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INSTR. NO. 05-14-379  
BY 24-1-245  
05 SEP 13 PH 2: 37  
JANE DONOVAN  
RECORDER  
DICKINSON COUNTY, IOWA  
FEE \$ 262.00

**DECLARATION OF SUBMISSION OF PROPERTY  
TO HORIZONTAL PROPERTY REGIME  
FOR  
SPYGLASS VILLAS CONDOMINIUMS**

**Recorder's Cover Sheet**

**Preparer Information:** (name, address and phone number)

David Stein, Sr., Attorney  
Stein Law Office, LLP  
P.O. Box 537  
Milford, Iowa 51351  
712-338-2431 Telephone

**Taxpayer Information:** (name and complete address)

Lakeview Development, L.C.  
C/o Mr. Stephen Grubb, Manager  
475 S. 50<sup>th</sup> Street, Suite 100  
West Des Moines, IA 50265

**Return Document To:** (name and complete address)

Stein Law Office, L.L.P.  
P.O. Box 537  
Milford, IA 51351

**Grantors:**

NOT APPLICABLE

**Grantees:**

NOT APPLICABLE

**Legal Description:** See Page 2

**Document or instrument number of previously recorded documents:** n/a

**DECLARATION OF SUBMISSION OF PROPERTY  
TO HORIZONTAL PROPERTY REGIME  
FOR  
SPYGLASS VILLAS CONDOMINIUMS**

LAKEVIEW DEVELOPMENT, L.C., referred to herein as "Developer", hereby executes this instrument of Declaration of Submission of Property to a Horizontal Property Regime to be known as SPYGLASS VILLAS (hereinafter referred to as "regime") all pursuant to Chapter 499B, Code of Iowa, (this and all other references in this Declaration and exhibits hereto to the Code of Iowa refer to the 2003 Code of Iowa), entitled "Horizontal Property Act (Condominiums)" the same to take effect when filed for record in the Office of the Dickinson County Recorder.

RECITALS

A. The Developer is the owner of the land (the "Land") and proposed improvements to be known as Spyglass Villas Condominiums in the City of Arnolds Park, Dickinson County, Iowa. The legal description of such Land is as follows:

Legal Description the Land

LOTS A AND B IN THE SUBDIVISION OF LOT 7 OF AUDITOR'S PLAT OF GOVERNMENT LOTS 1, 2, 3, AND 4, IN SECTION 29, TOWNSHIP 99 NORTH, RANGE 36 WEST OF THE 5<sup>TH</sup> P.M. IN THE CITY OF ARNOLDS PARK, DICKINSON COUNTY, IOWA EXCEPT THE FOLLOWING:

- 1) BEGINNING AT THE NORTHWEST CORNER OF SAID LOT B; THENCE EAST 150 FEET ALONG THE NORTH LINE OF SAID LOT B; THENCE SOUTH 50 FEET PARALLEL WITH THE WEST LINE OF SAID LOT B; THENCE WEST 150 FEET PARALLEL WITH THE NORTH LINE OF SAID LOT B; THENCE NORTH 50 FEET ALONG THE WEST LINE OF SAID LOT B TO THE POINT OF BEGINNING;
- 2) COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT A; THENCE NORTH 5° 49' WEST 176.4 FEET ALONG THE WESTERLY LINES OF SAID LOTS A AND B TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING LYING SOUTH 5° 49' EAST 54.7 FEET FROM THE NORTHWEST CORNER OF SAID LOT B; THENCE NORTH 87° 37' EAST 61.1 FEET; THENCE NORTH 5° 49' WEST 5.1 FEET; THENCE SOUTH 87° 12' WEST 61.1 FEET PARALLEL WITH THE NORTHERLY LINE OF SAID LOT B TO A POINT IN THE WESTERLY LINE OF SAID LOT B, SAID POINT LYING SOUTH 5° 49' EAST 50.0 FEET FROM THE NORTHWEST CORNER OF SAID LOT B; THENCE SOUTH 5° 49' EAST 4.7 FEET ALONG THE WESTERLY LINE OF SAID LOT B TO THE POINT OF BEGINNING, CONTAINING 299 SQUARE FEET.

AND

THAT PART OF LOT 18 OF AUDITOR'S PLAT OF GOVERNMENT LOTS 1, 2, 3, AND 4 IN SECTION 29, TOWNSHIP 99 NORTH, RANGE 36 WEST OF THE 5<sup>TH</sup> P.M. IN THE CITY OF ARNOLDS PARK, DICKINSON COUNTY, IOWA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 18; THENCE WESTERLY 39.24 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 18 TO A POINT 40.00 FEET EASTERLY OF THE EASTERLY LINE OF THE PLAT OF FOREST PARK EXTENDED SOUTHERLY; THENCE NORTH 179.31 FEET PARALLEL WITH AND 40.00 FEET EASTERLY OF THE EASTERLY LINE OF SAID FOREST PARK; THENCE EASTERLY

18.95 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 18. SAID POINT LYING 181.12 FEET NORTHWESTERLY OF THE POINT OF BEGINNING; THENCE SOUTHEASTERLY 181.12 FEET ALONG THE EASTERLY LINE OF SAID LOT 18 TO THE POINT OF BEGINNING.

SAID TRACT OF LAND SUBJECT TO ALL EASEMENTS OF RECORD.

A. Site Plan depicting the Land and the Additional Land and the proposed Building and Units to be constructed thereon is attached hereto as Exhibit A (the "Site Plan").

B. The Spyglass Villas Condominiums is to consist of the Land and one Building thereon which is a two-story wood frame building with stone in front on the end peaks from top to bottom and stone deck facings and laminate architectural shingles on the roof, with the Building being comprised of 21 two-bedroom Units and a separate Building comprised of 21 two-car detached garages. The principal materials of which the units are constructed are as follows: foundation, reinforced concrete; floors on first level, lite concrete; floors on second level, lite concrete; floors on third level, lite concrete; walls, wood frame construction; roofing, wood frame construction with asphalt shingles. For further particulars, see the plans/drawings filed herewith. Developer by this Declaration intends to submit Spyglass Villas Condominiums a condominium development as defined in Chapter 499B, Code of Iowa, and pursuant to this Declaration. The lettering and numbering of the Building, Units and garages are shown in the attached Exhibit A. Each Unit will have a corresponding two car detached garage. The approximate area of the Units, the number of rooms contained in the Units, and the common areas to which each Unit has immediate access are shown on the drawings attached hereto as Exhibit B, which by this reference is incorporated herein.

C. Developer's purpose, by filing this Declaration, is to submit and convey the Land described above and the Building to be constructed thereon, together with all appurtenances thereto, to the condominium form of ownership and use pursuant to the provisions of the aforesaid Horizontal Property Act, and to impose upon such property mutually beneficial restrictions under a general plan of improvement for the benefit of all condominium units and the Owners thereof.

NOW, THEREFORE, Developer does hereby declare that all of the Land and the Building thereon be denominated as Spyglass Villas Condominiums and shall be held subject to the following covenants, conditions, restrictions, uses, limitations, and obligations, all of which are declared and agreed to be in the furtherance of a plan for the improvement of the property and the division thereof into condominiums and shall run with the land and shall be a burden and a benefit to Developer, its successors and assigns, and any person owning an interest in the real property, improvements and appurtenances thereto, his/her grantee's successors, heirs, executors, administrators, devisees and assigns.

## ARTICLE I.

### **DEFINITIONS AND GENERAL**

1. Association. The term "Association" means SPYGLASS VILLAS CONDOMINIUMS OWNERS ASSOCIATION, INC., and its successors and shall, for purposes of this Declaration, be the "Council of Co-owners" as defined in Section 499B.2(3) Code of Iowa.
2. Building. The term "building" or "building(s)" means the buildings constructed on the Land or the additional land containing the Units.
3. Common Elements or Areas. The term "common elements" or "common areas" means all general common elements and limited common elements as defined herein.
4. Condominium. The term "condominium" when used as a noun means a Unit and appurtenances thereto.
5. Condominium Documents. The term "condominium documents" means this Declaration, all exhibits attached hereto including the Articles of Incorporation and Bylaws of the Association, and supplements and amendments thereto.

6. General Common Elements. The term general common elements means and is described as all portions of the property not located within any Unit except such portions of the property which are defined or reserved as limited common elements, and the term also includes but is not limited to the land, driveways, outside parking, sidewalks, landscaping, plantings and pertinent equipment and furnishings.

All structural elements of the Building, including but not limited to the foundation, slabs, exterior walls, roof and attic, interior load bearing walls, walls dividing Units and walls separating Units from another common area, floors, ceilings, and other structural elements of the Building not reserved to a Unit are general common elements.

All sewer, water, electrical, gas, telephone and other utility or service lines, wiring, ducts, conduits, and piping located outside of any Unit or which serve more than one Unit are general common elements notwithstanding the same are located in part within a Unit.
7. Owner. The term "owner" means the holder of a real property interest in a Unit, except when otherwise defined in the condominium documents, and excluding mortgagees not in possession, lienholders and interests merely collateral in nature.
8. Ownership Units. The term "ownership Units" means the ownership Units made appurtenant to each Unit in Article III and its corresponding two-car detached garage hereof for purposes including but not limited to determining each Unit's appurtenant share of the common elements, and determining voting and assessment in accordance with the Bylaws of the Association.
9. Property or Project. The term "property" or "project" or the term "condominium property" or "condominium project" includes all property, real, personal or mixed submitted to the regime other than the personal property of any owner which might otherwise be considered submitted to the regime.
10. Unit. Each Unit shall consist of the area between the decorated and finished interior surfaces of its perimeter walls (including windows and sliding glass doors) and including the interior surface of the exterior door, and between the lower surface of the ceiling and the upper surface of the lowest floor. A Unit shall include and be defined by the above referred to surfaces and shall also include the windows, electric appliances, electrical fixtures and plumbing fixtures, including the heating, ventilating and air conditioning equipment and hot water heater within the Units, and non-load bearing partitions or walls within such area, except that all lines, wires, ducts and the like within any non-load bearing partition or wall which serve more than one Unit, shall be excluded and shall not constitute a part of the Unit. Each Unit and its undivided ownership interest shall include a corresponding two-car detached garage. "Unit" shall have the same meaning as "apartment" as defined in Section 499B.2(1) Code of Iowa, except as further defined in this paragraph.
11. Plural and Gender. Whenever the context so permits or requires, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.
12. Successors, Grantees and Assigns. Reference to Developer, an owner, the Association, or any person or entity shall include the respective heirs, successors, grantees and assigns thereof.
13. Severability. The invalidity of any covenant, restriction agreement, undertaking, or other provision of any condominium document shall not affect the validity of the remaining portions thereof.
14. Incorporation. Exhibits attached hereto and referred to herein are hereby made a part hereof with the same force and effect as other provisions of this document; provided that, wherever specifically provided, modification of certain exhibits shall not be deemed an amendment of this Declaration.
15. Other Definitions. Certain other terms are defined at various places in this Declaration and to the extent not defined herein, the definitions contained in the Horizontal Property Act shall control.

## ARTICLE II.

### IDENTIFICATION OF LAND, BUILDINGS AND UNITS

1. Location of Land and Improvements. The Land and improvements hereby submitted to the regime are located at Arnolds Park, Dickinson County, Iowa, as legally described above and as depicted on the Site Plan. The Building and detached garages located on said Land is hereby submitted to the regime. The Units in such Building, which are shown on the **Site Plan (attached hereto as Exhibit A)** and depicted on the building floor plans attached hereto as **Exhibit B**, are hereby submitted to the regime. **Exhibits "A" and "B"** contain and such contents shall govern, for purposes of this Declaration and for purposes of meeting certain requirements of Section 499B.4 and 499B.6 of the Code of Iowa, the following:
  - (a) The number identifying the Building and each Unit, the location and number of rooms in each Unit and the immediate common area to which each Unit has access.
  - (b) The full and exact copy of the plans of the Building which show graphically all particulars of the Building including, but not limited to, the dimensions, area and location of the common elements affording access to each Unit.
2. Streets and Driveways. The streets, driveways, parking areas shown in Exhibit "A" shall be private streets, driveways, and parking areas within the regime and common elements thereof, affording access to the Units and common elements from public streets, and an easement over such streets, driveways, and parking areas as is necessary for ingress and egress to such Units and common elements shall be appurtenant to each Unit. These private streets, driveways, and parking areas are to be maintained by the Association as part of the common elements.

## ARTICLE III.

### OWNERSHIP OF UNITS, APPURTENANCES AND EASEMENTS

1. Exclusive Ownership of Unit and Garage. Each owner shall be entitled to exclusive ownership and possession of his/her Unit and corresponding two-car detached garage. An owner shall be deemed to own the windows and glass doors of his/her Unit and garage. An owner shall not be deemed to own the undecorated or unfinished interior surfaces of the perimeter walls, floors, ceilings and exterior doors bounding his/her Unit and garage which are included in limited or general common elements notwithstanding the fact that such elements are within the perimeter of such Unit or garage. An owner, however, shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the perimeter walls, floors, ceilings, and exterior doors bounding his/her Unit and garage and also shall have such exclusive rights with respect to general or limited common elements which are within his/her Unit and garage, including specifically the right to penetrate such common element with nails and other fasteners for hanging customary pictures, mirrors and similar wall decorations.
2. Appurtenances. There shall pass with the ownership of each Unit as a part hereof, whether or not separately described, all appurtenances to such Unit and its corresponding two-car detached garage (whether such appurtenance is described in this Article or elsewhere in this Declaration or in the Bylaws of the Association), including the limited common elements. No part of the appurtenant interest of any Unit and its corresponding two-car detached garage may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other disposition of such Unit itself or of all Units in the regime.
3. Ownership Units. For purposes of this Declaration and the Bylaws of the Association, appurtenant to each Unit shall be **one ownership Unit and its corresponding two-car detached garage as listed in Exhibit "C"** of this Declaration. The ownership Units which are appurtenant to each Unit are hereby created by this Declaration and shall be counted for all purposes stated herein and in the other condominium documents irrespective of any actual occupancy or use of the Unit to which appurtenant.

4. Undivided Ownership Interest. An undivided interest in the land and other common elements of the regime, regardless of whether such elements are general or limited common elements shall be appurtenant to each Unit. The amount of such undivided interest appurtenant to each Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the number of all Units which have been submitted to the regime, all as shown on **Exhibit C, attached hereto**. No Unit may be sold without also conveying the Owner's undivided interest in the general common elements and facilities. Conversely, no conveyance of interest in the general common elements and facilities shall be made without a conveyance to the same party of a corresponding Unit.
5. Use of Limited Common Elements. The exclusive use of limited common elements shall be deemed an appurtenance of the Unit or Units for which said elements are reserved provided such use and enjoyment shall be limited to the uses permitted by this Declaration and other condominium documents.
6. General Common Elements. Appurtenant to each Unit shall be a right to use and enjoy the general common elements.
7. Membership and Voting Rights. Appurtenant to each Unit shall be membership in the Association and one vote in the affairs of the Association and of the regime, provided the exercise of such voting and membership rights shall be subject to the applicable provisions of the Articles and Bylaws of the Association and of the other condominium documents. The action of such Association shall be deemed the action of the Owners or of the Council of Co-owners whenever such action is permitted or required by Chapter 499B of the Code of Iowa; and such action when taken in accordance with the Bylaws of the Association and this Declaration shall be final and conclusive upon all Unit Owners.
8. Encroachment Easements. If any portion of the common elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the common elements, or if any of such encroachments shall occur hereafter as a result of shifting or settling of the building or from alteration, repair or improvement to the common elements or as a result of repair or restoration of the common elements or a Unit after damage by fire or other casualty, or as a result of condemnation or of 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 Building, common elements and Units exist, as long as the physical boundaries of the Units after construction, reconstruction, repair, etc. are in substantial accord with the description of those boundaries that appear in this Declaration.
9. Cross Easements. Appurtenant to each Unit shall be easements from each Unit owner to each other Unit owner and to the Association and from the Association to the respective Unit Owners as follows:
  - (a) For ingress and egress through the common areas and for maintenance, repair, and replacement as authorized;
  - (b) Through the Units and common elements for maintenance, repair and replacement or reconstruction of common elements, but access to Units and limited common elements shall be only during reasonable hours except in case of emergency;
  - (c) Through the Units and common areas for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility or other services to the other Units and the common areas; and
  - (d) To the extent necessary, each Unit shall have an easement for structural support over the common elements and over any other Unit in the building, and each Unit and the common elements shall be subject to an easement for structural support in favor of every other Unit in the building and the common elements.
10. Utility Easements. The Association shall have the right to grant utility easements under, through and over the common elements, which are reasonably necessary to the ongoing development and operation of the Condominium Project.

11. Owners Access. Each Unit owner shall have a perpetual right appurtenant to the owner's ownership interest in the Unit for access to and from the owner's Unit across and through the common elements.

