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DECLARATION OF HORIZONTAL PROPERTY REGIME

OF

AIRPORT VILLA CONDOMINIUMS

Made this 30<sup>th</sup> day of JANUARY, 1979, by Orville J. Berg, d/b/a

Airport Villa Condominiums, hereinafter called The Developer, for himself, his successors, grantees and assigns.

WHEREIN, The Developer makes the following declarations:

1. PURPOSE. The purpose of this declaration is to submit the land hereinafter described and the improvements therein located to a horizontal property regime in the manner provided in Chapter 499B of the 1977 Code of Iowa, hereinafter called the Horizontal Property Regime.

(1) The name by which this condominium is to be known is AIRPORT VILLA CONDOMINIUMS, said horizontal property regime located within the corporate limits of the Town of Okoboji, Dickinson County, Iowa, with post office address Rural Route Box 6298-5E, Spirit Lake, Iowa.

(2) The lands owned by The Developer which are hereby submitted to the horizontal property regime is the following described property located in Dickinson County, Iowa, to-wit:

Lots Two (2), Three (3), and Four (4), of  
Brooks Country Club Addition, First Platting,  
City of Okoboji,

which real property is hereinafter called "The Land".

2. DEFINITIONS. Terms used herein and in the By-Laws hereto annexed shall have the meaning stated in the Horizontal Property Act and as follows, unless the context otherwise requires.

(1) Apartment means a unit as defined by the horizontal property act.

(2) Apartment owner means the owner of an apartment as defined by the Horizontal Property Act.

(3) Association means the Airport Villa Homeowners Association, Inc.

(4) Common elements shall include the tangible personal property required for the maintenance and operation of the condominium, even though owned by the association, as well as general common elements and limited common elements as defined by the Horizontal Property Act.

(5) Common expenses include:

(a) Expenses of administration; expense of maintenance, operation, repair or replacement of common elements, and of the portions of apartments to be maintained by the association.

(b) Expenses declared common expenses by provision of this declaration or by the By-Laws.

(c) Any valid charge against the Horizontal Property Regime as a whole.

(6) Wherever the context so permits, the use of the plural shall include the singular, the plural, and the use of any gender shall be deemed to include all genders.

(7) Utility services shall include, but not be limited to, electric power, gas, water, heating, refrigeration, air conditioning, garbage and sewage disposal.

3. DEVELOPMENT PLAN. The Horizontal Property Regime is described and established as follows:

(1) A survey of the land showing the apartment buildings placed thereon is attached hereto marked Exhibit "A", and is, by this reference, made a part hereof.

(2) Easements are reserved through the condominium property as may be required for utility services in order adequately to serve the condominium; provided, however, such easement through an apartment shall be only according to the plans and specifications for the building containing the apartment, or as the building is constructed, unless approved in writing by the apartment owner.

(3) The improvements upon the land shall include and will be limited to the following:

(a) Apartment Buildings. The Horizontal property regime includes two apartment buildings which are designated respectively as West Building, and East Building, respectively, the construction of which are frame with partial brick veneer.

(b) The Horizontal Property Regime includes the following improvements, a swimming pool, parking facilities and walkways.

(4) The following general provision shall apply to each apartment:

(a) Each apartment, which term as used in this sub-section concerning boundaries shall include that part of the building containing the apartment which lies within the boundaries of the apartment, which boundaries are as follows:

(1) With respect to Horizontal Boundaries, the upper boundary of each apartment shall be for apartments next to the roof, the plane of the under surfaces of the chords of the roof trusses which serve as ceiling joints, and with respect to the other apartments not next to the roof, the plane of the under surfaces of the floor plane to the floor above. The lower horizontal boundary shall be the plane of the under surfaces of the floor slab.

The vertical boundaries of each apartment shall be, with respect to exterior building walls, the exterior of the outside walls of the apartment building bounding an apartment, and where there is attached to the building a terrace or other portion of the building serving only the apartment being bounded, said boundary shall be deemed to include all of said structures and fixtures thereon. With respect to interior building walls, the vertical boundary is deemed to be the center line of walls bounding an apartment.

