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DECLARATION OF ESTABLISHMENT

of

A HORIZONTAL PROPERTY REGIME (CONDOMINIUM)

to be known as

WESTVIEW TOWNHOME CONDOMINIUMS

The undersigned, R and W Partnership, hereinafter referred to as Developer, hereby submits the land and buildings hereinafter described to a Horizontal Property Regime pursuant to the provisions of Chapter 499B of the 1993 Code of Iowa, thereby establishing a plan for individual ownership of the area or space contained in each unit and establishing the co-ownership of all the remaining real property by the individual owners as tenants in common. This Declaration and the By-Laws shall constitute covenants binding upon the Developer, all subsequent owners and their successors in interest, said Declaration and By-Laws to run with the land. As used throughout this Declaration and the By-Laws, "Apartment" and "Unit" shall have the same meaning as "Condominium Unit".

In compliance with Section 499B.4 of the 1993 Code of Iowa, the following declarations are made:

1. The description of the land to be subject to this Horizontal Property Regime (Condominium) is as follows:

Lots 25 and 26 and the vacated 10 foot walkway between Lots 25 and 26 in Westgate First Addition to Milford, Dickinson County, Iowa, except Tracts 1 and 2 described as follows:

Tract 1

Part of Lot 25 of the Plat of Westgate First Addition to Milford, Dickinson County, Iowa, described as follows:

Beginning at the northeast corner of Lot 25 of Westgate First Addition to Milford, Iowa; thence North 79°00'42" West 135.15 feet along the northerly line of said Lot 25 to the northwest corner of said Lot 25; thence southwesterly 73.73 feet along a 146.00 feet radius curve concave northwesterly to the north side of a sidewalk; thence South 65°17'41" East 18.42 feet along the north line of the sidewalk; thence South 89°50'57" East 124.48 feet along the north line of the sidewalk; thence South 44°57'32" East 33.15 feet along the northerly side of the sidewalk and the southeasterly extension thereof to a point on the east line of said Lot 25, lying South 0°00'00" West 71.31 feet from the northeast corner of said Lot 25; thence North 0°00'00" East 71.31 feet along

said east line of Lot 25 to the point of beginning, containing 9,296 square feet, subject to easements of record.

Tract 2

Part of Lot 25 and part of the vacated 10 foot walkway between Lots 25 and 26, all in the Plat of Westgate First Addition to Milford, Dickinson County, Iowa, described as follows:

Commencing at the northeast corner of Lot 25 of Westgate First Addition to Milford, Iowa; thence South 0°00'00" West 71.31 feet along the east line of said Lot 25 to the point of beginning; thence continuing South 0°00'00" West 148.99 feet along the east line of said Lot 25 to the southwesterly line of a sidewalk; thence North 45°32'41" West 6.93 feet along the southwesterly line of said sidewalk; thence North 1°23'48" West 145.62 feet along the westerly line of said sidewalk; thence North 44°57'32" West 24.06 feet along the southwesterly line of said sidewalk; thence North 89°50'57" West 123.50 feet along the southerly line of said sidewalk; thence North 65°17'41" West 20.30 feet along the southwesterly side of said sidewalk to a point on the northwesterly line of vacated 10 feet walkway, lying southwesterly 78.94 feet from the northwest corner of said Lot 25 as measured along a 146.00 feet radius curve concave northwesterly; thence northeasterly 5.21 feet along a 146.00 feet radius curve concave northwesterly to the northeasterly side of said sidewalk; thence South 65°17'41" East 18.42 feet along the northeasterly side of said sidewalk; thence South 89°50'57" East 124.48 feet along the north side of said sidewalk; thence South 44°57'32" East 33.15 feet along the northeasterly side of said sidewalk and the southeasterly extension thereof to the point of beginning, containing 1,843 square feet, subject to easements of record.

2. The building submitted to this Declaration is a two-story⁺ ten-unit residential structure. The principal material of all units constructed is wood. There are 16 garage spaces in three separate buildings. There is no basement in the residential structure. There is one basement under Garage Spaces 10 and 11, which is common area.

3. The ten residential units are individually numbered. Unit 1 is the easterly most unit. The unit direct to the west of Unit 1 is Unit 2. The unit directly to the West of Unit 2 is designated Unit 3. The unit directly to the west of Unit 3 is designated Unit 4. The unit directly to the west of Unit 4 is designated Unit 5. The unit directly to the west of Unit 5 is Unit 6. The unit directly to the west of Unit 6 is designated Unit 7. The unit directly to the west of unit 7 is designated Unit 8. The unit directly to the west of Unit 8 is designated Unit 9. The unit

directly to the west of Unit 9 is the westerly most unit and is designated Unit 10.