#### ARTICLE IV.

##### **LIMITED COMMON ELEMENTS**

1. Definition. The term "limited common elements" shall mean a portion of the common elements set aside and allocated for the restricted use of respective Units as is or as may hereafter be designated. At the time of conveyance, each respective document of conveyance shall be deemed to convey the limited common elements to be used exclusively in conjunction with the respective Unit without necessity of naming the same.
2. Reservation. The limited common elements consisting of the balconies or patios, which exclusively serve each Unit, are reserved as limited common elements for the exclusive use of each respective Unit.
3. Balconies, Decks or Patios. The structural components of such deck, balcony or patio shall be considered to be a limited common element to be maintained, repaired or replaced by the Association, with the cost of thereof assessed against the Unit that such balcony, deck or patio exclusively serves. The cost of maintenance and repair of any balcony, deck or patio shall be assessed against the Unit that such balcony, deck or patio exclusively serves. In the event that a Unit Owner does not maintain, repair or replace his/her balcony, deck, patio to such an extent that in the Association's opinion, it becomes impaired or structurally unsound, the Association may perform said repair, maintenance or replacement and charge the cost thereof to the Unit Owner and his/her respective Unit.
4. Exception. Notwithstanding the reservations permitted by this Article, the design and layout of the Building and grounds submitted and the integrity and appearance of the regime as a whole are the common interest of all Owners and shall remain a part of the general common elements.
5. Right of Association. The reservation of the limited common elements shall not limit any right the Association and its agents may otherwise have to alter such limited common elements or enter upon such limited common elements.
6. Fire Sprinkler System. The portions of the fire sprinkler system located in common areas, such as hallways and stairways, shall be maintained and/or repaired by the Association. The portions of the fire sprinkler system located within each Unit shall be maintained and repaired by the respective Unit Owner. It shall be the Unit Owner's responsibility to maintain, in proper working order, the portions of the fire sprinkler system within his/her Unit. In the event the Unit owner fails to so maintain or repair the portions of the sprinkler systems within his/her Unit, then the Association or its representative(s) may, after written notice to the Unit Owner, perform said maintenance or repair and charge the cost of thereof as an assessment to the Unit and to the non-compliant Unit Owner. In addition and not in limitation, the Association may charge said non-compliant Unit Owner at least \$50.00 per day in liquid damages for each day in violation thereof. The Association or its representative(s) shall have the right to enter the Unit, after written notice to the Unit Owner, to inspect, repair, maintain or replace the fire sprinkler system.

#### ARTICLE V.

##### **DEVELOPERS RESERVED RIGHTS, POWERS AND OBLIGATIONS**

1. Developer's Activities and Unit Ownership. Developer is irrevocably and perpetually empowered, notwithstanding any use restriction or other provision hereof to the contrary, to sell, lease or rent Units not previously sold by the Developer to any person and shall have the right to transact on the condominium property any business relating to construction, sale, lease or rental of such Units and any recreational facilities including, but not limited to, the right to maintain models, offices, signs, employees and equipment and materials on the premises, and to use common elements to show such Units. A sale



and rental office, signs and all items and equipment pertaining to sales or rentals and other facilities furnished by Developer shall not be considered common elements and shall remain their separate property. Developer retains the right to be and remain the owner of completed but unsold Units under the same terms and conditions as other Owners including membership in the Association save for this right to sell, rent, or lease.

2. Designation of Association Directors. Developer shall have the right to name all members of the Board of Directors of the Association until the first annual members meeting of said Association which shall be held no later than the earlier of 120 days after the date by which 75% of the Units (after completion of all phases of the development of the condominium regime) have been conveyed to Unit purchasers or the date 5 years after the date the first Unit is conveyed (hereinafter referred to as the "Control Transfer Date"). Thereafter the Board of Directors shall be selected in the manner specified in the Bylaws of the Association.
3. Right To Amend Plans. Developer reserves the right to change the interior design and arrangement of all Units and garages, and to alter the boundaries between apartments and garages, so long as Developer owns the Units so altered. If Developer shall make any changes in Units so authorized, such changes shall be reflected by an amendment to the Declaration. An amendment made pursuant to this paragraph need be signed and acknowledged only by the Developer, its agents or assigns and need not be approved by the Association, Unit Owners or mortgagees, whether or not elsewhere required for an amendment. Provided, however, no change pursuant to this paragraph shall alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, affected Unit Owners and affected mortgagees in a manner elsewhere provided.
4. Construction of Units -- Variation and Adjustments. The Developer reserves the right to substitute for any of the materials, equipment and appliances, materials, equipment and appliances of equal or better quality.
5. As long as the Developer owns any Units in the Condominium Regime, at closing on any sale or transfer of Developer's Units, the Developer shall collect from the prospective Unit Owner an amount at least equal to two months of the estimated common charges for each Unit. Once all the Units have been sold by the Developer, then the Association shall collect these funds.
6. Construction of Buildings. Developer reserves the right to construct one Building at a time in the Condominium Regime.
7. Assignment of Developer's Reserved Rights. Developer shall have the right to assign all of its reserved rights and obligations as Developer to any person, corporation or other entity. Upon such assignment of Developer's reserved rights, the initial Developer shall have no further obligation in connection with the Condominium Regime.
8. Right of Access. The Developer reserves an easement over the common elements of the condominium regime for the purpose of completing the improvements and phases thereof contemplated by this Declaration. Provided, however, the Developer shall restore any common element disturbed by Developer's use of such easement to the condition existing prior to the disturbance as soon as practically feasible after Developer's use of the easement rights granted herein are concluded. Also, the easement rights granted herein shall be exercised by the Developer only if and when the access required by Developer is not otherwise reasonably available other than over, across or through the common elements.

## ARTICLE VI.

### MANAGEMENT OF THE REGIME

1. Association; Membership; Vote or Other Action of Owners. The business and affairs of the regime shall be governed and managed by the Association, a non-profit membership corporation organized and existing under Chapter 504A, Code of Iowa. Copies of its Articles of Incorporation and of its Bylaws are attached hereto as Exhibit "D" and

**Exhibit "E"**, respectively. Whenever a vote or other action of Unit Owners as a group is required the mechanics of conducting such a vote or taking such action shall be under the control and 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, the Association, tenants, families, guests and other persons using or occupying the regime shall be bound by and strictly comply with the provision of the Bylaws of the Association and applicable provisions of the other condominium documents, and all agreements, regulations, and determinations lawfully made by the Association and its directors, officers or agents shall be binding on all such Owners and other persons. A failure by any owner, the Association, tenant, family, guest or other person occupying or managing the condominium regime to comply with the Bylaws or the provisions of the other condominium documents or any agreement or determination thus 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. The costs, including reasonable attorney's fees, incurred by the Association to enforce the same shall be a lien against the Unit whose owner failed to comply and this lien shall be subject to foreclosure by the Association.
3. Availability of Documents and Records. The Association shall make available to Unit Owners, lenders and the holders and insurers of the first mortgage on any Unit current copies of this Declaration, the Bylaws of the Association and any rules or regulations passed by the Association governing the condominium regime and other books, records and financial statements of the Association. Such information shall also be made available by the Association to prospective purchasers of Units, including the most recent audited financial statement of the Association, if such is prepared. "Available" shall at the least mean available for inspection upon request during normal business hours or under other reasonable circumstances. Also upon the written request of any agency or corporation which has an interest or prospective interest in the condominium regime, the Association shall be required to prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.
4. Included Powers; Foreclosure of Lien; Waiver of Partition. Each owner agrees that the Association has and shall exercise all powers, rights and authority granted unto it, the Council of Co-owners and the Owners as a group by Chapter 504A and 499B Code of Iowa, and, as such, are more particularly set forth in the condominium documents, including but not limited to the making of assessments chargeable to Owners and the creation of a lien on Units thereby, and the right, acting on behalf of the Unit Owners, to foreclose the lien thereof and acquire a Unit at foreclosure sale and to hold, lease, mortgage or convey the same; all Unit Owners shall be deemed to have waived all rights of partition, if any, in connection with such acquisition. Each owner hereby waives any right to delay or prevent such foreclosure by the Association, which he/she may have by reason of a homestead exemption, or any other exemption or exception.
5. No Avoidance by Waiver of Use; Right of Entry. Each owner shall be liable for all assessments made by the Association against his/her Unit for common expenses and liabilities of the Association and the condominium property and regime. The liability of a Unit 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 a Unit for which an assessment is made. The Association shall have the right exercisable at reasonable times to enter a Unit as may be necessary or advisable to carry out its responsibilities.
6. Utilities. Each Unit owner shall pay all charges before they become delinquent for telephone, electricity, gas, cable television and any other service which is billed directly to the Unit owner. All other utility charges shall be paid by the Association and the costs of the same shall be a common expense to be assessed against each Unit owner as part of the regular assessment. Each Owner shall pay the separately metered utility expenses to maintain a minimum consistent temperate of fifty-five degrees Fahrenheit (55°F) within the Owner's Unit and each Owner shall be liable to every other Owner for any damage to the other Owner's Unit caused by failure to maintain a sufficient minimum consistent temperature (deemed to be 55°F) and shall be responsible to the Association for at least

\$50.00 per day in liquid damages for each day in violation thereof. In no event shall the Unit Owner interrupt or discontinue utility service. In the event of a sale or transfer of a Unit, it shall be the parties' responsibility to ensure that these utilities are transferred to the name of the new Unit Owner without interruption or discontinuation of service. Failure to do so shall result in the Unit Owner being liable to the Association for at least \$50.00 per day in liquid damages for each day in violation thereof. In the event, any Unit is going to be left vacant for any period of time, the Owner shall make arrangements to ensure that the utility service to the Unit is not disrupted or interrupted.

7. Management Contract. Pursuant to authority granted in its Bylaws, the Association has the right to enter into a contract with Developer or its assigns for professional management of its affairs for an initial term not to extend for more than three years from the date of the filing of the Declaration, and the management fee thereof shall be a common expense and such fee shall not increase by more than the yearly rate of increase in the Consumer Price Index U.S. City Average for Wage Earners and Clerical Workers (CPI-W) as published by the Department of Labor. Any such fee adjustment shall be no more often than once each year and the fee paid during the first year shall be the base year and the Index published for the first month on the initial term shall be the base index. Upon or after the Control Transfer Date the Association or the Developer shall have the right to terminate such contract without penalty or cause upon 90 days written notice to the other party.
8. Discharge of Liability. The owner shall promptly discharge any lien, which may hereafter be filed against his/her condominium Unit.
9. Negligence. A Unit owner shall be liable to the Association and the other Owners for the expense of any maintenance, repair, or replacement rendered necessary by his/her act, neglect, or carelessness, or by that of his/her family, guests, employees, agents, or lessees, which liability shall include any increase in insurance rates resulting therefrom. Each Owner shall be responsible for the conduct of their guests, tenants, agents or lessees.
10. Limitation of Association's Liability. The Association shall not be liable for any failure of water or other service to be obtained and paid for by the Association hereunder, or for injury or damage to property caused by or on the common elements or by another owner or person in the project, or resulting from electricity, water, rain, air, dust, dirt or sand which may leak or flow from outside or from any parts of the Building, 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 any law, ordinance or orders of a governmental authority.
11. 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/her in connection with any proceedings to which he/she may be a party, or in which he/she may become involved, by reason of his/her being or having been an officer or director of the Association or any settlement thereof, whether or not he/she 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/her 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 interest of the Association.
12. Association as Attorney-in-Fact for Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Owners of each and every Condominium to manage, control and deal with the interest of such Owners in the Common Areas so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Spyglass Villas Condominiums upon its destruction or obsolescence as hereinafter provided. The Association, or any Insurance Trustee designated by the Association, is hereby irrevocably appointed attorney-in-fact for the Owners of each and every condominium to purchase, maintain and handle insurance and

insurance proceeds and condemnation awards as hereinafter provided, including, but not limited to collection and appropriate distribution of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of documents, and the performance of all other acts necessary to accomplish such purpose. The acceptance by any person or entity of any interest in any condominium shall constitute an appointment of the Association as an attorney-in-fact as provided above.

13. Subordination of Assessment Liens. If any Unit subject to a lien created by any provision in this Declaration shall be subject to the lien of a first mortgage of record: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of such mortgage or the acceptance of a deed in lieu of the foreclosure by the mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the acceptance of a deed in lieu of foreclosure and have not been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting owner personally.

## ARTICLE VII.

### **FIRST LIEN HOLDERS RIGHTS**

1. Notices of Action. A holder, insurer, or guarantor of a first mortgage, upon written request to the Association, (such request to state the name and address of such holder, insurer, or guarantor and the Unit number), will be entitled to timely written notice of:
  - (a) Any proposed amendment of the condominium instruments effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interest in the general or limited common elements appertaining to any Unit or the liability for common expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any Unit or (iv) the purposes to which any Unit or the common elements are restricted.
  - (b) Any proposed termination of the condominium regime;
  - (c) Any condemnation loss or any casualty loss which affects a material portion of the condominium regime or which affects any Unit on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
  - (d) Any delinquency in the payment of assessments or charges owed by an owner of a Unit subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of 60 days;
  - (e) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.
2. Other Provisions for First Lien Holders. To the extent possible under applicable law, the following protections for the benefit of first mortgage holders shall exist:
  - (a) Any restoration or repair of the condominium property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the

eligible holders of first mortgages on Units to which at least 67% of the votes of Units subject to mortgages held by such eligible holders are allocated, is obtained.

(b) Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the condominium property must require the approval of the eligible holders of first mortgages on Units to which at least 67% of the votes of Units subject to mortgages held by such eligible holders are allocated.

(c) Unless the formula for reallocation of interests in the common elements after a partial condemnation or partial destruction of the condominium project is fixed in advance by this Declaration or by applicable law, no reallocation of interest in the common elements resulting from a partial condemnation or partial destruction of the condominium project may be effected without the approval of the eligible holders of first mortgages on Units to which at least 51% of the votes of Units subject to mortgages held by such eligible holders are allocated.

NOTE: As used in this section, the term "eligible holder, insurer, or guarantor" shall mean a holder, insurer, or guarantor of a first mortgage on a Unit which has requested notice in accordance with the provisions of Section VII(1) above. The rights set forth in this Article VII are in addition to and not in limitation of the other rights granted elsewhere in the Declaration to any eligible holder, insurer, or guarantor.

## ARTICLE VIII.

### **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 a Unit, the building, the common elements, or the property in its condition as of the date of the completion of such improvements or restoration.
  - (b) "Improvement" shall mean the addition of a new structure, element or facility, other than a structure, element or facility, otherwise provided for by this Declaration or any Supplemental Declaration.
2. Maintenance by Association.
  - (a) The Association shall maintain all common elements, whether limited or general, and shall make assessments therefor as a common expense except where the cost of maintenance has been specifically made the responsibility of each Unit in which case, each such Unit shall be assessed on an individual basis.
  - (b) The Association shall repair incidental damage caused to a Unit through maintenance by the Association and shall assess the cost thereof as a common expense.
  - (c) If a Unit owner defaults on his/her responsibilities of maintenance, the Association shall assume such responsibilities and shall assess the cost thereof against the owner of such Unit and such assessment shall be collectible from the Unit owner 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 one or more Units and the cost thereof may in the discretion of the Association, either be assessed against each Unit on which such costs were incurred or be assessed against all Units as a common expenses according to the circumstances.
  - (e) The Association of unit owners shall construct docks and control the placement and location of boat slip spaces according to the rules and regulations it sets up and determines. Further, the Association shall control, supervise and manage the lake access, dock(s), boat lift areas, boat slip spaces, and boat storage areas, if any, which are deemed

to be common areas with maintenance and repair thereof (but not the boats and boat hoists, which are the responsibility of the individual Unit Owners) to be common expense to be performed by Association and assessed to Unit owners. Rules and regulations of lake access, dock(s), boat lifts, and boat storage areas to be determined by Association. The Association shall have the right to establish rules and regulations for parking and usage of docks and dock areas for boats and personal watercrafts, including without thereby limiting, wave runners. When using the docks and dock areas, Unit Owners, their family members, guests, or invitees shall ensure compliance therewith.

(f) Pest Control. The Association shall be responsible for pest control within the Units and in the common areas and the cost thereof shall be assessed in equal shares against all the Units in this Condominium Regime. To this effect, the Association or its representative(s) shall have the right to enter upon any Unit, after written notice to the Unit Owner, for spraying/pest control.

(g) Streets and Driveways. These private streets, driveways, and parking areas are to be maintained by the Association as part of the common elements.

(h) Landscaping in common areas, outside lights, elevators, and utility meters are also considered common elements to be maintained, repaired or replaced by the Association.

(i) Landscaping Sprinkler System. The Landscaping Sprinkler System shall also be considered a common element to be controlled, maintained, repaired or replaced by the Association and the cost thereof shall be assessed in equal shares against all the Units in this Condominium Regime.

(j) Maintenance Building. The maintenance building (labeled maintenance in site plan, adjoining Garage Unit A-6) shall be considered a common element to be owned and used for storage or any other purpose by the Association. The cost of any maintenance, repair, or replacement of said maintenance building shall be assessed in equal shares against all the Units in this Condominium Regime.

