

ST. NO. 05268  
STORY COUNTY, IOWA  
FILED FOR RECORD  
OCT 28 1992 PM  
SUSAN L. VANDE KAMP, Recorder  
Recording Fee \$ 150.00  
Auditor's Fee \$ \_\_\_\_\_

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DECLARATION OF SUBMISSION OF  
PROPERTY TO HORIZONTAL PROPERTY REGIME

Pursuant to Chapter 499B of the Code of Iowa, HESTED-CORNWELL PARTNERSHIP, hereinafter referred to as "Developer", hereby executes this instrument of Declaration of Submission of Property to a Horizontal Property Regime to be known as THE TOWN HOMES OF MISSION RIDGE, hereinafter referred to as "Regime", and the same shall take effect when filed for record in the office of the Story County Recorder.

WHEREAS, Developer is the owner of a certain parcel of real estate located in Ames, Iowa, and described as follows:

Lot 13, Mission Ridge Subdivision, a Replat of Lot 26, Gateway Hills, Ames, Iowa

and

WHEREAS, Developer's purpose, by filing this Declaration, is to submit and convey said land and the improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the condominium form of ownership and use pursuant to the provisions of Chapter 499B of the Code of Iowa, and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all condominiums and the owners thereof;

NOW, THEREFORE, the Developer does hereby declare that all of said real estate together with the property designated in Article II hereof and in Exhibit "A" attached hereto, is held pursuant to the following conditions, which are declared and agreed to be in the furtherance of a plan for the improvement of said property and the division thereof into condominiums for the benefit of Developer, its successors and assigns, and any person owing an interest in the real property, improvements and appurtenances thereto, his successors and assigns.

ARTICLE I.  
DEFINITIONS

Unless it is plainly evident from the context that a different meaning is intended, the definitions as set out in Section 499B.2 of the Code of Iowa, or as hereinafter may be amended, shall apply. Such definitions are now as follows:

1. "Apartment" means one or more rooms occupying all or a part of a floor or floors in a building of one or more floors or stories and notwithstanding whether the apartment be intended for use or used as a residence, office, for the operation of any industry or business or for any other use not prohibited by law.
2. "Co-owner" means a person, corporation, or other legal entity capable of holding or owning any interest in real property who owns all or an interest in an apartment within the building.
3. "Council of co-owners" means all the co-owners of the building. The business and affairs of the council of co-owners may be conducted by organizing a corporation not for pecuniary profit of which the co-owners are members.

STATE OF IOWA }  
Story County } ss  
Entered for taxation this 28th  
day of Oct A.D. 19 92  
Judith A. Commons  
County Auditor

Declaration, p. 1

BOOK 337 PAGE 233

4. "General common elements", unless otherwise provided in the Declaration or lawful amendments thereto, means and includes:

- a. The land on which the building is erected.
- b. The foundations, basements, floors, exterior walls of each apartment and of the building, ceilings and roofs, halls, lobbies, stairways, and entrances and exits or communication ways, elevators, garbage incinerators and, in general, all devices or installations existing for common use.
- c. Compartments or installations of central services for public utilities, common heating and refrigeration units, reservoirs, water tanks and pumps servicing other than one apartment.
- d. Premises for lodging of service personnel engaged in performing services other than services within a single apartment.
- e. Parking lot, drives, curbs and sidewalks.

5. "Limited common elements" means and includes those common elements which are specified in or determined under the Declaration to be reserved for the use of one or more apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, common driveways, and the like.

6. "Majority of co-owners" or "percent of co-owners" means the owners of more than one-half of owners of that percent of interest in the building irrespective of the total number of co-owners.

7. "Property" includes the land whether committed to the horizontal property regime in fee or as a leasehold interest, the building, all other improvements located thereon, and all easements, rights and appurtenances belonging thereto.

8. All pronouns used herein include the male, female and neuter genders and include the singular or plural number, as the case may be.

9. "Building" means and includes one or more buildings, whether attached to one or more buildings or unattached, including garages, provided, however, that if there is more than one building, all such buildings shall be described and included in the Declaration, or any amendment thereto, and comprise an integral part of a single horizontal property regime.

## ARTICLE II DESCRIPTION OF BUILDING AND THE NUMBER OF APARTMENTS

1. The following details are set out on Exhibit "A" attached hereto and by this reference made a part hereof:

- a. A description of the building and the number of stories and basements, the number of apartments and the principal materials of which it is or is to be constructed.

- b. The apartment number of each apartment, and its location, approximate area, number of rooms, an immediate common area to which it has access, and any other data necessary for its proper identification.
- c. A description of the general common elements and facilities.
- d. The termination of the condominium shall be evidenced by a certificate of the Association executed by the President and Secretary certifying as to facts affecting the termination, which certificate shall become effective upon being recorded in the office of the Recorder of Story County, Iowa.
- e. After termination of the condominium, the apartment owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the apartment owners. Such undivided shares of the apartment owners shall be the same as the undivided shares in the common elements appurtenant to the owners' apartments prior to the termination.

2. Exclusive Ownership of Apartment. Each owner shall be entitled to exclusive ownership and possession of his apartment. The boundary lines of each apartment shall be the interior surfaces of its party and exterior walls, bearing walls, bottom floor or floors, top-story ceilings, windows, window frames, doors and door frames and trim, and includes both the portions of the building so described and the air space so encompassed. However, an owner shall not be deemed to own the undecorated or unfinished interior surfaces of the party and exterior walls, bottom floor or floors, top-story ceilings, windows and doors bounding his apartment, nor shall the owner be deemed to own any elements within his apartment which are included in the common elements notwithstanding the fact that such elements are within the perimeter of such apartment. For example, an apartment owner does not own any pipes, wires, ducts, conduits, public utility lines, or structural components running through his apartment, whether or not such items shall be located in the floors, ceilings, or perimeter or interior walls of the apartment. An owner shall nevertheless have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors bounding his apartment and also shall have such exclusive rights with respect to general or limited common elements which are within his apartment.

3. Appurtenances. There shall pass with the ownership of each apartment, whether or not separately described, all appurtenances to such apartment, and no part of the appurtenant interest of any apartment may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other disposition of such apartment itself.

4. Limited Use Areas. Certain common elements are reserved for the exclusive use of the owner of a particular apartment as designated in Exhibit "A".

5. Common Elements. Appurtenant to each unit shall be the right to use and enjoy the common elements exclusive of "Limited Use Areas" which are specifically designated in Exhibit "A" for the benefit of a particular apartment. Even though the use and

enjoyment of "Limited Use Areas" are so restricted, such areas shall nevertheless be considered part of the common elements. In addition, without limiting the foregoing, the common elements shall also include the parcel of land, the driveway, landscaping, all structures located on said parcel and stairways, halls, lobbies, corridors, decks, patios and all pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets located in such structures.