The three garage buildings are located directly to the North of the residential building. For the exact locations of all of these buildings, see the site plan which is attached hereto as Exhibit "A".

The number of each unit, its location, approximate area, number of rooms and immediate common area to which each apartment has access are shown on the site plan and building plans which are attached hereto.

4. There are more garage spaces than residential units. Said spaces are numbered 1 through 16, with Space No. 1 being the easternmost space and the spaces being numbered in ascending fashion from east to west and the westernmost space being designated No. 16. Spaces 1 and 2 are assigned to Unit 1; Spaces 3 and 4 are assigned to Unit 2; Space 5 is assigned to Unit 3; Spaces 6 and 7 are assigned to Unit 4; Space 8 is assigned to Unit 5; Space 9 is assigned to Unit 6; Spaces 10 and 11 are assigned to Unit 7; Space 12 is assigned to Unit 8; Spaces 13 and 14 are assigned to Unit 9; Spaces 15 and 16 are assigned to Unit 10. Ownership of a unit carries with it appurtenant ownership of the designated garage space or spaces and no unit or space may be sold separate from the unit or space to which it is assigned.

5. Ownership of the unit carries with it the ownership of an undivided interest in all general common elements and facilities as defined herein. These general common elements and facilities, which shall be held by the owners as tenants in common, shall be the land on which the buildings are erected, the foundations, the main sanitary sewer and water lines, the walls, floors, ceilings and roofs of each unit and of the buildings (except the interior surfaces and except partition walls within individual units), the exterior doors, windows, the mailboxes, stairways, walkways, garbage collection area, garage doors, driveways, the basement under garage spaces 10 and 11, parking lots, sidewalks, outside electrical lighting units, landscaping, shrubbery and general

improvements to the grounds or lawn; pipes, wires, fire alarm system, conduit and other public utility lines which are utilized for or serve more than one unit; facilities and personal property required for the use of personnel engaged in performing services for the development; and all other devices or installations existing for common use and defined as General Common Elements by Section 499B.2 of the 1993 Code of Iowa. The owners of a unit shall be deemed to own the cupboards, counters, plumbing fixtures and walls or partitions that are contained wholly within the particular unit and shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floor and ceiling including paint, wallpaper, linoleum, carpeting, etc., which are deemed to be a permanent part of each unit. The owner of each unit shall be solely responsible for the care, maintenance, repair, replacement and restoration of each unit including interior doors, plumbing and lighting fixtures, heating and air-conditioning equipment, refrigerator, dishwasher, disposal, range or other equipment or personal property connected with such unit for its exclusive use, except as otherwise provided.

In the event pipes, wires, conduits or other public utility lines run through one unit which are utilized for or serve one or more other units, a valid easement for the maintenance of said pipes, wire, conduits, or other public utility lines shall exist and in the event any part of the building is partially or totally destroyed and later rebuilt, repaired, or restored as hereinafter provided, a valid easement for replacement and maintenance of said pipes, wires, conduits or other public utility lines shall exist.

6. Patios, building entrances and entrance sidewalks are for the exclusive use of the respective units, but repair and maintenance shall be a common expense.

7. The fractional interest which each unit bears to the entire Horizontal Property regime is one/tenth (10th). Payment of common expenses and voting rights shall be consistent with the fractional interest except as hereinafter set forth.

8. In the event of damage or destruction of all or part of the property covered by this Horizontal Property Regime, it shall be the duty of Association to restore and repair the same to its former condition as promptly as is practical in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant to this Declaration or the By-Laws of Westview Townhome Condominium Owners' Association shall be used for such purpose, subject to the rights of first mortgagees whose interests may be protected by said policies.

If the proceeds of such insurance policies for restoration and repair is eighty-five percent (85%) or more of the estimated costs of restoration and repair, an emergency assessment may be levied by Association if necessary to provide the funds for such reconstruction and repair over and above the amount of insurance proceeds available for such purpose. In the event the insurance proceeds are less than eighty-five percent (85%) of the estimated cost of restoration and repair, the improvements shall not be replaced or restored unless approved by a vote or written consent of the majority of the total number of votes outstanding and entitled to be cast.