(k) Rain Garden. The Rain Garden located on the Condominium Regime property is used for storm and surface water management and shall be considered a common element to be perpetually maintained or repaired by the Association and the cost thereof shall be assessed in equal shares against all the Units in this Condominium Regime. The Association shall maintain this Rain Garden in strict accordance with the plan and requirements of the City of Arnolds Park, Iowa. The City of Arnolds Park, and its agents, employees, contractors shall have a perpetual right of ingress and egress over the Condominium Regime property and the right to inspect, at reasonable times and in a reasonable manner, the Rain Garden in order to ensure that the system is being properly maintained and is continuing to perform in an adequate manner. In addition, the Association shall:

- i) make, at the Association's expense, such changes or modifications to the Rain Garden as may, in the City of Arnolds Park's discretion, be determined necessary to ensure that the Rain Garden is properly maintained and continues to operate as designed and approved;
- ii) set up an environmental committee to oversee stormwater/environmental matters, including this Rain Garden, and help enforce requirements;
- iii) review and approve landscape changes and modifications;
- iv) maintain adequate and proper erosion and sediment control and site inspection to ensure proper operation of the Rain Garden;
- v) require, if necessary, each Unit Owner to comply with all the requirements of the Rain Garden;
- vi) ensure compliance with any notices of corrections regarding the Rain Garden issued by the City of Arnolds Park.

The foregoing provisions are covenants running with the land and shall be binding upon the Association, its successors and assigns, and upon all Unit Owners, his/her heirs, successors and assigns, in the Condominium Regime.

(l) Elevators. The Elevators shall be considered a common element to be controlled, maintained or repaired by the Association and the cost thereof shall be assessed in equal shares against all the Units in this Condominium Regime. The Association shall establish rules and regulations regarding the use thereof, which shall include but not be limited to:

- i) Unit Owners shall be respectful of others by ensuring that Unit Owners, their invitees, guests or family members, including their children, do not play in or with the elevator;
- ii) No littering allowed in the elevator;
- iii) Unit Owners, their invitees, guests or family members shall pick up and maintain the elevator in a clean and presentable condition, as much as possible.

3. Maintenance by Owner.

(a) Each Unit owner at his/her own expense shall maintain the interior, including the boundary surfaces, of such Unit and its equipment, shall keep such interior in a clean and sanitary condition, shall do all redecorating, painting and other finishing which may at any time be necessary to maintain his/her Unit, and shall be responsible for the maintenance of all personality including carpets, furnishings, and appliances within such Unit.

(b) The owner of each Unit shall be responsible for maintenance of any plumbing fixture, lighting fixtures, refrigerators, dishwashers, disposals, ranges, heating, ventilation, air-conditioning equipment, and hot water heater located in or connected with such Unit and for its exclusive use. The owner shall also, at his/her own expense, keep in a clean condition any limited common area which is for the exclusive use of his/her Unit; and neither the Association nor the regime shall be liable or responsible for any loss or damage caused by theft or otherwise of articles which may be stored by the owner in a limited common area which is for the exclusive use of his/her Unit; and neither the Association nor the regime shall be liable or responsible for any loss or damage caused by theft or otherwise of articles which may be stored by the owner in a limited common area or in a Unit except for the repair specifically made the responsibility of the Association for damage caused to a Unit through its maintenance as provided in Section 2(b) of this Article.

(c) The Unit owner shall maintain, at his/her expense, any improvement or other alteration made by him/her.

(d) The Owner of each Unit shall promptly report to the Association any defects or other maintenance needs which are the responsibility of the Association.

(e) Unit owners shall be responsible for purchase, maintenance and repair to his/her boat(s) and respective boat lifts. Boat lifts must have dark blue canopies. The Association directs that Unit Owners acquire and maintain the boat lift/canopy from by Danbom Lakeside Engineering in Milford, Iowa. Each Unit Owner shall be required to replace his/her boat lift if the wear and tear on said lift appears to be 50% or more. In the event the Unit Owner fails to so maintain or repair his/her boat lift, then the Association or its representative(s) may, after written notice to the Unit Owner, perform said maintenance, repair or replacement and charge the cost thereof as an assessment to the Unit and to the non-compliant Unit Owner. In addition and not in limitation, the Association may charge said non-compliant Unit Owner at least \$50.00 per day in liquid damages for each day in violation thereof.

4. Alteration or Improvements by Owner. No Unit owner shall make or permit to be made any structural alteration to a Unit 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 which shall determine the proper insurance of such improvement or other

alteration, and the effect of such improvement or alteration on insurance of other property of the regime, and which shall arrange with such Unit owner for the payment of the cost of any additional insurance thereby required. In the case of alterations within a Unit the consent required by the preceding sentence shall be immediately granted upon agreement of the Unit owner to pay the cost of such additional insurance, and a determination that such alteration will not impair the structural soundness of the building or safety of the property. Alterations to the exterior of the building or common element shall not be made, if, in the opinion of the Board of Directors of the Association, such alteration would not become the integrity and appearance of the regime as a whole. Such owner shall do no act or work which will impair the structural soundness or integrity of the building or safety of the property or impair any easement. The improvement or alteration of a Unit shall cause no increase or decrease in the number of ownership Units appurtenant to such Unit.

5. Alterations or Improvements by the Association. Whenever in the judgment of the Board of Directors the common elements shall require addition, alterations or improvements during the fiscal year costing in the aggregate in excess of \$5,000.00, and the making of such additions, alterations or improvements shall have been approved by a majority of the ownership Units, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a common charge. Any additions, alterations, or improvements during the fiscal year costing in the aggregate \$5,000.00 or less may be made by the Board of Directors without approval of Unit Owners, and the cost thereof shall constitute part of the common expenses.

#### ARTICLE IX.

#### **CONDITIONS OF AND RESTRICTIONS ON OWNERSHIP USE, AND THE OWNERSHIP, USE, OCCUPATION, AND ENJOYMENT**

1. Subjection of the Property to Certain Provisions. The ownership, use, occupation, and enjoyment of each Unit and of the common elements of the regime shall be subject to the provisions of the Bylaws 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 covenant, condition, restriction, or requirement running with the land and shall be binding on and enforceable against each and all Units and the Owners thereof and their respective assigns, lessees, tenants, occupants, and successors in interest.
2. Use of Property. The use of the property shall be in accordance with and subject to the following provisions:
  - (a) A Unit shall be used or occupied for single family dwelling purposes only.
  - (b) An owner has the right to decorate windows bounding his/her Unit, however, this right is limited to the extent that only drapes, curtains, sheers and shutters may be used which must be lined so that they appear white from the outside of the building. Nothing shall be hung between the interior surface of the window and the drapes, curtains, sheers or shutters used.
  - (c) No more than one dog and two cats and one bird may be kept by the Owner of a Unit as pets and any such pet must weigh less than 25 pounds at any stage of growth (infancy or maturity). No exotic, dangerous or vicious animals shall be allowed. In no event shall a Owner or its guests, family members and invitees, have or allow a pet considered vicious or dangerous animals, including without thereby limiting, dogs which have the appearance and characteristics of being predominately of breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier. Any pets shall not be left unattended by the Owners, may not be tied in any common area and shall not be allowed to run free. Owners shall clean up all waste of their pet. All pets outside of a Unit must be on a leash and accompanied, at all times, by an adult. Fencing or invisible fencing is not allowed. The handling and conduct of permitted pets shall be subject to any rules and regulations adopted by the Association. In the event a pet is deemed to be a nuisance by a majority of the Board at a duly called meeting due to the pet causing a disturbance of the other occupants of the Units by excessive noise, disruptive or



aggressive behavior, the Board may require the Owner of the Unit where the pet is located or staying to permanently remove the pet from the premises.

(d) The Association may adopt rules and regulations for the reservation and use of the recreation facilities.

(e) The right to sell, transfer or convey any condominium Unit may be subject to such reasonable and uniform objective standards relating to financial responsibility and/or character as may now or hereafter be adopted by the Association in the form of rules and regulations. No restriction shall include a right of first refusal or similar right to the Association. No such restriction shall be based upon race, religion, sex or place of national origin.

(f) All leases shall be in writing and shall be subject to the terms of this Declaration and of the Articles of Incorporation, Bylaws and any rules or regulations adopted by the Association. In no event shall Owner lease his/her Unit for less than 1 year. There shall be no sub-leasing. All leases shall be in writing with a copy thereof provided to the Owners' Association prior to the date of possession. No lease shall relive the Owner of the Unit from liabilities and responsibilities to the Owners' Association and other Owners as set forth in the Declaration or imposed under the laws of the State of Iowa.

(g) No noxious or offensive activity shall be carried on in any condominium Unit, nor shall anything be done or be permitted to remain in any condominium Unit which may be or become a nuisance or annoyance to owner or tenants, or which unduly interferes with the peaceful possession and property use of the Units by its Owners. Owners and/or other tenants shall exercise extreme care not to disturb other Owners or tenants with excessive noise.

(h) There shall be no obstruction of any common elements. Nothing shall be stored on any common elements (excepting those areas designated for storage of personal property by the Owners of the condominium Units) without the approval of the Association. Vehicular parking upon general common elements may be regulated or assigned by the Association. Repair or maintenance of automobiles in any general common element is strictly prohibited.

(i) Except for such signs as may be posted by the Developer for promotional or marketing purposes, no signs of any character which are visible from the outside of a condominium Unit shall be erected, posted or displayed upon, from or about any condominium Unit, unless first reviewed and approved by the Association provided, however, any holder of a first mortgage which acquires possession of a Unit by foreclosure or by deed in lieu of foreclosure shall have the right to post signs for the sale or rental of such Unit until such Unit is sold or a rental is entered into.

(j) The halls and passageways of all buildings shall be used only for ingress and egress.

(k) No burning of any trash and no unreasonable or unsightly accumulation (or storage of litter, new or used materials, or trash of any other kind shall be permitted within any condominium Unit or be permitted to remain in public view, but shall be deposited in the receptacles provided for that purpose.

(l) No structure of a temporary character, trailer, semi-trailer, tent, shack, boat, motorcycles, snowmobiles, all terrain vehicles, campers, travel trailers, other recreational vehicles, inoperable vehicles or the like shall be maintained upon or parked in driveways or any common elements at any time.

(m) No owner or other person shall install any telephone wire, air-conditioning Unit, or other machine or device on the exterior of the Building except as hereafter provided. No tower, antenna, satellite dish or similar reception device shall be placed on any Building or Common Area unless the tower, antenna, satellite dish or similar reception device is one which is not or cannot be prohibited pursuant to the Federal Over-the-Air Reception Devices Rule, 47 C.F.R. §1.4000, or other similar governmental mandate in effect at the time of placement. Any tower, antenna, satellite dish or similar reception

device not removed by the Owner upon sale of a Unit shall be deemed to have a date of placement, as to the new Owner, as of the date of closing. The directors of the Association shall adopt regulations governing the placement and maintenance of those towers, antennas, satellite dishes and other reception devices which cannot be prohibited. No Owner shall place, or allow the placement of, a tower, antenna, satellite dish or similar reception device upon a building or common area except for the personal use of the Owner or permissible tenants of the Owner. The Owner shall be responsible to the Association for any expense, liability, or damage of any kind incurred as a result of any tower, antenna, satellite dish or similar reception device placed or maintained on a Building or Common Area. The Association will not be responsible for any loss or damage to any tower, antenna, satellite dish or similar reception device.

(n) Nothing shall be altered in, constructed in, or removed from the common elements, except upon written consent of the Board of Directors of the Association.

(o) No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Unit Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.

(p) Nothing shall be done or kept in any Unit 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/her Unit or in the common area which will result in the cancellation of insurance on any Unit or any part of the common area, or which would be in violation of any law.

(q) Agents of or contractors hired by the Association may enter any Unit 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.

(r) A Unit owner shall give notice to the Association of every lien against his/her Unit other than permitted mortgages, taxes, and Association assessments, and of any suit or other proceeding which may affect the title to his/her Unit, within 10 days after the lien attaches or the owner receives notice of such lien.

(s) Unit Owners are reminded that alteration and repair of the Building is the responsibility of the Association, except for the interior of the Units. No work of any kind is to be done upon the exterior building walls or upon interior boundary walls or doors without first obtaining the approval of the Association. Work inside a Unit will be coordinated with the Association before proceeding.

(t) Each Unit occupant shall keep his/her Unit and balcony or patios to which he/she has sole access in a good state of presentation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors, windows, balcony or patio thereof, any dirt or other substance.

(u) No vehicle belonging to a Unit occupant or to a member of his/her family or guest, tenant or employee of it Unit occupant shall be parked in such a manner as to impede or prevent ready access to any entrance to or exit from the building by another vehicle. Further, bicycles and mopeds not stored in a garage which is part of a Unit shall not be stored in common elements except in the parking areas designed by the Association. All garage doors shall be kept closed at all times except when being opened for purposes of ingress and egress, or when a garage owner, family member, or guest is personally present in the garage area. No garage shall be used to store discarded items, junk or other unsightly materials. Garages shall not be used as a shop nor shall said garages be rented to someone not having a residence in a corresponding unit.

(v) Complaints regarding the services of the building shall be made in writing to the Board of Directors or to the managing agent or to the manager.

3. The Association shall have the authority to amend and adopt reasonable rules and regulations governing the use of the condominium property and such rules shall be

observed and obeyed by the Owners, their guests, and licensees. Such rules after being properly adopted shall have the same force and effect as if contained in this Declaration.

## ARTICLE X.

### CONDEMNATION

1. Taking by Eminent Domain. Payment for the taking of a portion of a Unit or of the common elements by eminent domain or the conveyance under threat thereof shall be deemed to be proceeds from insurance on account of casualty and shall be deposited with the Insurance Trustee to be held in trust for the Unit Owners and their first mortgage holders, as their interests may appear. Even though the awards may be payable to Owners, the Unit Owners shall deposit the awards with the Insurance Trustee. And, in the event of failure to do so, in the discretion of the Association a special assessment shall be made against a defaulting owner in the amount of his/her award, and the amount of such award shall be set off against the sums hereinafter made payable to such owner. The proceeds of the award shall be distributed or used in a manner heretofore provided for insurance proceeds except that when the Horizontal Property Regime is not to be terminated, and one or more Units are taken in part, the taking shall have the following effects:
  - (a) If the Unit is Reduced But Tenatable. If the Unit taking reduces the size of the Unit, and the remaining portion of the Unit can be made tenatable, the award for the taking of a portion of the Unit shall be used for the following purposes in order stated, and the following changes shall be effected in the Horizontal Property Regime:
    - (i) The Unit shall be made tenatable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owners of the condominium Unit.
    - (ii) The balance of the award, if any, shall be distributed to the owner of the Unit and to each mortgagee of the Unit of record, the remittance being payable jointly to the owner and the mortgagees.
  - (b) Unit Made Untenatable. If the taking destroys or so reduces the size of the Unit that it cannot be made tenatable, the awards for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Horizontal Property Regime:
    - (i) The market value of such Unit immediately prior to the taking shall be paid to the owner of the Unit and to each mortgagee of the Unit of record, the remittance being payable jointly to the owner and the mortgagees.
    - (ii) The remaining portion of such Unit, if any, shall become a part of the common elements and shall be placed in condition for use by all of the Unit Owners in a manner approved by the Association; provided, if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be paid for by assessment as a common expense among all remaining Units.
    - (iii) If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the owner, and to condition the remaining portion of the Unit for use as part of the common elements, the additional funds required for such purposes shall be raised by assessments against all of the Unit Owners who will continue as Co-owners of condominium Units after the changes in the Horizontal Property Regime affected by the taking. In the event that the market price cannot be determined by negotiations, it shall be determined by a district court judge in the Iowa District Court in and for Dickinson County. Each party hereby knowingly, voluntarily and intentionally waives any right to trial by jury it may have in any action or proceeding by one party against the other, in law or in equity, in connection with this Condominium Regime, the Units located therein, and claims/transactions related hereto. In the event that litigation results from or arises out of this Condominium Regime, the Units located therein, and

claims/transactions related hereto or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees and court costs in addition to any other relief to which the prevailing party may be entitled.

(iv) If the amount of the award for the taking exceeds the amounts necessary to pay the market value of the condemned Unit to the Owners as provided in subparagraph (i) above and to condition the remaining portion of the Unit for use as part of the common elements as provided in subparagraph (ii) above, the excess funds shall be payable to the owner of the condemned Unit.

(c) The Association shall thereafter have the right to file among the land records an amendment to this Declaration to incorporate all necessary changes.

