulgated and published by the Association's Board of Directors, the Association's Articles of Incorporation and Bylaws, and those accompanying this Declaration.

Section 6.02. Delegation of Use. Any Member may delegate his right of enjoyment to the Common Area(s) and facilities to an Occupant; provided, however, that this delegation shall be subject to the rules and regulations as provided by the Board of Directors for the use of the Common Area(s); provided, however, this Section shall not relieve an Owner or Occupant from their obligations herein.

Section 6.03. Title to the Common Area(s). The Declarants hereby covenant for their successors and assigns that they shall convey to the Association, from time to time, the fee title to the Common Area(s)s, free and clear of all mechanic's liens or any liens or encumbrances whatsoever except covenants, easements, conditions and restrictions, whether or not of record or created by this Declaration or granted to the City of Milford, Iowa; the NRCS; FSA; or any other governmental or political entity. The Common Areas shall not be considered to include property dedicated to the City of Milford, Iowa, or any other governmental or political entity at the time of platting or later, as provided herein.

Section 6.04. Use of the Common Areas. The Common Areas shall be used strictly in accordance with the provisions of the Declaration and rules and regulations promulgated by the Association. No Owner shall obstruct or interfere whatsoever with the rights and privileges of other Owners or the Association in the Common Areas and nothing shall be planted, altered, constructed upon or removed from the Common Areas except by prior written consent of the Association. If an Owner/Occupant violates this section, the Association shall have the right to restore the Common Areas to the prior condition and charge and assess the cost thereof against the Owner and/or the Occupant who violates this section and such cost shall become a special assessment and a lien upon

the Lot of such Owner and/or Occupant and shall become due and payable upon demand. The Association shall have the same rights and powers to collect the cost of such restoration as provided herein for the collection of delinquent assessments. If an Owner interferes with the rights and privileges of another Owner in the use of the Common Areas, the Association or the offended Owner may commence an action to enjoin such interference and the prevailing party shall be entitled to recover such reasonable attorney's fees as the court may allow, together with all necessary costs and disbursements incurred in connection therewith.

The Developer reserves an easement over the Common Areas for the purpose of completing the improvements and phases thereof. Provided, however, the Developer shall restore any Common Areas disturbed by Developer's use of such easement to the condition existing prior to the disturbance as soon as practically feasible after Developer's use of the easement rights granted herein are concluded. Also, the easement rights granted herein shall be exercised by the Developer only if and when the access required by Developer is not otherwise reasonably available other than over, across or through the Common Areas.

Agents of, or contractors hired by the Association may enter upon any Lot when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the Owner(s) as practicable.

Section 6.05. Duration. The Common Areas shall not be changed and shall continue in perpetuity except by approval of 2/3rds of the vote as provided in Sections 4.01 and 4.02 of Article 4 hereof.

#### ARTICLE 7. Covenant for Assessments

Section 7.01. Creation of the Lien and Personal Obligation of Assessments. The Declarants, for each Lot, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor, or as a buyer on a real estate contract for the purchase of a Lot(s), whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges, which shall not be more than \$50 annually through calendar year 2005;
- b. Common expense assessments; and
- c. Special assessments for capital improvements.

Such assessments to be fixed, established and collected from time to time as hereinafter provided.

The Association shall maintain all Common Areas and shall make assessments therefor as a common expense except where the cost of maintenance has been specifically made the responsibility of each Lot in which case, each such Lot shall be assessed on an individual basis. If a Lot Owner defaults on his/her responsibilities of maintenance, the Association shall assume such responsibilities and shall assess the cost thereof against the Owner of such Lot and such assessment shall be collectible from the Lot Owner as if it were an assessment for common expenses. In addition and not in limitation, the Association may charge said non-compliant Owner at least \$50.00 per day in liquid damages for each day in violation thereof and/or interest on say amount at an interest rate to be determined by the Association.

The annual, common expenses, and special assessments, together with such interest and penalties thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each assessment, together with such interest, penalties, 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 pass to the Owner's successors in title, except as hereinafter provided in Section 7.07.

No diminution or abatement of an assessment shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Area(s) or from any action taken to comply with any law, ordinance or orders of a governmental authority.

Section 7.02. Special Assessments. In addition to the annual assessments and common expenses authorized above, the Association may levy special assessments. If the Association wishes to levy a special assessment for the purpose of construction or reconstruction of a capital improvement costing in excess of \$5,000.00 then any such assessment must be approved by a vote of 2/3rds of the Owners voting as set forth in Section 4.01 and 4.02 of Article 4 hereof. Written notice of the meeting at which such vote is to take place shall be sent to the Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting.