In the event a determination is made not to replace or restore the improvements on the condominium property, the entire condominium property shall be deemed owned in common by the apartment owners and subject to partition and sale. In the event excess insurance proceeds are remaining they shall be retained in the general funds of Association.

Insurance policies purchased by the Association shall provide coverage at replacement cost.

Any policy purchased by Association shall provide coverage for fixtures, installations or additions that are within individual units, including but not limited to paint, wallpaper, panelling, tile, carpeting, air conditioners, cabinets, electrical fixtures, dishwashers, fire extinguisher apparatus and plumbing fixtures.

Association shall also obtain comprehensive general liability insurance which shall protect Association for bodily injury and property damage.

The personal property of the unit owners, such as furniture and clothing and including washer, dryer, refrigerator and stove, will not be covered by Association's policy. Any owner may and is encouraged to carry personal liability insurance.

9. The administration of this Regime shall be vested in Westview Townhome Condominium Owners' Association, a non-profit corporation, consisting of all of the owners of the units subject to the provisions herein. This Association shall be the "Council of Co-Owners" within the meaning of Chapter 499B of the 1993 Code of Iowa and shall have all powers and authority granted to it by said Chapter, including, but not limited to the responsibility for the care, maintenance, repair, replacement and restoration of the structure, common elements and facilities and the making of assessments chargeable to owners. All sums so assessed but unpaid shall constitute a lien on the respective unit prior to all other liens, except: (1) liens for taxes and assessments lawfully imposed by governmental authority against such property; and (2) all sums secured by mortgages of record. Such lien may be foreclosed by suit by Association or its representatives in like manner as a mortgage of real property provided that thirty (30) days written notice of the intention to foreclose shall be mailed, postage prepaid, to the owner as shown by Association's record of ownership as set out below. In the event a lien of Association shall be foreclosed, the unit owner shall be required to pay a reasonable rental for the unit and Association shall be entitled to the appointment of a receiver to collect the same. Association or its representatives shall have the power to bid on such unit at foreclosure sale and to acquire, hold, lease, mortgage and convey such unit. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

10. Association may perfect a lien for unpaid assessments by filing a notice thereof with the Dickinson County Recorder. Such notice shall be signed by an officer of Association.

11. When a mortgagee or purchaser of a unit obtains title as a result of foreclosure of a first mortgage, such mortgagee or purchaser shall not be liable for the assessments chargeable to such unit due prior to the acquisition of title. Such unpaid assessment shall thereafter be deemed to be common expenses collectable from all unit owners including the mortgagee or purchaser.

12. In a voluntary conveyance, the Grantee of an apartment shall be jointly and severally liable with the Grantor for all unpaid assessments on that unit up to the time of the conveyance. The Grantees shall, however, retain the right to recover from the Grantor any amounts paid by the Grantee therefore. Any Grantee under a voluntary conveyance shall be entitled to a statement from the Association or its representatives stating the amount of the unpaid assessments against the Grantor and said Grantee shall not be liable for nor shall the apartment conveyed be subject to a lien for any unpaid assessments in excess of the amount appearing in said statement.

13. The term "owner" as used in this Declaration and in the By-Laws shall mean record holder of title to the unit and shall include a contract purchaser in possession. In the event of multiple, corporate or fiduciary ownership, said owner or owners shall designate in a letter filed with the Secretary of Association, a person to act as owner in connection with the voting rights and administration referred to in this Declaration and the By-Laws. Notices to be given by Association are properly given to the owner or owners of the respective unit if given to the designated person. Each unit shall be entitled to have one vote but not more than one and that vote may not be split. The owner of a unit in Westview Townhome Condominiums shall be a member of Association and shall remain a member until such time as ownership ceases for any reason.

14. Any instrument effecting an interest in real estate shall be executed by any two officers upon authorization of the Executive Board.

15. All agreements and determinations lawfully made by Association or its Board or Officers shall be deemed binding upon all owners, their tenants, guests, successors or assigns. Failure to comply with the Declaration, By-Laws, decisions, rules, resolutions, agreements and determinations of Association or its Board of Directors or Officers shall be grounds for an action to recover damages or for injunctive relief.

16. No owner may be exempted from liability for contributions toward common expenses by waiver of the use or enjoyment of the common elements and facilities or by the abandonment of the unit.