## ARTICLE XI.

### **DESTRUCTION; CASUALTY AND REPAIRS**

1. In the event less than one-half of the entire project is damaged or destroyed by fire or other peril, it shall be deemed that the Association shall have immediately voted unanimously to repair, reconstruct or rebuild and the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specifications using the proceeds of insurance available for that purpose, if any. Provided, however, if 75% or more of the ownership Units within 20 days from such damage and destruction notify the Board of Directors in writing, requesting a vote of the Association members concerning the question of rebuilding, repairing or reconstructing the damage or destruction, the Association shall hold such meeting and shall commence such rebuilding, repairs or reconstruction unless Unit Owners (other than the Developer) to which at least 67% of the votes in the Association are allocated and the eligible holders of first mortgages on Units to which at least 67% of the votes on Units subject to mortgages appertain approve in writing the termination of the condominium regime.
2. In the event the proceeds of insurance are not sufficient to repair damage or if destruction is caused by any peril not herein required to be insured against, then the repair or reconstruction of the damaged common elements shall be accomplished promptly by the Association at its Common Expense and the repair or reconstruction of any condominium Unit shall be accomplished promptly by the Association at the expense of the owner of the affected condominium Unit. The ratable share of the expense of such repairs or reconstruction may be assessed and the lien for the same shall have all the priorities heretofore provided for in this Declaration and by the Bylaws of the Association.
3. In the event that one-half (1/2) or more of the entire project is substantially damaged or destroyed by fire or other casualty, it shall be deemed that the Association shall have immediately voted unanimously to repair, reconstruct, rebuild and the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specification using the proceeds of insurance available for that purpose, unless Unit Owners (other than the Developer) to which at least 67% of the votes in the Association are allocated and the eligible holders of first mortgages on Units to which at least 67% of the votes on Units subject to mortgages appertain approve in writing not proceeding with repair or reconstruction. In that event the project shall be deemed to be owned in common by the Owners of all of the condominium Units in the same proportions as that previously established for ownership of appurtenant undivided interests in the common elements, and the project shall be subject to an action for partition at the suit of the owner of any condominium Unit or the holder of any lien thereon, in which event the net proceeds of sale, together with the net proceeds of any insurance paid to the Association or its members in common, shall be considered as one fund and shall be divided among the Owners of all the condominium Units as herein provided, after first paying out of the share of the owner of any condominium Unit, to the extent such share is sufficient for the purpose, all liens upon such condominium Unit.
4. In addition to the limitation on termination of the condominium regime set forth above in the event of substantial loss to the Units and/or common elements of the condominium property, unless the Unit Owners (other than the Developer) to which at least 67% of the votes in the Association are allocated and the eligible holders of first mortgages on Units

to which at least 67% of the votes on Units subject to mortgages appertain have given their prior written approval, the Association may not:

- (a) Change the pro rata interest or obligations of any Unit in order to:
  - (i) levy assessments or charges;
  - (ii) allocate distribution of hazard insurance proceeds or condemnation awards;
  - (iii) determine the prorata share of ownership of each Unit in the common elements; or
- (b) Partition or subordinate any Unit; or
- (c) Seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements by act or omission (the granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the condominium project not being a transfer within the meaning of this clause); or
- (d) Use hazard insurance proceeds for losses to any condominium property (whether Units or common elements) for other than the repair, replacement, or reconstruction of the condominium property.

## ARTICLE XII.

### INSURANCE AND FIDELITY BONDS

1. The Association shall obtain and maintain at all times, to the extent available, at least, the following insurance (hereinafter referred to as "Condominium Property Insurance"):
  - (a) Insurance on the Condominium Property in an amount equal to full replacement value of the Condominium Property (as determined annually by the Association) and with a replacement cost endorsement which provides for the payment of all losses without deduction or allowance for depreciation. "Condominium Property" for the purpose of this Article XII shall include all property, real, personal, or mixed submitted to the regime other than personal property of any owner, and includes specifically, without limitation, the general and limited common elements (except land, foundation, excavation, and other items normally excluded from coverage), building service equipment and supplies, and other common personal property belonging to the Association. In addition, any fixtures, equipment or other personal property within the Unit which are to be financed by a mortgage to be purchased by FNMA or FHLMC (whether or not such property is a part of the common elements) shall be covered by such insurance. Such coverage shall afford protection against, at least, the following:
    - (i) loss or damage by fire or other hazards covered by the standard extended coverage endorsement and additional extended coverage endorsement;
    - (ii) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, and as is commonly required by prudent institutional mortgage investors in the area, including, but not limited to, as applicable and available, vandalism, malicious mischief, agreed amount, demolition cost, increased cost of construction, boiler and machinery explosion or damage, and any other perils normally covered by the standard "all risk" endorsement when available and such other insurance as the Association may from time to time determine; and
  - (b) Comprehensive general liability insurance coverage covering all of the common elements, commercial space owned and leased by the Association, and public ways of the condominium project. Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location, and use. However, such coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for

property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be canceled or substantially modified, by any party, without at least ten days' prior written notice to the Association and to each holder of a first mortgage on any Unit in the condominium which is listed as a scheduled holder of a first mortgage in the insurance policy. FNMA and FHLMC may also require such coverage to include protection against such other risks as are customarily covered with respect to condominiums similar in construction, location, and use, including, but not limited to, host liquor liability, workers' compensation, and employers liability insurance, contractual and all-written contract insurance, bailee's liability, elevator collision, garage keepers liability, and comprehensive automobile liability insurance. FHLMC may require that a certificate of the liability policy be provided to the seller/servicer of the mortgage owned by FHLMC, with the seller/servicer to be named as the certificate holder, and showing the information required under Section 6410 on the FHLMC Seller/Servicer Guide.

- (c) Workmen's compensation insurance to the extent necessary to comply with any applicable law;
  - (d) Non-conforming structure endorsement to the extent necessary;
  - (e) Officers and directors' errors and omissions policy; and
  - (f) Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as are or shall hereafter be considered appropriate by the Association.
2. The premiums for the insurance coverage shall be a common expense to be paid by monthly assessments levied by the Association against Owners of each of the Units. The premiums attributable to coverage on the condominium Units and the Common Elements shall be apportioned among the Units. Deductibles may not exceed the lower of \$10,000.00 or 1% of the applicable amount of coverage. Funds for such deductibles must be included in the Association's reserves and be so designated. The insurer's minimum liability per accident under boiler and machinery coverage must equal the insurable value of the building housing such boiler or machinery or \$2,000,000.00, whichever is less.
  3. The Association, or its designee, shall have the exclusive authority to adjust losses under the insurance policies.
  4. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by Owners of Units or their mortgagees.
  5. Each Unit owner shall obtain additional insurance at his/her own expense upon his/her condominium Unit provided that no owner shall maintain insurance coverage which will tend to decrease the amount which the Association Owners may realize under any insurance policy which it may have in force. This insurance policy shall be endorsed to include the Association as an additional named insured and to provide at least 30 days notice to the Association of any termination or non-renewal of the policy. If a Unit Owner fails to comply with this provision, then the Association may obtain this insurance and charge the cost of this insurance policy as an assessment to the Unit and to the non-compliant Unit Owner. In addition and not in limitation, the Association may charge said non-compliant Unit Owner shall be responsible to the Association for at least \$50.00 per day in liquid damages for each day in violation thereof.
  6. All policies shall provide that such policies may not be canceled or substantially modified without at least 30 days prior written notice to any and all insureds named thereon, including the Association and any and all mortgagees of the condominium Units.
  7. The Association shall from time to time designate an Insurance Trustee. The Association shall be responsible for fees and expenses of the Insurance Trustee which shall constitute a common expense of the Association.

8. Except as hereinafter provided, the Insurance Trustee named in the condominium property endorsement shall receive and hold the amount payable under the Condominium Project Insurance and apply the same to the cost of reconstruction or repair of a damaged or destroyed condominium Unit. The work of repairing or reconstruction of the damaged or destroyed condominium Unit shall be commenced within 30 days from the date of the damage or destruction. The work shall be accomplished in accordance with the same plans and specifications by which the condominium Units were originally constructed, subject, however, to the prior written approval of the Association. The Insurance Trustee shall make available and pay to the owner the amount of insurance proceeds received by the Insurance Trustee for the reconstruction and repair of the condominium Unit. The payment of the proceeds of insurance shall be made as the work progresses at such time and upon, compliance by the owner with such conditions as the Insurance Trustee shall impose, in order to assure full restoration or repair of the damaged portions of the condominium Unit in a workmanlike manner, free and clear of any mechanic's and materialmen's liens and any encumbrances, liens, claims or charges other than a first mortgage lien. If the cost of the reconstruction or repair exceeds the amount paid to the Insurance Trustee, the excess shall be paid by the owner; provided, however, that in the event a decision not to reconstruct is made according to the terms of Article XI hereof, the Spyglass Villas Condominiums shall be considered terminated. In the event of such termination, the Board of Directors shall have the responsibility of closing out the affairs of the Condominium Project in an orderly manner. All damaged or destroyed condominium Units must be repaired or restored unless a determination not to do so is made by Unit Owners and eligible holders of first mortgages as provided in Article XI above.
9. Any insurance obtained pursuant to the requirements of this Article, except under subsection (h) hereof, shall be subject to the following provisions:
- (a) All policies shall name as insured the Association of the Owners of the Spyglass Villas Condominiums for the use and benefit of the individual Unit Owners, and may also be issued in the name of an authorized representative of the Association including any insurance trustee with whom the Association has entered into an Insurance Trust Agreement. Such policies shall be written with a company or companies licensed to do business in the State of Iowa and holding A rating of "A-XI" or better, by Best's Insurance Reports and a policyholder's rating of "A" or better, and in any event meeting the qualification requirements set forth in the FNMA Correctional Home Mortgage Selling Contract Supplement and the FHLMC Sellers Guide.
- (b) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall herein elsewhere be referred to as the "Insurance Trustee" and all proceeds covering any loss shall be payable to the Insurance Trustee, or to his/her successor. All proceeds from an insured loss under such policy shall be held in trust for the use and benefit of the Association and the Owners of all Units and their respective first mortgagees as interest may appear. Each Unit owner and each Unit owner's first mortgagee, if any, shall be beneficiaries of such policies according to the respective Unit's undivided ownership interest in the common elements. Such insurance proceeds shall be applied and distributed in accordance with the articles relating to insurance in the Declaration and Bylaws.
- (c) In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance issued in the name of any individual Unit owner purchased as herein permitted by such owner of a condominium Unit or their mortgagee. Any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration.
- (d) All policies shall provide that such policies may not be canceled or substantially modified without at least 10 days prior written notice to any and all insureds named thereon, including the Association any and all mortgagees of the condominium Units. Policies are unacceptable where:

- (i) under the terms of the insurance carrier's charter, by-laws, or policy, contributions, or assessments may be made against borrowers, FNMA, FHLMC, or the designee of FNMA or FHLMC, or if made against any other party could become a lien on the mortgaged property superior to the outstanding liens or
  - (ii) by the terms of the carrier's charter, by-laws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members, or
  - (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC, or the borrowers from collecting insurance proceeds.
- (e) All fire and other hazard insurance policies shall provide that, notwithstanding any provisions thereof which give the carrier the right to erect or restore damage in lieu of making a cash settlement, such option shall not be exercisable when in conflict with the provisions of the Declaration and the Bylaws.
- (f) All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors, their agents and employees, the respective condominium Unit Owners, their residence employees and agents. Independent contractors shall not be considered agents, employees or servants of the Association or of the respective condominium Unit Owners within the meaning of said waiver.
- (g) The insurance policy shall contain a provision that the insurance shall not be prejudiced:
- (i) By any act or neglect of any occupants or Owners of the building when such act or neglect is not within the control of the condominium Unit Owners collectively; or
  - (ii) By failure of the condominium Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the premises over which the condominium Unit Owners collectively have no control.
- (h) The owner of any condominium Unit (including the holder of any mortgage thereon) may obtain additional insurance (including a "condominium Unit-owner's endorsement" for improvements and betterments to the condominium Unit made or acquired at the expense of the owner) at his/her own expense. Such insurance shall be written either by the same carrier as that purchased by the Association pursuant to this Article, or if written by another carrier, shall provide that it shall be without contribution as against the same. Such insurance shall contain the same waiver of subrogation provisions as set forth in Section 9(f) of this Article. The Developer recommends that each owner of a condominium Unit in the project obtain, in addition to the insurance hereinabove provided to be obtained by the Association, a "Tenant's Policy", or equivalent, to insure against loss or damage to personal property, including but not limited to decorated surfaces of walls, floor coverings, plumbing and electrical fixtures, non-load bearing walls and appliances used or incidental to the occupancy of the condominium Unit, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "condominium Unit owner's endorsement" covering losses to improvements and betterments to the condominium Unit made or acquired at the expense of the owner.
- (i) Certificate of insurance shall be issued to each Unit owner and mortgagee upon request, in a form acceptable to the mortgagee. Specimen policies shall be provided to any mortgagee upon request.
- (j) Casualty policies shall contain the standard mortgagee clause (without contribution) as is commonly accepted by private institutional mortgage lenders in the area and which appropriately names FNMA and FHLMC if such corporations are holders of first mortgages on Units within the condominium regime. If FHLMC owns the first



mortgage on a Unit, the seller/servicer of the mortgage and its successors and assigns shall be named and the mortgagee on the mortgagee clause.

(k) Casualty policies shall also include an "Agreed Amount Endorsement." and if available, an "Inflation Guard Endorsement."

10. Blanket fidelity bonds shall be required to be maintained by the Association for all officers, directors, and employees of the Association and all other persons handling, or responsible for, funds of or administered by the Association. Where the management agent has the responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months' aggregate assessments on all Units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Association as a common expense. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association or Insurance Trustee. The Federal National Mortgage Association also requires, as a condition to approval of condominium projects, that such bonds provide that the FNMA Servicers, on behalf of FNMA, also receive such notice of cancellation or modification.

#### ARTICLE XIII.

#### CONTROL OF ASSOCIATION

**Notwithstanding anything to the contrary provided herein, so long as the Declarant retains an interest in any of the units subject to this Declaration, Declarant shall have sole voting control and authority relating to the Association, the Board of Directors and all other matters relating to the operation of the Association. At such time as the Declarant no longer retains an ownership interest in any unit, all such voting control and authority shall automatically transfer back to the Board of Directors and the unit Owners.**

#### ARTICLE XIV.

#### AMENDMENT

1. Procedure. Except as otherwise provided in this Declaration in Article XI and Article XIII pertaining to amendment to this Declaration, control of the Association or termination of the condominium regime as a result of destruction, damage or condemnation, this Declaration may be amended and such amendment shall be made in the following manner:
  - (a) The consent in writing of Owners of Units to which at least 67 percent of the votes in the Association are allocated and the approval of the eligible holders of first mortgages on Units to which at least 67 percent of the votes of Units subject to mortgages appertain shall be required to terminate the condominium regime.
  - (b) In the case of an amendment to this Declaration by reason of an amendment to the Bylaws of the Association, in the manner specified in such Bylaws, such amendment shall be effective upon its execution and recordation by the President or other officer of the Association, authorized therefore by Resolution.
  - (c) In the case of all other amendments to this Declaration, by written agreement of the Unit Owners to which at least 67 percent of the votes in the Association are allocated, provided eligible holders of a first mortgage of record to which at least 51% of the votes of Units subject to a mortgage appertain so approve in writing.

(d) No amendment shall be valid without the written approval of the Developer as long as the Developer owns any unit unless used personally, rented or leased to others by the Developer.

(d) Developer may, until all phases of the condominium regime contemplated herein have been completed or until the Developer has sold all the units in this regime, make amendments to this Declaration without the approval of the Unit Owners. Any supplemental or amendment to this Declaration filed by the Developer need be executed only by the Developer or its assigns notwithstanding ownership of Units by others and no consent of other Owners shall be required.

2. Effectiveness. Upon its recordation at the Office of the Dickinson County Recorder by the President or other officer appointed for that purpose, an amendment adopted in the manner specified in Paragraph 1 of this Article, or as otherwise provided in other Articles herein, shall be effective against any persons having an interest in a Unit or the regime regardless of whether said person had such interest at the time said amendment was adopted in accordance with Paragraph 1 of this Article.

## ARTICLE XV.

### **EXPANSION OF CONDOMINIUM REGIME**

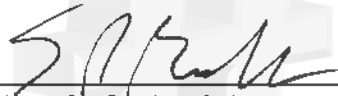
1. The right to enlarge the condominium regime from time to time, is reserved exclusively to Developer and shall be exercised by Developer, if at all, not later than the date five years after the date of recording this Declaration. Developer shall have and exercise the right to enlarge the condominium not only in its individual capacity but also as agent for the Owners of all Units in the condominium as now constituted or hereafter enlarged and such Unit Owners do hereby irrevocable appoint Developer as their agent for the purpose of so enlarging the condominium.
2. The right to enlarge the condominium regime by adding thereto additional buildings and/or additional Land upon which additional buildings, units, and other improvements exist or are to be constructed, shall be exercised by Developer, if at all by executing and acknowledging a supplemental declaration to such effect made pursuant to the Horizontal Property Act. Such supplemental declarations shall be designated by the title "First Supplemental Declaration of Condominium," "Second Supplemental Declaration of Condominium" and so forth in a numerical series. Each such supplemental declaration shall constitute an amendment of and, by appropriate reference thereto, shall be incorporated into this Declaration of Condominium by which the condominium is originally established. Such supplemental declaration shall be effective when recorded in the Office of the Recorder of Dickinson County, Iowa.
3. The land now included in the condominium regime consists of that described as the Land on page 1 hereof. The condominium regime may be enlarged, from time to time, by adding buildings on the Land and/or by adding or parcels and buildings thereon from the additional land lying contiguous to the Land already dedicated.
4. The additional buildings to be constructed upon the Land and upon any additional land shall all be added to the condominium regime by supplemental declaration, and the Units contained therein, shall be of a quality, type of construction, and general character equal or superior to and compatible with the original Building located on the Land and the Units contained therein.
5. If HUD, the VA or FNMA holds, insures or guarantees any mortgage on existing Units at the time the Developer wants to proceed with any expansion of the condominium regime as provided in this Article, each such agency or entity must give its written consent to the particular phase of expansion. Provided, however, such consent shall not be withheld if the proposed expansion substantially conforms to the plan of expansion set forth in this Article XV and in the Recitals of the Declaration.