6. Undivided Fractional Interest. The fractional or percentage interest which each apartment bears to the entire regime is set out in Exhibit "A".

7. Membership and Voting Rights. Appurtenant to each apartment shall be membership in Town Homes of Mission Ridge, Inc., hereafter referenced as "Association", and the owner of each apartment shall be entitled to vote in the affairs thereof on the basis of one vote for each apartment owned, as provided in Article I of the By-Laws. The exercise of such voting and membership rights, however, shall be subject to the applicable provisions of the Articles and By-Laws of the Association and of the condominium documents and shall also be subject to the appointment of Developer as agent for certain purposes. The action of such Association shall be deemed the action of the owners or the council of co-owners as provided in Article IV hereof whenever such action is permitted or required by Chapter 499B of the Code of Iowa, and such action, when taken in accordance with the By-Laws of the Association and this Declaration shall be final and conclusive upon all apartment owners.

8. Encroachment Easements. If any portion of the common elements encroach upon any apartment, or if any apartment encroaches upon any other apartment or upon any portion of the common elements, or if any of such encroachments shall occur as a result of shifting or settling of the buildings or from alteration, repair or improvement to the common elements or as a result of repair or restoration of the common elements or an apartment after damage by fire or other casualty, or as a result of condemnation or if eminent domain proceedings, then in each of such events a valid easement shall exist for such encroachment and for the maintenance thereof so long as the buildings, common elements and apartments exist.

9. Cross Easements. Appurtenant to each apartment shall be easements from each apartment to any other apartment and to the Association and from the Association to all apartments as follows:

- a. For ingress or egress through the common areas and for maintenance, repair and replacement as authorized;
- b. Through the apartments and common facilities for maintenance, repair and replacement or reconstruction of common elements, but access to apartments shall be only during reasonable hours except in case of emergency;
- c. Every portion of an apartment contributing to the support of more than one apartment is burdened with an easement of such support for the benefit of all such other apartments;
- d. Through the apartments and common areas for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility or other services to other apartments and the common areas.

ARTICLE III  
DEVELOPER'S RESERVED RIGHTS AND POWERS

1. Developer's Activities and Apartment Ownership. Notwithstanding any use restriction or other provision hereof to the contrary, Developer is empowered to sell, lease or rent apartments to any person and shall have the right to transact on the regime any business relating to construction, sale or lease of apartments including, but not limited to, the right to maintain offices, signs, equipment and materials on the premises. A sale and rental office, signs and all items and equipment pertaining to sales or rentals and any other facilities furnished by Developer shall not be considered common elements and shall remain Developer's property. Developer retains the right to remain the owner of completed but unsold apartments under the same terms and conditions as other owners.

2. Easements. Developer reserves perpetual easements of ingress and egress for utility purposes as may be required across and under the real estate for expansion of the regime and in connection with any other development of the land described.

3. Construction of Apartments. The construction of apartments shall be in accordance with the terms of this Declaration and the plans and exhibits attached hereto except that variations therefrom or adjustments of an insubstantial character not meaningfully prejudicial to the rights of owners of completed apartments being constructed (including variation in room size or design and a variation in area of a unit of not more than 15% of the approximate area stated in Exhibit "A" for such apartment) is permitted and shall not constitute an amendment of this Declaration and each owner agrees to accept his apartment in substantial compliance to such plans and exhibits.

4. Designation of Association Directors. Developer shall have the right to name all members of the Board of Directors of Town Homes of Mission Ridge, Inc. until Developer has sold 90% of the apartments in the entire regime. So long as the right to vote as a member of the Association shall be reserved exclusively to Developer, its successors or assigns, all other apartment owners do hereby constitute and appoint Developer as their proxy, with full power and discretion to cast their votes as members of the Association, all other provisions of this Declaration or By-Laws of the Association notwithstanding.

ARTICLE IV  
MANAGEMENT OF THE REGIME

1. Council of Co-Owners: Membership; Vote or Other Action or Owners. The affairs of the regime shall be managed by Town Homes of Mission Ridge, Inc., a nonprofit membership corporation organized and existing under Chapter 504A of the Code of Iowa. A copy of the corporation's By-Laws is attached hereto as Exhibit "B". Whenever a vote or other action of apartment owners as a group is required, the mechanics of conducting such a vote or taking such action shall be under the supervision of the Association. The action of the Association shall constitute the action of the owners or of the Council of Co-Owners whenever such action is permitted or required herein or by Chapter 499B of the Code of Iowa.

2. Agreements and Compliance. All owners, tenants, guests and other persons using or occupying the regime shall be bound by the provisions of the By-Laws of the Association and applicable provisions of the other condominium documents. A failure to comply with the By-Laws or the provisions of the other condominium documents or any

agreement or determination lawfully made shall be grounds for an action to recover sums due for damages on the part of the Association or any owner as applicable and for mandatory or other injunctive relief without waiving either remedy.

3. Included Powers; Foreclosure of Lien; Waiver of Partition. Each owner agrees that the Association has and shall exercise all powers, rights and authority granted it, the Council of Co-Owners and the owners as a group by Chapter 504A and 499B of the Code of Iowa, and such as are more particularly set forth in the condominium documents, including, but not limited to, the making of assessments chargeable to an owner as a lien on his apartment, and the right, acting on behalf of the apartment owners, to foreclose the lien and acquire an apartment at foreclosure sale and to hold, lease, mortgage, or convey the apartment. All apartment owners shall be deemed to have waived all rights of partition, if any, in connection with such acquisition. Each owner hereby waives any rights to delay or prevent such foreclosure by the Association which he may have by reason of a homestead exemption.

4. No Avoidance by Waiver of Use; Right of Entry. Each owner shall be liable for all assessments made by the Association for common expenses and liabilities of the Association and the regime. The liability of an apartment owner for all assessments made by the Association may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of an apartment for which an assessment is made. The Association shall have the right, exercisable at reasonable times, to enter an apartment as may be necessary or advisable to carry out its responsibilities.

5. Management Contract. Pursuant to authority granted in its By-Laws, the Association has the right to enter into a contract with Developer or its assigns for professional management of the affairs of the Association and the management fee thereof shall be a common expense.

6. Discharge of Liability. The owner shall promptly discharge any lien which may hereafter be filed against his apartment.

7. Limitation of Association's Liability. The Association shall not be liable for any failure of water supply or other service or for injury or damage to property caused by or on the common elements or by another owner or person, or resulting from electricity, water, rain, air, dust, dirt or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless caused by negligence of the Association. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the common area or from any action taken to comply with the law, ordinance or orders of a governmental authority.

