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12-8-06

**DECLARATION OF RESTRICTIONS AND COVENANTS**  
**FOR LOFTUS SUBDIVISION**

Recorder's Cover Sheet

**Preparer Information:**

Richard A. Heining  
P.O. Box 249  
Council Bluffs, IA 51502-0249

**Taxpayer Information:**

John and Diane Loftus  
1201 Longview Loop  
Council Bluffs, IA 51503

**Return Address**

Richard A. Heining  
P.O. Box 249  
Council Bluffs, IA 51502-0249

**Grantors:**

John J. Loftus  
Diane K. Loftus

**Grantees:**

**Legal Description:** See Page 2

**Document or instrument number if applicable:**

**DECLARATION OF RESTRICTIONS AND COVENANTS  
FOR LOFTUS SUBDIVISION**

This Declaration is made this 7th day of <sup>December</sup> ~~November~~, 2006, by John J. Loftus and Diane K. Loftus, husband and wife, hereinafter called "Developer."

Developer owns the real estate commonly known as LOFTUS SUBDIVISION, in Pottawattamie County, Iowa. Developer desires to provide for the preservation of values in the development of said subdivision, and, therefore, desires to subject Lots 2 and 3 of said real estate to covenants, restrictions, easements, charges, and liens hereinafter set forth which are for the benefit of said property.

THEREFORE, the Developer hereby declares that the subject real estate be held, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth, which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof.

1. The real estate may not be improved, used or occupied for other than single-family private residential purposes, and no duplex, flat, apartment house, trailer, outbuilding or other exterior structure may be erected thereon or at any time used for human habitation. No residential building which previously has been at another location shall be moved onto the real estate. The real estate shall not be further subdivided.

2. No residence or exterior structure, driveway, well or septic system may be erected on the real estate unless and until the building plans, specifications, exterior color scheme, materials, location, elevation, grade soil erosion and sediment control plan and landscaping thereof have been submitted to and approved in writing by the Developer. Nor shall any change or alteration in such building plans, specifications, exterior color scheme, materials, location, elevation, grade and landscaping thereof be made until such change or alteration has been submitted to and approved in writing by the Developer. An exterior structure may not exceed the dimensions of 12 feet wide by 12 feet long by 8 feet high.

3. The construction and landscaping of any residence shall be completed within twelve (12) months from the date the construction of the foundation for the residence is commenced. Material and equipment used during the construction and landscaping process will be stored and maintained on the Lot in an orderly manner and discarded materials, rubbish and unneeded equipment will be removed from the Lot weekly. Construction and landscaping activities will be confined to the Lot on which the construction is in process.

4. No residence or exterior structure shall be placed, erected or used for business, professional, trade or commercial purposes on the real estate, provided,

however, that this restriction shall not prevent the maintenance of an office area in a residence which is not a principal place of business.

5. No noxious or offensive activity, including but not limited to motorcycle, ATV, 4 wheelers, and other motorized devices shall be run or carried on upon the real estate, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon the real estate or be permitted to accumulate or remain on the real estate, nor shall anything be done which may be or become an annoyance or a nuisance to the neighborhood. The grantees, their heirs, successors and assigns shall properly maintain the real estate in a neat, clean and orderly fashion. All residences and exterior structures shall be kept and maintained in good condition and repair at all times. No speaker, horn, whistle, siren, bell or other sound device, except intercoms and those used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Residence or in any yard.

6. Grantees, their heirs, successors and assigns shall not use, suffer or permit any person or persons in any manner whatsoever to use the real estate for any purpose in violation of the laws and regulations of the United States, the State of Iowa, Pottawattamie County, or any other lawful authority, or in any manner whatsoever which will constitute an unreasonable and improper invasion upon the quiet use and enjoyment of any adjoining property.