6. The buildings to be included in any additional phase and appurtenant improvements must be substantially completed before the phase can be added to the condominium regime by the filing of a Supplemental Declaration. All taxes and other assessments relating to the property in any additional phase covering any period prior to the addition of each phase must be paid or otherwise satisfactorily provided for by the Developer prior to filing the Supplemental Declaration for that phase. If FNMA holds any mortgage on an existing Unit at the time any Additional Land is added to the condominium regime, FNMA must be furnished with title evidence in a form satisfactory to it, which discloses any lien, easement or other encumbrance affecting the additional land to be added which will affect the existing condominium regime after such addition. All of the original cost of any land, or the buildings, apartments, and other improvements existing or to be constructed thereon, which are added to the condominium by a supplemental declaration, shall be paid for by Developer and no part thereof shall ever be assessed against any apartment Units as a common expense.
7. The fractional interest in the common elements appurtenant to each Unit in the condominium regime as now constituted or hereafter enlarged shall be a fraction having as its numerator one and having as its denominator the total of all Units in the condominium regime.

IN WITNESS WHEREOF, we have hereunto set our hands this 30<sup>th</sup> day of August, 2005.

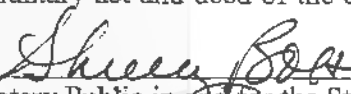
LAKEVIEW DEVELOPMENT, L.C., an Iowa Limited Liability Company:

By: Arrowhead Development II, LLC, Managing Member:

  
 \_\_\_\_\_  
 Stephen R. Grubb, Manager of  
 Arrowhead Development II, LLC

STATE OF IOWA, COUNTY OF Polk ss:

On this 30 day of AUGUST, 2005, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Stephen R. Grubb, Manager of Arrowhead Development II, LLC. to me personally known, who being by me duly sworn, did say that Arrowhead Development II, LLC. is Managing Member of Lakeview Development, L.C., an Iowa Limited Liability Company; that said instrument was signed on behalf of the company by authority of its Members as an officer of said limited liability company; and that Stephen R. Grubb, Manager of Arrowhead Development II, LLC. as such officer acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the company, by it and by him voluntarily executed.

  
 \_\_\_\_\_  
 Notary Public in and for the State of Iowa



**CONSENT OF MORTGAGEE  
TO  
SUBMISSION OF PROPERTY  
TO  
CONDOMINIUM REGIME**

Central Bank of Spirit Lake, Iowa is the holder of a mortgage against the real estate submitted to the Spyglass Villas Condominium Regime by the Declaration of Submission of Property to Horizontal Property Regime for the Spyglass Villas Condominiums to which this Consent is attached. Such mortgage is dated April 8, 2005 and was filed April 26, 2005 in Mortgage Record Book 287, Page 127 and was re-recorded May 19, 2005 in Book 289, Page 09 of the Dickinson County Recorder's Office. By the undersigned(s)' execution of this Consent, the undersigned(s), as duly authorized representative(s) of Central Bank of Spirit Lake, Iowa, hereby consent to the submission of the property covered by such mortgage to the Spyglass Villas Condominium Regime, and agree that from the time of the filing of said Declaration in the Office of the Dickinson County, Iowa recorder, the lien of such mortgage shall become a lien on the individual units and their undivided percentage interest in the common elements of the Condominium Regime, and such mortgage shall be partially released as to each such unit and its undivided percentage interest in the Condominium Regime upon payment to the undersigned of an amount to be agreed to as to each such unit between the Developer and the undersigned prior to the sale of each unit to a third party.

Dated this 31<sup>st</sup> day of AUGUST, 2005.

CENTRAL BANK OF SPIRIT LAKE, IOWA

By: [Signature]  
(Signature)

By: Cindy Mart  
(Signature)

Title: SENIOR VICE PRESIDENT

Title: ASST. VICE PRESIDENT

STATE OF IOWA, COUNTY OF DICKINSON, ss:

On this 31<sup>st</sup> day of AUGUST, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared JEFF A. RICHTER and CINDY A. MART to me personally known, who, being by me duly sworn, did say that ~~he/she/they~~ is/are the SR. VICE PRESIDENT and ASST. VICE PRESIDENT of said corporation and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and he/she/they acknowledged the execution of said instrument to be the voluntary act and deed of the corporation by it and by him/her/them voluntarily executed.

Patty Delaney  
Notary Public in and for said State



SURVEYOR'S CERTIFICATION

STATE OF IOWA            )  
  )ss:  
COUNTY OF DICKINSON )

I, Robert V. Bendixen, P.L.S. of Jacobson-Westergard & Associates, Inc., being duly sworn upon oath, depose and state that I am a duly licensed Land Surveyor in the State of Iowa.

I further state that the attached **Exhibit A (Site Plan)** has been prepared by me and under my direct supervision and represents the Site Plan for the land and building to be included in the SPYGLASS VILLAS CONDOMINIUMS, in Arnolds Park, Iowa.

R. V. Bendixen  
Signature- Robert V. Bendixen

Subscribed and sworn to before me by the said Robert V. Bendixen, on the 31<sup>ST</sup> day of August, 2005.

Lori L. Smith  
Notary Public in and for the State of Iowa

	LORI L. SMITH Commission Number 117323 MY COMMISSION EXPIRES <u>4-5-06</u>
--	---

**BUILDING DESIGNER'S CERTIFICATION**

STATE OF IOWA )  
 )ss:  
COUNTY OF DICKINSON )

The undersigned, being duly sworn upon oath, depose and state that I am a duly certified surveyor/architect/engineer (circle applicable) in the State of Iowa.

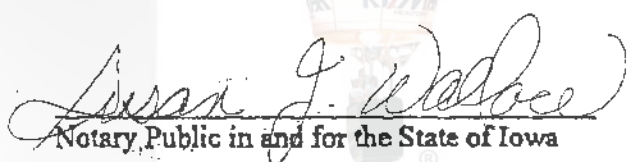
I further state that the attached Exhibit B is an exact copy of the building plans for the Building and Units of the Spyglass Villas Condominiums as prepared by me.

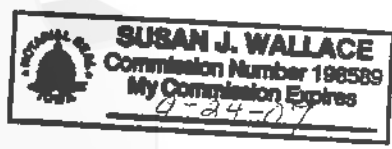
BLOODGOOD PLAN SERVICE

By:   
Signature

PRINT NAME: DOUG SHARP

1<sup>st</sup> Subscribed and sworn to before me by the said DOUG SHARP on this 1<sup>st</sup> day of September, 2005.

  
Notary Public in and for the State of Iowa



**EXHIBIT "A"**

**SITE PLAN**

See Attached Site Plan.



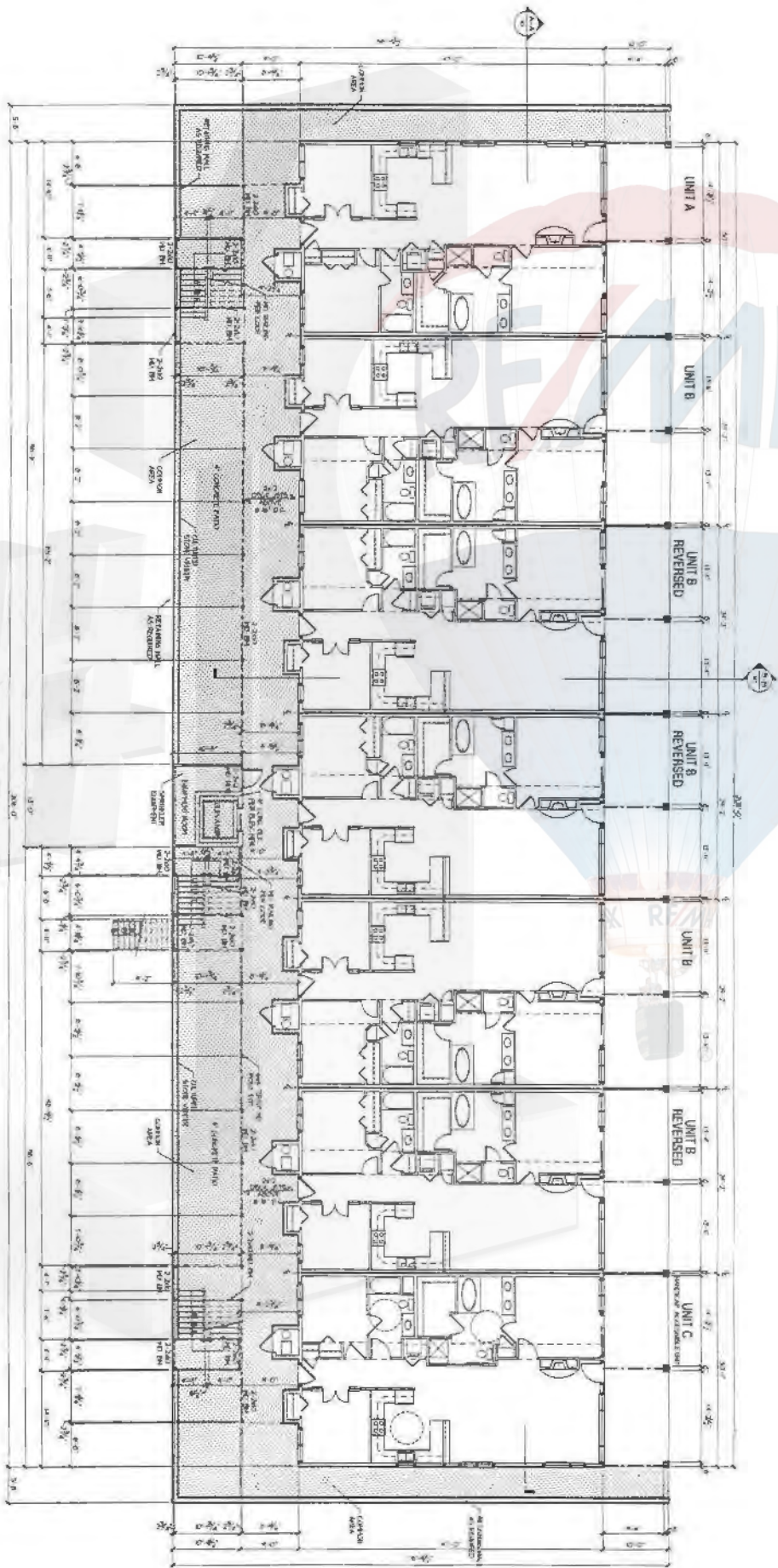
**EXHIBIT "B"**

**FLOOR PLAN FOR BUILDINGS**

SEE ATTACHED PAGES B-1 THROUGH B-8







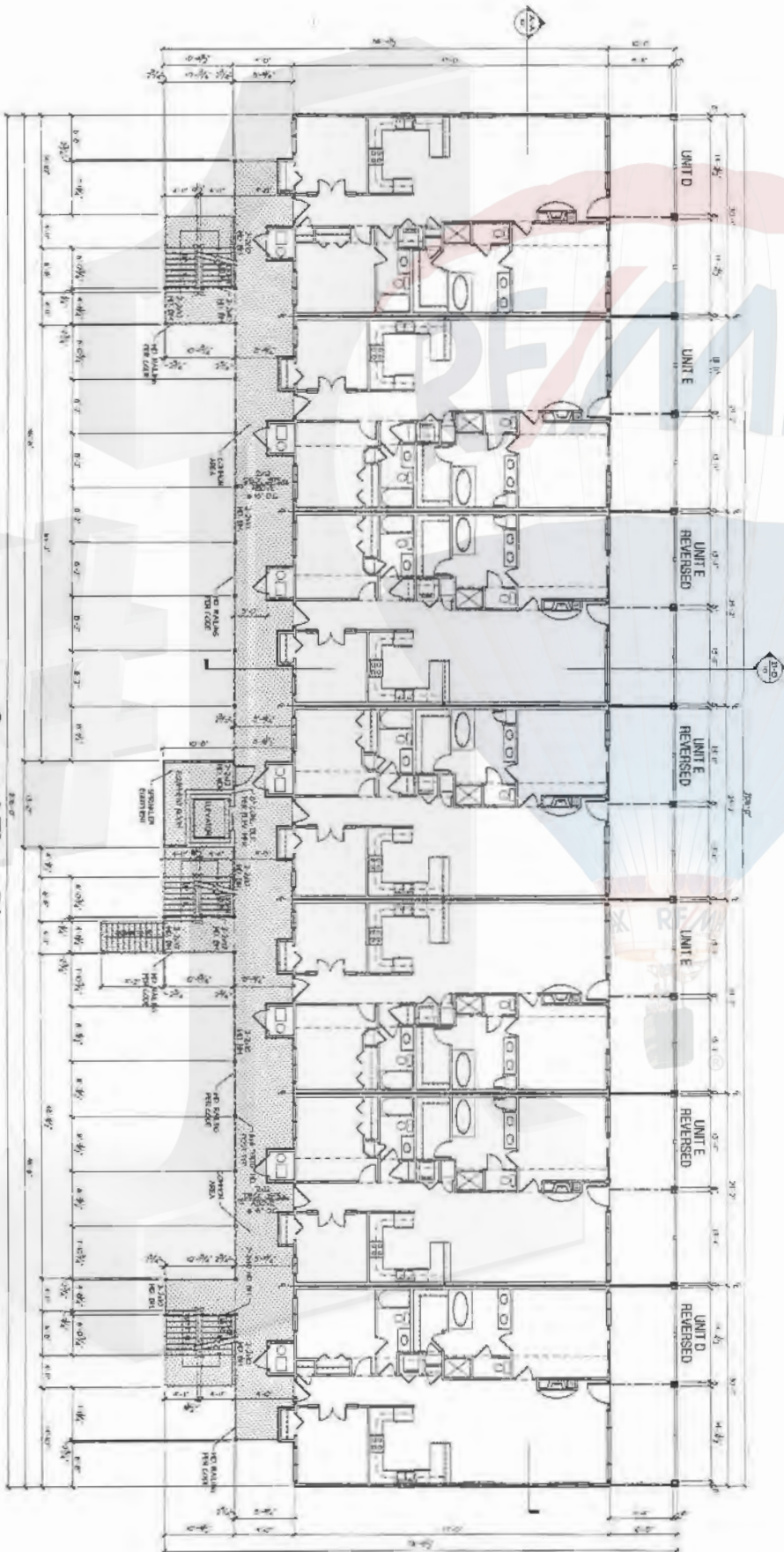
**First Floor Plan**  
SCALE: 1/8" = 1'-0"

SHEET  
5  
OF  
11

Project No: P180025  
Date: 09/19/04  
Drawn By: JMM  
Revisions:  
07/28/04 JMM  
11/20/04 JMM  
09/28/05 CCM

**OKOBOJI CONDOS**  
**S.R. GRUBB CONSTRUCTION**  
**BLOODGOOD PLAN SERVICE**  
1601 WEST LAKES PARKWAY, SUITE 200 WEST DES MOINES IA 50266 PH: (515) 273-3020

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THESE WORKING DRAWINGS ARE PROVIDED TO MAKE  
THE FULL DETAILS OF THE BUILDING AVAILABLE TO  
THE PURCHASER. THEY MAY ALSO BE USED AS  
CONSTRUCTION DOCUMENTS. ALL NOTES AND COMMENTS  
ARE SUBJECT TO CHANGE ACCORDING TO CODES,  
BUILDING REQUIREMENTS AND/OR SITE CONDITIONS.  
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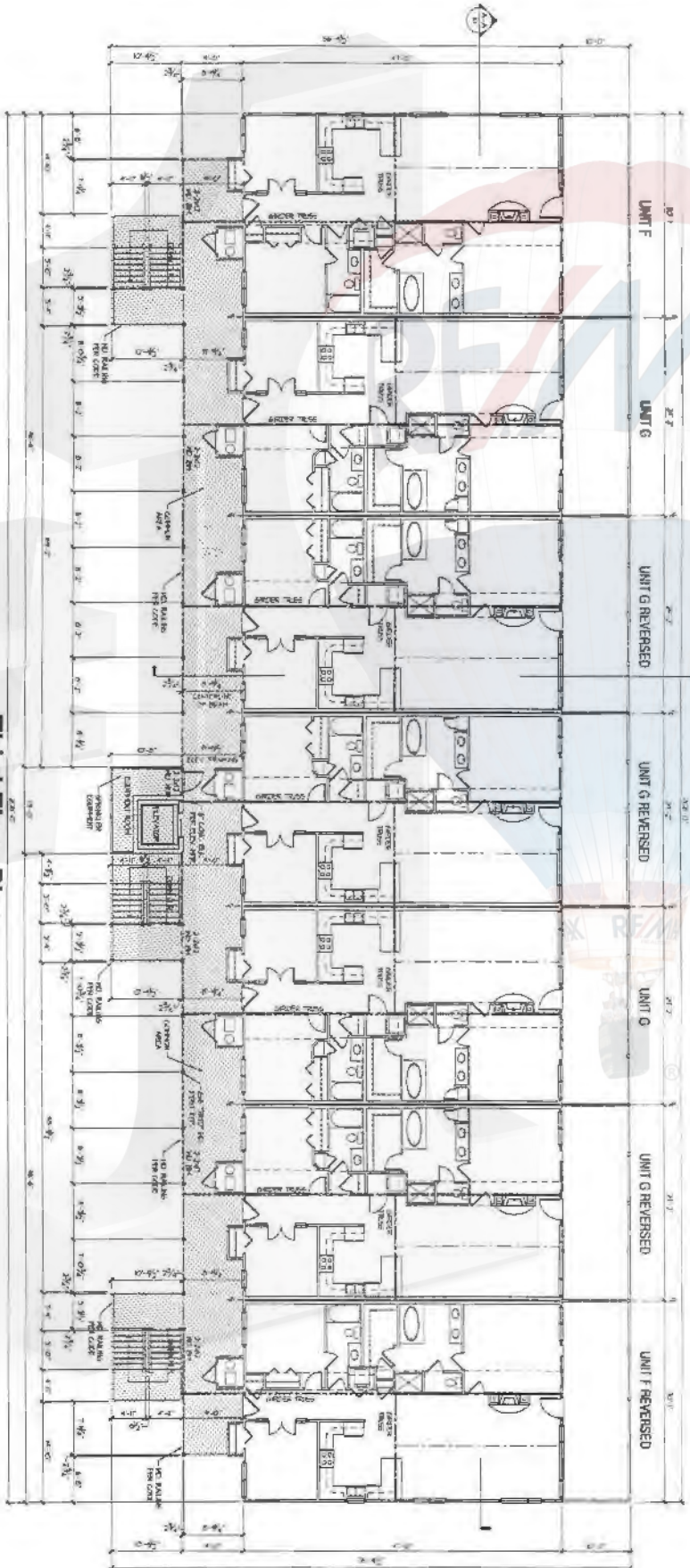
**Second Floor Plan**  
SCALE 1/8" = 1'-0"