8. Indemnification of Management Committee Members. Each member of the Association shall be indemnified by the owners against all expenses and liabilities, including attorney's fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer or director of the Association, or any settlement thereof, whether or not he is an officer or director at the time such expenses are incurred, except in such cases wherein such person is adjudged guilty of or liable for willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of a settlement the indemnification shall apply only when the Board of Directors of the

Association approves such settlement and reimbursement as being for the best interests of the Association.

ARTICLE V  
MAINTENANCE, ALTERATION AND IMPROVEMENT

1. Definitions. Certain terms used in this Article shall have a meaning as follows, provided any dispute over the characterization of work within one of the following meanings shall be conclusively decided by the Board of Directors of the Association:

- a. "Maintenance" or "repair" shall mean the act of maintaining, restoration, renovation, reconstruction, replacement, rebuilding and similar work necessary to preserve an apartment or the regime in its original condition as completed.
- b. "Improvement" shall mean the addition of a new structure, element or facility, otherwise provided for by this Declaration or any Supplementary Declaration.

2. Maintenance by Association.

- a. The Association shall maintain all common elements, whether limited or general, and shall make assessments therefore as a common expense except where maintenance has been specifically made the responsibility of each apartment.
- b. The Association shall repair incidental damage caused to an apartment through maintenance by the Association and shall assess the cost thereof as a common expense.
- c. If an apartment owner defaults on his responsibilities of maintenance, the Association shall assume such responsibilities and shall assess the cost thereof against the owner of such apartment, and such assessment shall be collectible as if it were an assessment for common expenses.
- d. The Association may, in its discretion, assume responsibility for any maintenance project which requires reconstruction, repair, rebuilding, renovation, restoration or similar work to more than one apartment and the cost thereof may be, in the discretion of the Association, either assessed against each apartment on which such costs were incurred or assessed against all apartments as a common expense, according to the circumstances.

3. Maintenance by Owner.

- a. Each apartment owner, at his own expense, shall maintain the interior, including the boundary surfaces of his apartment; shall keep the interior of his apartment in a clean and sanitary condition; shall do all redecorating, painting and other finishing which may at any time be necessary to maintain his apartment, and shall be responsible

for the maintenance of all personal property, including carpets, furnishings and appliances within his apartment.

- b. Each apartment owner shall be responsible for maintenance and replacement of any plumbing fixtures, water heaters, fireplaces, furnaces and other heating equipment, lighting fixtures, refrigerators, air conditioning equipment, dishwashers, washers, dryers, disposals or ranges in or connected with his apartment and for his exclusive use. The owner shall also, at his own expense, keep in a clean and sanitary condition any patio, deck, attic, storage area or garage which is for the exclusive use of his apartment; and neither the Association nor the regime shall be liable or responsible for any loss or damage caused by theft or otherwise or articles which may be stored by the owner in such patio, deck, attic, storage area, garage or in his apartment.
- c. Each apartment owner shall maintain, at his expense, any improvement or other alteration made by him.
- d. Each apartment owner shall promptly report to the Association any defects or other maintenance needs which are the responsibility of the Association.

4. Alterations or Improvements by Owner. No apartment owner shall make or permit to be made any structural alteration to an apartment or to the building or any of the common elements, limited or general, without first obtaining written consent of the Board of Directors of the Association. Alterations to the exterior of the building or common elements shall be made to conform to the appearance of the regime as a whole. Any such alteration of an apartment shall not increase or decrease the owner's undivided fractional interest in the common elements.

5. Alteration or Improvement by the Association or All Owners. There shall be no alteration of the building, nor further improvements added to the lands or other common elements, without the approval of all owners; provided, upon the question being put to a vote by referendum ballot or at a membership meeting in accordance with the voting procedure set forth in the By-Laws, any such alteration or improvement may be done if 75% of the owners vote in favor thereof, and if the dissenting owners are relieved from the cost and their share of the cost is borne by the assenting owners. Bids shall be taken and the cost accurately estimated before such vote is conducted. An alteration or improvement pursuant to this paragraph shall not alter the interests of any owner in the common elements and such interests shall remain as before, irrespective of whether the owner voted in favor of or against the alteration or improvement.

## ARTICLE VI RIGHT OF FIRST REFUSAL

### 1. Right of First Refusal

- a. In the event any owner of an apartment, other than the Developer, shall wish to sell or lease, and shall have received a bona fide offer therefor from a prospective purchaser or lessee, the remaining apartment owners shall be given written notice thereof, together with



an executed or machine copy of such offer. Such notice and a copy thereof shall be delivered to the Board of Directors who shall notify each of the owners of such notice and offer. One or more of the apartment owners, acting individually or through another owner or owners, shall have the right to purchase or lease the subject apartment upon the same terms and conditions as set forth in the offer; provided, that during the 10 day period immediately following the notice, written notice of such election to purchase or lease is given to the selling or leasing owner and a matching down payment or deposit is paid to an escrow agent. Closing shall take place within ten days thereafter. The right of first refusal shall be transferable and assignable by the Board of Directors to one or more apartment owners providing that said right is transferred and acted upon within the 10 day period described above.

- b. The right of first refusal herein provided shall not apply to leases having a term of less than three months but any such lease or tenancy shall not be renewable nor extended except by compliance with the provisions herein.
- c. In the event any owner other than the Developer shall attempt to sell or lease his apartment without affording to the other owners the right of first refusal herein provided, such sale or lease shall be null and void and shall confer no title or interest whatever upon the intended purchaser or lessee who shall be subject to eviction and removal, forcible or otherwise, with or without process of law.
- d. The subleasing of said interest shall be subject to the same limitations as are applicable to the leasing thereof. The liability of the owner under and by the provisions contained in this Declaration shall continue, notwithstanding the fact that he may have leased said interests as provided herein.
- e. In no case shall the right of first refusal reserved herein affect the right of an owner to subject his apartment to a mortgage or other security instrument.
- f. The failure of or refusal by the owners to exercise the right to so purchase or lease shall not constitute or be deemed to be a waiver of such right to purchase or lease when an owner receives any subsequent bona fide offer from a prospective purchaser or lessee.

