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Kim Painter RECORDER
Johnson County, Iowa

Prepared by/return to Joseph C. Judge, Lane & Waterman LLP, 220 N. Main St. #600,
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**PROTECTIVE COVENANTS AND RESTRICTIONS
OF
FOREVERGREEN HEIGHTS,
CORALVILLE, JOHNSON COUNTY, IOWA**

These Protective Covenants and Restrictions of Forevergreen Heights are made and entered into this 15 day of October, 2021, by Forevergreen Development, LLC, an Iowa limited liability company ("**Developer**").

WHEREAS, Developer is the titleholder to the following real estate located in the City of Coralville, Johnson County, Iowa (the "**Real Estate**"),

Lots 1-70, Outlots Z, Y, V and X, inclusive Forevergreen Heights, Coralville, Johnson County, Iowa, according to the plat thereof recorded in Book 65, Page 89, Plat Records of Johnson County, Iowa

WHEREAS, the Real Estate is located in, and subject to, the final plat of Forevergreen Heights Plat 1, Coralville, Iowa, recorded in Book 65 Page 89, records of the Johnson County Recorder's office (the "**Plat**"); and

WHEREAS, Developer desires to develop, or cause to be developed Lots 1 through 70 and Outlots Z, Y, V and X of the Real Estate (collectively the "**Lots**" and individually "**Lot**") for residential purposes and desires to establish certain covenants and restrictions on the Lots.

Now, therefore, in consideration of one dollar and other valuable consideration, Developer hereby executes these Protective Covenants and Restrictions for the mutual benefit of those persons who may purchase the Lots, which shall be binding upon all present and future owners of each and every Lot as covenants running with the land and with such force and effect as if contained in each subsequent conveyance of land.

USE AND BUILDING RESTRICTIONS

1. The Lots shall be used only for the following purposes:
 - a. Single-Family Residential: Lots 1–51; and
 - b. Two-Family Residential: Lots 52–70.
 - c. Multi-Family Residential: Outlot Z, Y, V, and X
2. The following restrictions shall be applicable to all the Lots:
 - a. No Lot shall be subdivided. This provision shall not prevent a conveyance of a portion of one Lot to the abutting owner of another so long as said conveyance does not result in an additional building lot being created thereby.
 - b. For single-family residential Lots, no building shall be erected having an above-ground floor living area of less than one thousand two hundred fifty (1,250) square feet in the case of a one (1) story structure, nor less than one thousand five hundred (1,500) square feet in the case of a multilevel, one and one-half (1½) story, or two (2) story structure, nor less than one thousand six hundred (1,600) square feet in the case of any split-level structure. Garages, breezeways, screened porches, open porches, decks, or third story square footage shall not be considered as above-ground floor area.
 - c. For two-family residential Lots, no building shall be erected having an above-ground floor living area of less than one thousand one hundred (1,100) square feet in the case of a one (1) story structure, nor less than one thousand two hundred and fifty (1,250) square feet in the case of a multilevel, split-level, one and one-half (1½) story, or two (2) story structure. Garages, breezeways, screened porches, open porches, decks, or third story square footage shall not be considered as above-ground floor area.
 - d. No trailer, mobile home, tent, or boat, unattached garage or barn shall be placed upon any Lot except as specifically provided in these Covenants.
 - e. All applicable provisions of the City of Coralville, Iowa zoning ordinances shall be observed. With prior written approval from the Developer, and to the extent permitted by City of Coralville ordinances, an owner may apply with the City of Coralville, Iowa, for variances to said building setbacks where unusual terrain features or unusual circumstances exist.
 - f. Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted gravel, crushed stone or other approved base material, and shall have a wearing surface of concrete, or such other surface as the Developer may allow.
 - g. During the course of construction, all building contractors shall keep mud, dirt, debris and building materials off of all subdivision roads as shown in the Plat and other building Lots.

h. Each Single-Family Lot and each Two-Family Residential unit owner shall plant one (1) tree in the front yard, each with a minimum trunk diameter of three (3) inches and of a type (species) to be approved by the Developer, unless more are required by the City of Coralville. Developer may waive any of these requirements in writing.

i. Each Single-Family Lot and each Two-Family Residential unit shall have a minimum of two (2) and a maximum of a three (3) car capacity attached garage. All garages must be serviced by a concrete driveway from the existing street or by an inside entrance to the garage. No driveway may be located within five (5) feet of any side yard boundary line, unless Developer waives in writing this requirement.

j. A-frames, premanufactured, flat roof or dome houses will not be permitted.

k. No trees six (6) inches in diameter or larger will be removed from the Lot without permission of Developer or such person or entity as it may designate in writing.

l. Storage sheds are not permitted.

m. No fences will be installed unless the same is of black vinyl chain link fence construction four (4) feet in height. No fence will extend along any boundaries of the front yard. No fence shall extend closer to the front of the dwelling than the rear outside corner of said dwelling. No wire strand, barb wire or woven wire fences shall be permitted. No dog runs or outdoor dog kennels are permitted. Swimming pools must be located in the rear yard and must be bordered by a five (5) to six (6) foot high poly-covered black chain link fence. All fences must comply with the City of Coralville regulations.

n. No structure shall be erected on any Lot exceeding two and one-half (2½) stories, or two and one-half (2½) stories and an exposed basement to the side or rear, and an attached garage for a minimum of two (2) cars and not to exceed three (3) cars.

o. Other than applicable requirements of the City of Coralville Zoning Ordinance and the Developer's Agreement entered into with the City of Coralville in connection with the approval of the Plat, the Developer may waive or consent to variances in any of the preceding building regulations to prevent hardship to or unintended results for any Lot owner.

p. The entire Lot shall be sodded or seeded.

q. No act constituting a nuisance as defined under the provisions of Chapter 657, Code of Iowa, or the common law of Iowa, shall be permitted, and the restrictions pertaining to acts within a county in said Code chapter shall be applicable to the Real Estate.

r. Vegetable gardens may be maintained only at the rear of a dwelling.

s. No animals, livestock or poultry shall be raised or kept within the on the Lots except for usual household pets, provided the same are not kept or maintained for commercial purposes. Chickens are expressly prohibited. Pets shall be managed in such a way that they do not interfere with the quiet enjoyment of property by other Lot owners. Pets which continue to make loud noises, damage shrubs or other flora, attack other pets or people shall be considered a nuisance. All dogs located off the owner's premises shall be leashed.