Whenever in the judgment of the Board of Directors, the Common Areas require additions, alterations or improvements during the fiscal year costing in the aggregate in excess of \$5,000.00, and the making of such additions, alterations or improvements shall have been approved by a majority of Lot Owners, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess to all Lot Owners for the cost thereof as a common charge. Any additions, alterations, or improvements during the fiscal year costing in the aggregate \$5,000.00 or less may be made by the Board of Directors without approval of Lot Owners, and the cost thereof shall constitute part of the common expenses.

Section 7.03. Equal Rate of Assessment. Both annual, common expense, and special assessments shall be fixed at an equal rate for all Lots and may be collected on an annual, monthly or other basis as determined by the Association.

Section 7.04. Developer Assessment. Developer reserves the right to develop the Properties in phases. At this time, it is the Developer's intent to later develop and subdivide Outlot 6 into additional lots, which at the Developer's discretion, may be part of these covenants and Association. Developer reserves the right to determine which lots will be in which phases. Assessments shall be fixed at an equal rate for all Lots in the phase or phases from time to time developed. Assessments shall not be made for any lots, which have not yet been developed.

Section 7.05. Date of Commencement of Annual Assessments: Due Dates. The assessments provided for herein shall commence as to all Lots on a date determined by the Board of Directors of the Association. The first assessments shall be adjusted according to the number of months remaining in the assessment year. The Board of Directors shall fix the amount of the assessment against each Lot at least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every Owner subject thereto, or the designated person, if applicable. The due dates shall be established by the Board of Directors. The Association shall, upon demand, at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7.06. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 1 ½% per month (or another interest rate established by the Association) and the Association may bring an action at law against the Owner to pay the same and may foreclose the lien against the property. In addition and not in limitation, the Association may charge said non-compliant Owner at least \$50.00 per day in liquid damages for each day in violation thereof. Interest, costs,

penalties and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area(s) or abandonment of his Lot.

Section 7.07. Subordination of Assessment Lien to Mortgages. If any Lot subject to a lien created by any provision in this Declaration shall be subject to the lien of a first mortgage of record: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage and (ii) the foreclosure of the lien of such mortgage or the acceptance of a deed in lieu of the foreclosure by the mortgagee shall not operate to affect or impair the assessment lien, except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments. Any such party shall take subject to assessments that have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or deed given in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure and have not been paid, shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting Owner personally.

Section 7.08. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- a. All property which is dedicated to and accepted by a public authority; and
- b. All Common Areas.

Notwithstanding any provisions herein, no land or improvements devoted to a residential use shall be exempt from said assessments, charge or liens.

#### ARTICLE 8. Architectural Control/Design Committee

Section 8.01. Scope of Architectural Control. In order to preserve the general design for the development of the whole of the Plat of Nature Trails as a fine residential community, no house or outbuilding, or improvement of any kind, nor any addition thereto or landscaping shall be erected or undertaken upon any Lot unless the plan, design, building materials, exterior color, landscaping plan and location thereof shall have first been approved by the Architectural Control/Design Committee of the Board of Directors. Until 2/3rds of the Lots (on both of Phase I and II) in the Plat of Nature Trails are sold, the Architectural Control/Design Committee shall be a Board composed of three (3) persons appointed by the Developer. After 2/3rds of the Lots (on both Phase I and II) in the Plat of Nature Trails are sold, the Architectural Control/Design Committee shall be a Board composed of three (3) persons appointed by the Board of Directors of the Association, all of whom may be Members of the Board of Directors of the Association. Each committee member shall serve for a one-year term and no member of this committee, except the Declarants or their appointees, shall be allowed to serve more than three (3) consecutive terms.

Section 8.02. Approval of Plans. No grading of any Lot, no house or outbuilding, no fence, wall or other structure, and no landscaping shall be commenced, erected, altered or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to the harmony of external design and location in relation to the surrounding homes and topography and the Architectural Control Committee standards. A site plan for the entire Lot shall also be submitted for

approval at the same time. Any change in appearance or color of any part of the exterior of a house or outbuilding shall be deemed a change thereto and shall require the approval therefor as above provided.

Section 8.03. Procedure. In order to obtain the approval of the Architectural Control Committee, an Owner or Member shall submit a complete set of architectural plans, which plans shall show in sufficient detail the following:

- a. All exterior design elements;
- b. All exterior building materials;
- c. All exterior colors;
- d. Interior square footage and garage space;
- e. Location of all proposed improvements on the Lot;
- f. All grading details shall be submitted for approval; and
- g. A complete site plan for the Lot.

No approval of the plans shall be given unless the proposed improvement or construction shall meet all of the expressed provisions of this Declaration and the Architectural Control Committee standards and shall be in accordance with the spirit and harmony of this Declaration and the Architectural Control Committee standards.