2. Exemption from Right of First Refusal - First Mortgagees. In the event of any default on the part of any owner under any first mortgage which entitles the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of paragraph 1 of this Article, and the purchaser (or grantee under such deed in lieu of foreclosure) of such apartment shall be thereupon and thereafter subject to the provisions of this Declaration and the By-Laws of the Association. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the apartment free and clear of the provisions of paragraph 1

of this Article, but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

3. Exemption from Right of First Refusal - Other. The following transfers are also exempt from the provisions of paragraph 1 of this Article:

- a. The transfer by operation of law of a deceased joint tenant's interest to the surviving joint tenant;
- b. The transfer of a deceased's interest to a devisee by Will or his heirs at law under intestacy laws;
- c. The transfer of all or any part of a partner's interest as a result of withdrawal, death or otherwise, to the remaining partners carrying on the partnership business and to a person or persons becoming partners. A transfer of all or part of a partner's or partners' interests between one or more partners and to persons becoming partners;
- d. The transfer by gift;
- e. The transfer of an owner's interest to a trustee;
- f. The transfer or conveyance by operation of law or otherwise of the interest of any owner to any other co-owner where such co-owners held title to an apartment as tenants in common or as joint tenants;
- g. The transfer of an owner's interest by treasurer's deed pursuant to a sale for delinquent taxes, or by sheriff's deed pursuant to a judgment execution sale;
- h. The transfer of a corporation's ownership interest to persons owning stock in the corporation as a result of a dissolution, distribution of a dividend, merger or consolidation.

4. Certificate of Compliance - Right of First Refusal. Upon written request of any prospective purchaser or lessee or a prospective mortgagee of an apartment, the Association shall issue a written and acknowledged certificate of recordable form evidencing that:

- a. With respect to a proposed lease or sale under paragraph 1 of this Article, that proper notice was given by the selling or leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease;
- b. With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure and a deed from such mortgagee or its nominee, pursuant to paragraph 1 of this Article, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of paragraph 1 of this Article;
- c. With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer will not be subject to the provisions of

paragraph 1 of this Article and such a certificate shall be conclusive evidence of the facts contained therein. The provisions set forth in this paragraph shall not apply to the initial sales and conveyances of apartments made by Developer.

ARTICLE VII  
CONDITIONS OF AND RESTRICTIONS ON OWNERSHIP,  
USE AND ENJOYMENT

1. Conditions. The ownership, use and enjoyment of each apartment and of the common elements of the regime shall be subject to the provisions of the By-Laws and Articles of Incorporation of the Association, and this Declaration, all of which provisions, irrespective of where set forth or classified, shall have equal status and shall be enforceable and binding as a condition on and enforceable against each and all apartments and the owners thereof and their respective assigns and successors in interest.

2. Subdivision Prohibited. No owner shall, by deed, plat or otherwise, subdivide or in any other manner cause his apartment to be separated into any tracts or parcels smaller than the apartment as shown on Exhibit "A".

3. Use of Property. The use of the regime shall be in accordance with and subject to the following provisions:

- a. An apartment shall be used or occupied for single-family dwelling purposes only.
- b. An apartment may be leased by the owner or his lessee provided the entire apartment is rented, occupancy is approved by the Association as provided in the Declaration. No lease shall relieve the owner as against the Association and other owners from any responsibility or liability imposed by the condominium documents.
- c. Nothing shall be altered, constructed or removed from the common elements, except upon written consent of the Board of Directors of the Association, which may be given through regulations of the Association, and further provided that any holder of a first mortgage which acquires possession of an apartment by foreclosure or by deed in lieu of foreclosure shall have the right to post signs for the sale or lease of such apartment until such apartment is sold or a lease is entered into.
- d. An owner may be permitted to keep dogs, cats or other household pets in an apartment subject to rules and regulations adopted by the Association.
- e. No activity shall be allowed which unduly interferes with the peaceful possession and use of the regime by the apartment owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.
- f. Nothing shall be done or kept in an apartment or in the common area which will increase the rate of insurance on the common area,

without the prior written consent of the Association. No owner shall permit anything to be done or kept in his apartment or in the common area which will result in the cancellation of insurance on any apartment or any part of the common area, or which would be in violation of any law.

- g. The Association shall have the authority to adopt rules and regulations governing the use of the regime and such rules shall be observed and obeyed by the owners, their guests and licensees.
- h. Agents of or contractors hired by the Association may enter any apartment when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the owners as practicable.
- i. Each apartment owner shall give notice to the Association of every lien against his apartment other than permitted mortgages, taxes and Association assessments, and of any suit or other proceeding which may affect the title to his apartment, within ten days after the lien attaches or the owner receives notice of such suit.
- j. Each apartment owner shall be liable to the Association for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of his family, guests, employees, agents or lessees, which liability shall include any increase in insurance rates resulting therefrom.

4. No Waiver. Failure of the Association or any owner to enforce any condition or provision of Chapter 499B of the Code of Iowa, this Declaration, the Articles of Incorporation or By-Laws of the Association or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

#### ARTICLE VIII DESTRUCTION AND CASUALTY

1. Determination in Event of Casualty. In case of fire, casualty or other damage or destruction to all or part of the regime, unless within 30 days of the date of such fire, casualty or other damage or destruction to all or part of the regime, contrary action is taken by a majority vote of the owners at a meeting called for that purpose, failure to take such contrary action during such 30 day period shall constitute a determination by the Council of Co-Owners to do the following:

- a. If either insurance proceeds are sufficient to pay at least 80% of the cost of reconstructing the damaged or destroyed regime or less than one-fourth of the apartments are destroyed, such property shall be reconstructed by the Association and the insurance proceeds therefor shall be applied thereto. The cost, if any, of reconstruction in excess of such insurance proceeds shall be assessed among all apartments as a common expense.

- b. If insurance proceeds are insufficient to pay at least 80% of the cost of reconstructing the damaged or destroyed property, and one-fourth or more of the apartments are destroyed, then upon the 31st day following the date of such damage or destruction, the entire property shall be deemed to be owned in common by the apartment owners in accordance with the provisions of Section 499B.16 of the Code of Iowa.
- c. Reconstruction, as used in this paragraph, means restoring the property to substantially the same condition in which it existed prior to the fire, casualty or other disaster, with each apartment and the common element having substantially the same vertical and horizontal boundaries as before. For purposes of this section, an apartment shall be deemed destroyed only if the cost of reconstructing such apartment exceeds the fair market value of such apartment as it existed prior to such disaster.
- d. Nothing contained herein shall prevent the Association, as agent for the owners, from beginning reconstruction during such 30 day period. Upon a decision to reconstruct, such reconstruction shall begin and be completed within a reasonable time as determined by the facts and circumstances.

2. Vote of Owners. In case of damage or destruction of any building with the regime, the Board of Directors shall call a special meeting of the owners of the building damaged or destroyed for the purpose of determining whether to repair the damage or to reconstruct the building. Upon the affirmative vote of the owners present at such meeting, the building shall be repaired or reconstructed.

3. Specifications for Reconstruction. All repair, rebuilding, restoration or reconstruction of the property shall be substantially in accordance with the plans and specifications of original construction, as available from the exhibits hereto and plans on file with the City of Ames, Iowa, and the number of ownership apartments and other appurtenances to each apartment after such repair, rebuilding, restoration or reconstruction shall be the same as before.