t. Motor vehicles used by residents shall be parked in areas designated in the building plans as parking areas. There shall be provided on each Lot sufficient off-street parking area, including driveway, for the parking of at least two (2) automobiles, which area shall be surfaced. No motor vehicle shall be parked on the street in the Real Estate overnight or at any time in any manner which would interfere with the flow of traffic. All campers, trailers, boats, recreational vehicles, or snowmobiles shall be stored within a garage or at such other enclosed place where such items are not visible from the street.

u. No Lot shall contain an above-ground swimming pool or tree house. Also, no illuminated or electrical bug or insect killing device ("bug zapper") shall be located or allowed on any Lot.

v. No satellite dish (except for a satellite dish no larger than two (2) feet in diameter attached to the rear facing roof of the house, garage, or deck), radio tower or antenna shall be located on any Lot. The Developer shall approve the location of any satellite dish prior to installation.

w. Outdoor lighting on a timing device shall be prohibited at the rear or sides of a dwelling. Lighting at the rear or sides of a dwelling shall not be left on for an extended period so as to minimize light pollution.

x. All construction shall be completed within eighteen (18) months from the date of commencement. The owner of any building damaged by fire or act of nature shall within ninety (90) days thereof, commence restoration or reconstruction of said dwelling, and work shall be completed within one (1) year from the date of destruction.

y. No inoperable, dismantled, or wrecked motor vehicles, trailers, or machinery or parts thereof, including scrap metal or other scrap materials, commercial vehicles, farm machinery, construction equipment, or similar vehicles and equipment, and non-licensed motor vehicles may be stored on any Lot unless the same is housed in a garage.

z. The titleholders of each Lot, vacant or improved, shall keep his or her Lot free of weeds and debris.

aa. No act constituting a nuisance as defined under the provisions of Chapter 657, Code of Iowa, or the common law of Iowa, shall be permitted.

3. A perpetual easement for utility purposes is reserved on a portion of each Lot as designated on the Plat. No improvements shall be placed within the easement rights-of-way which

in any manner interfere with the installation and maintenance of the utilities within the easement rights-of-way.

4. A perpetual easement is hereby granted in favor of all utility companies servicing the Real Estate, the Developer and the City of Coralville, Iowa, and their successors in interest and assigns, upon, over and under, along and across the areas designated on the Plat as "easements". Each of said utilities shall have the right to install, lay, construct, reconstruct, renew, operate, maintain and remove conduits, cables, pipes, poles and wires, overhead and underground, with all necessary braces, guys, anchors, cross arms, electric lines, insulators and other equipment or appurtenances for the purpose of serving the real estate subject to the Plat and other property with electricity, gas, communication, and cable service; the right to trim, cut down and remove such trees, brush, saplings and bushes that may interfere with the proper construction, maintenance, operation or removal of said facilities, equipment and appurtenances; and the right of ingress and egress for all of the purposes aforesaid. No permanent improvements, fences or trees shall be placed on the areas so designated for utility easement, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or the rights herein reserved. There are strips of ground designated on the Plat as "P.U.E." (Public Utility Easement), "Surface Water Flowage Easement", "Surface Water Flowage and Storm Sewer Easement", "Sanitary Sewer Easement", "Water Main Easement", "Storm Sewer Easement", "Water Main Easement", and "Stormwater Management Facility and Easement" which are hereby reserved for public and private utilities, for the installation and maintenance of poles, mains, sewers, drains, ducts, lines, wires and the like. The owners of Lots shall take title subject to the easements hereby created, or any other easement of record, and subject at all times to the rights of proper authorities to service the utilities and the easements hereby created. No permanent structure of any kind shall be built, erected or maintained on said easements except walkways and driveways. Developer reserves the right to re-locate, revise or modify any easement shown on the Final Plat, or any easement of record related to the Stormwater Management Facility or to terminate any unnecessary or easement or create additional easements as may be necessary.

GENERAL COVENANTS AND EASEMENTS

1. These restrictive covenants shall not be binding upon any Lot so long as title thereto remains in Forevergreen Development, LLC.

2. The approval required of the Developer under the terms of these Restrictive Covenants shall be exercised by Forevergreen Development, LLC or such person or entity as it may designate in writing. Any reference in these Covenants to Developer shall refer to Forevergreen Development, LLC or such person or entity as it may designate in writing.

3. Whenever these Restrictive Covenants require or allow the approval of Developer, such approval shall be at the discretion of Developer in the reasonable exercise of its best judgment and the Developer shall not be liable to any person for the granting or refusal to grant its approval hereunder.

4. The Restrictions of these Protective Covenants shall remain in effect and shall inure to the benefit of and be enforceable by Forevergreen Development, LLC, the Association or any

owner of a Lot or part of the real estate or other property as is hereinafter made subject to these Protective Covenants, for a period of twenty-one years (21) from the date hereof. These covenants may be extended for additional terms of twenty years any time during the current term by any Lot owner filing a Verified Claim with the Johnson County Recorder, at any time prior to the expiration of the then current term in accordance with the requirements of §614.24, Code of Iowa, or its successor. Pursuant to §614.25, Code of Iowa, the filing of such Verified Claim shall cause these covenants to be extended for an additional twenty-one (21) term from the date of such filing.

5. Each Lot owner, with the exception of an owner of the Outlots (as defined below) located in the Real Estate, shall automatically become a member of Forevergreen Heights Owner's Association (the "**Association**") and shall be subject to assessment to carry out the purposes of the Association. The Articles of Incorporation and By-laws of the Association are attached hereto as Exhibit A, and are incorporated herein by this reference. By accepting a deed to any Lot, owner acknowledges it has reviewed the Articles and By-laws of the Association, as amended, and agrees to comply with the provisions contained therein. Assessments shall be allocated among the members pro rata based on the number of votes the member is entitled to cast. Notwithstanding any other provision of these covenants, Developer shall be the sole voting member of the Association until Developer no longer owns any portion of any Lot, or until Developer waives, in writing, its right to be the sole voting member. Until such time, Developer shall have the right to elect all Directors and to cast all votes as it deems appropriate. Each owner by acceptance of a deed to a Lot shall be deemed to have released Developer from all claims with respect to actions taken while Developer controls the Association or during the development phase. The Lots, regardless of the number of owners of said Lots, shall be entitled to the following votes in matters over which the Association has control as follows:

- a. Single-Family Lots: One (1) vote per Lot; and
- b. Two-Family Residential and Multi-Family Residential Lots: One (1) vote per dwelling unit on each Lot.