The Architectural Control Committee shall make a decision, which shall be in writing and mailed to the last known address or personally delivered to the Owner within thirty (30) days of the receipt of a complete set of such plans. Failure to approve or disapprove such plans within thirty (30) days shall be deemed approval.

#### **ARTICLE 9. Specific Provisions and Use Restrictions**

Section 9.01. Restrictive Covenants. The following restrictive covenants shall apply to all Lots in the subdivision and be binding upon all present and future Owners of each and every Lot and parcel of ground in said subdivision according to the terms herein specified as covenants running with the land and with the same force and effect as if contained in each subsequent conveyance of said Lots.

1. Except for Lot 2 which is part of the Common Area, except for Lots 1 and 3 which are multi-family residential lots, and except for Lots 38 which at the sole option of the Developer may be multi-family residential lot, all other Lots described herein shall be known, described and used solely as single-family residential Lots and no structure shall be erected on any residential building Lot except as shall be approved by the Association or except for rights of Declarants as provided herein.

2. Even though the City of Milford's Ordinances only require a side yard setback of 7 feet in the single family residential district, as a restrictive covenant of this platting, the side yard setback for all lots located in the single family residential district (which are all the lots except Lots 1, 2, 3 and 38) shall have a minimum setback to the side Lot line of 10 feet. Otherwise, the setbacks shall be in accordance with the City of Milford, Iowa Zoning Ordinances, unless a variance is granted by the appropriate City of Milford agency and approved by the Architectural Control Committee. The front yard depth shall be measured from the right-of-way line and all dimensions shall be measured to the foundation. All Lot area width and yard requirements are subject to the zoning ordinance and subdivision regulations of the City of Milford, Dickinson County, Iowa, as amended. For purposes of construction, the front Lot lines shall be on the street side of the Lots as used in these restrictions.

4. No residential Lot shall be re-subdivided to a smaller Lot, with the exception of Outlot 6, which may be subdivided into additional lots. This shall not be interpreted to restrict a subdivision of more than one Lot in a manner that creates a larger Lot(s) or restrict the submission of Lots 1, 3 and 38 to an horizontal property regime (condominium). No Lot Owner shall grant an access through her or his Lot for other Lot Owners or to another residential development.

5. Every house in this plan shall contain a minimum square feet of finished floor space as outlined below in sections 5(a) through 5(f). Computation of finished floor space shall not include porches, breezeways, garages, attics, cellars or basements. All dwellings shall have a minimum 2-car attached garage of no less than twenty-four feet (24') wide.

- a. One-story dwellings must have a ground floor finished area of not less than 1,400 sq. ft.;
- b. One and one-half story dwellings must have not less than 1,400 sq. ft. of finished area on the ground floor and a total on the main and second floor of not less than 2,000 sq. ft.;
- c. Two-story dwellings must not have less than 1,400 sq. ft. of finished area on the ground floor and a total on the main and second floor of not less than 2,200 sq. ft.;
- d. Split-entry dwellings must not have less than 2,400 sq. ft. of finished area, with a minimum square footage of 1,400 sq. ft. on the main floor;
- e. All dwelling units must have at least a 2-car attached garage or double basement garage; and
- f. No building shall be moved onto any Lot.

6. Driveways on all Lots shall be concrete, or other non-permeable substances approved by the Architectural Control Committee from the hard-surfaced roadway on which the respective Lot fronts; provided, however, there shall be no bituminous ("asphalt") substances used.

7. No mobile home or manufactured home, as defined in the Code of Iowa, shall be placed upon or erected on any Lot.

8. No house shall be constructed, altered or maintained on any Lot unless it has a driveway running from a street to the house, which driveway must be of at least the width of the garage and have space to allow two (2) automobiles entirely off the street.

9. The exterior of the house located on any Lot shall be constructed to blend with the terrain and compliment other house(s) with like materials of wood, brick, stone, stucco, wood siding, hard board siding or steel siding. The use of natural materials is encouraged as well as soft, earth-tone colors. Roofing shall be wood shakes, at least 30 year life textured asphalt or fiberglass shingles, or slate or tile roof shingles. There shall be a minimum slope of 5:12 on all roofs.

10. All exposed exterior foundation wall materials shall be painted in a manner which is harmonious with the environment.

11. No solar collectors or solar panels of any type shall be allowed in the construction of any house, unless the same are approved by the Architectural Control Committee.

12. In order to maintain reasonable control of construction for the benefit and safety of the residents, all construction shall be done under the requirements of the latest edition of the applicable City of Milford Code as they relate to building, mechanical electric and plumbing work.

