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SECOND AMENDMENT AND RESTATEMENT TO THE
DECLARATION OF SUBMISSION TO HORIZONTAL PROPERTY REGIME
FOR
THE DWELLINGS AT INDIAN HILLS

This Second Amendment and Restatement to the Declaration of Submission to Horizontal Property Regime for The Dwelling at Indian Hills is made and entered into by The Dwellings at Indian Hills, LLC, and its successors and assigns (herein sometimes the “Declarant” and the “Developer”).

RECITALS

WHEREAS, Declarant is the currently the sole owner of a parcel of real estate more specifically described to-wit, as follows: Parcel Q being part of the Northeast Quarter of Section 1, Township 99 North, Range 37 West of the 5th P.M., Dickinson County, Iowa as the same appears in a Plat of Survey by Michael G. Semke, P.L.S., Beck Engineering, dated February 7, 2018 and recorded January 12, 2021 as Instrument No. 21-00212 in the Office of the Recorder of Dickinson County, Iowa EXCEPT the North 6 feet thereof (hereinafter, the “Regime Property”).

WHEREAS, the Declarant made and entered into a Declaration of Submission of Property of Horizontal Property Regime for The Dwellings at Indian Hills on August 5, 2021, which was recorded with the Dickinson County Recorder's Office on August 6, 2021 as Instrument No. 21-05349.

WHEREAS, the Declarant made and entered into a First Amendment to Declaration of Submission of Property of Horizontal Property Regime for the Dwellings at Indian Hills also on August, 2021, which was recorded with the Dickinson County Recorder's Office on August 25, 2021 as Instrument No. 21-05838 (herein "First Amendment"). The only changes included in the First Amendment is that it includes the Exhibits that are attached thereto.

WHEREAS, the Declarant is currently sole owner and hereby makes and enters into this Second Amendment and Restatement of the Declaration of Submission to Horizontal Property Regime for The Dwellings at Indian Hills for the purpose of including Phase 2 and Phase 3, as well as amend and restate the governing provisions (hereinafter, the "Regime Property").

WHEREAS, Declarant intends the Regime Property and its buildings, structures, improvements, permanent fixtures, rights and privileges to be owned by Declarant and each successor in interest of Declarant as a horizontal property regime under Chapter 499B of the Iowa Code (the "Act") to be hereinafter known as **The Dwellings at Indian Hills** (the "Regime");

WHEREAS, Declarant intends to sub-divide the Regime Property into separate parcels of real estate (hereinafter referred to as "Units") which, in accordance with the provisions herein contained, shall nevertheless be subject to the benefits and burdens of a Horizontal Property Regime;

WHEREAS, Declarant desires to establish for the mutual benefit of all Owners (as defined herein) and occupants of Units, certain easements and rights on, over and upon the Regime Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof;

WHEREAS, Declarant desires and intends that the several owners and occupants of the Units in the Regime Property shall at all times enjoy the benefits of and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which shall be in furtherance of a plan to promote and protect the cooperative aspect of the Regime and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Regime Property; and

WHEREAS, Declarant intends that this Declaration shall be in force and take effect from and after the date that it is recorded in the office of the Dickinson County Recorder, subject to further amendment as provided herein.

NOW THEREFORE, the undersigned Declarant does hereby declare that all of the Regime Property is held and shall be held subject to the following covenants, conditions, restrictions, uses, and limitations, all of which are declared and agreed to be in the furtherance of a plan for the improvement of the Regime Property and shall run with the land and shall be a burden and a benefit to Declarant, its successors and assigns, and any persons owning an interest in the real property, improvements and appurtenances thereto, their grantees, successors, administrators, executors, heirs, and assigns.

ARTICLE I – DEFINITIONS

1.1 “**Act**” means the Horizontal Property Act of the State of Iowa, as codified at Iowa Code §§ 499B.1 *et seq.*

1.2 “**Association**” means the entity to manage the Regime Property subject to this Declaration and which is known as The Dwellings at Indian Hills Association, LLC, its successors and assigns. “Association” shall have the same meaning as the term “Council of Co-Owners” defined in the Act.

1.3 “**Board**” means the Board of Directors of the Association, and shall also mean the Board of Administration referred to in the Act.

1.4 “**Buildings**” means the structural improvements located on the Parcel and forming part of the Regime Property containing one or more Units.

1.5 “**Bylaws**” means the Bylaws of the Association, attached hereto as **Exhibit A** and by this reference made a part hereof, as amended from time to time.

1.6 “**Common Expenses**” means and includes:

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

1.7 **“Council of Co-Owners”** means all of the Unit Owners, which Council of Co-Owners has been incorporated as the Association.

1.8 **“Declarant”** shall mean and refer to the undersigned Owner, The Dwellings at Indian Hills, LLC.

1.9 **“Declaration”** shall mean and refer to this Declaration of Submission of Property to Horizontal Property Regime for The Dwellings at Indian Hills, to with the Property is subject.

1.10 **“Majority”** or **“Majority of the Unit Owners”** means more than fifty percent (50%) of the membership votes in the Association.

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

1.12 **“Parcel”** or **“Real Estate”** means the parcel or tract of real estate described above in this Declaration, submitted to the provisions of the Act.

1.13 **“Person”** means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.14. **“Plans”** means the survey, floor plans and drawings, description of materials used in of the Buildings and improvements, attached hereto as **Exhibit B**, and by this reference made a part herein and incorporated herein by this reference.

1.15 **“Property”** means all of the land, property, and space comprising the Parcel, and all improvements and structures now or hereafter erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances belong thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners.

1.16 **“Record”** or **“Recording”** refers to a record or recording in the office of the Dickinson County Recorder, Dickinson County, Iowa.

1.17 **“Unit”** means an enclosed space consisting of rooms occupying part of a Building, which enclosed space is not owned in common with the Unit Owners of other Units. Each Unit is numbered as shown on the Plans, and the boundaries of each Unit shall be and are the unpainted surfaces of its perimeter interior drywalls, unfinished surface of its exterior door(s), and the exterior surface of its windows; and a Unit includes both the portion of the building so described and the air space so encompassed, excepting Common Elements. Any Unit may be jointly or commonly owned by more than one person.

1.18 **“Unit Owner”** or **“Owner”** means the person or persons whose estate or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the undivided interest in the

Common Elements appurtenant thereto, but shall not include those, out of possession, having an interest in a Unit merely as security for the performance of an obligation.

1.19 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.

1.20 Reference to an Owner, the Association, or any person or entity shall include the respective successors, grantees and assigns thereof.

1.21 The invalidity of any covenant, restriction, agreement, undertaking, or other provision of this Declaration or Bylaws shall not affect the validity of the remaining portions thereof.

1.22 Exhibits attached hereto and referred to herein are, by this reference, made a part hereof with the same force and effect as other provisions of this Declaration.

1.23 The undersigned are the titleholders in fee simple title to all Units within the Parcel, and expressly intend to continue to subject the Parcel and the Property to the provisions of the Act.

1.24 No Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plans.

1.25 The Common Elements shall remain undivided and shall not be the object of an action for partition or division of the co-ownership thereof so long as suitable for a condominium regime.

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

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

1.28 There has been formed an association having the name "**The Dwellings at Indian Hills Association, LLC**", an Iowa limited liability company, which Association is the governing body for all of the Unit Owners, for the maintenance, repairs, replacement, administration and operation of the Property, as provided in the Act, this Declaration and the Bylaws. The fiscal year of the Association shall be determined by the Board, and may be changed as the Board deems advisable. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and all funds received by the

Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions of this Declaration and the Bylaws, except as provided for herein. Each Unit Owner shall be a member of the Association so long as they are a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, by operation of law or otherwise, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association.

ARTICLE II – OWNERSHIP OF UNITS

2.1 Each Unit Owner shall be entitled to exclusive ownership and possession of their Unit. The front walk and entry, garage entry, front entrance, and the driveway in front of each Unit are defined as Limited Common Elements reserved for the use of the Unit served. The cost of upkeep and maintenance of Limited Common Elements shall be a Common Expense. The use of the Limited Common Elements shall be exclusive to the Unit which they serve.

2.2 Common Elements shall consist of the Property, except the Units, and shall include all yard, drive, walk, exterior space and yards. Pipes, wires, conduits or other public utility lines that are utilized for or serve more than one unit shall also be Common Elements.