6. The Association is organized and shall operate for the purpose of owning, maintaining, controlling and managing the Common Areas (as defined below), including, but not limited to, sidewalks, monument signs and mailboxes, and storm water management facilities serving Forevergreen Heights. The Association shall also have the right to enforce any of the protective covenants and restrictions set forth herein as well as to represent the interests of Lot owners to issues affecting development of surrounding areas and maintaining the quality of environment and quality of life within the Real Estate. The Developer may convey title of any Outlot being utilized as a common area or storm water detention area to the Association for use as a common area and storm water detention easement. The Developer may, at its discretion, convey the Common Areas of Forevergreen Heights to the Association. The Association shall assume all responsibilities of the "Grantor" and "Owners Association", as described in that certain Stormwater Management Facility Maintenance Agreement and Easement ("SMFMA"), which SMFMA is recorded in conjunction with the subdivision documents with the Plat) and the Association shall hold the Owner harmless from and liability or obligations under the SMFMA. Owner hereby assigns all of its obligations under the SMFMA to the Association.

7. The Association may purchase a master comprehensive public liability insurance policy to cover risks from its responsibilities hereunder in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organization of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of the foregoing, all owners and all other persons entitled to occupy any Lot. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workers compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate.

8. If the parties hereto or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants or restrictions herein during their existence, it shall be lawful for any other person or persons owning any other Lot or the Association to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either prevent said person or persons from so doing or for recovery of damages or other dues for such violation. The prevailing party in any such action shall be entitled to recover its costs, expenses and reasonable attorneys' fees from the other party.

9. The Owner of any Lot subject to these protective covenants assumes, by acceptance of a Deed for the Lot, Developer's obligations with respect to such Lot for: (i) soil erosion control on such Lot from and after the delivery of the Deed; and (ii) installation of sidewalks or trees as required by the City of Coralville, if not already installed by the Developer. Such Owner shall cooperate with Developer in obtaining a transfer of any soil erosion control NPDES, CSR or other governmental permit with respect to soil erosion, wetland and other environmental laws, to such Owner or the cancellation or other termination of the permit currently in the name of Developer or its affiliate, and the reissuance of a permit in the name of such Owner. At any time required by Developer, any party accepting a Deed for any Lot or part thereof shall execute the appropriate documentation required by the Iowa Department of Natural Resources, the City of Coralville, Iowa, or other governmental body to release Developer from responsibility for executing a soil erosion plan (including monitoring and record keeping) as it applies to the Lot for the period of time after the delivery of a Deed for such Lot, and to release Developer from any other obligation for environmental matters for the period of time after delivery of a Deed. Any party that accepts a Deed for any Lot or part thereof who fails to cooperate with Developer, fails to execute documentation to relieve Developer from responsibility for soil erosion or fails to comply with the lawful requirements for control of soil erosion shall be obligated to hold Developer harmless from all liability, costs and expense, including reasonable attorney fees, arising from such failure by such party.

10. Developer may, at any time, subject additional property which is contiguous to the Real Estate to these Protective Covenants and Restrictions by written instrument filed in the records of Johnson County, Iowa.

11. These Restrictive Covenants may be amended from time to time with the written consent of at least two-thirds (66.67%) of the Owners entitled to cast a vote pursuant to these covenants. Said amendment shall be executed in writing and signed by at least two-thirds (66.67%) of such Owners and the same shall be filed of record in the office of the Johnson County

Recorder. Notwithstanding the above, the Developer hereby reserves the right to enter into agreements with the Owner of any Lot or Lots (without the consent of Owners of other Lots or owners of adjoining or adjacent property) to waive or deviate from any or all of the covenants set forth herein or to revise these Covenants. Any such waiver, amendment or deviation shall be placed in writing and shall not constitute a waiver of the particular restrictive covenant involved or any other restrictive covenant as to the remaining property in Forevergreen Heights. These covenants may also be amended by the Developer unilaterally at any time as long as the Developer owns any Lot in the Real Estate or any land adjacent to the Real Estate. Any amendment to these Covenants shall be recorded in the Johnson County Recorder's Office.

12. Invalidation of any one 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.

13. The Developer reserves the right to add Lots to these Protective Covenants and Restrictions provided that such lots are located on any Outlot shown on the Final Plat. Following or concurrently with the further subdivision of any Outlot the Developer may file an Addendum to these Protective Covenants and Restrictions in which the Developer designates the new Lots that are added and from such date, these Protective Covenants and Restrictions shall be considered amended to include such additional Lots.

MAINTENANCE ASSESSMENT'S

1. Developer, for each Lot owned, hereby covenants and each Owner of any Lot, by acceptance of a deed thereto (regardless of how title is acquired, including, without limitation, a purchase at a judicial sale) is deemed to covenant and agree to pay to the Association any Assessment or charges and special or enforcement Assessment which the Association shall from time to time fix and establish in accordance with terms hereinafter set forth. Such Assessments shall also include assessments for the costs of maintenance and operation of the Common Areas.

2. All such Assessments, together with late fees, interest, costs (including court costs), and reasonable attorneys' fees for collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lots against which each such Assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees for collection thereof, shall also be the personal obligation of the person who was the Owner of such Lots at the time when the Assessment fell due until paid.

3. The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents in the Lots and for the improvement and maintenance of the Common Areas and easement area benefitting the Lots, or right-of-way area adjacent to the Lots the Association chooses to maintain, or for any other purpose set forth in these Protective Covenants and Restrictions that the Board deems appropriate.

4. Until January 1 of the year immediately following the conveyance of the first Lot to any Owner, the maximum annual Assessment (not including special Assessments or enforcement Assessments) shall be One Hundred Dollars (\$100) per Unit. The term "Unit" shall

mean (a) each single family residential Lot; or (b) for the purposes of a two-family residential lot or multi-residential Lot, each separate dwelling unit.