13. Construction of any improvement on any Lot, including clean up, must be completed within one (1) year from the date it begins. Construction shall be confined to the Lot(s) on which construction is in progress.

14. All areas disturbed by construction or utility installation must be sodded or seeded upon the completion of construction at the sole cost and expense of the Lot Owner under whose direction the construction was done. If the disturbed areas are to be seeded rather than sodded, such seeding program must be submitted to and approved by the Architectural Control Committee.

15. No exotic, dangerous or vicious animals, livestock or fowl shall be kept or maintained on Lots except customary household pets. There shall be no more than two dogs or two cats. All pets shall remain on their Owners' Lots or if not on the Lot, then must be contained by a leash and accompanied, at all times, by an adult. In no event shall an Owner or Occupant have or allow a pet considered vicious or dangerous animals, including without thereby limiting, dogs which have the appearance and characteristics of being predominately of breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier. Any pets shall not be left unattended by the Owners, may not be tied in any Common Area(s) and shall not be allowed to run free. Owners shall clean up all waste of their pet(s). The handling and conduct of permitted pets shall be subject to any rules and regulations adopted by the Association. In the event a pet is deemed to be a nuisance by the Association, at a duly called meeting, due to the pet causing a disturbance of the other occupants of the Lots by excessive noise, disruptive or aggressive behavior, the Association may require the Owner of the Lot where the pet is located or staying to permanently remove the pet from the premises.

16. The Owner of each Lot, whether vacant or improved, shall maintain such Lot and take all steps necessary to control erosion thereon. If the Owner fails to maintain such Lot or control erosion, the Association shall have the right to do so at the Owner's cost and expense as provided herein.

17. Natural drainage of the Lots shall not be impaired except for that which is reasonably necessary in construction of residential dwellings, but in no event shall it be altered to such an extent that damage is caused to common property or other Lots.

18. Certain drainage easements have been or will be reserved over certain portions of some Lots. Maintenance of all areas encompassed by those easements shall be at the sole cost and expense of the Owner of the Lot over which these easements run.

19. No fences, walls or hedges may be constructed on any Lot without the prior approval of the Architectural Control Committee as herein provided. No chain link fence, snow fence, or temporary fence of any kind shall be permitted on any Lot, except for silt fences, which may be built, in accordance with the Code of Ordinances of the City of Milford, Iowa, and with the approval of the Architectural Control Committee. All of the above must comply with the Architectural Control Committee standards, and if applicable, with the Code of Ordinances of the City of Milford, Iowa, as amended.

20. No commercial kennels shall be allowed in the Plat of Nature Trails.

21. Mail, trash and milk delivery containers shall be subject to approval of the Architectural Control Committee to assure proper appearance in harmony with other such receptacles.

22. No water can be drawn from Common Area(s) ponds by any Owner; provided, however, this prohibition shall not apply to the Common Areas if such withdrawal for the care and maintenance of the Common Area(s) is approved by the Board of Directors. Removal of water from the wetlands, which are Common Areas, shall only be allowed if approved by NRCS, and the Association.

23. No obnoxious trade shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Lot Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.

24. Except as otherwise provided herein, no Lot shall be used for any purpose other than for single-family residential purposes, and except for the rights of Declarants and such other persons or entities so designated by Declarants and except that the home office of a physician; dentist; artist; attorney; architect; real estate agent, broker or developer; engineer; teacher or other recognized professional shall be allowed in his or her home provided that: not more than one assistant shall be regularly employed therein and no colleagues or associates shall use such office; not more than one half of the area of one floor shall be used for such office; and no advertising sign or display shall be permitted.

25. No dog run or other outside structure of like nature shall be constructed on any Lot, unless approved by the Architectural Control Committee. Lot Owners may install invisible (underground) dog fences.

26. No outbuilding may be located on any Lot less than one (1) acre in size as shown on the Plat. Outbuilding, when permitted, shall be located so as to minimize their visibility from the street adjoining the lot and minimize its obstruction of the view from other lots.

27. Only in ground swimming pools which are approved by the Architectural Control Committee are permitted on any Lot.

28. No tree over eight inches (8") in diameter may be disturbed, removed or destroyed except upon the written approval of the Architectural Control Committee.

29. No tower may be constructed on any Lot; however, antennae and satellite dishes are permissible provided that the same are screened in such a fashion so as not to be visible from the roadways or from any other Lot. Subject to the approval of the Architectural Control Committee, each Lot/Unit shall be permitted to install one communication satellite dish, which shall be roof mounted and shall not be larger than 18 inches in diameter. The location of said dish shall be approved by the Architectural Control Committee.