(5) The common elements shall include the land and all other parts of the Horizontal Property Regime not within the apartment.

(6) The developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, so long as the developer owns the unit so altered. No such change shall increase the number of apartments nor alter the boundaries of the common elements without amendment of this declaration by approval of the association, apartment owners, and others

of mortgages in the manner elsewhere provided. If the developer shall make any changes in the unit so authorized, such changes shall be reflected by an amendment of this declaration. If more than one unit is concerned, the developers shall apportion between the units the shares in the common elements which are apertinent to the units concerned. An amendment of this declaration reflecting such alteration of apartment plans by the developer need be signed and acknowledged only by the developer and need not be approved by the association, apartment owners, or lienors or mortgages of apartments of this Horizontal Property Regime, whether or not elsewhere required for an amendment.

4. WEST BUILDING. The west building consists of two floors with four apartments located on each floor. Apartment 1-W is located on the lower floor at the northwest corner of the west apartment building. Apartment 2-W is located directly East thereof. Apartment 3-W is located directly south of Apartment 2-W. Apartment 4-W is located directly West of Apartment 3-W. Apartment 5-W is located at the northwest corner of the building on the upper floor above Apartment 1-W. Apartment 6-W is located immediately east of Apartment 5-W. Apartment 7-W is located immediately south of Apartment 6-W. Apartment 8-W is located immediately west of Apartment 7-W. The developer hereby specifically retains ownership and all right, title and interest in and to the storage room at the west end of the upper hall located in the West building.

The owner of each apartment located in the West apartment building shall likewise own an undivided 1/16th share in the common elements.

The owner of each apartment in the West building shall likewise own one membership in the association and the interest of each apartment owner in the west building shall be 1/16th of the funds and assets held by the association. Likewise each apartment owner in the west building shall be liable for a 1/16th share of the common expenses and costs.

5. EAST BUILDING. The east building consists of two floors with four apartments located on each floor. Apartment 1-E is located on the lower floor at the northwest corner of the east apartment building. Apartment 2-E is located directly East thereof. Apartment 3-E is located directly south of Apartment 2-E. Apartment 4-E is located directly West of Apartment 3-E. Apartment 5-E is located at the northwest corner of the building on the upper floor above Apartment 1-E. Apartment 6-E is located immediately east of Apartment 5-E. Apartment 7-E is located immediately south of Apartment 6-E. Apartment 8-E is located immediately south of Apartment 7-E.

6. The developer hereby retains ownership and all right, title and interest to the workroom at the west end of the upper hall in the East building. No tools or equipment located therein shall be construed to be a common element or under common ownership unless sold to the Airport Villa Homeowners Association.

The owner of each apartment located in the East apartment building shall likewise own an undivided 1/16th share in the common elements.

The owner of each apartment in the East building shall likewise own one membership in the association and the interest of each apartment owner in the east building shall be 1/16th of the funds and assets held by the association. Likewise each apartment owner in the east building shall be liable for a 1/16th share of the common expenses and costs.

7. MAINTENANCE, ALTERATION AND IMPROVEMENT. Responsibility for the maintenance of the Horizontal Property Regime and restrictions upon the alteration and improvement thereof, shall be as follows:

(1) Apartments. The association shall maintain, repair and replace at the Association's expense all portions of an apartment except interior surfaces contributing to the support of the apartment building, which portions shall include but not be limited to the outside walls of the apartment building and all fixtures on the exterior thereof, boundary walls of apartments, floor and ceiling slabs, load bearing

columns and load bearing walls. Likewise the Association shall maintain, repair and replace at the Association's expense all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of an apartment maintained by the Association; and all other such facilities contained within an apartment which service part or parts of the apartment building other than the apartment within which contained. Likewise all incidental damage caused to an apartment by such work shall be promptly repaired at the expense of the association.