SHEET  
6 OF 11

Revisions:  
BY/DATE: JAM  
7/28/04 JAM  
7/28/04 JAM  
08/26/05 CSC  
08/26/05 CSC  
Checked By: JAM  
Date: 09/15/04  
Project No: P840725  
Date: 09/15/04

**OKOBOJI CONDOS**  
**S.R. GRUBB CONSTRUCTION**  
**BLOODGOOD PLAN SERVICE**  
1601 WEST LAKES PARKWAY, SUITE 200 WEST DES MOINES, IA 50266 PH: (515) 273-3020

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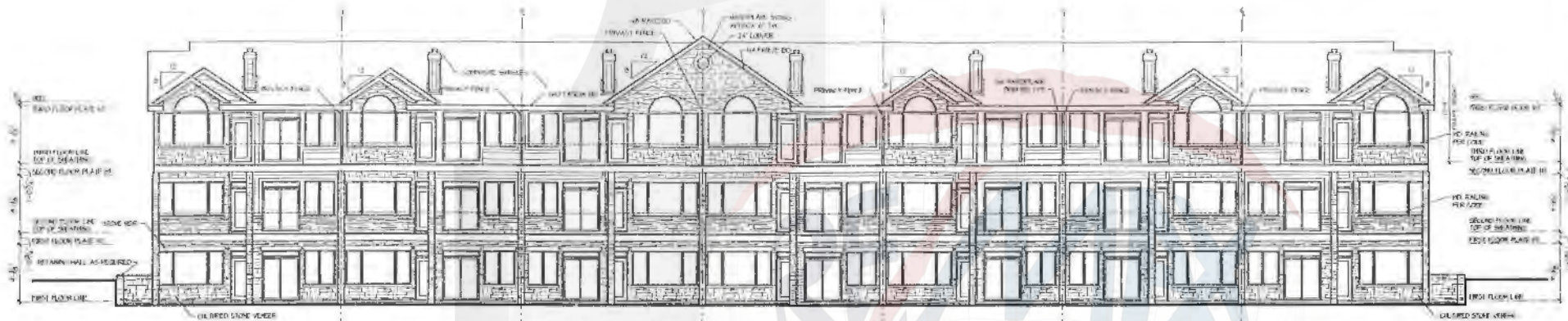
**Third Floor Plan**  
SCALE: 3/8" = 1'-0"

**SHEET**  
7 OF 11

Project No: P000725  
 Date: 09/23/04  
 Drawn By: JLM  
 Checked By: JLM  
 Revision:  
 1) 03/01/04 JLM  
 2) 03/01/04 JLM  
 09/23/04 CJK

**OKOBOJI CONDOS**  
**S.R. GRUBB CONSTRUCTION**  
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 BUILDING REQUIREMENTS, AND/OR SITE CONDITIONS.  
 ANY FORM OF DIRECT REPRODUCTION OF THIS DESIGN,  
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**Front Elevation**  
SCALE: 1/8"=1'-0"



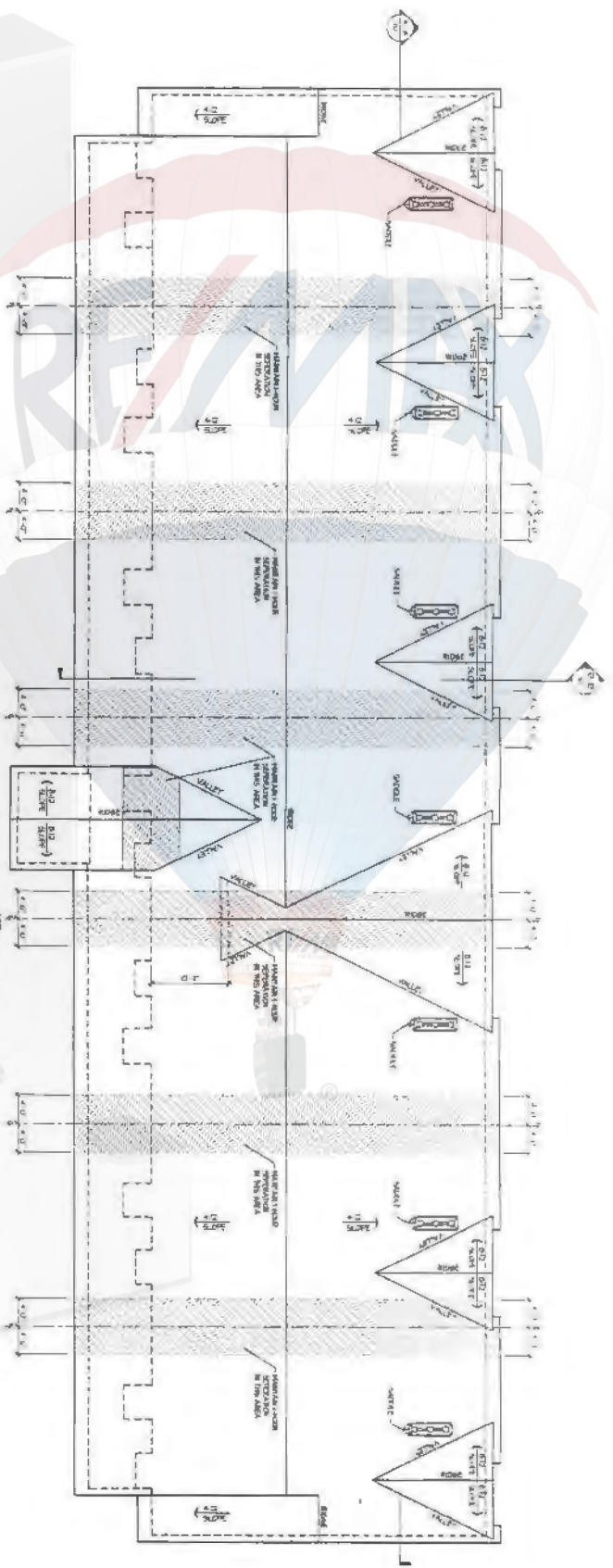
**Rear Elevation**  
SCALE: 1/8"=1'-0"

CONSTRUCTION PLAN SERVICE HAS MADE THE BEST EFFORTS TO PREPARE THE DRAWINGS. THEY MAY ALSO BE USED AS IS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. ANY WORK OF DIRECT REPRODUCTION OR THIS DESIGN IN WHOLE OR IN PART IS STRICTLY PROHIBITED.

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**S.R. GRUBB CONSTRUCTION**  
**BLOODGOOD PLAN SERVICE**  
801 WEST LAKES PARKWAY, SUITE 200, WEST DES MOINES, IA 50396 PH: 515-273-8200

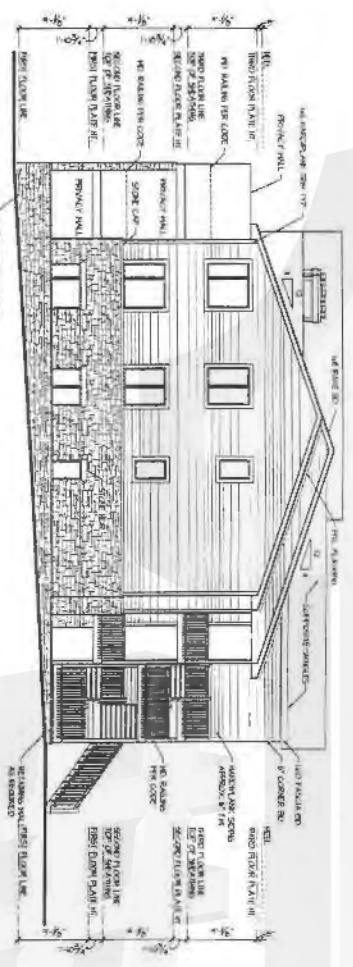
Project No	19-1026
Date	09/13/04
Drawn By	JJM
Revisions	10/28/04 JJM 11/23/04 JJM 03/16/05 JJM 08/26/05 CCK

SHEET  
8 OF 11

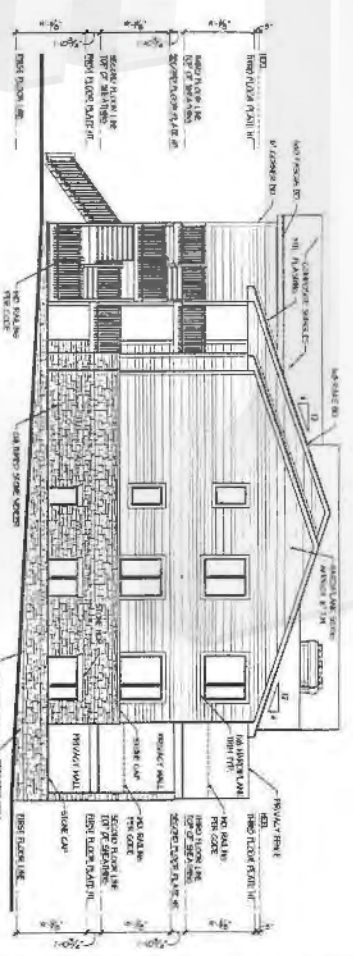


**Roof Plan**  
SCALE: 1/8" = 1'-0"

NOTE: ALL ROOFING SHALL BE PERFORMED BY A LICENSED ROOFER. ALL ROOFING SHALL BE PERFORMED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. ALL ROOFING SHALL BE PERFORMED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.



**Right Elevation**  
SCALE: 1/8" = 1'-0"



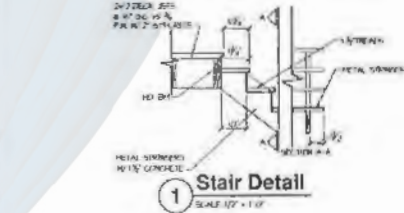
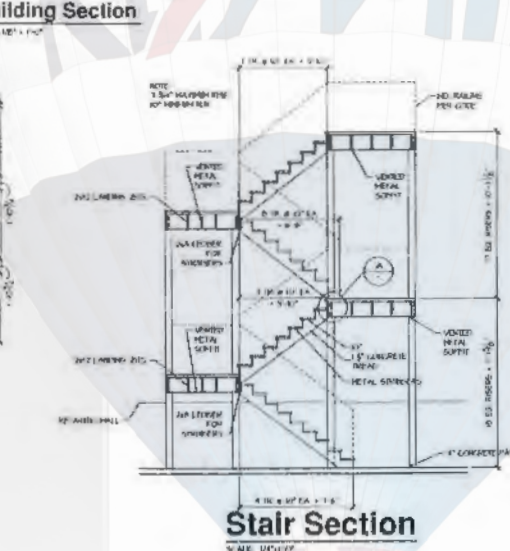
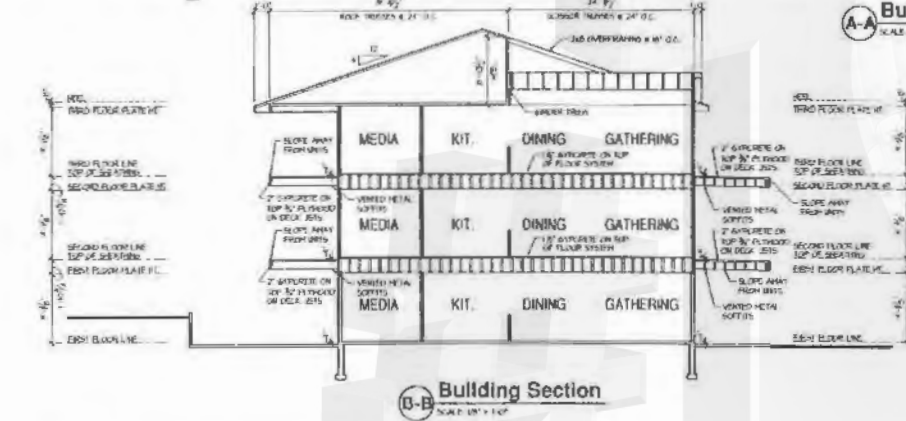
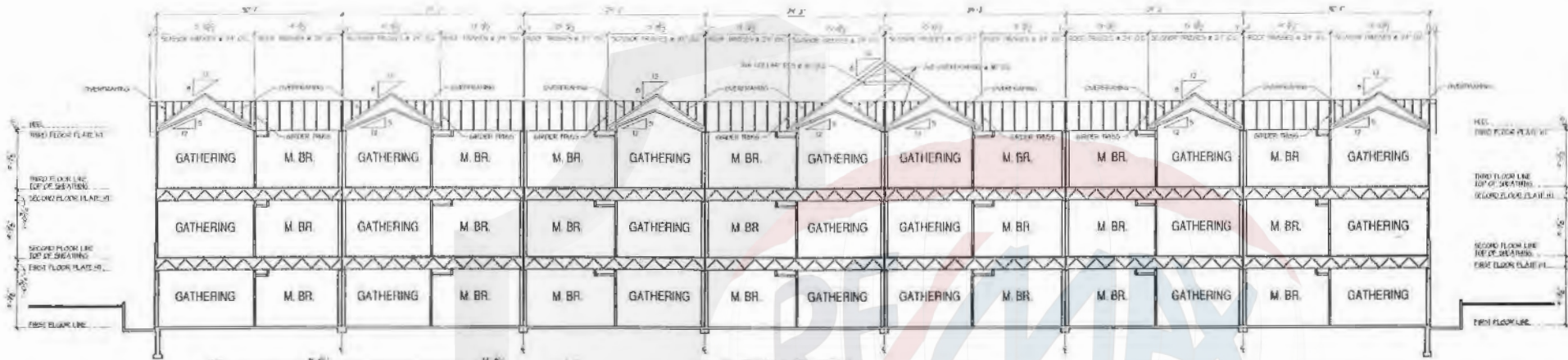
**Left Elevation**  
SCALE: 1/8" = 1'-0"

SHEET  
9 OF 11

Project No: 19/02/03  
 Date: 09/18/04  
 Drawn By: JLM  
 Revisions:  
 01/23/04 JLM  
 03/16/05 JLM  
 08/26/05 COL

**OKOBOJI CONDOS**  
**S.R. GRUBB CONSTRUCTION**  
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DOOR SCHEDULE						
NO.	TYPE	SIZE		DOOR MATERIAL	QUANTITY	REMARKS
		WIDTH	HEIGHT			
1	HOLLOW CORE	7'-0"	8'-0"	WOOD	45	FLUSH
2	HOLLOW CORE	7'-0"	8'-0"	WOOD	11	FLUSH
3	HOLLOW CORE	7'-0"	8'-0"	WOOD	103	FLUSH
4	HOLLOW CORE	7'-0"	8'-0"	WOOD	43	FLUSH
5	HOLLOW CORE	8'-0"	8'-0"	WOOD	8	FLUSH
6	HOLLOW CORE	8'-0"	8'-0"	WOOD	43	SHIELD 2\"/>