- a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased each year by fifteen percent (35%) above the maximum annual Assessment for the previous year unilaterally by the Board without the affirmative vote of or confirmation by the Associations Members.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, any increase in the maximum annual Assessment (not including special assessments or enforcement assessments) more than fifteen percent (15%) of the prior year's maximum annual Assessment, requires the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Lot Owners holding not less than two-thirds (2/3) of the votes of the Association present at a meeting duly called for that purpose; provided, however, in no event shall more than one vote be cast with respect to any Lot (except for the Developer).
- c. The Board may fix the annual Assessment at an amount not in excess of the maximum. The initial budget prepared by the Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, the annual budget shall be prepared and adopted by the Board. To the extent the Association has commenced or will commence operations prior to the date this Declaration is recorded or the first Home is closed, the expenses may vary in one or more respects from that forth in the initial Budget.

5. The Association may levy, in any assessment year, a special Assessment applicable to that year, provided that any such assessment shall require the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Lot Owners holding not less than two-thirds (2/3) of the votes of the Association present at a meeting duly called for that purpose; provided, however, that each Lot shall have the number of Votes equal to the number of Units located thereon (except for the Developer).

6. The Association may levy an enforcement Assessment against an Owners Lot to recover any indebtedness of Owner to the Association arising under any provision of these Protective Covenants and Restrictions.

7. The Assessments provided for in this Article shall commence as to all Lots on the date (which shall be the first day of the month) fixed by the Board to be the date of commencement. Each subsequent annual Assessment shall be imposed for the year beginning January 1 and ending December 31. The annual Assessments shall be payable in advance in monthly installments, or in annual, semi-annual, or quarter-annual installments if so determined by the Board. The first Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the assessments shall be sent to every Lot Owner subject thereto. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly

executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

8. Notwithstanding anything herein to the contrary, as long as there are unoccupied Lots owned by Developer, Developer may elect not to pay the Assessment on each such unoccupied Lot. Developer may at any time revoke this election and place himself in the position of being obligated to pay the full impact of all Assessments for each Lot owned by Developer at the time said revocation is presented to the Association.

9. Any Assessment not paid within fifteen (15) days after the due date shall bear a late fee of Thirty-Five Dollars (\$35) and interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

10. The personal component of the obligation for delinquent Assessments shall not pass to the Lot Owner's successors in title unless expressly assumed by them. Irrespective of the assumption of the personal component of the obligation by any successor in title, the lien for delinquent assessments shall continue to be a lien upon the Lot until such time as it is fully paid.

11. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Any unpaid Assessment which cannot be collected as a lien against any Lot by reason of the provisions of this section shall be deemed to be an Assessment divided equally among, payable by and a lien against all Lots subject to assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place. Notwithstanding any contrary provision hereof, no Institutional Lender acquiring title to a Lot through foreclosure or conveyance in lieu of foreclosure, and no purchaser at a foreclosure sale, and no persons claiming by, through or under such Institutional Lender or purchaser, shall be personally obligated to pay Assessments that accrue prior to the Institutional Lender's or the foreclosure purchaser's acquiring title. Failure to pay Assessments shall not constitute a default in any mortgage unless provided in such mortgage. Nothing contained in this Declaration shall be construed to impose a duty on any mortgagee to collect Assessments.

12. The following property subject to these Protective Covenants and Restrictions shall be exempted from the Assessments, charge and lien created herein: (a) all Common Areas. (b) any property not designated as a Lot, including Outlots until such time as dwelling units are constructed on any Outlot.

COMMON AREAS

The Developer establishes certain Common Areas for the use and benefit of the Lots and Owners, on the terms and conditions set forth herein. "Common Area" shall mean the following areas:

a. Those certain Storm Water Detention Facilities and related easements created under the STORM WATER FACILITY EASEMENT AGREEMENT and subject to the STORM WATER MANAGEMENT AGREEMENT AND EASEMENT.

b. The Monument Sign Easement (as defined below);

c. Mailbox Easement (as defined below);

d. That public sidewalk located within the "Sidewalk Easement Area" as that term is defined in that certain Sidewalk Easement Agreement and recorded with the subdivision proceedings, as may be amended or expanded.

e. all other real property and related improvements thereto owned or controlled by the Association for the common use and enjoyment of the Owners.

1. The Association, subject to the rights of the Owners as set forth in the Declaration, shall be responsible for the management and control of the Common Areas and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with the standards of sound property management.

2. In the event that the need for maintenance, replacement or repair of any portion of the Common Area, the improvements thereon, is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests or invitees of an Owner, the cost of such maintenance, replacement or repair shall be added to and become part of the assessment to which the Owner is subject and a lien upon the Lot of such Owner and shall become due and payable upon demand.

3. Every Owner of a Lot shall have a right and easement of enjoyment in and to the Common Areas which rights may be delegated to family members, lessees and guests of every Owner (subject to any reasonable and non-discriminatory rules and regulations which may be enacted by the Association), which shall be appurtenant to and shall pass with the title to every Lot, subject to (i) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes; and (ii) the provisions of this Declaration and any rules and regulations promulgated and published by the Association's Board of Directors, the Articles of Incorporation and Bylaws and those accompanying this Declaration.

4. The Common Areas shall be used strictly in accordance with the provisions of the Declaration. 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 Developer or the Association. If an Owner violates this section, the Developer or Association shall have the right to restore the Common Areas to the prior condition and charge and assess the cost thereof against the Owner who violates this section and such cost shall become a special assessment and a lien upon the Lot of such Owner 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 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 attorneys' fees as the Court may allow together with all necessary costs and disbursements incurred in connection therewith.

5. Monument Sign Easement. The Developer, as the current Owner of Lot 22, hereby grants a perpetual and exclusive easement (the "Monument Sign Easement") to the Developer and the Association for the placement, construction, repair, maintenance and replacement of a monument sign and related landscaping and improvements, including lighting, to be located in that area of Lot 22 shown on the Plat as "Monument Sign Easement." The Monument Sign Easement shall include perpetual, non-exclusive easements for access to and from the Monument Sign Easement area as well the installation of electricity to the Monument Sign Easement area. The Association shall be responsible for maintaining the monument sign and related improvements and landscaping in a good, clean and well-maintained condition.

6. Mailbox Easements. The Developer, as the current Owner of Lots, hereby grants a perpetual and exclusive easement (collectively, the "Mailbox Easement") to the Developer and the Association for the placement, construction, repair, maintenance and replacement of mailboxes to be located in the subdivision. The Mailbox Easement shall include perpetual, non-exclusive easements for access to and from the Mailbox Easement area. The Association shall be responsible for maintaining the Mailboxes in a good, clean and well-maintained condition.