4. Maintenance Not Included. The provisions of this Article are intended to provide for damage or destruction resulting from an occurrence or casualty which shall not include maintenance and the remedying of ordinary wear and tear, as referred to in Article V of this Declaration.

#### ARTICLE IX INSURANCE PROVISIONS

1. Authority to Purchase. All insurance policies upon the 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 and provisions shall be made for the issuance of certificates of mortgagee endorsement to the mortgagee of each apartment owner. Apartment owners shall obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.

2. Coverage to be Afforded.

- a. The regime, including buildings, structures, equipment, fixtures and facilities, and all common elements, whether limited or general, and whether within or without an apartment, shall be insured by the Association in an amount equal to the maximum insurable replacement value thereof, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association against (i) loss or damage by fire and other hazards covered by a standard extended coverage hazard endorsement and (ii) such other risks as shall be customarily covered with respect to buildings and other improvements similar in construction, location and use as the buildings and other improvements on the land subject to regime, including, but not limited to, vandalism and malicious mischief.
- b. Public liability insurance in such amounts and with such coverage as shall be required by the Board of Directors of the Association shall be procured with cross liability endorsements to cover the liability of the apartment owners as a group and protecting in standard from the members, Board of Directors, officers, agents and contractors of or with the Association. Such liability insurance shall include, but shall not be limited to, coverage with respect to motor vehicles owned, nonowned or hired.
- c. Workmen's compensation shall be procured as the Board of Directors shall determine from time to time is desirable.

3. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and the costs thereof shall be assessed as a common expense.

4. Insurance Trustee. All insurance policies purchased by the Association shall be held for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear, and shall be paid to a bank or other financial institution, as trustee, which has trust powers in the State of Iowa, and has been selected by the Board of Directors of the Association and which is herein referred to as insurance trustee. The insurance trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Association, 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 damage to common elements, limited or general, an undivided share for each apartment owner, such share being the same as the undivided share in the common elements which are appurtenant to his apartment.
- b. Proceeds on account of damage to apartments and the limited common elements of the buildings which contain such apartments shall be held in the following undivided shares:

- (i) When the building is to be reconstructed--for the benefit of each owner of a damaged apartment in proportion to the cost (which cost shall be determined by the Association) of repairing the damage suffered by such apartment and the limited common elements which contain such apartment.
  - (ii) When the building is not to be reconstructed--an undivided share for the benefit of each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.
- c. In the event a mortgagee endorsement has been issued as to an apartment, the share of the apartment owner shall be held in trust for the benefit of the mortgagee and such apartment owner as their interests may appear; provided, however, that no mortgagee shall have any right to participate in the determination as to whether or not any damaged property shall be reconstructed, nor, in the event a determination to reconstruct is made, a right to the proceeds except a right to have such proceeds applied to reconstruction.

5. Distribution of Proceeds. Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of those from whom it is held in the following manner:

- a. All expenses of the insurance trustee shall be first paid or provision made therefor.
- 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 cost thereof as elsewhere provided and such proceeds may be distributed by the trustee to the Association for purposes of paying such costs. Any proceeds remaining after defraying such costs shall be distributed to those for whom it is held, remittances to apartment owners and their mortgagees being payable jointly to them.
- 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, then remaining proceeds shall be distributed to those for whom it is held, remittance to an apartment owner and his mortgagee being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and provided such mortgagee has requested a certificate of mortgage endorsement, 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 such apartment owners and mortgagees and their respective shares of the distribution.

6. Association to Adjust Claims. The Association shall adjust all claims arising under insurance policies purchased by the Association and execute and deliver releases upon the payment of claims for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the property. Each apartment owner, mortgagee, lienholder or owner of such other interest hereby agrees to be bound by the adjustment so made and the releases so executed and delivered.

#### ARTICLE X AMENDMENTS

This Declaration of Condominium may be amended by the members of the Association in the following manner:

1. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the members of the Association at which a proposed amendment is considered.
2. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by (1) not less than 75% of the entire membership of the Board of Directors and by not less than 75% of the entire membership of the Association; or (2) not less than 80% of the entire membership of the Association.
3. No amendment shall discriminate against any apartment owner or against any apartment or class or group of apartments unless the apartment owners so affected shall consent. No amendment shall change any apartment nor the share in the common expenses appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment and all record owners of liens thereon shall join in the execution of the amendment. This subparagraph shall never be amended.
4. A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the office of the Recorder of Story County, Iowa.

#### ARTICLE XI TERMINATION

The condominium may be terminated in the following manner in addition to the manner provided by Chapter 499B of the Code of Iowa, or as hereafter amended:

1. In the event it is determined as elsewhere provided by this Declaration of Condominium that the regime shall not be reconstructed because of major damage, the condominium plan of ownership will be thereby terminated without agreement.



2. The condominium may be terminated at any time by the approval in writing of all of the owners of the regime and by all record owners of liens thereon.
3. The termination of the condominium shall be evidenced by a certificate of the Association executed by the President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the office of the Recorder of Story County, Iowa.
4. After termination of the condominium, the apartment owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the apartment owners. Such undivided shares of the apartment owners shall be the same as the undivided shares in the common elements appurtenant to the owners' apartments prior to the termination.

IN WITNESS WHEREOF, Developer has executed this Declaration of Condominium this 27 day of October, 1992.

Hested-Cornwell Partnership

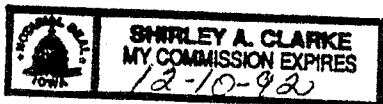
by Gary D. Hested  
 Gary D. Hested, Partner

by James E. Cornwell  
 James E. Cornwell, Partner

STATE OF IOWA, STORY COUNTY) SS.

On this 27<sup>th</sup> day of October, 1992, before me the undersigned, a Notary Public in and for the above State, personally appeared GARY D. HESTED and JAMES E. CORNWELL, to me personally known, who being by me duly sworn, did say the person(s) is/are partner(s) of HESTED-CORNWELL PARTNERSHIP, a partnership, and the the instrument was signed on behalf of the partnership by authority of the partners and the partner(s) acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner(s) voluntarily executed.

Shirley A. Clarke  
 Notary Public in and for  
 said County and State



# DECLARATION OF SUBMISSION OF PROPERTY TO HORIZONTAL PROPERTY REGIME

## EXHIBIT "A"

1. **BUILDING DESCRIPTION.** Buildings which are designed for residential use will have two floors above ground and attic space over second floor. Construction materials will principally include wood frame, asphalt shingle roof, and concrete block foundations walls. Each apartment will have access to exterior and will have the exclusive use of either a balcony or patio. All utility systems are so designed as to provide each apartment with a wholly independent and separately metered service.