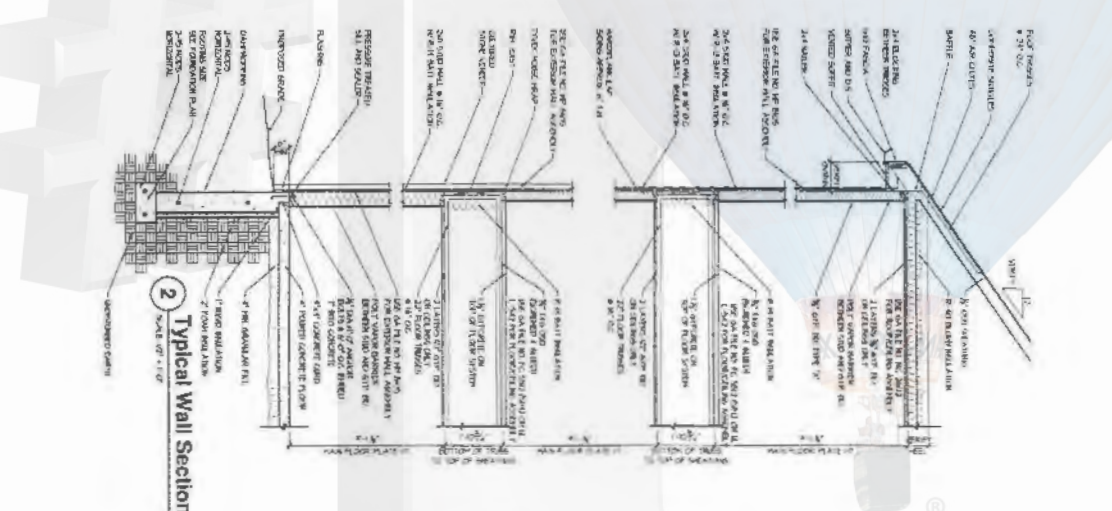
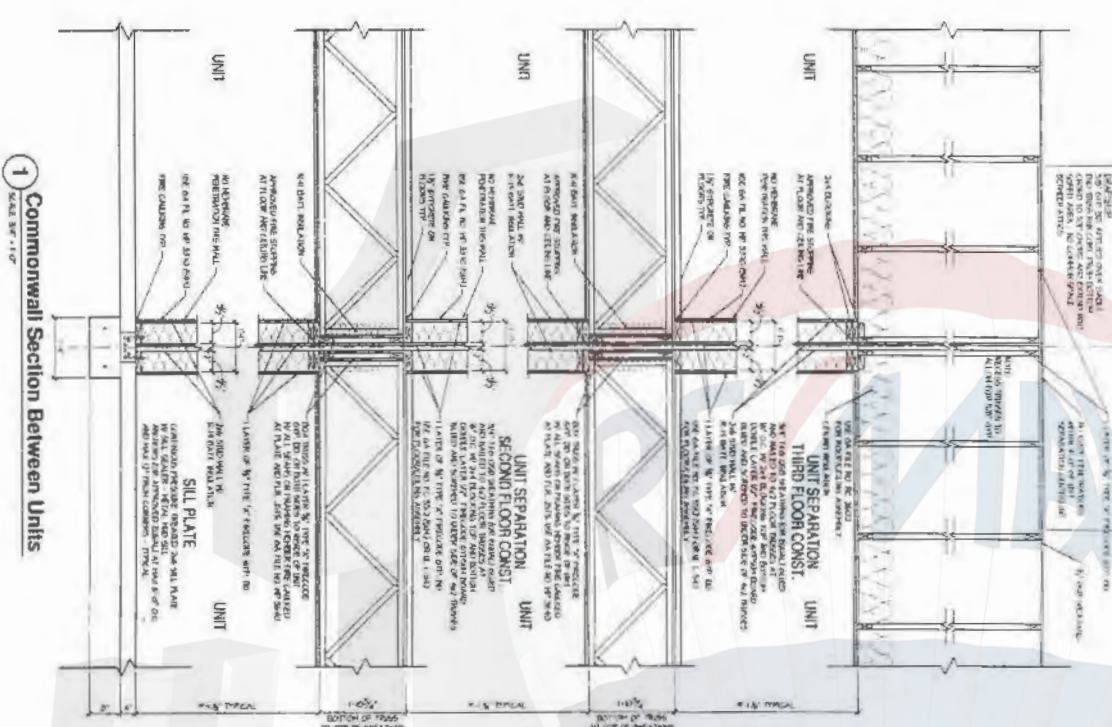
WINDOW SCHEDULE						
NO.	TYPE	SIZE		WINDOW MATERIAL	GLAZING	REMARKS
		WIDTH	HEIGHT			
1	CORNER	36"	48"	WVCL	IGLASS	8
2	CORNER	36"	54"	WVCL	IGLASS	23
3	CORNER	36"	66"	WVCL	IGLASS	27
4	PICTURE	36"	66"	WVCL	IGLASS	3
5	PICTURE	36"	36"	WVCL	IGLASS	2
6	PICTURE	12"	12"	WVCL	IGLASS	2
7	PICTURE	36"	36"	WVCL	IGLASS	7
8	CORNER	36"	66"	WVCL	IGLASS	6
9	PICTURE	12"	66"	WVCL	IGLASS	6

NAME	FLOOR		BASE		WALL		CEILING		REMARKS
	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	
ENTRY	CONCRETE OR WOOD	TILE	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
KITCHEN	CONCRETE OR WOOD	TILE	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
DINING	CONCRETE OR WOOD	CARPET	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
GATHERING	CONCRETE OR WOOD	CARPET	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
M. BR.	CONCRETE OR WOOD	CARPET	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
HALL	CONCRETE OR WOOD	CARPET	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
BATH #1	CONCRETE OR WOOD	CARPET	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
BATH #2	CONCRETE OR WOOD	TILE	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---
BATH #3	CONCRETE OR WOOD	TILE	ONE	STAINED	GYP. BO.	TEXTURED/PAIN	GYP. BO.	TEXTURED/PAIN	---

**OKOBOJI CONDOS**  
**S.R. GRUBB CONSTRUCTION**  
**BLOODGOOD PLAN SERVICE**  
 100 WEST LAKES PARKWAY, SUITE 200, WEST DES MOINES, IA 50266 PH: (515) 273-3020

Project No: PS4075  
 Date: 09/13/04  
 Drawn By: JJA  
 Revisions:  
 10/28/04 JJM  
 11/23/04 JJM  
 03/16/05 JJM  
 08/25/05 CCL

SHEET  
 10 OF 11



GA FILE NO. WP 3640	GENERIC	1 HOUR FIRE
GENERAL WALLS/DOOR, WOOD STUDS		
<p>One hour 1/2" gypsum wallboard or gypsum veneer shall applied parallel to the edge of the wall. The gypsum wallboard shall be attached to the wall studs with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges. The gypsum wallboard shall be finished with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges.</p>		

GA FILE NO. WP 3210	GENERIC	1 HOUR FIRE	45 TO 60 STC SOUND
GENERAL WALLS/DOOR, WOOD STUDS			
<p>One hour 1/2" gypsum wallboard or gypsum veneer shall applied parallel to the edge of the wall. The gypsum wallboard shall be attached to the wall studs with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges. The gypsum wallboard shall be finished with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges.</p>			

GA FILE NO. WP 8105	GENERIC	1 HOUR FIRE
GENERAL WALLS/DOOR, GYPSUM SHEATHING, WOOD STUDS		
<p>One hour 1/2" gypsum wallboard or gypsum veneer shall applied parallel to the edge of the wall. The gypsum wallboard shall be attached to the wall studs with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges. The gypsum wallboard shall be finished with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges.</p>		

GA FILE NO. PC 6512	GENERIC	1 HOUR FIRE
GENERAL DOOR, METAL STUDS, GYPSUM WALLS		
<p>One hour 1/2" gypsum wallboard or gypsum veneer shall applied parallel to the edge of the wall. The gypsum wallboard shall be attached to the wall studs with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges. The gypsum wallboard shall be finished with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges.</p>		

GA FILE NO. RC 2602	GENERIC	1 HOUR FIRE
WOOD TRIMMER, GYPSUM WALL BOARD		
<p>One hour 1/2" gypsum wallboard or gypsum veneer shall applied parallel to the edge of the wall. The gypsum wallboard shall be attached to the wall studs with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges. The gypsum wallboard shall be finished with 1/2" x 1/4" gypsum wallboard screws spaced at 16" o.c. in the field and 8" o.c. at the top and bottom edges.</p>		

SHEET 11 OF 11

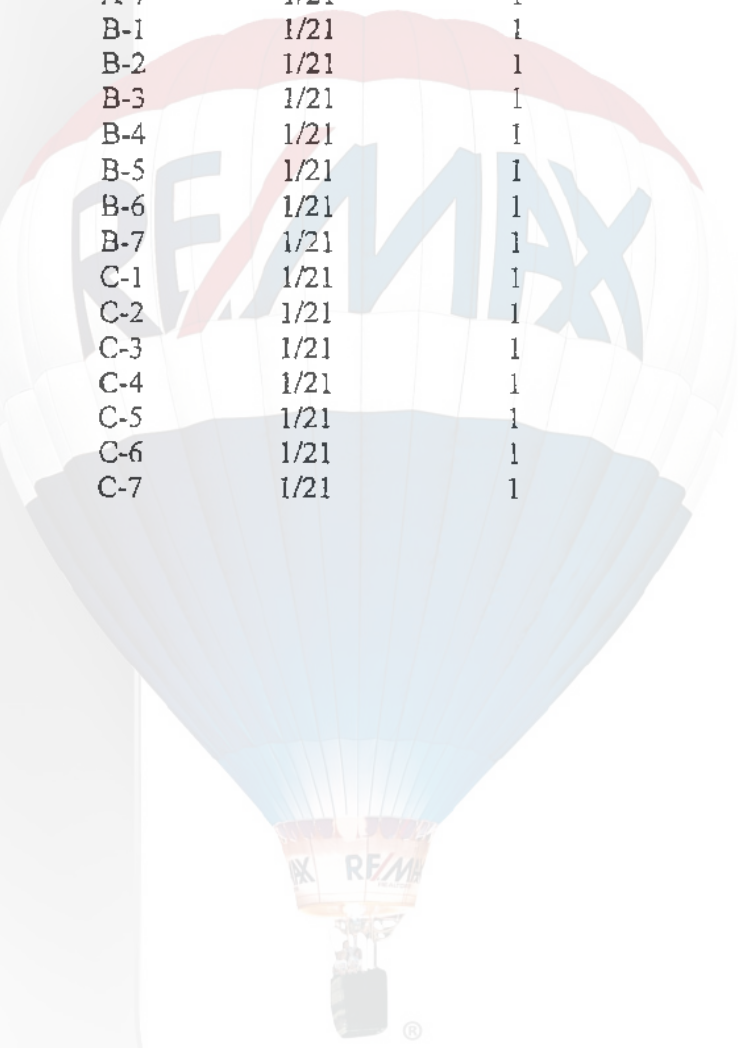
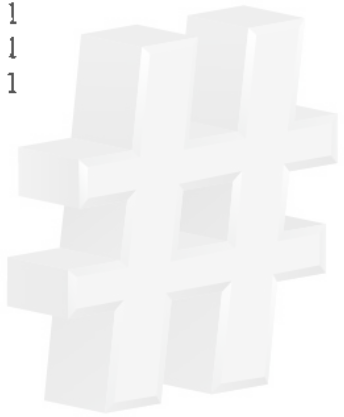
Prepared By: PWD/075  
 Date: 09/23/05  
 Checked By: JLM

**OKOBOJI CONDOS**  
**S.R. GRUBB CONSTRUCTION**  
**BLOODGOOD PLAN SERVICE**  
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**EXHIBIT "C"**  
**SPYGLASS VILLAS CONDOMINIUMS**  
**UNDIVIDED OWNERSHIP INTEREST AND VOTES**

<u>Building Number</u>	<u>Street Address</u>	<u>Unit Number</u>	<u>Garage Unit Number</u>	<u>Ownership Interest</u>	<u>Undivided Number of Votes</u>
1		A-1	A-1	1/21	1
1		A-2	A-2	1/21	1
1		A-3	A-3	1/21	1
1		A-4	A-4	1/21	1
1		A-5	A-5	1/21	1
1		A-6	A-6	1/21	1
1		A-7	A-7	1/21	1
1		B-1	B-1	1/21	1
1		B-2	B-2	1/21	1
1		B-3	B-3	1/21	1
1		B-4	B-4	1/21	1
1		B-5	B-5	1/21	1
1		B-6	B-6	1/21	1
1		B-7	B-7	1/21	1
1		C-1	C-1	1/21	1
1		C-2	C-2	1/21	1
1		C-3	C-3	1/21	1
1		C-4	C-4	1/21	1
1		C-5	C-5	1/21	1
1		C-6	C-6	1/21	1
1		C-7	C-7	1/21	1





**EXHIBIT "D"**

**ARTICLES OF INCORPORATION  
OF  
SPYGLASS VILLAS CONDOMINIUMS OWNERS ASSOCIATION, INC.**

The undersigned, acting as incorporator of a corporation pursuant to the provisions of the Iowa Nonprofit Corporation Act, under Chapter 504A of the Code of Iowa, adopts the following Articles of Incorporation for such corporation.

**ARTICLE I**

The Corporation shall be known as Spyglass Villas Condominiums Owners Association, Inc., and its initial principal office shall be located in 2171 Grand Avenue, West Des Moines, Iowa, 50265.

**ARTICLE II**

The existence of this Corporation shall commence with the date these Articles are filed with the Secretary of State, and the period of its duration is perpetual.

**ARTICLE III**

- A. The purpose and objectives of the Corporation are to provide for an entity to act as a "Condominium Management Association" within the meaning of Section 528 of the Internal Revenue Code of 1954 to conduct the business and affairs of, and to act as or for, the Co-owners of that horizontal property regime (condominium) created and submitted, pursuant to the provisions of Chapter 499B of the Code of Iowa, known as the Spyglass Villas Condominiums, (hereinafter sometimes referred to as "regime") and to be located on the real estate situated in Dickinson County, Iowa described as follows:

**Legal Description**

LOTS A AND B IN THE SUBDIVISION OF LOT 7 OF AUDITOR'S PLAT OF GOVERNMENT LOTS 1, 2, 3, AND 4, IN SECTION 29, TOWNSHIP 99 NORTH, RANGE 36 WEST OF THE 5<sup>TH</sup> P.M. IN THE CITY OF ARNOLDS PARK, DICKINSON COUNTY, IOWA EXCEPT THE FOLLOWING:

- 3) BEGINNING AT THE NORTHWEST CORNER OF SAID LOT B; THENCE EAST 150 FEET ALONG THE NORTH LINE OF SAID LOT B; THENCE SOUTH 50 FEET PARALLEL WITH THE WEST LINE OF SAID LOT B; THENCE WEST 150 FEET PARALLEL WITH THE NORTH LINE OF SAID LOT B; THENCE NORTH 50 FEET ALONG THE WEST LINE OF SAID LOT B TO THE POINT OF BEGINNING;
- 4) COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT A; THENCE NORTH 5° 49' WEST 176.4 FEET ALONG THE WESTERLY LINES OF SAID LOTS A AND B TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING LYING SOUTH 5° 49' EAST 54.7 FEET FROM THE NORTHWEST CORNER OF SAID LOT B; THENCE NORTH 87° 37' EAST 61.1 FEET; THENCE NORTH 5° 49' WEST 5.1 FEET; THENCE SOUTH 87° 12' WEST 61.1 FEET PARALLEL WITH THE NORTHERLY LINE OF SAID LOT B TO A POINT IN THE WESTERLY LINE OF SAID LOT B, SAID POINT LYING SOUTH 5° 49' EAST 50.0 FEET FROM THE NORTHWEST CORNER OF SAID LOT B; THENCE SOUTH 5° 49' EAST 4.7 FEET ALONG THE WESTERLY LINE OF SAID LOT B TO THE POINT OF BEGINNING, CONTAINING 299 SQUARE FEET.

AND

THAT PART OF LOT 18 OF AUDITOR'S PLAT OF GOVERNMENT LOTS 1, 2, 3, AND 4 IN SECTION 29, TOWNSHIP 99 NORTH, RANGE 36 WEST OF THE 5<sup>TH</sup> P.M. IN THE CITY OF ARNOLDS PARK, DICKINSON COUNTY, IOWA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 18; THENCE WESTERLY 39.24 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 18 TO A POINT 40.00 FEET EASTERLY OF THE EASTERLY LINE OF THE PLAT OF FOREST PARK EXTENDED SOUTHERLY; THENCE NORTH 179.31 FEET PARALLEL WITH AND 40.00 FEET EASTERLY OF THE EASTERLY LINE OF SAID

FOREST PARK; THENCE EASTERLY 18.95 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 18, SAID POINT LYING 181.12 FEET NORTHWESTERLY OF THE POINT OF BEGINNING; THENCE SOUTHEASTERLY 181.12 FEET ALONG THE EASTERLY LINE OF SAID LOT 18 TO THE POINT OF BEGINNING.

SAID TRACT OF LAND SUBJECT TO ALL EASEMENTS OF RECORD.

- B. The Corporation shall have all powers and purposes granted or implied to a council of Co-owners under the provisions of Chapter 499B of the Code of Iowa and as are granted or implied by the Declaration of Condominium establishing said condominium regime, and all of such powers shall constitute lawful purposes of the Corporation.
- C. The purposes of the Corporation are exclusively not for private profit or gain and no part of its activities shall consist of carrying on political propaganda or otherwise attempting to influence legislation, and the Corporation shall make no distribution of income to its members, director or officers.
- D. The Corporation shall have unlimited power to engage in and do any lawful act concerning any and all lawful businesses for which corporations may be organized under this Act and consistent with the provisions herein.

#### ARTICLE IV

The address of the initial office of the Corporation is 2171 Grand Avenue, West Des Moines, Iowa, 50265. The street address of the corporation's initial registered office in Iowa and the name of its initial registered agent is: David J. Stein, Jr., Esquire Stein Law Office, L.L.P. 926 Okoboji Avenue, P.O. Box 537 Milford, Iowa 51351.

#### ARTICLE V

The members of this Corporation shall be those persons described as members in the Bylaws of the Corporation. The voting rights of the members shall be as provided in the Declaration of Condominium and the Bylaws of the Corporation.