2.2 Each Unit Owner shall be entitled to the fractional ownership in the Common Elements allocated to the Unit owned by such Unit Owner, as set forth in **Exhibit C**. Said ownership interest in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective fractional ownership. The ownership of each Unit shall not be conveyed separate from the fractional ownership in the Common Elements corresponding to said Unit. The undivided fractional ownership in the Common Elements corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the number of that Unit, or may refer to an incorrect fractional ownership in the Common Elements for that Unit.

2.3 Appurtenant to each Unit shall be easements from each Unit Owner to each other Unit Owner and to the Association and from the Association to the respective Unit Owners as follows:

(a) For ingress and egress through the Common Elements for maintenance, repairs, and replacement as authorized by the Declaration or Bylaws.

(b) Through the Units and Common Elements for maintenance, repair and replacement or reconstruction of Common Elements, but access to or through Units shall be only during reasonable hours except in case of emergency.

(c) Through the Units and Common Elements for installation, maintenance, repair and replacement or reconstruction of conduits, plumbing, wiring and other facilities for the furnishing or utility or other services to one or more of the Units or the Common Elements.

The easement rights reserved to the Association in this Section II may, with the prior consent of the Association, be exercised and enjoyed by contractors or assignees of the Association.

2.4 Each Unit Owner, at their own expense, shall furnish and be responsible for all decorating within their own Unit subject to the rule and regulations of the Association. Each Unit Owner shall be responsible for maintaining their respective Unit.

2.5 If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portion of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown on the Plans, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and respective Unit Owners involved, as the case may be, to the extent of such encroachment, so long as the same shall exist.

2.6 There is reserved in favor of utility companies serving all or any portion of the Property, an easement for ingress and egress as may be necessary to utilize and service water mains and water meters, sanitary sewers and storm sewers located on, under or through Common Elements, including individual Units. Such easement will be exercised at reasonable times and in a reasonable manner. Water hookups for service to Units shall be as follows: a two (2) inch service line shall connect the Building(s) to the exterior city water main; however, there shall be a curb stop between said two (2) inch service line and each individual Unit's one (1) inch service line through, under and to a respective Unit. The two (2) inch service line shall be the responsibility of the Association to maintain and the one (1) inch service line through, under and to each Unit shall be the responsibility of each respective Unit Owner. The Association and Unit Owners will execute any documents necessary for the sanitary sewer main to be donated/given to the City of Okoboji after the construction of the New Buildings has been completed.

ARTICLE III – COMMON EXPENSES AND ASSESSMENTS

3.1 Each Unit Owner shall pay their proportionate share of the Common Expenses corresponding to that Unit Owner's undivided fractional interest in the Common Elements. Payment of Common Expenses, shall be in such amounts and at such times as determined in the manner provided in the Bylaws or at the direction of the Board. No Unit Owner shall be exempt from payment of their proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of recreational

amenities, or the Common Elements, or by abandonment of their Unit. The amount thereon at the legal rate for money judgments as may then be permitted under the law of the State of Iowa, or such other rate as may be fixed by Board resolution, accruing from and after the date that said Common Expense become due and payable, shall constitute a lien on the interest of such Unit Owner in the Property and their Unit from the date that notice thereof is given by the Board.

3.2 The Board may bring an action at law against the Unit Owner personally obligated to pay the same, for collection of their proportionate share of the Common Expenses after it becomes due, or foreclose the lien against the Unit or Units owned by such Unit Owner, and interest cost, and reasonable attorney's fees arising from any such action shall be added to the amount of such assessment. Each Unit Owner, by their acceptance of a deed to a Unit or possession thereof, expressly vest in the Board or its agents the right and power to bring all actions against such Unit Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens. The lien provided for in this section shall be in favor of the Association and shall be for the common benefit of all Unit Owners. The Board acting on behalf of the Unit Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

ARTICLE IV – ALTERATION AND IMPROVEMENT

4.1 The Association shall maintain all Common Elements, whether limited or general, and shall make assessments therefor as a Common Expense, except where maintenance has been specifically made the responsibility of the respective Unit Owners. The respective Unit Owners shall be responsible for the maintenance of, repairs to their Units, and replacement of exterior light fixtures, of uniform appearance, which serve their individual Units. The Unit Owners shall also be responsible for the maintenance and repair of any water or sewage pipes serving their respective Units and which are within the reach of a ten (10) foot plumbing snake used for clearing debris from said pipes.

4.2 In the event that the need for maintenance or repair is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the guests or invitees of an Owner's Unit, the Association, under its discretion may complete the repairs and make the same collectible in the same manner as assessments for Common Expenses.

4.3 Each Unit Owner at their own expense shall maintain the interior, including the boundary surfaces, of such Unit and its plumbing, electric, and other equipment, and shall keep such interior in a clean and sanitary condition, shall do all redecorating, painting and other finishing which may at any time be necessary to maintain their Unit, and shall be responsible for the maintenance of all personalty within such Unit. The Owner of each Unit shall promptly report to the

Association any defects or other maintenance needs which are the responsibility of the Association.

4.4 No Unit Owner shall make or permit to be made any structural alteration to a Unit or to a Building or any of the Common Elements, limited or general, without first obtaining written consent of the Association, which shall be at its sole discretion.

4.5 The Unit Owner shall furnish to the Association, at their expense, data necessary for the Association to determine whether the alteration or improvement will alter the structural soundness of the Building. The Board may condition its approval upon such terms and restrictions as it may deem reasonable for the protection of the interest of the Association and other Unit Owners. No Owner shall do any act or work which will impair the structural soundness or integrity of any Building or safety of the Property, or impair any easement.

ARTICLE V – INCUMBRANCES

No Unit Owner shall have the right to cause any lien on a Unit without the written consent of a majority of the Unit Owners and the Board.

ARTICLE VI – REAL ESTATE TAXES

Taxes, assessments and other charges of any taxing or assessing authority shall be separately assessed and levied against each Unit Owner for their Unit and their corresponding fractional ownership interest in the Common Elements, as provided in the Act. In the event that any such taxes or assessments for any year are not separately assessed and levied against each Unit Owner, but rather are assessed or levied against the Property as a whole, then each Unit Owner shall pay their proportionate share thereof in accordance with their respective fractional ownership interest in the Common Elements, and, in said event, such taxes or assessments shall be a Common Expense. Without limiting the authority of the Board provided for elsewhere herein, the Board shall have the authority to collect from the Unit Owners their proportionate share of such taxes or assessments for any year in which taxes are assessed or levied against the Property as a whole, in the same manner as collection for assessments for Common Expenses.

ARTICLE VII – DESTRUCTION OR DAMAGE

In the case of fire or any other disaster which causes damage or destruction to all or part of the Property, the Board shall obtain, on behalf of the Association, an independent appraisal of the damage to

all or part of the Property. If Property is destroyed or substantially damaged, the Association shall, within thirty (30) days after such destruction or damage, call a special meeting of Unit Owners for the purpose of deciding whether or not the Property shall be repaired and restored or reconstructed at the cost of a Unit Owner(s) or the Association. The insurance adjuster for the Association and those for any individual Owners shall be required to issue a report prior to said meeting directly to the President of the Board. Notice of any such meeting shall be given at least three (3) days prior to the meeting to the last known email address of the Owners and by posting Notice on the door of each respective Unit. If the cost is determined to be by the Association, the Owners shall immediately be liable for any deficiency in proportion to their respective undivided fractional interest in the Common Elements.

ARTICLE VIII – INSURANCE

8.1 At the direction of the Board, (by its majority vote), the Association shall obtain and maintain at all times to the extent reasonably available, insurance on the Property. The Board shall, by majority vote, direct the type and extent of said insurance (hereinafter referred to as "**Property Insurance**") which may be one or more of the following:

(a) Insurance on the Property in an amount equal to the full replacement value (i.e. one hundred percent (100%) of replacement cost) of the Property as determined annually by the Association and with a replacement cost endorsement which provides for the payment of all losses in accordance with such terms as may be determined by the Board.

(b) Comprehensive general liability insurance, with limits of liability not less than One Million dollars and 00/100 (\$1,000,000.00) for any one occurrence and Two Million dollars and 00/100 (\$2,000,000.00) in the aggregate annually. Coverage may include the following: (i) Premises and Operations Liability; and (ii) Personal and Advertising Injury.

