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ADDITIONAL RESTRICTIONS AND COVENANTS

WHEREAS, the undersigned are the owners of all the lots within Kjeldgaard's Subdivision to Pottawattamie County, Iowa, which plat appears of record in Book 1418, Page 491, of the records of Pottawattamie County, Iowa; and

WHEREAS, there are restrictions and protective covenants concerning the use of the real estate contained within the Subdivision filed on April 18, 1965, in Book 1389, Page 177, as amended and added to on June 9, 1966, as shown at Book 1418, Page 493, records of Pottawattamie County, Iowa; and

WHEREAS, the undersigned do hereby desire to amend and add to such covenants and restrictions so as to provide for road maintenance and repair within the Subdivision, said roads and streets not being heretofore accepted by any political subdivision of the State of Iowa within its road system;

NOW, THEREFORE, the parties hereto, in consideration of the mutual promises and covenants herein contained, do hereby agree and covenant for themselves, their heirs, successors and assigns, that the following shall constitute additional Restrictive Covenants upon the land located within Kjeldgaard's Subdivision to Pottawattamie County, Iowa and which shall run with the land:

12. MAINTENANCE AND REPAIR OF ROADS: (a) There is hereby created the Gayland Road Association, the members of which shall be all beneficial owners, as distinguished from security owners, of any buildable lot abutting platted and opened Gayland Street or Gayland Drive within the Subdivision. As of the date hereof, members of the Association shall include owners of Lot 2 and Lots 4 through 11, inclusive. Lot 1 is not included, as a sufficient portion thereof has been taken by the Iowa State Highway Commission so as to render such lot unbuildable and Lot 3 is not included, as Gayland Street South of the Northerly property line of Lot 4, extended Westerly, has not been opened.

STATE OF IOWA  
Filed for record on 3rd of March  
at 11:00 AM  
in Book 82 Page 10999  
John Scutera

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(b) The Association shall adopt Articles to govern the affairs thereof, which Articles may be amended from time to time by owners of a majority of the lots subject thereto. Provided, however, that the following provisions shall not be subject to change by amendment of such Articles:

1. The Association shall provide for the maintenance and repair of opened and existing Gayland Drive and Gayland Street which shall include only grading, graveling, and such repairs and ditch maintenance as are necessary to ensure the integrity of the traveled portion of the roadways; salting, sanding and snow removal are not included and, likewise, installation of any additional hard surfaced road, sewer, water lines, curb, gutter or the like, is not included;
2. The cost of such necessary repairs and maintenance shall be assessed equally to each lot owned by members of the Association and provision shall be made in the Articles for enforcement of such assessment and any unpaid assessment therefor shall constitute a lien against the lot or lots affected thereby;
3. The decision of the owners of a majority of the lots as to what maintenance and/or repair expense is necessary shall be binding upon all lot owners;
4. The Association shall have officers consisting of a President, Vice President, Secretary and Treasurer.

(c) Nothing herein shall be deemed to vest title to any roads or street covered hereby in the Association, nor shall the Association, or its members, be subject to claim, or liability, in tort, or otherwise, arising from the performance, or lack thereof, of road maintenance and/or repair duties.

13. This additional and amended covenant shall endure and be binding upon the parties hereto, their successors, or assigns, until January 1, 2000, at which time the same shall be automatically extended for successive periods of ten years unless by vote of the majority of the then owners of the lots it is agreed to change or terminate same in whole or in part, provided, however, that this additional covenant pertaining to road maintenance and repair shall terminate when the land within Kjeldgaard's Subdivision becomes a part of a duly incorporated municipality of the State of Iowa or is accepted within the road system of Pottawattamie County, Iowa.

The President of the Association shall be its chief officer and he shall communicate to the Association such matters and make such suggestions as may, in his opinion, tend to promote the purposes of the Association and shall perform such other duties as are necessarily incident to the office.

The Vice President shall perform all duties of the President during his absence.

The Secretary-Treasurer shall direct the administration and management of the Association, including the giving of notice of meetings, keeping and maintaining records and minutes of the Association and accounting for all monies received and expended for the use of the Association. The Treasurer shall make deposits in the bank or banks approved by the executive committee and funds from such accounts shall be drawn only on his signature.

Officers will be elected at the annual meeting of the Association, commencing at the annual meeting to be held in October of 1982 and shall thereafter serve for a term of one year or until the next annual meeting, whichever first occurs. Any officer who ceases to own property subject to the Association shall be deemed to have resigned as such an officer and as a member of the executive committee. The remaining members of the executive committee shall then choose a successor who shall serve until the next annual or called meeting of the members when his successor shall be elected.

#### ARTICLE VIII

##### AMENDMENTS TO ARTICLES

These Articles may be amended, subject to the limitations contained in the appropriate Restrictive Covenant pertaining to the Association, by a vote of the owners of a majority of the lots at any duly called meeting of the Association.

#### ARTICLE IX

##### BY-LAWS

The Association, by a vote of the owners of a majority of lots, may adopt, amend, or repeal in whole or in part By-Laws pertaining to the Association, which By-Laws will be binding upon all members, including those who may have voted against them.

COMPASS

6059

Feb 21<sup>st</sup>

STATE OF IOWA, Pottawattamie County  
Filed for record the 3<sup>rd</sup> day of March  
1982 at 3:55 o'clock P.M. and recorded  
in book 12 page 10999

CERTIFICATE OF AUTHENTICATION

STATE OF IOWA

POTTAWATTAMIE COUNTY

)  
) SS.  
)

*William Larson*  
Recorder  
*John Swartz*  
Deputy

I, Roger V. Wahl, being first duly sworn upon oath, do depose and state that I am the duly appointed and acting Secretary-Treasurer of Gayland Road Association and that the copy of the Articles of Association attached hereto is a true, correct, and identical copy of the original Articles of Association of said Gayland Road Association as adopted by such Association on the 3<sup>rd</sup> day of March, 1982.

*Roger V. Wahl*  
\_\_\_\_\_  
Roger V. Wahl

Subscribed and sworn to before me this 3 day of March.



*Charlotte R. Christians*  
\_\_\_\_\_  
Notary Public

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