#### ARTICLE VI

The number of directors constituting the initial Board of Directors of the Corporation is one (1). The name and address of the person who is to serve as the initial director is:

<u>Name</u>	<u>Address</u>
John C. Kline	2171 Grand Avenue West Des Moines, Iowa 50265

The term of office of the initial Board of Directors shall be until successor Directors shall have been elected and shall have qualified. Until the terms of the initial Board of Directors expires, they shall be subject to removal only by John C. Kline as provided in the Declaration and Bylaws. Thereafter, a Director may be removed from office at a special meeting of the members of the Corporation in such manner as may be provided in the Bylaws. Persons other than members of the Corporation may be members of the Board of Directors.

#### ARTICLE VII

The initial Bylaws of the Corporation and amendments thereto shall be adopted by its initial Board of Directors, but the power to thereafter alter, amend or repeal the same or adopt new Bylaws is reserved to the members of the Corporation, subject to the restrictions contained in the initial Bylaws and amendments thereto and the restrictions contained in the Declaration.

#### ARTICLE VIII

In the event of liquidation, assets of the Corporation, if any remain, shall be distributed to the members in accordance with their proportionate share (if undivided interests in the common

elements existing in the condominium regime, as determined by the Declaration and the Bylaws).

**ARTICLE IX**

All transfers, conveyances, leases, mortgages or assignments of real estate or of any interest therein on behalf of this Corporation shall be executed by any two of the following officers: President or Vice President and Secretary or Treasurer. All transfers, conveyances, leases or encumbrances of personal property or any interest therein shall be executed by any officer of this Corporation or any agent authorized by the Board of Directors. All judgments or other liens shall be satisfied, discharged, released or assigned by any officer of the Corporation.

**ARTICLE X**

Neither the members, the Board of Directors, nor their private property shall be liable for corporate debts, obligations or undertakings.

**ARTICLE XI**

This Corporation shall indemnify any present or former director, officer, employee, member or volunteer of this Corporation, and each such person who is serving or who has served at the request of this Corporation, as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, other enterprise or employee benefit plan to the fullest extent possible against expenses, including attorney fees, judgments, fines, settlements and reasonable expenses, actually incurred by such person relating to his/her conduct as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, other enterprise or employee benefit plan, except that the mandatory indemnification required by this sentence shall not apply (i) to a breach of the duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or (iii) for a transaction from which such person derived an improper personal benefit.

**ARTICLE XII**

Any purported amendment to these Articles of Incorporation in conflict with or contrary to the provisions of the Declaration of Condominium, including supplements and amendments thereto, which submit lands and units to the regime, shall be void and of no force and effect.

**ARTICLE XIII**

The name and address of the incorporator is John C. Kline, 2171 Grand Avenue, West Des Moines, Polk, Iowa 50265.

Dated at West Des Moines, Iowa on this 30<sup>th</sup> day of August, 2005.

  
\_\_\_\_\_  
John C. Kline, Incorporator

STATE OF IOWA            )  
  ) ss  
COUNTY OF Polk        )

On this 30<sup>th</sup> day of August, 2005, before me, a Notary Public in and for the State of Iowa, personally appeared John C. Kline, to me known to be the person named in and who executed the foregoing Articles of Incorporation and acknowledged that he executed the same as his voluntary act and deed.

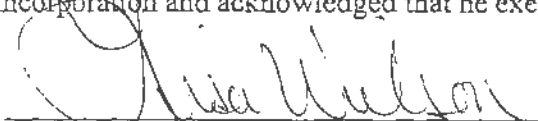
  
\_\_\_\_\_  
Notary Public in and for the State of Iowa



EXHIBIT "E"

BYLAWS  
OF  
SPYGLASS VILLAS CONDOMINIUMS OWNERS ASSOCIATION, INC.

ARTICLE I  
Name and Location

The name of the corporation is Spyglass Villas Condominiums Owners Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 2171 Grand Avenue, West Des Moines, Iowa, but meetings of members and Directors may be held at such places within the State of Iowa, County of Dickinson, as may be designated by the Board of Directors.

ARTICLE II  
Definitions

Terms used in these Bylaws shall have the same meaning as in the Association Articles of Incorporation and the Declaration of Submission of Property to Horizontal Property Regime of Spyglass Villas Condominiums (hereinafter "Declaration").

ARTICLE III  
Meeting of Members

Section 1 Annual Meeting. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour of the first day following which is not a legal holiday.

Section 2 Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon the written request of the members who are entitled to vote one-half (1/2) of all the votes to the membership, or upon the written request of the Declarant.

Section 3 Notice of Meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote, addressed to the member's address last appearing in the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4 Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, two-thirds (2/3) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his/her/its Lot.

ARTICLE IV  
Board of Directors; Selection; Term of Office

Section 1 Number. The affairs of this Association shall be managed by a Board of not less than one (1) and no more than six (6) Directors, who shall be members of the Association.

Section 2 Term of Office. At each annual meeting the members entitled to vote shall elect two (2) of the six (6) Directors for a period of two (2) years on a rotating basis.

Section 3 Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a Director, his/her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 4 Compensation. No Director shall receive compensation for any service he/she may render to the Association. However, any Director may be reimbursed for his/her actual pre-approved expenses incurred in the performance of his/her duties.

Section 5 Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE V

### Nomination and Election of Directors

Section 1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for elections to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations shall be made from among members of the Association.

Section 2 Election. Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation. The person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### Meetings of Directors

Section 1 Regular Meeting. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act of decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VII

### Powers and Duties of the Board of Directors

Section 1 Powers. The Board of Directors shall have the power to:

(a) Adopt and publish rules and regulations governing the use of the Common Area facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the voting rights and right to use of the common facilities of a member during any period in which such member shall be in default in the payment of any assessment

levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) Employ a manager, an independent contractor or such other employees as they deem necessary, and to prescribe their duties.

Section 2 Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by two-thirds (2/3) of the members who are entitled to vote;

(b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) Fix the amount of the annual assessment against each condominium lot at least thirty (30) days in advance of each annual assessment period;

(d) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;

(e) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same;

(f) Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(g) Procure and maintain adequate liability and hazard insurance on property owned by the Association;

(h) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(i) Cause the Common Area and the Association Responsibility Elements to be maintained.

**ARTICLE VIII**  
**Officers and Their Duties**

Section 1 Enumeration of Offices. The offices of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3 Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year, unless he/she shall sooner resign, or shall be removed or otherwise be disqualified to serve.

Section 4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may from time to time determine.

Section 5 Resignation and Removal. Any officer may be removed from the office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

Section 7 Duties. The duties of the officers are as follows:

**PRESIDENT**

(a) The President shall preside at all meetings of the Board of Directors and shall see that orders and resolutions of the Board are carried out.

**VICE-PRESIDENT**

(b) The Vice-President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act and shall exercise and discharge such other duties as may be required of him/her by the Board.

**SECRETARY**

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members, serve notice of meetings of the Board and of the members, keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

**TREASURER**

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, keep proper books of account, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy to each of the members.

**ARTICLE IX**  
**Committees**

The Board of Directors may appoint such committees as it deems appropriate in carrying out its purpose.

**ARTICLE X**  
**Books and Records**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

**ARTICLE XI**  
**Assessments**

As more fully provided in the Declaration, each member is obligated to pay the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12) percent per annum, and the Association may bring an action at law against Owner personally obligated to pay the assessment. The costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the

assessments provided for herein by non-use of the Common Area or abandonment of his/her Condominium.

**ARTICLE XII**  
**Corporate Seal**


The Association shall not have a corporate seal.

**ARTICLE XIII**  
**Amendments**

Section 1 These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of the total votes eligible to be cast at a meeting at which there is a quorum of members present in person or by proxy.

Section 2 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, I, being the sole initial Director of Spyglass Villas Condominiums Owners Association, Inc., have hereunto set my hand this 30<sup>th</sup> day of August, 2005.

  
By: John C. Kline, Initial Director

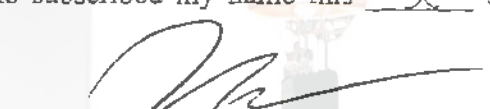
**CERTIFICATION**

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting initial Director of Spyglass Villas Condominiums Owners Association, Inc., an Iowa corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 30<sup>th</sup> day of August, 2005.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30<sup>th</sup> day of August, 2005.

  
John C. Kline, Initial Director

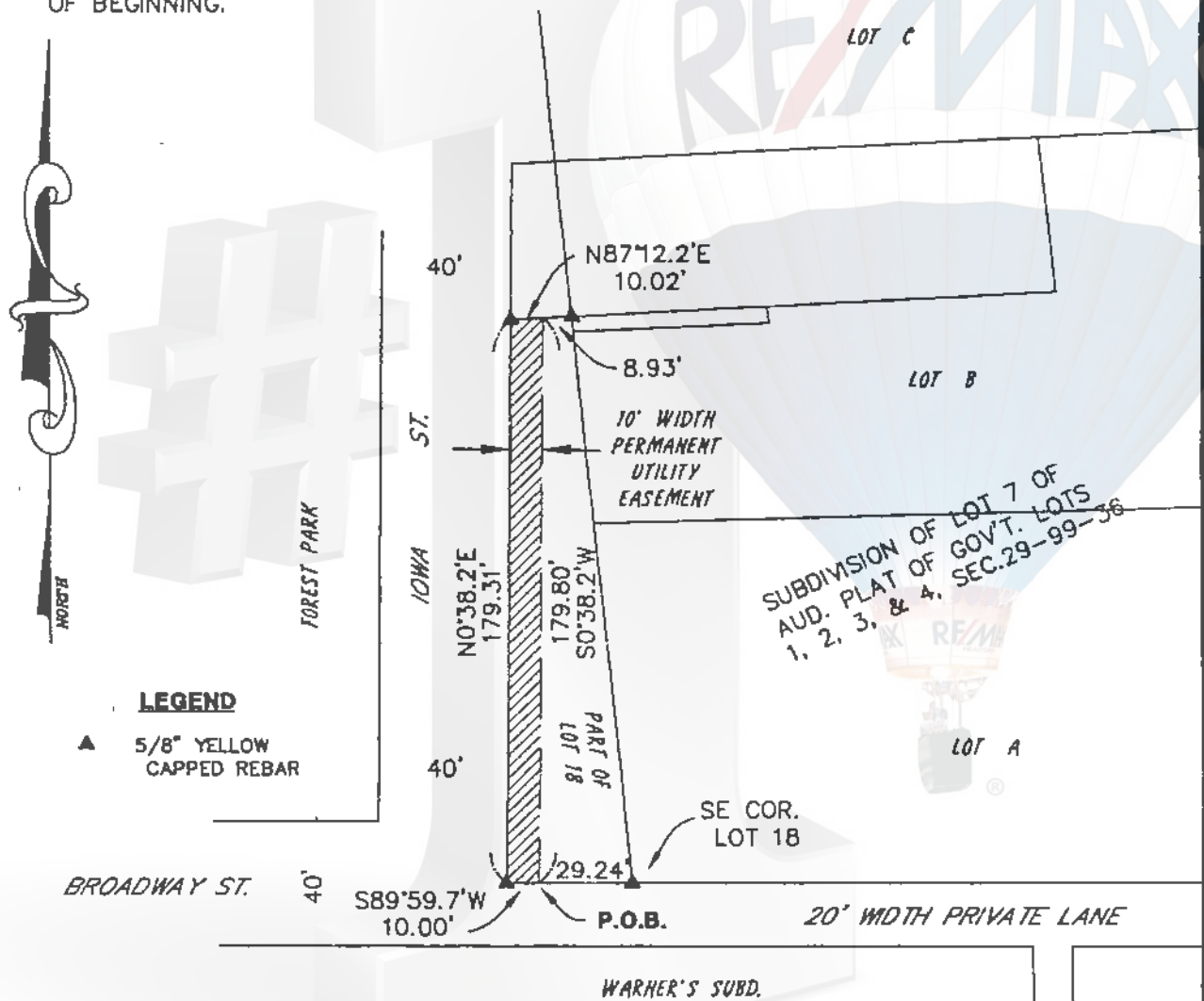


Jacobson-Westergard & Assoc., Inc. 105 S 6th Estherville, Iowa 51334 712/362/2647

### SKETCH OF EASEMENT

A PERMANENT UTILITY EASEMENT UNDER, OVER, AND ACROSS THAT PART OF LOT 18 OF AUDITOR'S PLAT OF GOVERNMENT LOTS 1, 2, 3, AND 4 IN SECTION 29, TOWNSHIP 99 NORTH, RANGE 36 WEST OF THE 5TH P.M., IN THE CITY OF ARNOLDS PARK, DICKINSON COUNTY, IOWA, DESCRIBED AS FOLLOWS:

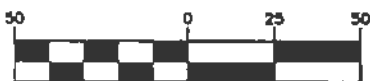
BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 18; THENCE SOUTH 89°59.7' WEST 29.24 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 18 TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°59.7' WEST 10.00 FEET ALONG SAID LOT 18 SOUTHERLY LINE; THENCE NORTH 0°38.2' EAST 179.31 FEET; THENCE NORTH 87°12.2' EAST 10.02 FEET; THENCE SOUTH 0°38.2' WEST 179.80 FEET TO THE POINT OF BEGINNING.



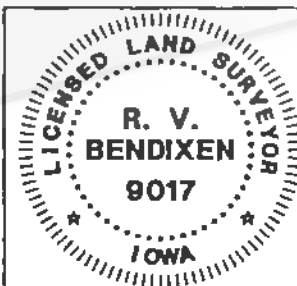
**LEGEND**

▲ 5/8" YELLOW CAPPED REBAR

**GRAPHIC SCALE**



( IN FEET )  
SCALE 1 inch = 50 ft.



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.  
*R.V. Bendixen* 5/26/05  
 Date  
 Robert V. Bendixen, L.S.  
 License number 9017  
 My license renewal date is December 31, 2008  
 Pages or sheets covered by this seal: 1 of 1

CLIENT: CITY OF ARNOLDS PARK, IOWA

LAND PROJECTS 3\2004\E04222\DWG\04222-EASE4.DWG

SURVEY

<b>JW</b>	Drawn	Checked By	Project No.
	Date 5-12-05 By CJH	RYB	E04222

EXHIBIT "A"

Extension of Entry #27

#04207

Fee \$17.00

Filed at 11:10 AM  
June 29, 2006

INSTR. NO. 06-04207  
EX. PAGE \_\_\_\_\_  
06 JUN 29 AM 11:10  
JAN BORTSCHELLER  
RECORDER  
DICKINSON COUNTY, IOWA  
FEE \$ 17.00

Preparer Information/

Return to: David J. Stein, Sr., P.O. Box 537, Milford, Iowa 51351 (712) 338-2431  
David J. Stein Sr. ISBA # 05281

**FIRST AMENDMENT TO THE SPYGLASS VILLAS CONDOMINIUMS, IN  
THE CITY OF ARNOLDS PARK, DICKINSON COUNTY, IOWA**

This First Amendment ("First Amendment") to the Spyglass Villas Condominiums, in the City of Arnolds Park, Dickinson County, Iowa is executed on the date and time indicated below, by Lakeview Development, L.C. ("the Developer"):

WHEREAS, the Horizontal Property Regime of Spyglass Villas Condominiums filed on September 13, 2005 in Book 24, Page 265 as Instrument No. 05-06379 of the Dickinson County Recorder's Office (hereinafter "Spyglass") and provided for the formation of the Spyglass Villas Condominiums Owners Association, Inc.

Whereas, the Horizontal Property Regime recited in Article XIV, Section 1, subsection (d) that, "Developer may, until all phases of the condominium regime contemplated herein have been completed or until the Developer has sold all the units in this regime, make amendments to this Declaration without the approval of the Unit Owners. Any supplemental or amendment to this Declaration filed by the Developer need be executed only by the Developer or its assigns notwithstanding ownership of Units by others and no consent of other Owners shall be required";

AND

WHEREAS, the Horizontal Property Regime recited in pertinent part in Article IX, Section 2, subsection (2)(c), "No more than one dog and two cats and one bird may be kept by the Owner of a Unit as pets and any such pet must weigh less than 25 pounds at any stage of growth (infancy or maturity)...";

NOW, THEREFORE, the Developer hereby amends the Horizontal Property Regime of

76-11

June 29, 2006

Spyglass only as follows (the bolded portions indicated the added/revised provisions):

1. No more than one dog and two cats and one bird may be kept by the Owner of a Unit as pets and any such pet must weigh less than 70 pounds at any stage of growth (infancy or maturity)...

2. Except as amended herein, the Horizontal Property Regime of Spyglass Villas Condominiums and its Declaration as previously filed remains unchanged and in full force and effect.



Developer - Lakeview Development, L.C.:

By: [Signature]

6/24/06

John C. Kline, President of  
John C. Kline, Inc., Member of Lakeview Development, L.C.

Date

STATE OF IOWA, COUNTY OF DICKINSON, ss.

On this 24<sup>th</sup> day of June, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN C. KLINE to me personally known, who, being by me duly sworn, did say that he is the of said corporation and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and he acknowledged the execution of said instrument to be the voluntary act and deed of the corporation by it and by him voluntarily executed.

[Signature]  
Notary Public in and for said State

EADIS-SR\REALSTATE\Lakeview Dev. LLC-Spyglass Condos (7641)\Amendment to Condo Docs 6-23-06-Kline.doc

DAVID JOHN STEIN, JR.  
Commission Number 182246  
My Commission Expires  
November 28, 2007

76-12