(c) Worker's compensation insurance to the extent necessary to comply with applicable laws; and

(d) Such other policies of insurance, including Director's and Officer's liability insurance and insurance for other risks of a similar or dissimilar nature, as are or shall hereafter be considered appropriate by the Association.

8.2 The premiums for the insurance coverage shall be a Common Expense to be paid by monthly assessments levied by the Association against Unit Owners.

8.3 The Association, or its designee, shall have the exclusive authority to adjust losses under the insurance policies.

8.4 In no event shall the insurance coverage obtained and maintained by the Association be

brought into contribution with insurance purchased by individual Unit Owners or their respective mortgagees.

8.5 Each Unit Owner shall obtain insurance at their own expense upon their Unit and the personalty therein. However, no Owner shall maintain insurance coverage which will tend to decrease the amount which the Association may realize under any insurance policy which it may have in force on any portion of the Property.

8.6 All policies shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days prior written notice to any and all insured persons named thereon, whether named individually or as a class.

8.7 The Association may from time to time designate an Insurance Trustee. The Association shall be responsible for fees and expenses of the Insurance Trustee which shall constitute a Common Expense. The Board may, alternately, choose to act as the Insurance Trustee.

8.8 Except as hereinafter provided, for any claim submitted by the Association to its insurance provider, the Association or Insurance Trustee so designated shall submit, receive and hold the amount payable under the Property Insurance and apply the same to the cost of reconstruction or repair as herein provided, only if the Owner's separate insurance does not fully cover the same. The Owner of the damaged or destroyed Unit shall be obligated to submit a claim to insurance immediately, and then commence the work of repairing or reconstruction of the Unit within sixty (60) days from the date of the damage or destruction. The work shall be accomplished in accordance with the same plans and specifications by which the Unit was originally constructed, subject, however, to the prior written approval of the Association. The Association or Insurance Trustee shall make available and pay to the Owner the amount of insurance proceeds received by the Association or Insurance Trustee for the reconstruction and repair of the Unit unless the Unit Owner's Policy fully covers the same. The payment of the proceeds of Insurance shall be made as the work progresses at such time and upon compliance by the Owner with such conditions as the Association or Insurance Trustee shall impose, in order to assure full restoration or repair of the damaged portions of the Unit in a workmanlike manner, free and clear of any mechanic's and materialmen's liens and any encumbrances, liens, claims or charges.

8.9 Any Insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

(a) All policies shall be written with a company or companies licensed to do business in the State of Iowa and approved by the Association.

(b) Exclusive authority to negotiate losses under said policies shall be vested in the Association or its authorized representative, including any trustee which the association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall herein elsewhere be

referred to as the "Insurance Trustee" and all proceeds covering any loss shall in such event be payable to Insurance Trustee or to his successor. All proceeds from an insured loss under such policy shall be held for the use and benefit of the Association and the Owners of all Units and their respective mortgagees as their interest may appear, and subject to the provisions of Section 8.8 above. Such insurance proceeds shall be applied and distributed in accordance with the articles relating to insurance in the Declaration and Bylaws, and rules, regulations and resolutions of the Board not inconsistent therewith.

(c) All fire and other hazards insurance policies shall provide that, notwithstanding any provisions thereof which give the carrier the right to erect a structure or restore damage in lieu of making a cash settlement, such option shall not be exercisable when in conflict with the provisions of the Declaration or the Bylaws.

(d) All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board, their agents and employees, the respective Unit Owner, their resident employees, agents and guests, except with respect to acts of intentional wrongdoing. Independent contractors shall not be considered agents, employees or servants of the Association or of the respective Unit Owners, within the meaning of said waiver.

(e) The insurance policy shall contain a provision that the insurance shall not be prejudiced:

(i) By any act or neglect of any occupants or Owners when such act or neglect is not within the control of the Unit Owners collectively; or

(ii) By failure of the Unit Owners collectively to comply with any warranty or condition with regard to any portion of the premises over which the Unit Owners collectively have no control.

ARTICLE IX – USE AND OCCUPANCY RESTRICTIONS

Use and occupancy restrictions are set forth in the Bylaws.

ARTICLE X – REMEDIES

In the event of any violation of the provisions of the Act, Declaration, Bylaws or rules and regulations of the Board or Association by any Unit Owner (either by their own conduct or by the conduct of any other occupant or invitee of their Unit) the Association, or its successors or assigns, or the Board, or its agent, shall have each and all of the rights and remedies which may be provided for in

the Act, Declaration, Bylaws, or said rules and regulations, or which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court cost and attorney's fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the lawful rate for money judgments until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of their respective share of the Common Expenses, and the Board shall have a lien for all of the same as well as for nonpayment of their respective share of the Common Expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner and upon all of their additions and improvements thereto and upon all of their personal property in their Unit or located elsewhere on the Property; provided, however, that such lien shall be subordinate to the lien of prior recorded first mortgage on the interest of such Unit Owner, except for the amount of the proportionate share of said Common Expenses which become due and payable from and after the date on which the said mortgagee either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security) or files suit or commences other proceedings to foreclose its mortgage and causes a receiver to be appointed. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of mortgages holding a lien against all or part of the Property. Nothing herein shall be deemed to derogate the right of the Association to recover unpaid assessments, and charges from a defaulting Unit Owner personally, without the foreclosure of lien rights, or resort to other remedies.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained by an Owner, their guest and/or their invitee, shall give the Board the right, in addition to any other rights provided for in this Declaration, (a) to enter upon the Unit, of any portion of the Property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to proceed with both (a) and (b) above.

ARTICLE XI – MISCELLANEOUS PROVISIONS

10.1 Each Unit Owner shall strictly comply with the provisions of the Declaration, the Bylaws, the Association rules and regulations, and decisions issued pursuant thereto. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Association or its designee on behalf of the Unit Owners, or in an appropriate case, by an aggrieved Unit Owner.

10.2 The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

10.3 The captions to this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

10.4 This Declaration and the Bylaws shall be constructed and controlled by and under the laws of the State of Iowa. A violation of either this Declaration or the Bylaws shall be deemed a violation also of the other.

10.5 Notices provided for in the Act, Declaration or Bylaws shall be in writing, and shall be addressed to the Association or Board, or to any Unit Owner, as the case may be. The Association or Board may designate a different address or addresses for notices to them, respectively, from time to time, by giving written notice of such change of address to all Unit Owners. Unless a Unit Owner has designated a different address for notices to them shall be address to their Unit. Notices addressed as above shall be deemed delivered when mailed by United States mail with postage prepaid, or when delivered in person, unless where otherwise permitted by email and/or posting herein.

Upon written request to the Board, the holder of any recorded mortgage encumbering an Unit shall be listed on the mortgagee roster and given a copy of all notices permitted or required by this Declaration to be given to the Owner(s) whose Unit(s) is (are) subject to mortgage(s).

10.6 If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States.

10.7 This Declaration shall take effect when recorded in the office of the Dickinson County Recorder, Dickinson County, Iowa.

10.8 References herein or in the Bylaws to a proportion or percentage of the Unit Owners shall mean and refer to the collective total of their weighted votes or weighted fractional interests in the Common Elements as more fully described and attached hereto, and not to such Unit

Owners per capita.

10.9 In order to permit the construction, operation, maintenance, repair and removal of utilities serving common areas and/or individual units within the condominium regime, the Board shall be authorized, empowered, and directed to execute one or more utility easements from time to time. The President of the Association, acting pursuant to a duly authorized resolution of the Board, shall be deemed the attorney-in-fact of each Unit Owner and the spouse, if any, of each Unit Owner, as well as their mortgagees and successors in interest, for the purposes of the execution of each such easement.

10.10 Until such time as the first annual meeting of the Association held as provided in the Bylaws of the Association, the Board of Directors appointed by Developer shall exercise the powers, rights, duties and functions of the Association.

10.11 Each grantee of Declarant, by the acceptance of a deed of conveyance, or each purchaser under a contract for purchase of a Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in a Unit, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

10.12 No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

ARTICLE XII – AMENDMENTS

Except as otherwise provided in the Declaration, this Declaration may be amended or modified by a resolution setting forth such amendment or modification and duly adopted by the affirmative vote of a majority of Unit Owners.