17. The property shall be used for residential purposes only, and unless agreed upon by all unit owners the leasing or renting to a non-owner shall be limited to a minimum period of thirty (30) days. All leases shall be in writing and a copy thereof provided to the Association prior to possession. No lease shall relieve the owner as against Association and other owners from any responsibility or liability imposed by the condominium documents.

18. Voting by an owner may be by written proxy filed with the Secretary of Association.

19. No unit may be sold without also conveying to the same purchaser that unit's interest in the common elements. Likewise, no sale or conveyance of an interest in the common elements and facilities can be made without a sale or conveyance to the same purchaser of the corresponding unit.

20. Incidental damage caused to a unit through maintenance by Association shall be repaired by Association as a common expense.

21. No owner shall make any alteration or improvement to or extension into any common element or facility or remove any portion thereof without approval of Association.

22. No owner shall convey, mortgage or lease any unit unless and until all common charges assessed and accrued have been paid.

23. Association may:

- A. Regulate pets and the ownership of and use of motorcycles or other power driven equipment on the premises but may prohibit pets only if such prohibition is approved by 100% of Association's voting members;
- B. Control the erection of For Sale or other signs;
- C. Regulate or assign designated parking areas;
- D. Restrict or prohibit parking of boats, recreational vehicles and equipment of a similar nature; and
- E. Adopt, amend and enforce other reasonable restrictions and regulations related to the use and enjoyment of the premises.

24. No animal pens, sheds, fences or other outbuildings, wires or structures of any kind shall be erected by any owner in any common area. No pets larger than 30 lbs. shall be allowed on the premises. No noise or other activity shall be allowed which unduly interferes with the peaceful possession and proper use of the property by its owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed. All laws, ordinances and regulations of governmental bodies shall be observed by the owners and Association.

No pets shall be allowed to run at large and when outdoors for necessary short term periods they shall remain on a leash and be attended. Owners must collect and dispose of waste deposited by their pets.

25. Each unit owner covenants and agrees to pay the separately metered utility expenses, to maintain a minimum year round temperature of 50° Fahrenheit within the unit and to turn off

the water to the unit if the owners expect it to be unoccupied for seven (7) days or more.

26. An owner shall be liable to Association for the expenses of any maintenance, repair, or replacement rendered necessary by his or her act, neglect or carelessness or by that of the owner's family, guests, employees, agents or lessees, which liability shall include any increase in insurance rates resulting therefrom.

27. Notwithstanding any other provision herein or in the By-Laws, Developer is irrevocably empowered to transact on the property any business relating to construction, sale, lease or rental of units, including the right to maintain models, offices, signs, employees, equipment and materials on the premises. This right shall continue until this Development has been fully developed and sold.

28. Every director and officer of Association shall be indemnified by Association for all expenses and liabilities including legal fees reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party by reason of that person being or having been a director or officer of the Association, except in such cases where the director or officer is adjudicated guilty of willful misfeasance or malfeasance in the performance of his or her duties. In the event of a settlement, this indemnification shall apply only when the Board of Directors approves such settlement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all the rights to which such directors or officers may be entitled.

29. This Declaration may be amended in any of the following manners:

- A. By written amendment duly executed by all owners and filed with the Dickinson County Recorder; or
- B. Written notice of a proposed amendment shall be given all owners. Such notice shall designate a time and place for a meeting to

consider such proposed amendment which time shall be not less than thirty (30) nor more than sixty (60) days from the date such notice is actually given. At such meeting, the amendment shall be adopted upon approval by the owners representing 60% of the units.

30. Notwithstanding the above and the provisions of the By-Laws, the Developer shall retain the right to name all Directors of Association until all 10 units have been sold. Such Directors need not be unit owners. Developer shall be required to pay assessments for any unit held by it. Until all units are sold no amendment of this Declaration or the By-Laws shall be permitted unless approved by Developer.

In Witness Whereof, the undersigned has executed this instrument this 1 day of November, 1993, at Spirit Lake, Dickinson County, Iowa.

R and W PARTNERSHIP

By Ryan Bonnicksen
Ryan Bonnicksen, General Partner

STATE OF IOWA)
) SS
DICKINSON COUNTY)

On this 1 day of November, 1993, before me, the undersigned a Notary Public in and for said County and State, personally appeared Ryan Bonnicksen, to me personally known who, being by me duly sworn, did say that he is a general partner of the above named partnership and that the instrument was signed on behalf of the partnership by authority of the partners and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

[Signature]
Notary Public in and for said County and State.