30. No clothesline visible from the street shall be constructed or permitted on any Lot; and all such clotheslines shall be of the umbrella type and shall be as inconspicuous as possible.

30. No building or structure of a temporary character and no trailer, unfinished basement, tent, shack, garage or outbuilding shall be used at any time as a residential dwelling on any Lot, either temporarily or permanently. Guest houses are not permitted.

31. The use of fertilizers containing phosphate shall not be allowed anywhere in the Plat unless it is shown by soil testing that the use of fertilizers containing phosphate are necessary for the establishment of vegetation.

32. No part of any Lot shall be maintained or allowed to exist in such a manner as to constitute an eyesore, a nuisance or a danger to the health, safety or welfare of any Owner. The Owner or Occupant of each Lot, whether vacant or improved, shall keep the same free of overgrown noxious weeds and debris. Each Owner agrees that after written notice given to such Owner or Occupant by the Association, such noxious overgrown weeds shall be cut and/or such debris shall be removed within fifteen (15) days, failing which the Association may enter upon the property to cut or cause to be cut such weeds or remove or cause to be removed such debris, and shall have a right of action against the Owner of such Lot for the collection of costs thereof.

33. No noxious or offensive activities, including light or noise or smoke not involving the maintenance of Lots or Common Areas, shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood; nor shall any Lot be used for any unlawful purpose; nor shall any Owner cause or suffer or harbor the source of any noise or light or smoke or activity which disturbs the peace, comfort and quiet enjoyment of other Owners or those

claiming under or through the Owners. This provision shall not prohibit the burning of wetlands as approved by the NRCS.

34. All trash receptacles and garbage cans shall be stored in the garages or approved enclosures on each Lot. No burning of any trash and no unreasonable or unsightly accumulation (or storage of litter, new or used materials, or trash of any other kind shall be permitted within any Lot or be permitted to remain in public view, but shall be deposited in the receptacles provided for that purpose. This restriction shall not preclude the placement of waste containers outside of such area on a temporary basis if so required by governmental regulation or terms of a contract with a commercial waste collector.

35. Nothing shall be altered in, constructed upon or removed from the Common Areas, except upon written consent of the Board of Directors of the Association, which may be given through regulations of the Association.

36. No boat, snowmobile, recreational vehicle, trailer, inoperable vehicles or other vehicles including, but not limited to, automobiles shall be stored or parked on any Lot unless enclosed in a garage. The parking of automobiles, motor vehicles, trailers, snowmobiles, boats, recreational vehicles and the like for periods of longer than forty-eight hours (48) hours is not allowed on any street. In the event of violation of this provision, the Association may, after reasonable notice, cause the removal of such boat, snowmobile, recreational vehicle, trailer or other vehicle and assess the costs of such removal to the Owner of the Lot. The Architectural Control Committee can issue a special individual permit for longer periods upon hearing.

37. Each Owner shall be responsible for the repair, maintenance and replacement of utility services and lines serving his or her Lot which is not located in the Common Areas. There shall be no obstruction of any Common Areas. Nothing shall be stored on any Common Areas without the approval of the Association. Vehicular parking upon Common Areas may be regulated or assigned by the Association. Repair or maintenance of automobiles in any Common Areas is strictly prohibited. Nothing shall be altered in, constructed in, or removed from the Common Areas, except upon written consent of the Board of Directors of the Association.

38. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of property shall be the same as the responsibility for the maintenance and repair of the property concerned.

39. The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Lots and the Common Areas and such rules shall be observed and obeyed by the Owners, and Occupants.

40. Agents or contractors hired by the Board of Directors of the Association may enter any Lot when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the Owners as practicable.

41. Failure of the Association or any Owner to enforce any covenant, condition or restriction of this Declaration, the Articles of Incorporation or Bylaws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

42. If any person or their successors, heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for any other person or persons owning any other Lot(s) in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction and either to prevent him or them from so doing or to recover damages or other relief for such violation, including reasonable attorney's

fees.

43. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

44. The above and foregoing restrictive covenants and restrictions are for the mutual benefit of all persons who shall acquire any of the Lots in this subdivision.

45. No signs shall be placed on the premises, including, but not limited to, signs placed on the exterior of any house. This subparagraph shall not prohibit real estate for sale signs. However, for sale signs shall be limited to no more than two signs per Lot with said signs to be no larger than four (4) square feet each. Any for sale signs placed on the premises shall be removed as soon as practical after the Lot advertised is sold.

46. The City Council for the City of Milford, Iowa waived, as part of their approval of the Plat of Nature Trails, the requirement to install sidewalks with the Plat of Nature Trails; however, the City of Milford, in its discretion, may later require the installation of sidewalks by the Lot Owners. The Developer herein shall not be responsible or liable for the cost of installation of these sidewalks.