The responsibility of the apartment owner shall be as follows:

To maintain, repair and replace at his expense all portions of his apartment except the portions to be maintained, repaired and replaced by the association. Such shall be done without disturbing the rights of other apartment owners. The apartment owner shall not paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building. The apartment owner shall promptly report to the association any defect or need for repairs, the responsibility for the remedying of which is that of the association.

2. Except as elsewhere reserved to the developer, neither an apartment owner nor the association shall make any alterations in the portions of an apartment or apartment building which are to be maintained by the association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the apartment building, or impair any easement, without first obtaining the approval in writing of owners of all other apartments in the same building and the approval of the Board of Directors of the Association. A copy of plans for all such work shall be filed with the Association prior to the start of the work.

(3) Common Elements. The maintenance and operation of all the common elements shall be the responsibility and the expense of the Association. After the completion of the improvements included in the common elements are contemplated by this declaration, there shall be no alteration nor further improvement of common elements without prior approval in writing by the record owners of all the apartments;

provided, however, that any alteration or improvement to the common elements bearing the approval in writing of the record owners of not less than eight (8) apartments, and which does not interfere with the rights of any owners without their consent, may be done if the owners who do not approve are relieved from the cost thereof. The share of any cost not so assessed shall be assessed to the other apartment owners in the shares which their shares in the common elements bear to each other. There shall be no change in the shares and rights of an apartment owner in the common elements which are altered or further improved, whether or not the apartment owner contributes to the cost thereof.

8. ASSESSMENTS. The making and collection of assessments against apartment owners for common expenses shall be pursuant to the By-Laws and subject to the following provisions:

(1) Each apartment owner shall be liable for a proportionate share of the common expenses and shall share in the common surplus. Such shares being the same as the undivided share in the common elements owned by him.

(2) Assessments and Installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten days after the date when due shall bear interest at the rate of 10% per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

(3) The lien for unpaid assessments shall also secure reasonable attorneys fees incurred by the association incident to the collection of such assessment or enforcement of such lien.

(4) In any foreclosure of a lien for assessments, the owner of the apartment subject to the lien shall be required to pay a reasonable rental for the apartment, and the association shall be entitled to the appointment of a receiver to collect the same.

9. ASSOCIATION. The operation of the Horizontal Property Regime shall be by a corporation organized under the laws and statutes of the



State of Iowa which shall be organized and shall fulfill its functions pursuant to the following provisions:

(1) The name of the association shall be Airport Villa Homeowners Association, Inc.

(2) The association shall have all of the powers and duties set forth in the Horizontal Property Act, except as limited by this declaration and the By-Laws, and all of the powers and duties reasonably necessary to operate the condominium as set forth in this declaration and the By-Laws and as they may be amended from time to time.

(3) The members of the association shall consist of all of the record owner of the apartments, the record owner of each apartment to have one membership. The members of the association shall be entitled to cast one vote for each apartment owned by them. If an apartment is owned by one person his right to vote shall be established by the record-title to his apartment. If an apartment is owned by more than one person, or is under lease, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record owners of the apartment and filed with the secretary of the association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate of appointment signed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Corporation and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superceded by a subsequent certificate or until a change in the ownership of the apartment concerned. A certificate designating the person entitled to cast the vote of an apartment may be revoked by any owner thereof. The share of a member in the funds and assets of the association cannot be assigned or transferred in any manner except as an appurtenance to his apartment.

(4) The affairs of the association shall be conducted by a Board of three (3) Directors who shall be designated in the manner provided in the By-Laws.

(5) The By-Laws of the Association shall be in the form attached hereto and marked Exhibit "B".

10. INSURANCE. The insurance which shall be carried upon the Horizontal Property Regime and the property of the apartment owners shall be governed by the following provisions:

(1) All insurance policies upon the Horizontal Property Regime shall be purchased by the association for the benefit of the association and the apartment owners and their mortgagees as their interests may appear. Apartment owners may obtain insurance coverage at their own expense upon their own personal property and for the personal liability and living expense.