ARTICLE XIII – DEVELOPERS' RIGHTS

13.1 Any provision of this Declaration or the Bylaws notwithstanding the Developers shall have the right to sell, lease or rent Units as they shall determine. The Developers shall have the right to transact any business necessary to consummate sales of the Units, including but

not limited to the right to maintain models, have signs, establish sales offices, place employees on the premises, use Common Elements, and to show Units. Any sales office, signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of the Developers.

13.2 So long as the Developers remain the Owners of a Unit or Units, the Developers shall pay the Common Expenses assessed to such Unit or Units in the same manner as any other Owner.

13.3 No Units held by the Developers for sale shall be liable for any special assessment that may be established, levied or assessed by the Board or the Association, nor for assessments for capital reserves intended to provide for the accumulation of funds for repairs, replacements or improvements. Units owned and occupied by the Developers shall be subject to assessments like all other Units.

13.4 The Developer shall have the right to enlarge the Regime, from time to time, by adding units on the Land or by adding land or parcels thereon from additional land. The right to enlarge the Regime from time to time, is reserved exclusively to the Developer and shall be exercised by the Developer, if at all, not later than ten (10) years after the date of recording of this Declaration. Developer shall have and exercise the right to enlarge the Regime not only in its individual capacity but also as agent for the Owners of all Units as not constituted or hereafter enlarged and such Unit Owners do irrevocable appoint the Developer as their agent for the purpose of so enlarging the Regime.

The right to enlarge the Regime by adding thereto additional Units and/or additional land upon which additional Units are to be constructed, shall be exercised by Developer by executed a supplemental declaration to such effect made pursuant to the Horizontal Property Act. Such supplemental declaration shall be effected when recorded in the Office of the Recorder of Dickison County, Iowa.

ARTICLE XIV – TRANSFER OF UNITS

14.1 A Unit Owner may, without restriction under this Declaration, sell, give, devise, lease or otherwise transfer their Unit, or any interest therein, to their spouse, child, parent, sibling, grandchild or descendant or to any one or more of them, or to any trustee of a trust, the sole beneficiary of which is the Unit Owner or their spouse, child, parent, sibling, grandchild, or descendant or any one or more of them. Notice of any such unrestricted transfers shall be given to the Board within five (5) days following consummation of such transfer.

14.2 Whenever a Unit Owner shall propose to sell, give, devise, or otherwise transfer their Unit, or any interest therein, to any person or entity other than a person or entity described in paragraph 14.1 above, said Unit Owner shall give the Association not less than thirty (30) days prior written notice of the proposed transfer, which notice shall briefly describe the type of transfer proposed by the Unit Owner and shall state the name, address, and financial and character references of the proposed transferee. The notice shall also include a copy of the proposed contract for sale or other documents, if any, affecting said transfer.

14.3 If a Unit Owner or the Owner's legal representative proposes to sell or transfer a Unit, or any interest therein, to any person or entity other than a person or entity described in paragraph 14.1 above; for a period of thirty (30) days following the date notice of said proposed transfer is given to the Association, the Association shall have the first right, at its option, to purchase such Unit or interest therein from said Unit Owner, or the Owner's legal representative, (the "transferring party") upon the terms described in said notice.

14.4 The Board shall have authority, on behalf of and in the name of the Association, to elect not to exercise the Association's first option hereunder, and shall promptly give written notice of said election to the transferring party. Upon receipt of notice of a proposed transfer, the Board shall, within ten (10) days thereafter, hold a meeting of Directors or poll all Directors for the purpose of voting upon whether the Board shall elect not to exercise the Association's first option hereunder. The Association shall be deemed to have elected not to exercise its first option if either (i) the Association notifies the transferring party that it has elected not to exercise its option or (ii) the Association fails to notify the transferring party, before expiration of the applicable option period provided herein, that the Association elects to exercise its option.

14.5 The Board shall have authority to recommend to the Unit Owners that the Association elect to exercise its first option hereunder. Upon receipt of notice of a proposed transfer, the Board shall, within ten (10) days thereafter, hold a meeting of Directors or poll all Directors for the purpose of voting upon whether the Board should make such recommendation. In the event the Board decides not to recommend that the Association elect to exercise its option, then notice of the Board's decision shall be promptly given to the transferring party.

14.6 In the event the Board shall decide to recommend to the Unit Owners that the Association elect to exercise its option, the Board shall call and hold a meeting of all the Unit Owners, within the twenty (20) days following its determination to recommend such election, for the purpose of voting upon whether the Association will elect to exercise its option. If the non-selling Unit Owners, by affirmative vote of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements, elect to exercise the Association's option, then the Board shall promptly give

written notice of said election to the transferring party. The Association shall be deemed to have exercised its option hereunder if it gives notice of said election to the transferring party within the applicable option period provided herein, and tenders the required sum of money within fifteen (15) days thereafter or as provided in the subject lease or contract for sale, whichever is later.

14.7 The Board shall have the power and authority to bid and purchase, for and on behalf of the Association, any Unit, or interest therein, at a sale pursuant to a mortgage foreclosure, a foreclosure of any lien for common expenses, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements. Such consent shall set forth a maximum price which the Board or its duly authorized agent may bid and pay for said Unit or interest therein.

14.8 The Board shall have authority to make such mortgage arrangements and special assessments proportionately among the respective Unit Owners, and other such financing arrangements, as the Board may deem desirable, in order to close and consummate the purchase or lease of a Unit, or interest therein, by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein, to be purchased or leased, and the percentage interest in the Common Elements appurtenant thereto.

IN WITNESS WHEREOF, the undersigned has executed this Declaration of Submission of Property to Horizontal Property Regime for The Dwellings at Indian Hills on this 24 day of FEBRUARY, 2022.

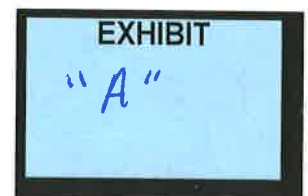
THE DWELLINGS AT INDIAN HILLS, LLC

By: 
Marc Steffes
Its: Managing Member

**BYLAWS OF
THE DWELLINGS AT INDIAN HILLS ASSOCIATION, INC.**

ARTICLE I - ORGANIZATION

- 1.1 The Dwellings at Indian Hills Association, Inc. is herein referred to as the "Association." The members shall consist of the Unit Owners in The Dwellings at Indian Hills, as defined by the Declaration of Submission to a Horizontal Property Regime for The Dwellings at Indian Hills (hereinafter referred to as the "Declaration").
- 1.2 The Owner of each Unit shall be defined as one Owner. The voting rights of such Owner shall be set forth below.
- 1.3 Until all Units have been conveyed by the Developer, or until Developer relinquishes control of the Board, the principal office of the Association shall be 1704 Hill Ave., Spirit Lake, IA 51360. Thereafter, the President of the Association shall be the person designated to receive service of process for the Association and the principal office of the Association shall be at such suitable place convenient to the Owners as may be designated by the Board. All meetings of the Association shall be held at its principal office unless some other place is stated in the call.
- 1.4 Upon conveyance by Developer of all the Units to the purchasers thereof, or upon Developer relinquishing control of the Board, whichever occurs first, each Unit shall have one vote and there shall be one voting Member for each Unit Ownership. Such voting Member may be the Owner of the group composed of all the Owners of a Unit Ownership or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board of the Association and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners so designating. Any or all of such Owners may be present at any meeting of the voting Members and (those constituting a group acting unanimously) may vote or take any other action as a voting Member either in person or by proxy.



1.5 Meetings

- A. The presence in person or by proxy at any meeting of the voting Members having a majority of the total votes shall constitute a quorum.
- B. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting Members upon the affirmative vote of the voting Members having a majority of the total votes present at such meeting.
- C. The first annual meeting of the Association shall be held upon ten (10) days' written notice given by the Association that all Units have been conveyed by Developer to the purchasers thereof, or by ten (10) days' notice by Developer of his desire to relinquish control of the Board, whichever date occurs first. Thereafter, there shall be an annual meeting of the Members on the first Wednesday of July of each succeeding year at 7:30 P.M. at such reasonable place, or other time (not more than thirty (30) days before or after such date) and place, as may be designated by written notice of the Board delivered to the voting Members not less than ten (10) days prior to the date fixed for said meeting.
- D. Special meetings of the voting Members may be called at any time after all the Units have been conveyed by Developer to the purchasers thereof, for the purpose of considering matters which by the terms of the Declaration or the Bylaws of the Association, require the approval of all or some of the voting Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by the voting Members having one half ($\frac{1}{2}$) of the total votes, and delivered not less than five (5) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.
- E. The voting Members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the voting members. Any action so approved shall have the same effect as though taken at a meeting of the voting Members.