Section 9.02. Restriction during Construction. All construction operations shall be confined to the Lot(s) on which construction is in progress.

Section 9.03. Utility Service. At the proper time as required to coincide with construction operations, the Developer will arrange for the extension of underground electric service, natural gas, cable television service, water service and telephone service to the location the Developer provides for utility hookups for each lot. The Lot Owner shall make all required payments for temporary and permanent service connections and permanent underground installation to the construction. The Milford Municipal Utilities (MMU) is establishing a water district to serve the property within the Plat of Nature Trails. There is a water connection fee (at this time this fee is \$300.00, however this fee may change by agreement of Developer, Owners, Association and/or MMU) to be paid by each Lot Owner and the Lot Owners are referred to MMU for any further details in regard to said water connection and service.

Section 9.04. Suppression of Nuisances. The Association shall have the right, power and authority to establish reasonable rules and regulations for the prevention and suppression of nuisances.

Section 9.05. Method of Recording Lot Transfer. The transfer of Lots from Developer to Owner at time of purchase shall be by reference to the recorded Plat of Nature Trails.

Section 9.06. More Restrictive Regulation to Prevail. In the event of a conflict between these protective Covenants, Conditions and Restrictions and any zoning law, ordinance or regulation, the more restrictive shall prevail.

#### **ARTICLE 10. Property Subject to This Declaration**

Section 10.01. The Properties. The Properties, as defined above, shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

#### **ARTICLE 11. Declarants' Rights**

Section 11.01. Declarants and/or such other builders so designated by Declarants reserve the right to use any of the Lots and club house as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Lots prior to their being sold. This reservation of right or privilege in Declarants includes, but is not limited to, the right to maintain models, erect signs, maintain an office, staff the office with employees and to show Lots then unsold. Declarants retain the right to be considered Owners of any Lot that remains unsold.



Section 11.02. Notwithstanding any other provision in this Declaration or in the Bylaws, the undersigned Declarants are irrevocably empowered to transact on the property any business relating to construction, sale, lease or rental of Lots, including the right to maintain signs, employees, equipment, and materials on the premises. These rights shall continue until all Lots in the Plat are sold.

Section 11.03. Neither the Owner or the Association shall interfere with the completion of the contemplated improvements and the sale of the Lots by the Declarants. The Declarants may make such use of the unsold Lots and the Common Areas as may facilitate such completion and sale, including, but not limited to, maintenance of sales office, model home(s), the showing of the property and the display of signs.

Section 11.04. Developer reserves the right to develop the Properties in phases and add additional property, including without thereby limiting, the development/subdivision of Outlot 6 into additional lots. Developer reserves the right to determine which lots will be in which phases. An amendment made pursuant to this paragraph need be signed and acknowledged only by the Developer, its agents or assigns and need not be approved by the Association, Owners or mortgagees, whether or not elsewhere required for an amendment. Provided, however, no change pursuant to this paragraph shall alter the boundaries of the Common Areas without amendment of this Declaration by approval of the Association, affected Owners and affected mortgagees in a manner elsewhere provided. Until 2/3rds of the Lots (on both Phase I and II) are sold by the Developer, at closing on any sale or transfer of Developer's Lots, the Developer shall collect from the prospective Lot Owner an amount at least equal to two months of the estimated common charges for each Lot. Once 2/3rds of the Lots (on both Phase I and II) have been sold by the Developer, then the Association shall collect these funds.

Section 11.05. Assignment of Developer's Reserved Rights. Developer shall have the right to assign all of its reserved rights and obligations as Developer to any person, corporation or other entity. Upon such assignment of Developer's reserved rights, the initial Developer shall have no further obligation in connection therewith.

**Notwithstanding anything to the contrary provided herein, until 2/3rds of the Lots (on both Phase I and II) are sold by the Developer, subject to this Declaration, Declarant shall have sole voting control and authority relating to the Association, the Board of Directors and all other matters relating to the operation of the Association. At such time as the Declarant (the Developer) has sold 2/3rds of the Lots (on both Phase I and II), all such voting control and authority shall automatically transfer to the Board of Directors.**

## ARTICLE 12. Maintenance

Section 12.01. Association's Right to Maintain. In addition to maintenance upon the Common Areas, the Association shall have the right to maintain and repair any Lot, house, or outbuilding that, in the opinion of the Board of Directors of the Association, is not being adequately maintained by the Owner thereof, and the costs thereof shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the assessment for which such Lot is subject under Article 7 hereof. Such assessment or charge shall be a lien and obligation of the Owner's lot and personal obligation of the Owner and shall become due and payable in all respects as provided in Article 7 above.