(2) Casualty Coverage. All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurance replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against loss or damage by fire and other hazards covered by standard extended coverage endorsement, such other risks as may from time to time be customarily covered with respect to buildings similar in construction, location and use in buildings on the land, including, but not limited to vandalism and malicious mischief. Public liability coverage shall be in such amounts with such coverage as required by the Board of Directors of the Association. Policies purchased shall contain a cost liability endorsement to cover liabilities of the apartment owners as a group to each individual apartment owner. In addition the association shall purchase such Workmen's Compensation Policies as may be required by Iowa Statute. Further, the association may purchase such insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

(3) Premiums upon insurance policies purchased by the association shall be paid by the association as a common expense.

(4) All insurance policies purchased by the association shall be for the benefit of the association, the apartment owners and their mortgagees as their interests appear and shall provide that all proceeds covering property losses shall be paid to Security State Bank of Lake Park, Iowa, as Trustee, or to any other Bank in Iowa as may be approved by the Board of Directors of the Association, which Trustee is hereinafter referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of the policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustees shall be to receive such proceeds as are paid in to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the insurance trustee.

(a) Proceeds on account of damaged common elements - an undivided share for each apartment owner. Such share being the same as the undivided share in the common elements of the Horizontal Property Regime.

(b) Proceeds on account of damage to apartments shall be held in the following undivided shares:

When the building is to be restored -  
For the owners of damaged apartments in proportion to the cost of repairing the damage suffered by each apartment owner, which cost shall be determined by the association. When the building is not to be restored - an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartments.

(c) In the event a mortgage endorsement has been issued as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and apartment owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not

any damaged property shall be reconstructed or repaired.

(5) Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) All expenses of the insurance trustee shall first be paid or provision made therefore.

(b) If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

(c) If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being paid jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

(d) In making distribution to apartment owners and their mortgagees, the insurance trustee may rely upon a certificate of the association as to the names of apartment owners and their respective shares of the distribution.

(6) The association is hereby irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon the apartment and for such owner of any other interest in the Horizontal Property Regime to adjust all claims arising under the insurance policies purchased by the association and to execute and deliver releases upon the payment of claims.

11. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

(1) If any part of the Horizontal Property Regime shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(a) If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Horizontal Property Regime shall be terminated.

(b) Apartment building - partial destruction. If the damaged improvement is an apartment building, and if any apartment in the Horizontal Property Regime is found by the Board of Directors of the Association to be tenantable, then the damaged property shall be reconstructed or repaired unless within sixty days after the casualty it is determined by agreement in the manner elsewhere provided that the Horizontal Property Regime shall be terminated.

(c) Apartment building - total destruction. If the damaged improvement is an apartment building, and if none of the apartments in the condominium are found by the Board of Directors of the Association to be tenantable, then the damaged property will not be reconstructed or repaired, the Horizontal Property Regime will be terminated without agreement as elsewhere provided, unless within sixty (60) days after the casualty the owners of seventy-five percent (75%) of the common elements agree in writing to such reconstruction or repair.

(d) The insurance trustee may rely upon a certificate of the association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

(2) Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as Exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is an apartment building, by the owners of all damaged apartments therein which approval shall not be unreasonably withheld.

(3) If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the association.

(4) Immediately after a determination to rebuild or repair damaged property for which the association has the responsibility of reconstruction and repair, the association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

(5) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the association, or if at any time during reconstruction and repair or upon completion of reconstruction and repair, the funds for the payment of the cost thereof are insufficient, assessments shall be made against the apartment owners who own the damaged apartments, and against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the costs of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owners share in the common elements.

(6) Funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the association from assessments against apartment owners, shall be disbursed in the following manner:

(a) If the total of assessments made by the association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the association is more than \$5,000, then the sums paid upon such assessments shall be deposited by the association with the insurance trustee. In all other cases the association shall hold the sums paid upon such assessments and shall

disburse the same with payment of the costs of the reconstruction and repair.