ZERO LOT LINE RULES & REGULATIONS

In addition to the foregoing covenants, the following protective covenants and restrictions apply to Lots 52–70 in Forevergreen Heights zoned for "Zero Lot Line" dwellings, and shall be binding upon all of the present and future owners thereof as covenants running with the land:

1. The common wall connecting the two laterally attached dwelling units shall be a party wall and the owner of each dwelling unit shall have the right to use said wall jointly with the owner of the other dwelling unit as provided by Iowa law, subject to the terms hereof.

2. Except as otherwise provided herein, all elements, including but not limited to utilities, water, sanitary sewer, storm sewer, and driveways, shall be separate utilities and the owner of a dwelling unit shall have no right to use said elements jointly with the owner of the other dwelling unit.

3. Each Zero Lot Line dwelling unit is subject to a reciprocal easement, extending five feet on either side of the common boundary line for utilities, for the benefit of the Zero Lot Line dwelling unit with which it shares a common wall.

4. If the common wall or any element therein, is damaged or destroyed or requires maintenance, repair or replacement for any reason, the owner of each dwelling unit shall be jointly and severally liable for the cost of such maintenance, repair or replacement, except that if repair, replacement or restoration is required because of the sole negligent or willful act or omission of the owner of one of the dwelling units, the cost thereof shall be at such owner's sole expense; provided, however, any sum received from insurance coverage shall first be applied to such repair, replacement or restoration. The owner of a dwelling unit may seek indemnification or contribution from any party responsible for damage or destruction.

5. The owner of a dwelling unit shall not alter or change the common wall (interior decorations excepted) or any of the pipes or conduits located therein without the express permission of the owner of the other dwelling unit.

6. The owner of each dwelling unit shall bear the expense of any repairs or replacement of the roof covering his dwelling unit. Each owner shall make all necessary repairs and replacements of his dwelling unit at his own expense in order to maintain the interior, exterior and structural portions of the dwelling unit in good condition. The following provisions shall govern exterior repairs or replacement:

a. The owner of a dwelling unit may replace exterior components of his dwelling unit with similar components of the same design and color but may not, either in the course of ordinary replacement, remodeling or restoration after damage or destruction, employ different siding, roofing material or a different color scheme, for the components of the dwelling unit (including but not limited to the exterior doors and garage door), unless first obtaining the written consent of the owner of the other dwelling unit, which consent may only be given if the variation in siding, roofing material or color scheme is adopted by the owner of the other dwelling unit and if such variation satisfies other restrictive covenants of record.

b. If any dispute arises concerning a change of siding, roofing materials, or color scheme, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision of the majority of all the arbitrators shall be final and conclusive of the question presented. If either party refuses or fails to promptly appoint an arbitrator, the same may be appointed by any Judge of the District Court of Iowa in and for Johnson County. Arbitration shall be in accordance of the rules of the American Arbitration Association and the cost thereof shall be shared equally by the parties.

7. The owner of each dwelling unit shall insure his dwelling unit for 100% replacement value and the proceeds of such policy shall be used to repair, replace, or restore the damaged premises to the same condition that existed before the loss. The owner of each dwelling unit shall coordinate his insurance policy on the premises with the owner of the other dwelling unit in order to assure there is adequate coverage for the unit and all other common aspects, including, but not limited to utilities, water, sanitary sewers, storm sewers, easements and driveway. The owner of each dwelling unit shall be insured to the extent of his interest in a dwelling unit and any common aspect and should be named as an additional insured on any insurance policy held by the owner of the other dwelling unit. In addition, the mortgagee of each dwelling unit, if any, shall be designated as an insured to the extent of its interest in the dwelling unit, that portion of the insurance proceeds required to replace or repair said common wall or other common aspects shall be paid over to the mortgagee of each respective dwelling unit and shall be distributed by the mortgagee as required to make the repairs or replacement.

8. If the common wall is destroyed or damaged by fire or other casualty or by physical deterioration, any owner may restore it, and shall have an easement over the other dwelling unit for purposes of making such restoration and the owner of the other dwelling unit shall contribute to the cost of restoration thereof on an equal basis, without prejudice, however, to the right of any

owner to call for a larger contribution from the other owner under any rule of law regarding liability for acts or omissions.

9. If any portions of a dwelling unit on any Zero Lot Line dwelling unit shall actually encroach upon any other Zero Lot Line dwelling unit, or if any such encroachment shall hereafter arise because of settling or shifting of the building or other cause, there shall be deemed to be an easement in favor of the owner of the encroaching dwelling unit to the extent of such encroachment so long as the same shall exist.

10. If any repairs, installation or other work is required in the external utility easement area described herein the area shall be returned to the condition prior to such work at the expense of the owner(s) of the dwelling unit(s) benefited by the work. The owner(s) of the dwelling units benefited by the work shall be responsible for the cost of such work, and the cost of repairing damage to the utilities in the easement area and to the dwelling units. All work shall be done in workmanlike fashion by appropriately licensed personnel. The owner of a dwelling unit may seek indemnification or contribution from any party for the cost of the work.

11. The owner of each dwelling unit agrees to indemnify and hold harmless the owner of the other dwelling unit for any mechanic's liens arising from work done or materials supplied to make repairs or replacements for which said owner is responsible.

ENFORCEMENT OF NON-MONETARY DEFAULTS

1. In the event of a violation by any Owner (other than the nonpayment of any Assessments or other monies) of any of the provisions of these Protective Covenants and Restrictions or restrictions set forth by the Association, the Association may notify the Owner of the violation by written notice. If the violation is not cured as soon as practicable, and in any event, no later than seven (7) days after the receipt of the written notice, or if the Owner fails to commence, within said seven (7) day period, and diligently proceed to completely cure the violation, the Association may, at its option:

- a. Commence an action to enforce the performance on the part of the Owner, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or
- b. Commence an action to recover damages; and/or
- c. It is acknowledged and agreed among all Owners that a violation of any of the provisions of these Protective Covenants and Restrictions (other than the non-payment of any Assessments or other monies) by an Owner or resident may impose irreparable harm to the other Owners or residents. All Owners agree that a fine may be imposed by the Association for each day a violation continues after notification by the Association. All fines collected shall be used for the benefit of the Association. Any fine levied shall be paid within fifteen (15) days after mailing of notice of that fine. If not paid within the fifteen (15) days the amount of such fine shall accrue interest at the rate of ten percent (10%) per annum, and shall be treated as a special Assessment hereunder.