Section 12.02. The Association is, in particular and without thereby limiting, charged with maintaining all Common Areas in the Plat and additions thereto and in addition the following:

- a. Private streets, driveways, and parking areas in the Common Areas and streets not dedicated to the City of Milford, Iowa are to be maintained by the Association as part of the Common Areas; this shall include but not be limited to streets, driveways and parking areas located in Lot 38, Lot 3 and

- Lot 1;
- b. Maintain, including mowing, the Common Areas;
  - c. Maintain all Common Area(s) utilities;
  - d. Seed all wetland buffers per NRCS. The wetlands areas is used for storm and surface water management and shall be considered a common element to be perpetually maintained or repaired by the Association and the cost thereof shall be assessed in equal shares against all the Lots. The Association shall maintain these wetlands in accordance with the requirements of the NRCS. The NRCS, and its agents, employees, contractors shall have a perpetual right of ingress and egress over the Lots and the right to inspect, at reasonable times and in a reasonable manner, the wetlands; and
  - e. Such other reasonable and necessary maintenance duties as are required to preserve the high quality of the Common Area(s).

Section 12.03. Responsibility for Willful or Negligent Act. In the event the need for maintenance or repair to the Common Areas or improvements located thereon is caused through the willful or negligent act of an Owner, Occupant, their family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessments to which such Owner is subject.

### ARTICLE 13. Easements and Encroachments

Section 13.01. Drainage and Utility Easements. As noted on the plat, Declarants have reserved certain areas of the Lots and Common Areas for drainage easements. In doing so, it is the intention of Declarants to provide the needed flexibility to themselves, for the benefit of all Lots and Owners, to allow to be maintained all proper drainage to and for the various Lots. No other improvements or permanent structures (excluding walkways, driveways and fences) shall be placed within such easements and any improvements so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of Declarants and the Association to provide for and maintain appropriate drainage and utilities.

Section 13.02. Easement for Emergency Purposes. An easement is hereby dedicated and granted to any governmental subdivision having jurisdiction for use in the case of an emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon the Common Areas.

Section 13.03. Easement for Signs. Declarants reserve unto themselves for so long as they own any Lot, the right and easement to erect and maintain identification and "For Sale" signs within the Properties, including any Common Areas as Declarants deem reasonably necessary.

Section 13.04. Additional Easement Rights. For the benefit of all Lots and Owners, Declarants reserve unto themselves an easement and full right, title and authority to relocate, alter or otherwise leave the location of any drainage and utility easement and to grant such further easements, licenses and right-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarants may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within any Lot(s) or any portion of the Common Areas. Declarants further reserve the right to more specifically describe or to change the description of any such drainage and utility easement, or other easement, license or right-of-way by written instrument, amended plat or amendment to the plat recorded in the Office of the Recorder of Dickinson County, Iowa. Any Owner of any Lot shall take title subject to the rights and easements reserved herein; provided however, the rights reserved in this section shall not be exercised in a manner which unreasonably restricts the rights of ingress or egress to any Lot. The rights and easements

reserved by Declarants in this section shall run with the land.

Section 13.05. Easement for Adjoining Property. Declarants reserve unto themselves the right to grant such further easements, licenses and right-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarants may deem necessary or appropriate, for ingress, egress and similar purposes on or within the Common Areas included in the Plat to the Owners of any property adjoining the Plat; subject however, to the adjoining property Owners covenanting and agreeing to pay to the Owners' Association:

- a. Annual assessment or charges; and
- b. Special assessment for capital improvements, such assessments to be fixed, established and collected from time to time by the Owners' Association in proportion to the use of the easement, license or right-of-way by the adjoining property Owners.

#### SECTION 14. General Provisions

Section 14.01. Enforcement. The Association, Developer or any Owner shall have the right to enforce, by a 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 and/or Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so hereafter.

Section 14.02. Every director and officer of the Owners' Association shall be indemnified by the Association for all expenses and liabilities, including legal fees reasonably incurred by or imposed upon them, in connection with any proceeding to which they may be a party by reason of their being or having been a director or officer of the Owners' Association, except in such cases where the director or officer is adjudicated guilty of willful misfeasance or malfeasance in the performance of their duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being for the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not limit any rights the officers or directors may have under Iowa law.

Section 14.03. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 14.04. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns until the year 2025, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended and such amendment shall be made in the following manner:

- (a) The consent in writing of Owners of Lots to which at least 67% of the votes in the Association are allocated and the approval of the eligible holders of first mortgages on Lots to which at least 67% of the votes of Lots subject to mortgages.
- (b) In the case of an amendment to this Declaration by reason of an amendment to the Bylaws of the Association, in the manner specified in such Bylaws, such amendment shall be effective upon its execution and recordation by the President or other officer of the Association, authorized therefore by Resolution.