2. **APARTMENT ALIENABLE.** Each individual apartment unit and the fractional interest in the common elements appurtenant thereto shall be as completely and freely alienable as any separate parcel of real property is or may be under the laws of the State of Iowa, except as limited by the provisions of the Horizontal Property Act and this Declaration of Condominium.

3. **APARTMENT BOUNDARIES.** Each apartment unit shall consist of the space contained within the following described boundaries: (a) Below the undecorated surface of the apartment ceiling. (b) Above the apartment sub-floor surface ready to receive a finished floor covering. (c) Within the undecorated interior surfaces of the perimeter walls (including windows and doors) of the apartment. Each apartment unit shall include, within the space it occupies, decorative surfaces, finished floor coverings, interior walls, partitions and doors, lighting fixtures, plumbing fixtures, and all other equipment, fixtures and materials not otherwise defined herein as part of the common elements. Each apartment unit shall also include any equipment located outside its boundaries which constitutes an integral operating part of the heating and cooling system contained within its boundaries.

4. **OWNERSHIP UNITS.** The fractional interest in the common elements appurtenant to each apartment is the product of a fraction having as its numerator the ownership units allocated to such apartment and having as its denominator the total of all ownership units for all apartments. Ownership units are allocated to each apartment on the basis of gross area in square feet contained within the boundaries of the apartment units weighted, however, to reflect the reduction in original cost per square foot resulting from increases in the gross area of the apartment. Ownership units shall be allocated to apartments in the Condominium on the basis of 21 equal units of 1,148 square feet each.

5. **APARTMENT DESCRIPTIONS.** The location within the buildings and boundary walls of each of the 21 apartments is graphically displayed as part of this Exhibit. All apartments are classified as three-bedroom. The principal rooms in each three-bedroom apartment consists of a kitchen, living room, three bedrooms and one and one-half bathrooms. Each apartment has direct access to the outside. Each apartment is further identified by the following additional information:

| <u>Bldg. No.</u> | <u>Apartment Number</u> | <u>Number of Bedrooms</u> | <u>Floors</u> | <u>Gross Area of Apartment Unit in Square Feet</u> | <u>Ownership Units Allocated to Each Apartment</u> |
|------------------|-------------------------|---------------------------|---------------|--|--|
| 1526             | 11                      | 3                         | 2             | 1148   | 1  |
| 1526             | 12                      | 3                         | 2             | 1148   | 1  |
| 1526             | 13                      | 3                         | 2             | 1148   | 1  |
| 1526             | 14                      | 3                         | 2             | 1148   | 1  |
| 1526             | 15                      | 3                         | 2             | 1148   | 1  |
| 1530             | 21                      | 3                         | 2             | 1148   | 1  |
| 1530             | 22                      | 3                         | 2             | 1148   | 1  |
| 1530             | 23                      | 3                         | 2             | 1148   | 1  |
| 1536             | 31                      | 3                         | 2             | 1148   | 1  |
| 1536             | 32                      | 3                         | 2             | 1148   | 1  |
| 1536             | 33                      | 3                         | 2             | 1148   | 1  |
| 1535             | 41                      | 3                         | 2             | 1148   | 1  |
| 1535             | 42                      | 3                         | 2             | 1148   | 1  |
| 1535             | 43                      | 3                         | 2             | 1148   | 1  |
| 1535             | 44                      | 3                         | 2             | 1148   | 1  |
| 1535             | 45                      | 3                         | 2             | 1148   | 1  |
| 1525             | 51                      | 3                         | 2             | 1148   | 1  |
| 1525             | 52                      | 3                         | 2             | 1148   | 1  |
| 1525             | 53                      | 3                         | 2             | 1148   | 1  |
| 1525             | 54                      | 3                         | 2             | 1148   | 1  |
| 1525             | 55                      | 3                         | 2             | 1148   | 1  |

Total ownership units allocated to all apartments

21

6. GARAGE BOUNDARIES. Each garage unit shall consist of the space contained within the following described boundaries: (a) Below roof rafters. (b) Above concrete floor surface. (c) Inside framing of exterior and/or dividing frame walls and doors. Each garage unit shall include ceilings, storage areas, doors and windows. There shall be a garage for each apartment unit.

7. COMMON ELEMENTS DESCRIBED. The common elements consist of the "general common elements" as defined in Article I and the entire condominium property, except the apartment units and the garages. The common elements also include any apparatus located within an apartment unit or a garage which serve a purpose benefitting other parts of the condominium.

8. LIMITED COMMON ELEMENTS DESCRIBED. The limited common elements consist of the driveways appertaining to each unit or pair of units, which are reserved for the use of the apartment units which they benefit.

**ARTICLES OF INCORPORATION  
OF  
Town Homes of Mission Ridge, Inc.**

TO THE SECRETARY OF STATE OF THE STATE OF IOWA:

I, the undersigned, acting as incorporator of a corporation under the Iowa Non-Profit Corporation Act, now Chapter 504A of the Code of Iowa, adopt the following Articles of Incorporation for such corporation:

- I. **NAME.** The name of the corporation is Town Homes of Mission Ridge, Inc..
- II. **LIFE.** The period of its duration shall be perpetual.
- III. **PURPOSE.** The purpose or purposes for which the corporation is organized are: operation of the condominium association connected with the condominium known as The Town Homes of Mission Ridge.
- IV. **OFFICE AND AGENT.** The address of its initial registered office in the state of Iowa is 507 Main, Ames, Iowa 50010 and the name of its initial registered agent at such address is James E. Cornwell.
- V. **DIRECTORS.** The number of directors constituting the initial board of directors of the corporation is one, and the name and address of the person who is to serve as the initial director is: James E. Cornwell, 507 Main, Ames, IA 50010.
- VI. **BEGINNING.** The corporate existence shall commence upon filing of these articles.
- VII. **INCORPORATORS.** The name of the incorporator is: James E. Cornwell, and his address is: 507 Main, Ames, IA 50010.
- VIII. **PRIVATE BENEFIT AND DISSOLUTION.** No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its members, if any, directors, officers, or other private persons. Upon the dissolution of the Corporation, the officers shall, after paying or making provisions for the payment of all the liabilities of the Corporation, transfer all of the assets of the Corporation to such organization or organizations operated exclusively for charitable purposes as the officers shall determine.

DATED Oct. 28, 1992.

Incorporator:

James E. Cornwell

STATE OF IOWA, STORY COUNTY) SS.