7. No vehicles, including but not limited to, trailers, tractors and other farm equipment, buses, campers, motor homes, recreational vehicles, boats, trucks, or commercial vehicles or any similar apparatus shall be parked, maintained or stored on the real estate unless parked, maintained and stored inside the residence or other outbuilding.

8. All public utilities and services on all lots shall be underground. Any damage to a residence or exterior structure shall be repaired within three months. No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence. Grantees, their heirs, successors and assigns shall keep drainage ditches, culverts and swales located on the real estate free and unobstructed and in good repair and shall provide for the installation of such culverts upon the real estate as may be reasonably required for proper drainage. No bright light (Mercury Vapor or Sodium) shall be placed on the exterior of any structure or constructed separately without the written consent of Developer, or its designees. No aboveground swimming pools shall be permitted. All pools and hot tubs shall be fenced, with materials and design approved by the Developer. All pools and hot tubs shall be kept clean and maintained in operable condition.

9. No outbuilding, fence, wall or other structure shall be erected upon the real estate without the prior written consent of the Developer.

10. No animal of any kind shall be raised, bred or kept on the real estate, except for dogs, cats and other household pets, not to exceed two (2) in number. Dogs shall be

confined to their Owner's Lot. No dogs shall be allowed to run at large. No dog runs shall be permitted on any lot.

11. All driveways must be improved with hard surface, (concrete or asphalt), consisting of materials approved in writing by Developer. All garage doors shall remain closed at all times except when necessary for entry or exit.

12. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on the real estate without the consent, in writing, of the Developer, except that one sign may be erected and maintained upon the real estate for the sole and exclusive purpose of advertising the real estate for sale or lease.

13. All yards and areas of any residence within 155 feet of the front property line, shall be fully seeded and shall remain fully seeded at all times thereafter, uniformly mowed and clipped with a length of grass not to exceed five inches. The remainder of the real estate shall be used as a sight barrier between Lots 2 and 1 and lots 3 and 1. Said area shall be maintained in a natural state with proper and timely forest preserve procedures and techniques used to control weeds and scrub trees. It is the intent of the Developer that this area shall remain in its natural state and form a sight barrier and to that extent this covenant shall be construed to create such a barrier. No trees over six inches in diameter at a point two feet above ground level may be removed from the real estate without the approval of the Developer, their heirs, successors or assigns.

14. As used herein, "residence" shall mean and refer to any portion of a building situated upon the real estate designed and intended for use and occupancy as a residence by a single family; "outbuilding" shall mean an enclosed, covered structure not directly attached to the residence to which it is appurtenant; "exterior structure" shall mean any structure erected or maintained on a lot other than the main residential structure or any outbuilding appurtenant thereto; and "grantee" shall mean the transferee.

15. Entrance to Greenview Road for Lots 2 and 3, shall be restricted to an easement area located 12 feet on either side of the mutual boundary line between said lots and extending 30 feet North from the North right of way line for Greenview Road. This easement shall run with the land and be binding on the heirs, successors in interest and assignees of the lot owners. Joint entrance to lots shall be maintained by the lot owners, with the expense of the maintenance to be split equally between the owners of said lots.

16. These restrictions and covenants shall run with the land for 21 years, and thereafter shall be automatically renewed by filing an Affidavit of Renewal by any lot owner.

17. Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

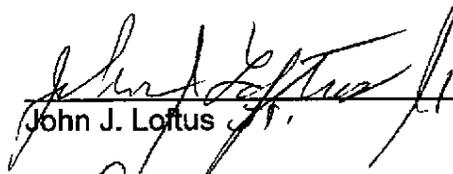
18. These restrictions and covenants may be amended by the owners of all lots in the subdivision, except that the original Developer reserves the right to amend these restrictions and covenants until all lots are sold.