(c) By the members acting through the Association in accordance with the procedures of its Bylaws and said amendment shall be effective when an executed certificate of its due and proper adoption and of the provisions thereof, in the name of the Corporation, by its President, or Vice-President and Secretary, or an Assistant Secretary, with the formalities of a deed and acknowledged, has been thus executed by authorization of the members as provided in the Declaration and recorded in the public records of the Dickinson County, Iowa.

(d) In the case of all other amendments to this Declaration, by written agreement of the Lot Owners to which at least 67 percent of the votes in the Association are allocated, provided eligible holders of a first mortgage of record to which at least 51% of the votes of Lot Owners subject to a mortgage appertain so approve in writing.

(e) No amendment shall be valid without the written approval of the Developer until 2/3rds of the Lots (on both of Phase I and II) are sold by the Developer, unless used personally, rented or leased to others by the Developer.

(f) Developer may, until all phases of the subdivision contemplated herein have been completed or until the Developer has sold all the Lots, make amendments to this Declaration without the approval of the Lot Owners or Association. Any supplemental or amendment to this Declaration filed by the Developer need be executed only by the Developer or its assigns notwithstanding ownership of Lots by others and no consent of other Owners or their mortgagees or lienholders shall be required.

Upon its recordation at the Office of the Dickinson County Recorder by the President or other officer appointed for that purpose, an amendment adopted in the manner specified above, or as otherwise provided in other Articles herein, shall be effective against any persons having an interest in a Lot regardless of whether said person had such interest at the time said amendment was adopted in accordance with the foregoing provisions.

The ownership, use, occupation, and enjoyment of each Lot and of the Common Areas shall be subject to the provisions of the Bylaws and Articles of Incorporation of the Association, and this Declaration, all of which provisions irrespective of where set forth or classified shall have equal status and shall be enforceable and binding as a covenant, condition, restriction, or requirement running with the land and shall be binding on and enforceable against each and all Lots and the Owners thereof and their respective assigns, lessees, tenants, occupants, and successors in interest.

Section 14.05. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, first class ordinary mail postpaid, to the last known address of the Owner.

Section 14.06. The right to enlarge the platting of Nature Trails from time to time, is reserved exclusively to Developer and shall be exercised by Developer. Developer shall have and exercise the right to enlarge the plat not only in its individual capacity but also as agent for the Owners of all Lots in the Plat of Nature Trails as now constituted or hereafter enlarged and such Lot Owners do hereby irrevocable appoint Developer as their agent for the purpose of so enlarging the Plat of Nature Trails. The right to enlarge the Plat of Nature Trails by adding thereto additional Land upon which additional buildings, lots, and other improvements exist or are to be constructed, shall be exercised by Developer, if at all by executing and acknowledging a supplemental declaration to such effect, without the consent or approval of the Association, any Lot Owners, or any entity with an interest in any Lot in the Plat of Nature Trails. Such supplemental declarations/amendments shall be designated by the title "First Supplemental Declaration or Amendment," and so forth in a numerical series. Each such supplemental declaration/amendment shall constitute an amendment of and, by appropriate reference thereto, shall be incorporated into this Declaration. Such supplemental declaration shall be effective when recorded in the Office of the Recorder of Dickinson County, Iowa. All

taxes and other assessments relating to the property in any additional phase covering any period prior to the addition of each phase must be paid or otherwise satisfactorily provided for by the Developer prior to filing the Supplemental/Amendment to the Declaration for that phase. All of the original cost of any land, or lots, or other improvements existing or to be constructed thereon, which are added to the Plat of Nature Trails by a supplemental declaration, shall be paid for by Developer and no part thereof shall ever be assessed against any Lots as a common expense.


IN WITNESS WHEREOF, the undersigned, being the Declarants, set their hands this \_\_\_\_ day of September, 2005.

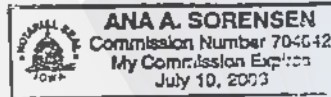
EASTVIEW, INC.

  
Kenneth Kuchel, President

STATE OF IOWA, COUNTY OF DICKINSON, ss.

On this 29<sup>th</sup> day of September, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared KENNETH KUCHEL to me personally known, who, being by me duly sworn, did say that he is the PRESIDENT of said corporation and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and he acknowledged the execution of said instrument to be the voluntary act and deed of the corporation by it and by him voluntarily executed.

  
Notary Public in and for said State

  
ANA A. SORENSEN  
Commission Number 704642  
My Commission Expires  
July 10, 2007