1.6 Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Unit of the Owner with respect to which such voting right appertains, if no address has been given to the Board.

1.7 Board of Directors

- A. Except as hereinafter noted in Section 1.7E at each annual meeting, the voting members shall, by a majority of the total votes present at such meeting elect a Board of Directors for the forthcoming year, consisting of not less than two owners, all of whom must reside on the Property.
- B. A quorum shall consist of a majority of the members of the Board. Members of the Board shall serve for a term of one (1) year or until their successors are elected and shall be paid such compensation as may be voted by the Members of the Association.
- C. Vacancies in the Board may be filled by unanimous vote of the remaining members thereof. Except as otherwise provided the Board shall act by majority vote of those present at its meetings when a quorum exists.
- D. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt.
- E. Until all of the Units are conveyed by Developer to the purchasers thereof or the Developer shall relinquish control, the Board shall be selected by Developer, except as provided in Paragraph 1.SC of this Article, and Members so selected need not be Unit Owners or residents of the Property. Said Directors shall serve until the first annual meeting of the Members. Provided, however, Developer may in his sole discretion remove any Director so appointed by him and replace such Director with another appointee.
- F. The Board shall elect from among its members a President who shall preside over both its meetings and those of the voting Members, and shall also elect a Secretary and a Treasurer, either of whom may or may not be a member of the Board or qualified to be a Member. The Secretary shall keep the Association

records, including the minute book wherein the resolutions shall be recorded. The Treasurer shall keep the financial records.

- G. Any Board member may be removed from office by affirmative vote of the voting Members having at least a majority of the total votes, at any special meeting called for that purpose and a successor to fill the unexpired term of a Board member removed may be elected by majority vote of the voting Members at the same meeting or any subsequent meeting called for that purpose.
- H. The Directors from time to time constituting the Board shall not be liable to the Members for any mistake of judgment or for any acts made in good faith, or omissions to act omitted in good faith as such Directors.
- I. The Board may suspend the voting rights and right to use of Common Elements and facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations. Such suspension shall not prohibit the ingress and egress of a Member to his Unit.
- J. The Board shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Board members. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE II – GENERAL POWERS

- 2.1 The Association for the benefit of all the Owners, through its Board, shall have the power to acquire, and shall pay for out of the maintenance fund hereinafter provided, the following:
 - A. Waste removal and yard maintenance for the Common Elements.
 - B. A policy or policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement cost of all improvements on the Property, including the Units and all personal property included within the Property, except such personal property as may

be owned by the Owners, and such other insurance policies as shall afford coverage against such other risks as from time to time customarily shall be covered with respect to buildings similar in construction and use. Such insurance shall be in a form and amount satisfactory to the first mortgagee of each Unit. Such insurance shall be written for the benefit of the then Association, the Owners, and the respective mortgagees as their interest may appear and shall provide for the issuance of certificates and mortgage endorsements to the holders of mortgages on the Units. Such insurance policies shall provide that the insurer waives its rights of subrogation as to any claims against the Owners, the Association and their respective employees, servants, agents and guests and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association and shall be held and disbursed by the Association as defined in the Declaration. Each Owner may obtain insurance, at his own expense, affording coverage against loss of his personal property and against personal liability, but all such insurance shall contain the same waiver of subrogation as set forth above. All original policies of casualty insurance purchased by the Association shall be delivered into the possession of the Association. The Association shall upon request certify to any Owner, to any prospective purchaser of a Unit and to any mortgagee or prospective mortgagee of a Unit, a complete statement as to the insurance policies held by it showing the identity of the policies, the expiration dates thereof, and the amount and type of insurance. A uniform fee approved by the Association may be charged by the Association for each such certificate furnished.

- C. A policy or policies insuring the Association, the members of the Board and the Owners against any liability to the public or to the Owners (of Units and of the Common Elements, and their invitees or tenants) incident to the ownership and/or use of the Common Elements and Units, the liability under which insurance shall not be less than Three Hundred Thousand (\$300,000.00) Dollars for any one person or One Million (\$1,000,000.00) Dollars for any one accident.

- D. Workmen's compensation insurance to the extent necessary to comply with any applicable laws.
- E. The services of any person or firm employed by the Association.
- F. Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the interior surfaces of any of the Units, which the Owner shall paint, clean, decorate, maintain and repair and may remodel or alter) and such furnishing and equipment for the Common Elements as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Elements.
- G. Cleaning and washing the exterior of the windows in the Units. For that purpose, each Unit owner gives to the Association or its agents an easement to enter any area used by him or her for the purpose of cleaning or maintaining the exterior of windows. The interior of all windows shall be cleaned and maintained by the Unit Owner. Each Unit Owner shall be liable for all breakage of windows not covered by insurance maintained by the Association. Unit Owners shall be liable for any breakage of storm or screen doors resulting from wind or storm damage or other cause.
- H. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of these restrictions or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first class residential area or for the enforcement of these restrictions and the restrictions in the Declaration.
- I. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Association constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Owners may be satisfied by the Association. Where one or more Owners are responsible

for the existence of such lien, they shall be liable for the cost of discharging it and any costs incurred whatsoever by the Association by reason of said lien or liens shall be allocated fairly among such Owners upon the sole judgment of the Board and shall be specially assessed to such Owners.

J. Maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Elements, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided that the Association shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair.

2.2 The Association or its agents may enter any Unit when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association at the expense of the maintenance fund.

2.3 The Association shall have no authority to acquire and pay for out of the maintenance fund any capital addition or improvement (other than for purposes of replacing or restoring portions of the Common Elements and the Units, subject to all the provisions of the Declaration) having a total cost in excess of One Thousand (\$1,000.00) Dollars, nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of the Common Elements requiring an expenditure in excess of One Thousand (\$1,000.00) Dollars, not covered by insurance, without in each case obtaining the prior approval of the voting Members holding a majority of the total votes.

2.4 The Association, by vote of the voting Members having a majority of the total votes, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and

occupants and the Property shall at all times be maintained subject to such rules and regulations.

- 2.5 The Association may employ a management agent at a compensation established by the Board of Directors to perform such duties.

ARTICLE III – ASSESSMENTS; ESTIMATED CASH REQUIREMENT

3.1 Assessments

- A. The cost of maintaining the Common Elements shall be equitably prorated between the Unit Owners.
- B. Each Unit buyer shall be liable for proportionate share of the cost of maintaining the Common Elements from the date of the conveyance of a Unit to him or her which shall be payable monthly. Such cost shall be a proportionate share of the actual costs as determined by the Board of the Association and shall continue until a permanent budget is arranged as hereinafter provided.
- C. The provisions of this Article III relating to assessments, payment of assessments and liens arising therefrom shall be inapplicable as to any party who or which by reason of foreclosure of a first mortgage or voluntary conveyance in lieu of foreclosure of a first mortgage shall become a Unit Owner (or unit buyer within the purview of the said Article III).

3.2 After the holding of the first annual meeting as provided for in paragraph 1.5 of Article I of these Bylaws the following procedures shall govern:

- A. Each year on or before December 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and capital replacements, and shall on or before December 15th notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Owner shall be obligated to pay to the Association, or as it may direct, one-twelfth (1/12th) of

the assessment made pursuant to this paragraph. The portion of each such monthly assessment payment attributable to reserves shall be deemed a contribution by the Owner to the capital of the Association. A reasonable late charge (not exceeding \$1.00 per day) may be added to such assessments by action of the Board after the fifth (5th) day of each month in which said assessment is due. On or before January 31st of each calendar year, the Association shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimates provided and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the next monthly installments due from each Unit Owner under the current year's estimate in proportion to his assessment for the preceding year, until exhausted, and any net shortage shall be added in like proportion to the installments due from each Unit Owner in the succeeding six months after rendering of the accounting.

- B. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year, shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Association may at any time levy a further assessment, which shall be assessed to the Owners according to the formula set forth in preceding paragraph 3.2A. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted monthly assessment. The reserve fund shall be the property of the Association and no part thereof shall be refunded to any Member.