- d. Take any and all action reasonably necessary to correct such violation, which action may include, but is not limited to, removing any building or improvement for which approval has not been obtained, or perform any maintenance required to be performed by these Protective Covenants and Restrictions, including the right to enter upon a Lot to make such corrections or modifications as are necessary, or remove anything in violation of the provisions of these Protective Covenants and Restrictions or any restrictions set forth by the Board

2. All expenses incurred by the Association in connection with the correction of any violation, or the commencement of any action against any Owner, including administrative fees and costs and reasonable attorneys' fees and disbursements through the appellate level, shall be an Assessment and assessed against the applicable Owner, and shall be due upon written demand by the Association.

3. Any amount due to Developer or the Association which is not paid within fifteen (15) days after the due date shall bear a late fee of Thirty-Five Dollars (\$35.00) and interest at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot.

4. The failure of the Association to enforce any right, provision, covenant or condition which may be granted by these Protective Covenants and Restrictions shall not constitute a waiver of the right of the Association to enforce such right, provisions, covenant, or condition in the future.

5. All rights, remedies, and privileges granted to the Association pursuant to any terms, provisions, covenants, or conditions of these Protective Covenants and Restrictions shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the Association from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

6. In addition to the foregoing, these Protective Covenants and Restrictions may be enforced by Developer, the Association, or any Owner by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain any violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce these Protective Covenants and Restrictions shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of these Protective Covenants and Restrictions. The prevailing party in any such action shall be entitled to recover its reasonable attorney fees and disbursements through the appellate level.

7. Each Owner and their family members, guests, invitees, lessees and their family members, guests and invitees, and his, her or its tenants, licensees, guests, invitees and sub-tenants shall be bound and abide by these Protective Covenants and Restrictions. The conduct of the foregoing parties shall be considered to be the conduct of the Owner who is responsible for, or connected in any manner with, such individuals presence within the Lots. Such Owner shall be liable to the Association for any fine imposed and/or the cost of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, neglect or carelessness,

or by that of any other of the foregoing parties which shall be immediately paid by the Owner as a special Assessment as provided herein. The failure of an Owner to notify any Person of the existence of the covenants, conditions, restrictions and other provisions of these Protective Covenants and Restrictions shall not in any way act to limit or divest the right to enforcement of these provisions against the Owner or such other person.

8. Upon request by any Owner or mortgagee, holding a mortgage encumbering any Lot, the Association shall execute and deliver a written certificate as to whether such Owner is in default with respect to compliance with the terms and provisions of this Declaration.

INDEMNIFICATION

The Association shall indemnify any person who was, or is, a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, employee, Officer or agent of the Association or the Developer, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

- a. To the extent that a Director, Officer, employee or agent of the Association is entitled to indemnification by the Association in accordance with this Article, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.
- b. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Iowa, any Bylaw, agreement, vote of members, or otherwise. As to action taken in an official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a member of the Board, Officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a Person.
- c. The Association shall have the power to purchase and maintain insurance on behalf of any Person who is or was a Director, Officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

[Signature Page Follows]

DATED this 15 day of October, 2021.

FOREVERGREEN DEVELOPMENT, LLC

By: [Signature]

Name: Matthew Adam

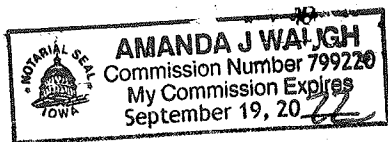
Title: Manager

STATE OF IOWA)

) ss:

JOHNSON COUNTY)

This instrument was acknowledged before me on this 15th day of October, 2021, by Matthew Adam as Manager of Forevergreen Development, LLC.



[Signature]
Public Notary

EXHIBIT A

ARTICLES OF INCORPORATION AND BYLAWS OF ASSOCIATION

See attached.

**ARTICLES OF INCORPORATION
OF
FOREVERGREEN HEIGHTS OWNER'S ASSOCIATION**

TO THE SECRETARY OF STATE OF THE STATE OF IOWA:

The undersigned, acting as incorporator of a nonprofit organization under the Revised Iowa Nonprofit Corporation Act under Chapter 504 of the Iowa Code, adopts the following Articles of Incorporation for such Corporation.

ARTICLE I

Name

The name of the corporation is: Forevergreen Heights Owner's Association

ARTICLE II

Duration

The period of existence of the corporation is perpetual.

ARTICLE III

Purpose

The Corporation is organized exclusively as a nonprofit corporation for the purpose of providing for the management, maintenance, care, preservation, and architectural control of the real property subject to Forevergreen Heights Owner's Association and to promote the health, safety and welfare of the property owners of such real property. In furtherance of such purpose, the corporation is authorized to exercise all powers and rights that are or may be authorized by the laws of the State of Iowa for nonprofit corporations now or hereafter enacted.

ARTICLE IV

Membership

The Corporation shall have one or more classes of members. The designation of each class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the bylaws.

ARTICLE V

Net Earnings

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof.

ARTICLE VI

Limitation on Liability and Indemnification

The Corporation shall indemnify any director or former director, officer, employee, member, or volunteer who is serving or has served at the request of the Corporation to the fullest extent permissible by Sections 504.851 through 504.860, including indemnification of any liability as defined in Section 504.851, Subsection 5, and except for liability for any action or inaction under Section 504.202, Subsection 2(e) of the Code of Iowa. In the event that Sections 504.851 through 504.860 of the Code of Iowa shall be changed by action of the legislature, and these articles are not subsequently amended, any director, officer, employee, member or volunteer seeking indemnification may, at such person's option, unless otherwise prohibited by law, require that the Corporation indemnify such person, either under the provisions as permitted under Sections 504.851 through 504.860 of the Code of Iowa, in effect as of the date of these articles or the legislatively amended or substituted provisions relating to indemnification of directors, officers, employees, members, or volunteers. No director, officer, member or other volunteer shall be personally liable in that capacity for a claim based upon any act or omission of the person performed and the discharge of the person's duties, except for breach of the duty of loyalty to the Corporation, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

ARTICLE VII

Initial Registered Office and Agent

The initial registered agent of the Corporation and the address of such agent is L & W Agents, Inc., 220 N. Main Street, Suite 600, Davenport, Iowa 52801.