(b) The proceeds of insurance collected on account of a casualty and the sums deposited with the insurance trustee by the association from collections of assessments against apartment owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner shall be paid by the insurance trustee to the apartment owner, or if there is a mortgagee endorsement as to such apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(2) If the amount of the estimated cost of reconstruction and repair which is the responsibility of the association is less than \$5,000, then the construction fund shall be disbursed in payment of such costs upon the order of the association, provided, however, that upon request to the insurance trustee by a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(3) If the amount of the estimated costs of reconstruction and repair which is the responsibility of the association is more than \$5,000, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association.

(4) It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owner which is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(5) Notwithstanding the provisions herein, the insurance trustee shall not be required to determine whether or not sums paid by apartment owners upon assessments shall be deposited by the association with the insurance trustee, nor to determine the disbursements from the construction fund are to be upon the order of the association, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by the owners. Instead, the insurance trustee may rely upon a certificate of the association

## RULES AND REGULATIONS FOR AIRPORT VILLA CONDOMINIUMS

1. You may not invite others to use the pool while you are at work or out of town without prior arrangement with condo managers.
2. Hallways are not to be used as playgrounds, but as access to your condo only. Condo doors must be kept closed. No trash, furniture, luggage, strollers, swimming devices, fishing or diving gear shall be left in hallways. There is to be no screaming, jumping or running that will disturb other tenants.
3. Stereos, televisions and radios should be kept at a reasonable level. Excessive loud or out of control parties will not be tolerated. All complaints will be handled by the management, and when necessary, will be passed on to owners. Owners are responsible for the conduct of their renters.
4. Pets are not allowed. Visitors may not have pets in the pool area or within the condo complex.
5. Anyone, child or adult, found throwing anything in the pool will be asked to leave the pool area. Filter, baskets, water outlets, and ladders are not playthings. Please leave them alone. Do not attempt to water plants with pool water as it will kill them.
6. You may park in the area by the mailboxes. Large vehicles are to be parked for a short term only. Our front parking lot is for residents and visitor automobiles. No boats or campers are to be parked in this area. Other grassed areas are considered our yard and are not to be used for parking. For their safety, children are not allowed to play in the parking lot. Vehicles, boats or other miscellaneous items shall not be marked FOR SALE on the property of Airport Villa Condominiums.
7. All decks are to be kept neat and orderly. The railings must be kept free of beach towels, swimsuits, ect. Our OUTSIDE APPEARANCE is important to us and our neighbors.
8. The court yard must be closed and latched when pool is operating or our insurance is invalid.
9. The swimming pool will be closed at 10:00 P. M. and lights will be turned out. There will be NO EXCEPTION to this rule. This is when the pool is chemically treated and would be a danger to you. No glass containers of any kind are to be used in the pool area. This is also a condition of our insurance.
10. It should be remembered at all times that this is our home, a quiet residential dwelling. Please show respect for the comfort of all residents.

*MIKE HAGER 336-3565 and Tom HICKERSON 332-2813*  
~~Fred Schmidt (332-7571) and Jan Saunders (332-2934)~~ are current managers of Airport Villa. They are authorized by the board of directors to see that the condo rules are followed.

These rules are adopted by the members of the owners association and reviewed each year at our annual meeting. Any changes will be made at that time.



## AIRPORT VILLA POOL RULES

SWIM AT YOUR OWN RISK.

EXCESSIVE NOISE WILL NOT BE TOLERATED.

QUESTS ARE NOT ALLOWED IN POOL IF TENANTS ARE NOT IN THE BUILDING.

NO DIVING OR RUNNING (THIS IS IN DIRECT STIPULATION FROM OUR INSURANCE COMPANY.)

DO NOT THROW ROCKS IN POOL.

DO NOT THROW POOL WATER ON PLANTS.

POOL CLOSSES AT 10.00 P.M. THERE IS NO EXCEPTIONS TO THIS RULE.

CHILDREN ARE NOT ALLOWED IN POOL AREA OR PARKING LOT UNATTENDED.

NO GLASS CONTAINERS ARE PERMITTED IN THE POOL AREA.

MANAGEMENT RESERVES THE RIGHT TO DENY POOL PRIVILEGES FOR MISUSE.

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