- C. When the first Board takes office hereunder, the Association shall determine the "estimated cash requirement", as hereinabove defined, for the period commencing thirty (30) days thereafter and ending on December 31 of the same calendar year. Assessments shall be levied against the Owners during said period as provided in paragraph 3.2A of this Article.
- D. The failure or delay of the Board or the Association to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the assessment as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the assessment at the then existing monthly rate established for the previous period until the assessment which is due more than ten (10) days after such annual or adjusted estimate shall have been mailed or delivered.
- E. The Association shall keep full and correct books of account and the same shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner.
- F. All funds collected hereunder shall be held and expended by the Association for purposes designated herein.
- G. If an Owner is in default in the payment of any assessment for thirty (30) days, the Association may at its option accelerate all monthly payments for the balance of the budget period and may bring suit for and on behalf of itself and as representative of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amount due the costs of said suit, together with legal interest at the rate provided by law on open accounts and reasonable attorneys' fees to be fixed by the Court. The amount of any delinquent and unpaid charges or assessments, interest, costs and fees as above provided shall be and become a lien or charge against the Unit Ownership of the Owner involved when payable and may be foreclosed as in the case of foreclosure of liens against real estate. Said lien shall take effect and be in force from and after the time of filing a notice of such lien of record in the office of the

Recorder of Dickinson County, Iowa, and not before, as to all creditors and subsequent purchasers without actual notice. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of any Unit. Amendments to this paragraph 3.2G shall only be effective upon written consent of members having a majority of the votes and their mortgagees.

H. If an Owner is in default in the payment of any assessment for thirty (30) days, the Association shall thereupon give written notice of such default to the first mortgagee, if any, of such defaulting owner.

ARTICLE IV – AMENDMENTS AND MISCELLANEOUS

- 4.1 Except as otherwise provided herein any of these Bylaws except Section 1.4 of Article I hereof may be amended only upon the affirmative vote of a majority of the Members entitled to vote at any regular or special meeting of the Members, provided that notice of the proposed amendment is given to all Members in writing at least ten (10) days prior to such meeting. Section 1.4 of Article I hereof may not be amended except by unanimous consent of all Unit Owners.
- 4.2 All terms used in these Bylaws shall have the same meaning as those defined in the Declaration.

ARTICLE V – COMPLIANCE

These Bylaws are set forth to comply with the requirements of the Iowa Horizontal Property Act, Chapter 499B, Code of Iowa. In case any of these Bylaws conflict with the provisions of that statute, it is hereby agreed and accepted that the provisions of the statute will control.

ARTICLE VI- RESTRICTED AND PROTECTIVE COVENANTS

See Restricted and Protective Covenants attached hereto as Exhibit "A."

IN WITNESS WHEREOF the undersigned has executed this instrument this 24 day
of FEB., 2022.

THE DWELLINGS AT INDIAN HILLS ASSOCIATION, INC.



Marc Steffes, President

THE DWELLINGS AT INDIAN HILLS

Restricted and Protective Covenants

The following provisions shall control the construction, development, use and maintenance of property improvements in The Dwellings at Indian Hills. These provisions shall run with the land and shall be binding upon all parties and all person who may now own, or who may later become the owner or owners, or lienholders as to any of The Dwellings at Indian Hills and all parties claiming under them for a period of twenty-one (21) years. These provisions shall become void and of no effect twenty-one (21) years after the date of recording, unless extended pursuant to the provisions of Section 614.24 and 614.25 of the Code of Iowa.

These provisions may be enforced by the Developer or its successor in interest or by any owner of property in The Dwellings at Indian Hills.

In any court proceeding to enforce these provisions, the successful party shall be entitled to an award of reasonable attorney fees and litigation expenses as determined by the court.

A. LIVESTOCK AND PETS.

No livestock or animals shall be permitted to be kept in The Dwellings at Indian Hills, except household pets. Permitted household pets shall include fish in an aquarium, birds in an interior cage, and nor more than two (2) dogs or cats in any combination (1 dog/1 cat; 2 dogs; 2 cats). No exterior animal kennels, runs or cages shall be constructed on any property.

Owners shall be required to pick up and properly dispose of the Owner's pet's excrement on the Property.

B. No basement home, earth sheltered home, or shack may be placed or erected upon a lot at any time, nor may a residence of a temporary nature be permitted.

C. All garages shall be used only for cars, pick-ups, recreational vehicles and storage of small residentially used items; no commercial storage shall be allowed. This shall not prohibit use of any garage for a personal workshop. No parking of boats and RVs on driveways or on streets for longer than twenty-four (24) hours.

D. All lots are subject to easements as shown on the plat attached to the horizontal property regime, as amended.

E. No owner, except the Developers, may at any time replat, or subdivide any lot or any other portion of the Property or in any manner change the plat which has been filed for the Property. However, a lot owner may acquire land from an adjacent lot for the purpose of increasing the size of the acquiring party's lot, but any lot so increased in size may never contain more than one detached single family or tow-family dwelling. No lot that is to be built upon, or has been built upon, shall be reduced in size by this process.

F. Owners of all Units shall at all times keep the same free and clear from all obstructions, debris, obnoxious growth, refuse piles, junk vehicles or other unsightly objects. All Units shall be well

maintained. So long as the Developers remain owners of any property in the subdivision, if the owner of a lot fails to comply with the provisions of this paragraph, the Developers may give written notice of such failure to the owner and if the failure is not corrected within ten (10) days from receipt of such notice the Developers may perform such mowing or remove such objects and the owner of the Lot shall be responsible to Developers for the expenses thus incurred.

Garbage, trash, rubbish and other solid waste must be kept in containers within a garage. Containers, such as garbage cans and recycle containers, shall be permitted at curbside for collection. Solid waste and recycle containers shall not be placed at curbside prior to 8:00 P.M. on the night before the date of scheduled collection and shall be promptly removed after collection.

G. The exterior portions of all construction shall be completed within one (1) year of the date of beginning of construction. No advertising or billboards shall be permitted on any lot except a "For Sale" sign no larger than five (5) square feet in area which shall pertain only to the premises upon which it is located and there shall be no more than two (2) in number.

The Developer reserves the right to construct signs and identifying monuments or structures in the subdivision, at its discretion.

Property owners may place an identification sign including only the owners name and street number. The identification sign shall have a surface area no greater than six (6) square feet.

H. No exterior lighting shall be installed or maintained which unreasonably disturbs the occupants of the other Units.

I. COMMERCIAL USE RESTRICTION.

No business, trade or commercial activity shall be conducted upon a lot, except a "home occupations" as permitted under the Spencer zoning ordinance.

J. SWIMMING POOLS ON UNIT OWNER'S PROPERTY. Swimming pools shall not be placed on any Unit Owner's property.

K. COMMERCIAL VEHICLES. Commercial vehicles of a gross weight in excess of 6,000 pounds shall not be regularly stored or parked within The Dwellings at Indian Hills, unless placed within an enclosed structure.

L. No propane heating oil tanks, gasoline or other fuel tanks of any kind shall be permitted, except for outdoor cooking.

M. The Developer reserves the right to use a residence located within the subdivision as a sales office in connection with development of this property.

N. No "accessory vehicles," as defined in the Zoning Code, shall be parked or kept within The Dwellings at Indian Hills, except within an enclosed structure or for periods not exceeding seven (7) consecutive days not more than three (3) times during any calendar year.

O. No building, fence, wall or other improvement or structure shall be constructed, erected or maintained on an Owner's lot.

P. All Owners must receive prior approval by the Association before the commencement of any modification to any landscaping on an Owner's lot.

- Q. No satellite dish or solar panels may be mounted on any Unit.
- R. No basketball hoop or large sports equipment may be installed on a Unit owner's lot.
- S. Owners are not allowed to rent their Unit for less than thirty (30) days.
- T. No storage or utility shed are allowed on an Owner's lot.
- U. **SWIMMING POOL, CLUBHOUSE AND APPURTENANCES THERETO.**

The swimming pool, clubhouse and appurtenances thereto are intended as a common area for the use and benefit of owners of property in the subdivision. The Dwellings at Indian Hills Association, LLC assumes responsibility for care, maintenance, construction and repair of improvements not caused by negligence or intentional destruction by any Owner or any guest of an Owner.

These covenants shall run with the land. A purchaser of any Unit, and any person acquiring an interest in any lot by acceptance of said interest, agrees to abide and be bound by these covenants.