On this 28 day of Oct, 1992, before me a Notary Public in and for said County and State, personally appeared JAMES E. CORNWELL, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



Craig R. Hastings  
Notary Public in and for  
said County and State

**BYLAWS**  
**of**  
**TOWN HOMES OF MISSION RIDGE, INC.**

These are the Bylaws of Town Homes of Mission Ridge, Inc., hereinafter referred to as "Association", a corporation organized pursuant to Chapter 504A of the Code of Iowa, for the purpose of administering The Town Homes of Mission Ridge Condominium, a horizontal property regime established under Chapter 499B of the Code of Iowa, hereinafter referred to as "Regime", located upon the lands in Ames, Story County, Iowa, described in the attached Exhibit A.

**I. MEMBERS AND VOTING RIGHTS**

1. The owners of apartments shall constitute the members of the corporation. Developer, Hested-Cornwell Partnership, shall be a member with respect to completed but unsold apartments.

2. Unless sooner waived by written notice filed with the Secretary of the Association, the right to name all members of the Board of Directors of Town Homes of Mission Ridge, Inc. shall be reserved exclusively to Hested-Cornwell Partnership until it, as Developer of The Town Homes of Mission Ridge, has sold 90% of the apartments in the entire Regime.

3. The owner or owners of each apartment shall be entitled to one vote for each apartment owned. Votes may be cast in person or by proxy. Proxies may be made in writing by any member entitled to vote.

**II. MEMBERS' MEETING**

1. The annual and any special meeting shall be held at a time and at a place within Story County, Iowa, chosen by the Board of Directors, and all such meetings shall be held at the time and place as is set forth in the notice of the meeting.

2. A special meeting shall be held whenever called by the President, or, in his absence or disability, the Vice President, or by a majority of the Board of Directors, or upon receipt of a written request from a majority of the members of the Association.

3. The Secretary shall give written notice to each member of the annual meeting. The person calling a special meeting pursuant to Paragraph 2 shall give written notice of such special meeting. All notices shall set forth the time and place and purpose for which the meeting will be held. No action shall be taken at a special meeting which is not directly related to the purpose stated in the notice of meeting for which such meeting is held.

4. Notice of a members' meeting shall be given by mailing or delivering the same not less than ten (10) nor more than fifty (50) days prior to the date of the meeting. Notice shall be deemed duly given if mailed by first class mail to the member at the address of his apartment within the Regime unless, at the time of giving such notice, he has given written direction specifying a different mailing address to be carried on the rolls of the Association. Notice of any meeting may be waived.

5. A quorum at a members' meeting shall consist of the presence of members or other persons, in person or by proxy, holding a majority of the ownership units outstanding. The acts carried or approved by a vote of a majority of the ownership apartments represented at a meeting at which a quorum is present shall constitute the acts of the members unless a different rule is provided herein or by the Articles of Incorporation, the Declaration or other agreement to which the Association is a party. The President, or, in his absence or disability, the Vice President, shall preside at each members' meeting. If neither the President nor the Vice President is available to preside, a chairman shall be elected by the members present at such meeting.

6. At all meetings the order of business shall consist of the following:

- A. Choosing a chairman, if required.
- B. Calling roll and approving proxies.
- C. Showing proof of notice of meeting or waiver of notice.
- D. Reading and disposal of any unapproved minutes.
- E. Reports of officers, if applicable.
- F. Reports of committees, if applicable.
- G. Electing Directors, if applicable.
- H. Unfinished business.
- I. New business.
- J. Adjournment.

### III. BOARD OF DIRECTORS

1. The affairs of the Association shall be managed by a Board of not less than three (3) nor more than five (5) Directors. The initial Board shall consist of such persons as the Developer, Hested-Cornwell Partnership, may appoint and need not be members of the Association. The initial Board shall serve until the first annual members' meeting.

2. At the first annual members' meeting, the Directors shall be elected and the term of office of each Director shall extend until the next annual meeting of the members or until his successor is duly elected and qualified or until he is removed in the manner as elsewhere provided. The term of office for the Directors shall be two (2) years, except for those Directors who are elected at the first annual meeting. At the first annual meeting, at least two (2) of the Directors elected shall serve an initial term of three (3) years.

3. Each Director shall be elected by ballot by a majority of the votes cast at the annual meeting of the members of the Association.

4. Except as provided in Paragraph 5 of this Article, vacancies in the Board of Directors may be filled until the date of the next annual meeting by a vote of a majority of the Directors remaining in office.

5. A Director may be removed by concurrence of seventy-five percent (75%) of the members of the Association at a special meeting called for that purpose. The vacancy in the Board of Directors so created shall be filled by the persons entitled to vote at the same meeting.

6. The initial Directors shall serve without compensation and thereafter Directors shall receive such compensation and expenses as is approved by the persons entitled to vote at any annual or special meeting.

7. An organization meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. No further notice of the organization meeting shall be necessary.

8. A majority of the Board may, by resolution, set the time and place for regular meetings of the Board and no notice thereof shall be required until such resolution is modified or rescinded. A special meeting of the Board of Directors may be called by the President, Vice President, or any two (2) Directors, provided not less than two (2) days' notice shall be given, personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Notice of Board meetings may be waived by the Directors.

9. A quorum at a Directors' meeting shall consist of a majority of the members of the Board. The acts approved by a majority of those present at a meeting duly called at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration of these Bylaws.

10. The presiding officer of a Directors' meeting shall be the President, or, in his absence, the Vice President. In the absence of the President or Vice President, the Directors present shall designate one of their number to preside.

11. The Board of Directors may designate such committees as it deems advisable and, by resolution, provide the extent of the authority of the committees.

#### IV. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association shall be exercised by the Board of Directors and shall include those existing under the common law and statutes, the Articles of Incorporation and the documents establishing the Regime. Such powers and duties of the Directors shall be exercised in accordance with the provisions of the Declaration of Condominium which governs the use of the land and shall include in addition to those elsewhere provided for but shall not be limited to the following:

1. To make and collect assessments against members for all common expenses.
2. To use the proceeds of assessments in the exercise of its powers and duties.
3. To maintain, repair, replace and operate the Regime property, including all common areas, elements, facilities and units as applicable and provide for payment for all such work.
4. To reconstruct, repair, restore or rebuild the Regime property and of any apartments as applicable after casualty. To make and amend regulations respecting the use

and occupancy of the property in the Regime and to forbid unauthorized acts within the Regime.

5. To enforce the provisions of the Horizontal Property Act, the Articles of Incorporation, the Bylaws of the Association, the Declaration and the regulations for the use of the property in the Regime; and to take legal action in the name of the Association and on behalf of its members.

6. To contract for management of the Regime and to delegate to such manager any and all powers and duties of the Association as are permitted by the Declaration or Bylaws.

7. To employ, designate and remove personnel to perform the services required for proper operation of the Regime.

8. To carry insurance upon the Regime property and insurance for the protection of apartment owners, occupants and the Association as provided in the Declaration.