ARTICLE VIII

Incorporator

The name and address of the incorporator is: Joseph C. Judge, 220 N. Main Street, Suite 600, Davenport, Iowa 52801.

ARTICLE IX

Dissolution

The Association may be voluntarily dissolved in the manner provided in the Revised Iowa Nonprofit Corporation Act. In the event of liquidation or dissolution of the corporation, whether voluntary or involuntary, the assets of the corporation received from any source whatever, after the payment of all debts and obligations of the corporation, shall be used or distributed, subject to the laws of the State of Iowa.

ARTICLE X

Amendments to Articles

If at any time during the continuance of the Corporation, the Directors shall deem it necessary or expedient to make any addition or alterations in any article, clause, matter or thing herein contained for the more advantageous or satisfactory management of the Association's business, the same shall be done at any regular or special meeting called in accordance with the bylaws, the addition or alteration shall be entered by the Secretary in the minute book of the Corporation and shall be binding on all members, and all such additions or alterations shall be adhered to and have the same effect as if the same had been originally embodied in and formed as a part of these presents.

IN WITNESS WHEREOF, the incorporator has executed and acknowledged these Articles of Incorporation this _____ day of _____, 202__.

Joseph C. Judge, Incorporator

STATE OF IOWA)
) SS:
COUNTY OF SCOTT)

On this _____ day of _____, 202__ before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph C. Judge, to me known to be the identical person named in and who executed the foregoing Articles of Incorporation, and acknowledged that he executed the same as his voluntary act and deed.

(Notary Seal)

Notary Public in and for the State of Iowa

**BYLAWS
OF
FOREVERGREEN HEIGHTS OWNER'S ASSOCIATION**

ARTICLE I

Offices

The principal office of Forevergreen Heights Owner's Association (the "Association") in the State of Iowa shall be located in the County of Johnson. The Association may have such other offices as the board of directors may designate or as the affairs of the Association may require from time to time.

The registered office of the Association may be, but need not be, identical to the principal office in the State of Iowa, and the address of the registered office may be changed from time to time by the board of directors.

ARTICLE II

Purposes

The purposes of the Association shall be to exercise all the powers and privileges and to perform all the duties and obligations of the corporation set forth in those certain Protective Covenants and Restrictions of Forevergreen Heights, Coralville, Johnson County, Iowa dated _____, 2021 and recorded on _____, 2021 as Document No. _____ in the office of the Recorder for Johnson County, Iowa, as amended, extended, and supplemented from time to time as therein provided (collectively, the "Covenants"), applicable to the real property described therein and located in the City of Coralville, Johnson County, Iowa (the "Real Estate"). The Association shall have unlimited power to engage in and to do any lawful act concerning any or all lawful purposes for which corporations may be organized under the Revised Iowa Nonprofit Corporation Act, Iowa Code Chapter 504.

ARTICLE III

Members and Voting Rights

Section 1. Members. Every person or entity who is a record owner, including contract sellers (individually, an "Owner" and collectively, "Owners"), of any lot or portion thereof that is subject by covenants of record to assessment by the corporation ("Lot"), shall be a member of the corporation. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 2. Voting. There shall be one class of voting membership which shall be all Owners of Lots, and each Owner shall be entitled to one vote in the Association for each dwelling unit located on such owner's Lot, e.g., single family Lot shall have one vote, duplex lots shall have two votes and a lot with a six-plex located upon it shall have six votes, as set forth in the Covenants. When more than one person or entity holds interest in any Lot, all such persons or entities shall be members of the Association, and the voting interest for such Lot held by more than one person or entity shall be exercised as they among themselves determine.

Section 3. Annual Meeting. The annual meeting of the members of the Association shall be held each year on a date and time as may be determined by the board of directors. Such meeting may, by vote of the membership present, be adjourned to any subsequent date. The annual meeting shall be held for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day designated herein for any annual meeting of the members, or at any adjournment thereof, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

Section 4. Special Meetings. Special meetings of the members, for any purpose or purposes, may be called by the president, the board of directors, or by members entitled to vote not less than ten percent (10%) of all the votes entitled to be voted at the meeting.

Section 5. Place of Meeting. All meetings of the Association members and all board meetings shall be held at a place determined by the board of directors but no more than five (5) miles from the subdivision/development.

Section 6. Notice of Meetings. Written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which called, shall be delivered no less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by ordinary mail, by or at the direction of the president, the secretary, or the person calling the meeting, to each member of the Association.

Section 7. Voting. Every member entitled to vote may vote on any question or in any election in person or by proxy. All proxies shall be in writing and filed with the secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically terminate when the grantor thereof shall cease to be a member. Voting on any question or in any election may be by oral roll call unless the presiding officer shall order or any member shall demand that voting be by ballot.

Section 8. Quorum. A quorum at a membership meeting shall consist of those members holding more than fifty percent (50%) of the votes of the Association present at a meeting, whether present in person or by proxy.

ARTICLE IV

Board of Directors

Section 1. General Powers. The business and affairs of the Association shall be managed by its board of directors. Additionally, the board of directors shall have the following powers and duties:

- A. To levy assessments and collect payment of same from each Owner as provided in the Covenants.
- B. To release and satisfy of record any lien hereinafter created against said Lot by such assessment.
- C. To adopt such other rules and regulations as may be necessary to effect the powers granted above and to perform any other duty provided for in the Covenants.

Section 2. Number, Tenure and Qualifications. The number of directors of the corporation shall be seven (7). Each director shall hold office until the next annual meeting of the members and until his or her successor shall have been elected and qualified. Each director of the Association shall be an Owner of a Lot and no more than one Owner of a single Lot shall be a director at the same time.

Section 3. Regular Meetings. A regular meeting of the board of directors shall be held without other notice than this bylaw immediately after, and at the same place as, the annual meeting of members. The board of directors may provide, by resolution, the time and place, either within or without the State of Iowa, for the holding of additional regular meetings without other notice than such resolution.

Section 4. Special Meetings. Special meetings of the board of directors may be called by or at the request of the president or any two (2) directors. The person or persons authorized to call special meetings of the board of directors may fix any place, either within or without the State of Iowa, as the place for holding any special meeting of the board of directors called by them.