In the event the parties hereto, their heirs, assigns or any other owner of a Unit within the subdivision shall violate or attempt to violate any of the covenants and restrictions herein, it shall be lawful for any owner of any other Unit or Units in the subdivision to prosecute any proceedings at law or in equity against anyone violating or attempting to violate any such covenant or restriction and either prevent him or her from doing so and/or to recover damages and obtain any other legal or equitable remedy available for such violation

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

After these covenants have been in effect for a period of ten (10) years from the date of their recording, they may be amended by the owner of 75% of the Units The Dwellings at Indian Hills. Any amendment must be reduced to writing, signed by the required number of owners, and shall be effective upon recording with the Clay County Recorder.

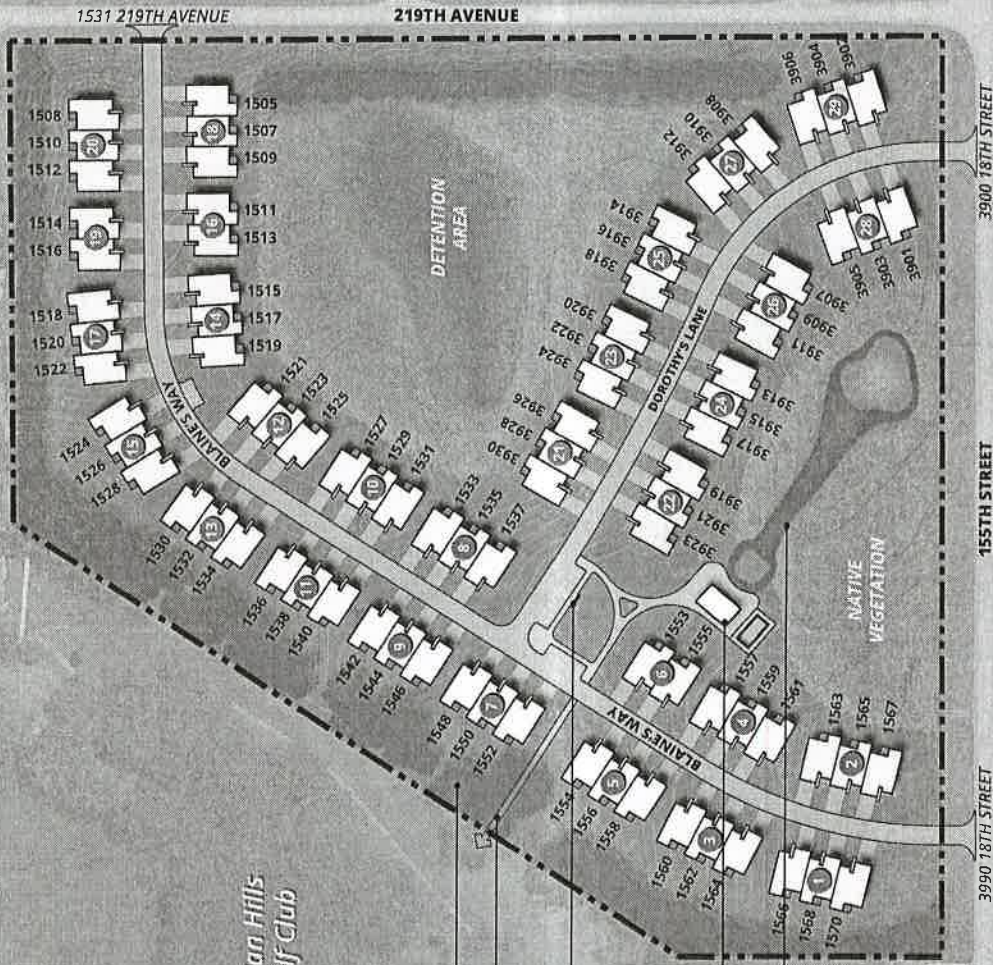
Notwithstanding the foregoing, no amendment shall be effective without the Developer's consent, as long as the Developer owns any Unit within The Dwellings at Indian Hills.

"B"

THE DWELLINGS

Spirit Lake, Iowa

-  **Phase 1**
Building #1-11
-  **Phase 2**
Building #12-20
-  **Phase 3**
Building #21-29



Indian Hills Golf Club

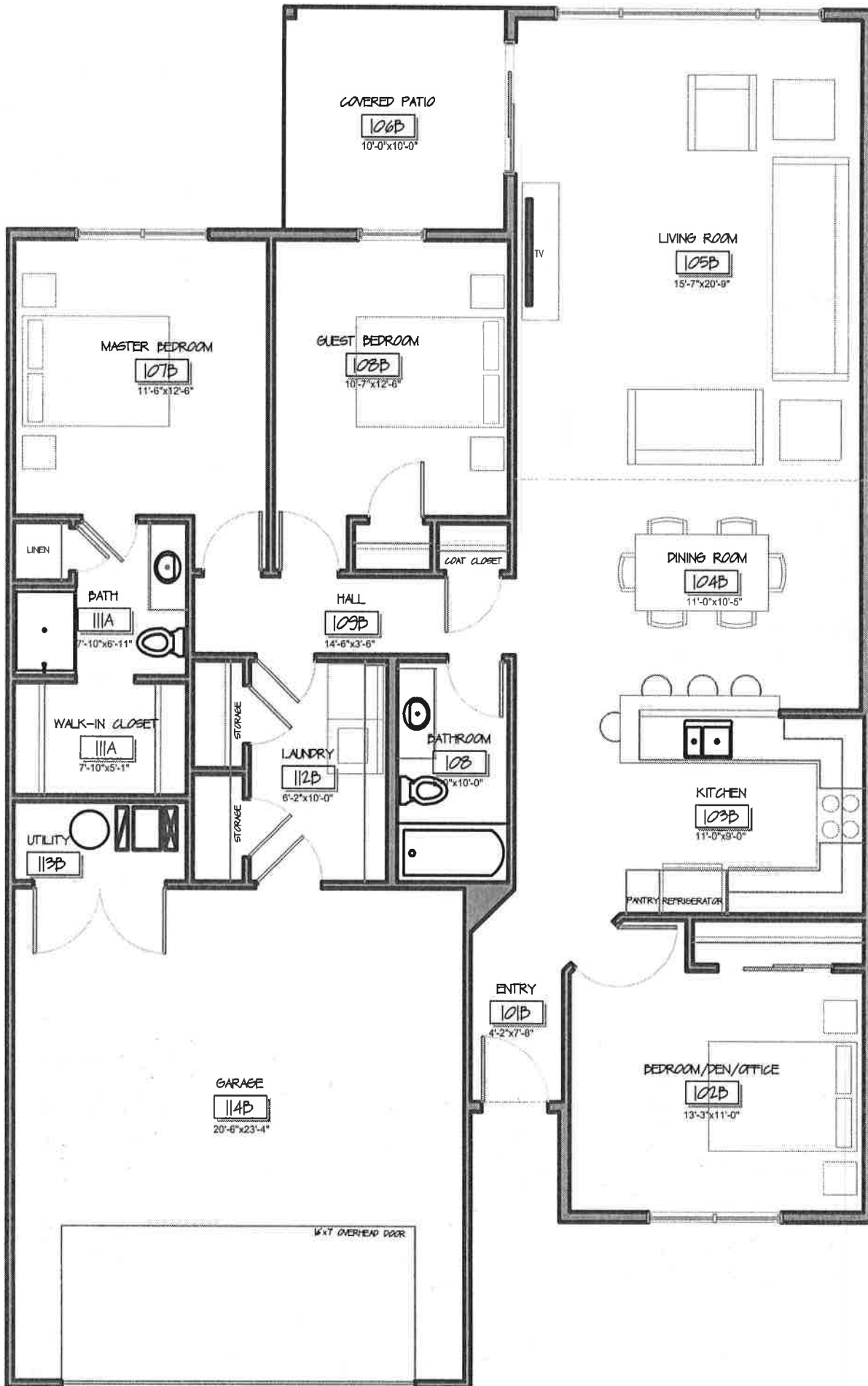
EXISTING TREE LINE

CART PATH TO GOLF COURSE

CLUBHOUSE PARKING +
COMMUNITY MAIL BOX

CLUBHOUSE + POOL
(3931 Dorothy's Lane)