9. To pay the costs of all power, water, sewer and other utility or other services rendered to the Regime not billed directly to owners of individual apartments.

10. To borrow money from any bank, lending institution or agency for the use and benefit of the Association, and to secure the loan or loans by pledge of the assets of the Association and, from time to time, to renew such loan.

11. To do such other acts as are necessary and proper to effect the purpose of the Regime, as stated in the Declaration and Bylaws, provided such acts are not otherwise prohibited.

## V. OFFICERS

1. The officers of the Association shall be a President, a Vice President, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors. The Board of Directors may, from time to time, create and fill other offices and designate the powers and duties thereof.

2. The President shall be the Chief Executive Officer of the Association. He shall preside at all membership meetings and meetings of the Board of Directors and shall have power to appoint committees from among the members to assist in the conduct of the affairs of the Association and Regime.

3. The Vice President shall preside over membership meetings in the absence or disability of the President and shall otherwise exercise the powers and duties of the President in the event of the absence or disability of the President and shall generally assist the President and exercise such other powers and duties as are prescribed by the Directors.

4. The Secretary shall keep the minutes of all proceedings of membership meetings and Directors' meetings and shall have custody and control of the minute book of



the Association and shall keep or be in charge and control of the records of the Association, except those of the Treasurer.

5. The Treasurer shall have control of the funds and other property of the Association and shall keep the financial books and records thereof.

6. The compensation of all officers and employees shall be fixed by the Directors.

7. All documents incident to the ownership of real estate shall be executed by the President and Secretary or such other officers as the Directors may designate.

## VI. FISCAL MANAGEMENT

1. ACCOUNTING YEAR: The accounting year of the Association shall be the calendar year commencing January 1st.

2. ACCOUNTING: All funds received and disbursed by the Association shall be credited and charged to accounts under the following principal classifications:

A. WORKING BALANCE FUND: Such funds as may be required to provide the Association with a minimum operating balance in its checking account.

B. CURRENT EXPENSE FUND: All funds received and disbursed during each accounting year for payment of current ordinary expenses arising out of the operation, maintenance and repair of the common elements.

C. MAINTENANCE RESERVE FUND: All funds received for disbursement during subsequent accounting years in payment of ordinary maintenance expenses which occur less frequently than annually.

D. REPLACEMENT RESERVE FUND: All funds received for disbursement during subsequent accounting years in payment of the cost of repairing or replacing common elements resulting from damage, depreciation or obsolescence.

E. ADDITIONAL IMPROVEMENT FUND: All funds received for disbursement during any current or future accounting year to pay for the cost of substantially altering or adding further Capital improvements to the common elements, including the cost of equipment and other personal property having a life of more than one (1) year.

3. BUDGET: The Board of Directors shall, before the annual meeting of each year, adopt a budget for the succeeding accounting year, subject to the following conditions and limitations:

A. The budget shall be organized in accordance with the principal account classifications prescribed for the Association by these Bylaws.

B. The total amount budgeted for each principal fund shall not exceed a reasonable estimate of the funds required to accomplish the purposes of the particular fund for such accounting year.

C. Any unencumbered balance remaining in the Current Expense Fund at the end of an accounting year shall be credited to such account in the budget for the next succeeding year so as to reduce the assessment required to fund such account in the next succeeding year.

D. The budget shall show the monthly assessment, stated in terms of dollars chargeable to each "ownership unit" appurtenant to an apartment, required to fund the total budget for such accounting year.

E. A copy of the budget and a statement of the assessment levied on each apartment to fund same shall be sent to each member of the Association by ordinary U.S. mail on or before the January annual meeting in the year for which the budget is made.

F. At any time during an accounting year, the Board of Directors may amend the current budget and adjust the monthly assessments accordingly as may be required to pay the actual common expenses of the condominium.

4. ASSESSMENTS: Each owner of an apartment shall be responsible for paying to the Association, on or before the 1st day of each and every month, a monthly assessment for common expenses levied upon such apartment. If monthly assessments levied upon an apartment are not timely paid, the Board of Directors may declare all monthly assessments for the remainder of the accounting year due and payable within 20 days after notice of such declaration is sent to the owner of such apartment by ordinary U.S. mail. All monthly assessments not paid when due shall thereafter draw interest at the rate of nine percent (9%) per annum, compounded monthly.

5. AUDIT REPORT: A report of the accounts of the Association shall be made annually by an accountant and a copy of the report for the preceding accounting year shall be sent to each member of the Association by ordinary U.S. mail not less than ten days prior to the date of the annual meeting of members of the Association.

## VII. AMENDMENT

These Bylaws may be amended by the members of the Association in the manner prescribed for amendments to the Declaration.

## VIII. GENERAL PROVISIONS

1. The invalidity of any portion or provision of these Bylaws shall not affect the validity of the remaining provision.

2. The Association shall not have a corporate seal.

3. The Association shall, at all times, maintain complete and accurate written records of each apartment and owner and the address of each and setting forth the status of all assessments, accounts and funds pertinent to that apartment and owner. Any person other than an apartment owner may rely on a certificate made from such records by an officer or agent of the Association as to the status of all assessments and accounts.

4. Each member shall have the obligations as are imposed upon him by the Regime documents as an owner and no member shall have any power or authority to incur a mechanic's lien or other lien effective against the Regime property except as the same may attach only against his appurtenant interest therein.

5. The Board of Directors may, in its discretion, issue written evidence of membership, but the same shall be evidence thereof only and shall in no manner be transferable or negotiable, and the share of the member in the assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to such assignment, hypothecation or transfer of the apartment.

6. No provision or restriction otherwise void by reason of application of the rule against perpetuities or Section 558.68 of the Code of Iowa shall continue for a period longer than the life of the last to survive of the owners and shareholders of the Developer and their children in being at the time of the initial recording of the Declaration of Condominium to the Regime and twenty-one (21) years thereafter.

7. Each owner or the lessee of his apartment, as applicable, shall have a right to use and enjoy the common elements provided such use shall be limited to the uses permitted by the Declaration of Condominium and other governing documents of the Regime.

8. Roberts' Rules of Order shall govern the conduct of meetings of the Directors and members of the Association when not in conflict with the provisions of the Horizontal Property Act, the Declaration of Condominium, the Articles of Incorporation of the Association or these Bylaws.

Passed and approved by the Board of Directors and members of Town Homes of Mission Ridge, Inc. on this 28th day of October, 1992.

Town Homes of Mission Ridge, Inc.

by Gary O. Hester  
Secretary

**BYLAWS  
of  
TOWN HOMES OF MISSION RIDGE, INC.**

**EXHIBIT A**

Lot 13, Mission Ridge Subdivision in the City of Ames, Iowa