Section 5. Notice. Notice of any special meeting shall be given at least twenty-four (24) hours previous thereto by written or oral notice delivered or telephoned to each director. A record of the delivery of notice shall be made at the meeting for which the notice was given. Alternatively, notice may be given by mail, posted at least two (2) days previous to the meeting, addressed to each director, postage prepaid. Any director may serve notice of any meeting and the attendance of a director at a meeting shall constitute his waiver of notice thereof. Neither the business to be transacted at any meeting, nor the purpose thereof, need be specified in the notice or waiver of notice of such meeting.

Section 6. Presumption of Assent. A director of the Association who is present at a meeting of the board of directors at which action on any matter is taken shall be presumed to have assented to the action taken unless the director's dissent shall be entered in the minutes of the meeting or unless the director files his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered

mail to the secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 7. Quorum. A quorum at a board of directors meeting shall consist of more than fifty percent (50%) of the elected directors.

Section 8. Informal Action by Directors. Any action required to be taken at a meeting of the directors, or any other action which may be taken at a meeting of the directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof.

Section 9. Vacancies. Any vacancy occurring in the board of directors, including any vacancy created by reason of an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors.

Section 10. Powers. The board of directors shall exercise all powers of the Association.

Section 11. Committees. The board of directors may appoint such committees as it deems desirable to assist it in its duties, which committees may, in the discretion of the board, contain members who are not members of the board of directors.

ARTICLE V

Officers

Section 1. Number. The officers of the Association shall be a president, a vice president, a secretary and a treasurer, each of whom shall be elected by the board of directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the board of directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

Section 2. Election and Term of Office. The officers of the Association to be elected by the board of directors shall be elected annually by the board of directors at the first meeting of the board of directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer or agent elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the Association would be served thereby.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section 5. President. The President shall be the principal executive officer of the Association and, subject to the control of the board of directors, shall in general supervise and control all of the affairs of the Association. The President shall, when present, preside at all meetings of the members and of the board of directors. The President may sign, with the secretary or any other proper officer of the Association thereunto authorized by the board of directors, any contracts or other instruments which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of directors or by these bylaws to some other officer or agent to the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the board of directors from time to time.

Section 6. Vice-President. In the absence of the president or in the event of the President's death, inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned by the President or by the board of directors.

Section 7. Secretary. The Secretary shall: (a) keep the minutes of the members' and the board of directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (c) be custodian of all Association records; (d) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; and (e) in general perform all duties incident in the office of the secretary and such other duties as from time to time may be assigned by the President or by the board of directors.

Section 8. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with provisions of these bylaws; and (b) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned by the President or by the board of directors.

ARTICLE VI

Contracts, Loans, Checks and Deposits

Section 1. Contracts. The board of directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the board of directors.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the board of directors may select.

Section 5. Fiscal Year. The fiscal year of the Association shall be the calendar year.

ARTICLE VII **Indemnification**

Section 1. Director Non-Liability. A director of the Association shall not be liable to the Association or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following: (1) the amount of a financial benefit received by a director to which the director is not entitled; (2) an intentional infliction of harm on the Association or the members; (3) a violation of the unlawful distribution provision of the Revised Iowa Nonprofit Corporation Act; or (4) an intentional violation of criminal law. If the Revised Iowa Nonprofit Corporation Act is hereafter amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Association, in addition to the limitation on personal liability provided herein, shall be eliminated or limited to the extent of such amendment, automatically and without any further action, to the fullest extent permitted by law. Any repeal or modification of this Article shall be prospective only and shall not adversely affect any limitation on the personal liability or any other right or protection of a director of the Association with respect to any state of facts existing at or prior to the time of such repeal or modification.

Section 2. Indemnification. The Association shall indemnify a director for liability (as such term is defined in section 504.851(5) of the Revised Iowa Nonprofit Corporation Act) to any person for any action taken, or any failure to take any action, as a director, except liability for any of the following: (1) receipt of a financial benefit by a director to which the director is not entitled; (2) an intentional infliction of harm on the Association or the members; (3) a violation of the unlawful distribution provision of the Revised Iowa Nonprofit Corporation Act; or (4) an intentional violation of criminal law. Without limiting the foregoing, the Association shall exercise all of its permissive powers as often as necessary to indemnify and advance expenses to its directors and officers to the fullest extent permitted by law. If the Revised Iowa Nonprofit Corporation Act is hereafter amended to authorize broader indemnification, then the indemnification obligations of the Association shall be deemed amended automatically and without any further action to require indemnification and advance of funds to pay for or reimburse expenses of its directors and officers to the fullest extent permitted by law. Any repeal or modification of this Article shall be prospective only and shall not adversely affect any indemnification obligations of the Association with respect to any state of facts existing at or prior to the time of such repeal or modification.

ARTICLE VIII

Assessments

As more fully provided in the Covenants, all members agree to pay to the Association assessments and charges necessary for the improvement, maintenance, insuring and other expenses and related to the upkeep and maintenance of the common areas and common area access ways, storm water management, signage, landscaping and other amenities, and as may otherwise be determined by the board of directors. If the assessment and charges are not paid on the date when due as directed by the board of directors, then such assessments or charges shall become delinquent and shall, together with the interest thereon at the rate of ten percent (10%) per annum payable upon demand and costs of collection thereof, become a continuing lien on the Lot which shall bind such property in the hands of the then Owner, the heirs, designees, personal representatives and assigns and shall permit the Association to bring an action at law against the then Owner of any Lot against which the assessment was made or against the Owner personally obligated to pay the same, or bring an action in equity to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing complaint in such action and in the event judgment is obtained, such judgment shall include interest on the assessment as above provided, reasonable attorneys' fees and court costs.

ARTICLE IX

Seal

The Association shall not have a corporate seal.

ARTICLE X

Dissolution

The Association may be voluntarily dissolved in the manner provided in the Revised Iowa Nonprofit Corporation Act. In the event of liquidation or dissolution of the corporation, whether voluntary or involuntary, the assets of the corporation received from any source whatever, after the payment of all debts and obligations of the corporation, shall be used or distributed, subject to the laws of the State of Iowa.

ARTICLE XI

Amendments

These bylaws may be altered, amended or repealed, and new bylaws may be adopted by a majority vote at any regular or special meeting of the members of the Association. These bylaws replace any prior bylaws of the Association in their entirety.