PAR 3 GOLF HOLE



Standard Specifications

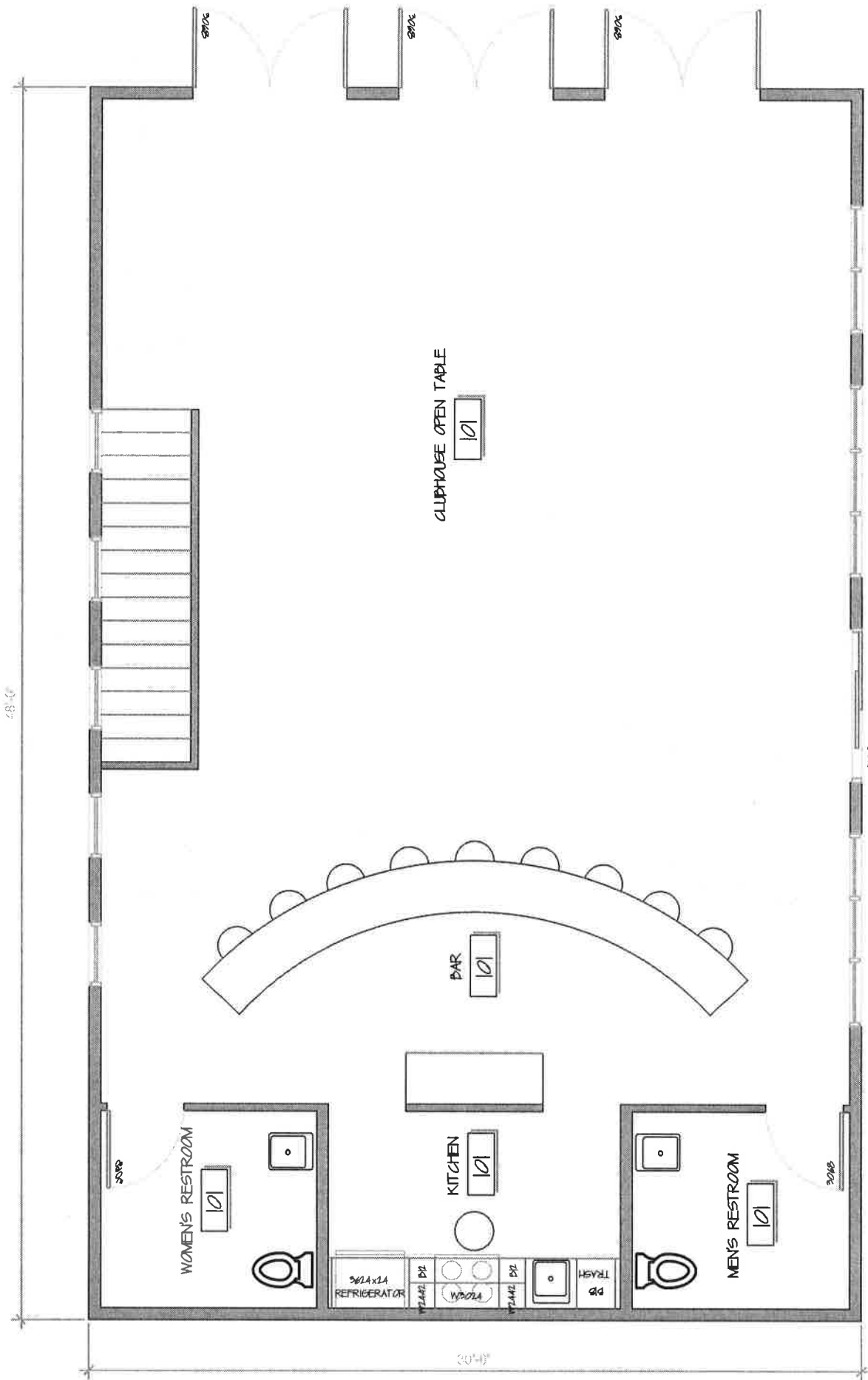
- EXTERIOR
 - Exterior wall construction built with 2X6 wood studs
 - Home: R19 wall insulation and R-49 ceiling insulation
 - Garage: R13 wall insulation and R-30 ceiling insulation
 - 12" double sound wall between units
 - Smartboard siding, smartboard soffit, and James Hardie siding shingles
 - Anderson 100 Series energy efficient argon gas smart sun low E windows with dark bronze finish.
 - Custom stained steel insulated garage doors with Wi-Fi overhead door opener
 - Designer style exterior light above garage door
 - Sod grass in the front and sides
 - Seed grass in the back of the home
 - Trees and some landscaping is included
 - Covered Patio
 - GAF 30-year asphalt shingles – charcoal color

Standard Specifications

- INTERIOR HOME FINISHES
 - Custom solid front entry door
 - Eight-foot interior ceilings with living room vaulted ceilings
 - Smoke Detectors
 - Recessed ceiling cans per plan
 - Prewire for ceiling fans/light fixtures per plan
 - Interior walls feature light orange peel on the wall and light orange peel knock-down on the ceilings
 - Closetmade adjustable closet shelving
 - Heritage Millwork stained interior doors sand trim
 - Laminate kitchen countertops (upgrades available)
 - Kountry Wood Products kitchen and bathroom cabinets
 - Appliances included: Side-by-side refrigerator, dishwasher, electric stove, and microwave (Gas available in Platinum Package only)
 - Ceramic tile in the kitchen/bathrooms/laundry/entry
 - Comfort height toilets
 - 36" x 42" mirrors (1/4" thick)
 - Programmable thermostats

Standard Specifications

- **Mechanical/Electrical**
 - Main electrical panel is 125-amp service
 - Gas Goodman 96.1% AFUE furnace,
 - Air conditioning and heating split system are individually controlled with and energy efficient 13 SEER rating
 - 50-gallon electric water heater
 - Appliances Included: Side-by-side refrigerator, dishwasher, electric stove, and microwave (Gas available in Platinum Package only)
 - Ceramic tile in kitchen/bathrooms/laundry/entry
 - Comfort height toilets
 - 36" x 42" mirrors (1/4" thick)
 - Garbage disposal
- **Foundation**
 - 1 1/2" inches of insulated foam under concrete foundations
 - Monolithically poured slab
 - No. 4 reinforced steel bars built in the foundation
 - Concrete driveway and sidewalks



The Dwellings Main Clubhouse

3931 Dorothy's Lane

Unit#	Ownership Interest	Undivided# of Votes
1505	1/84	1
1507	1/84	1
1508	1/84	1
1509	1/84	1
1510	1/84	1
1511	1/84	1
1512	1/84	1
1513	1/84	1
1514	1/84	1
1515	1/84	1
1516	1/84	1
1517	1/84	1
1518	1/84	1
1519	1/84	1
1520	1/84	1
1521	1/84	1
1522	1/84	1
1523	1/84	1
1524	1/84	1
1525	1/84	1
1526	1/84	1
1527	1/84	1
1528	1/84	1
1529	1/84	1
1530	1/84	1
1531	1/84	1
1532	1/84	1
1533	1/84	1
1534	1/84	1
1535	1/84	1
1536	1/84	1
1537	1/84	1
1538	1/84	1
1540	1/84	1
1542	1/84	1
1544	1/84	1
1546	1/84	1
1548	1/84	1
1550	1/84	1
1552	1/84	1
1553	1/84	1
1554	1/84	1

Unit#	Ownership Interest	Undivided# of Votes
1555	1/84	1
1556	1/84	1
1557	1/84	1
1558	1/84	1
1559	1/84	1
1560	1/84	1
1561	1/84	1
1562	1/84	1
1563	1/84	1
1564	1/84	1
1565	1/84	1
1566	1/84	1
1567	1/84	1
1568	1/84	1
1570	1/84	1
3901	1/84	1
3902	1/84	1
3903	1/84	1
3904	1/84	1
3905	1/84	1
3906	1/84	1
3907	1/84	1
3908	1/84	1
3909	1/84	1
3910	1/84	1
3911	1/84	1
3912	1/84	1
3913	1/84	1
3914	1/84	1
3915	1/84	1
3916	1/84	1
3917	1/84	1
3918	1/84	1
3919	1/84	1
3920	1/84	1
3921	1/84	1
3922	1/84	1
3923	1/84	1
3924	1/84	1
3926	1/84	1
3928	1/84	1
3930	1/84	1