19. MISCELLANEOUS:

- (a) **NOTICES:** Any notice required to be sent to any lot Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as a lot Owner on the records of the Pottawattamie County Assessor's web site at the time of such mailing.
- (b) **ENFORCEMENT:** Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages or both and against the land to enforce any lien created by these covenants, and failure by the lot owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- (c) **SEVERABILITY:** In the event any one of these covenants or restrictions are held invalid by a judgment or court order, this shall in no way effect any other provisions which shall remain in full force and effect.
- (d) **AMENDMENT:** This Declaration may be amended by written consent of all of the then lot owners within the subdivision. Such amendment shall be in writing and signed by the lot owners and recorded in the Pottawattamie County Recorder's Office.

Dated this 7<sup>th</sup> day of <sup>December</sup> November, 2006.

DEVELOPER:

  
\_\_\_\_\_  
John J. Loftus

  
\_\_\_\_\_  
Diane K. Loftus

STATE OF IOWA

)  
) ss.

COUNTY OF POTTAWATTAMIE

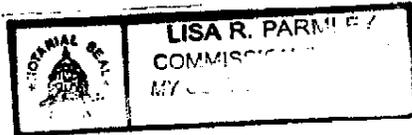
On this 7th day of <sup>December</sup> ~~November~~, 2006, before me, a Notary Public in and for the State of Iowa, personally appeared John J. Loftus and Diane K. Loftus, husband and wife; to me known to be the persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

*[Handwritten Signature]*

NOTARY PUBLIC IN AND FOR SAID STATE

(SEAL)

My Commission Expires: 2/22/08



MARILYN JO DRAKE  
POTTAWATTAMIE COUNTY AUDITOR  
AND ELECTION COMMISSIONER  
227 S. 6<sup>th</sup> St, Room 243  
P. O. BOX 649  
COUNCIL BLUFFS, IOWA 51502-0649



Gary Herman, First Deputy - Elections  
Paula Glade, First Deputy - Real Estate  
Donna West, First Deputy - Tax and Finance  
Phone (712) 328-5700  
FAX (712) 328-4740

## County Auditor's Certification

Pottawattamie County, Iowa

I, Marilyn Jo Drake, Auditor of Pottawattamie County, Iowa, or designee, do hereby certify that the subdivision name of the attached platting is unique within Pottawattamie County and is hereby approved.

Name of new subdivision:

LOFTUS SUBDIVISION

Paula E Glade 1<sup>st</sup> Deputy Dec. 7, 2006  
Signed Date

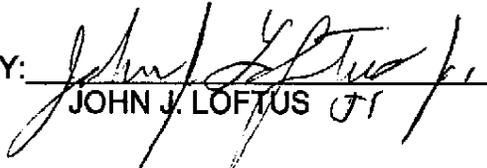
## JOINT ENTRANCE NOTICE

The Developer wishes to inform you as a prospective purchaser or as a purchaser of a Lot in Loftus Subdivision that, pursuant to paragraph 15 of the Declaration of Restrictions and Covenants for Loftus Subdivision, entrance to Greenview Road is restricted. The said Declaration indicates that the entrance will be a joint entrance to Lots 2 and 3 and be maintained by the owners of the Lots serviced by the entrance.

The Developer wishes to inform you that the Developer will install the tube in the ditch and a portion of the hard surface entrance. The cost of such installation will be assessed one-half to each Lot that the joint entrance serves. This cost will be added on to the price of the Lot that you are purchasing. The Developer is installing the joint entrance so that the joint entrance will be uniformly installed and available for each lot owner. This should avoid any problems concerning a lot owner not desiring to build on their lot and, therefore, not desiring an entrance to their lot at the time they purchased the lot. Once the joint entrance has been constructed by the Developer, it will be automatically turned over to the lot owners for all future maintenance, repairs, landscaping, and other costs associated with the joint entrance.

If you have any questions regarding this matter, please discuss them with the Developer prior to closing on the purchase of your lot.

Loftus Subdivision, DEVELOPER

BY:   
JOHN J. LOFTUS

BY:   
DIANE K. LOFTUS