

*Rick Gotschall*  
*Filed*

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RMF \$ 1.00

DECLARATION OF SUBMISSION  
OF PROPERTY TO  
HORIZONTAL PROPERTY REGIME  
FOR  
TIMBERLANE ESTATES CONDOMINIUMS,  
GLENWOOD, IOWA

*Indexed*  
*Recorded*  
*Mills Co*

The undersigned, Gotschall Development LLC, herein referred to as "DEVELOPERS" as the sole owners of the real estate hereinafter described, do, by these presents, express their desire to submit said real estate and the improvements thereon to the horizontal property regime established by the Horizontal Property Act, Chapter 499B, Code of Iowa, to be known as Timberlane Estates Condominiums, Glenwood, Iowa, and do hereby establish a horizontal property regime with respect to said real estate and improvements thereon, the same to take effect when filed for record in the office of the County Recorder in and for Mills County, Iowa.

ARTICLE I  
PURPOSE AND DEFINITION

1. Purpose. The purpose of this Declaration is to submit and convey the lands hereinafter described and the improvements constructed or to be constructed thereon, to the condominium form of ownership and use, pursuant to Iowa law.

2. Definitions. The terms employed shall have the meaning defined in Chapter 499B, 2001 Code of Iowa; unless the context or more particular provisions of any condominium document require a different meaning. Certain term are used as follows:

- (a) Plural and Gender. All words and phrases shall be taken to include the singular or plural according to the context and to include the female, male or neuter gender as way be applicable.
- (b) Successors. Reference to developers co-owners, or to any entity or association, shall include the respective successors, grantees and assigns thereof.
- (c) Tense. Upon the effective date of this Declaration use of the present tense shall include the future tense and use of the future tense shall include the past or present tense where the subject matter referred to relates to completion of an improvement or development that has not been or already has been completed as the case may be.
- (d) Condominium or Unit. The terms "unit" or "condominium apartment" are all used interchangeably throughout this Declaration means one or more rooms

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occupying all or part of a floor in the building which is to be used as a residence. A "condominium" or "unit" also means generally an area enclosed by walls and floors and including and defying by such walls which is capable of being owned as a separate parcel of real property under the Iowa Horizontal Property Act.

- (e) Co-owner. Co-owner means a person, corporation, or other legal entity capable of holding or owning any interest in real property who owns all or an interest in an apartment within the building.
- (f) Council of Co-owners. Council of Co-owners means all of the co-owners of the building. The business and affairs of the council of co-owners may be conducted by organizing a corporation not for pecuniary profit of which the co-owners are members, and shall mean all of the owners of the condominium units acting as a group in accordance with the bylaws and Declaration.
- (g) General Common Elements. General common elements shall mean and include those elements as set forth in Article V.
- (h) Limited Common Elements. Limited Common Elements shall mean those elements as set forth in Article V.
- (i) Majority of Co-owners or Percent of Co-owners. The terms "majority of co-owners" or "percent of co-owners" means the owners of more than one-half or owners of that percent of interest in the building irrespective of the total number of co-owners.
- (j) Property. Property includes the land whether committed to the horizontal property regime in fee or as a leasehold interest, the building, all other improvements located thereon, and all easements, rights and appurtenances belonging thereto.
- (k) Building. Building means and including one or more buildings, whether attached to one or more buildings or unattached; provided, however, that if there is more than one building, all such buildings shall be described and included in the Declaration, or an amendment thereto, and comprise an integral part of a single horizontal property regime.

## ARTICLE II DESCRIPTION OF LAND

1. Land. The land hereby submitted to the Horizontal Property Regime is situated in Glenwood, Mills County, Iowa, and is legally described as follows:

A parcel of land located in part of Lot 3 of the NE1/4 of Section 12, Township 72 North, Range 43 West of the 5th Principal Meridian, in the City of Glenwood, Mills County, Iowa, said parcel being more fully described as follows:

Lot 11, GOLF VIEW ADDITION DIVISION 5

2. Survey. A duly certified plat of survey and legal description is attached hereto, marked Exhibit "A" and made a part hereof. Also reflected thereon is a site or plot plan of said legal description showing the approximate location of the condominium unit building constructed or to be constructed thereon and showing graphically the approximate location of certain common elements and limited common elements hereinafter referred to.

### ARTICLE III DESCRIPTION OF BUILDINGS AND PROJECT

The project includes five (5) buildings described as follows:

1. Condominium Unit Buildings. The four one story buildings shall consist of four

duplexes housing two units each with a common wall between the units; and a four-plex housing four units with common walls between the units as shown on the survey. Each condominium will have a ground floor containing approximately 1379 square feet of living space, a basement of the same area, and a garage. The structures will consist of poured concrete flooring, poured concrete foundations, conventional wood frame construction and sheet rock. Each unit will also contain one stairway connecting the basement and the ground floor.

2. Deck or Patio Unit. Each condominium shall have a limited common element attached to the unit for a deck or patio. Said deck or patio unit shall be limited to the exclusive use of the accompanying condominium and subject to underground utility easements and easements of access to maintain the exterior of the unit.

3. Revisions by Developers. The Developers reserve the right to change the interior design and arrangement of all apartments and to alter the boundaries between apartments, so long as the Developers own the apartments so altered. Any such change shall be reflected by an amendment to this Declaration which may be executed by the Developers alone, notwithstanding the procedures for amendment described in Articles XIX and XX of this Declaration. However, no such change shall increase the number of condominiums nor alter the boundaries of the common elements without amendment of this Declaration in the manner described in Articles XIX and XX of this Declaration. If more than one condominium is altered, the Developers shall appropriately reapportion the shares in the common element which are allocated to the altered condominiums.

#### ARTICLE IV IDENTIFICATION OF CONDOMINIUM UNITS AND DECK

1. Condominium Units. The number of each unit and condominium identified by a "unit" number, its location, area, number of rooms and the immediate common areas to which it has access, are shown on the attached surveys and other attached drawings as if fully set forth herein.

#### ARTICLE V COMMON ELEMENTS

1. General Common Elements. General common elements shall mean and include:

- (a) The real estate described above.
- (b) The site improvements to the land include the foundations, floors, exterior walls of each condominium, and of the buildings, ceilings and roofs. In general, all devices or installation existing are for the use of all of the individual condominiums or unit owners.

- (c) The private road which provides access from the County Road to the condominium buildings, as shown on the attached survey.

2. Limited Common Elements. Limited Common Elements shall mean:

- (a) Any limited common elements as defined by law.
- (b) All sewer, water, television or other utility or service lines or facilities or limited elements as defined by law as serving only an condominium unit.
- (c) Patio and deck units.
- (d) The driveway to each garage and sidewalks from the driveway to the front front.

ARTICLE VI  
COMMON INTERESTS

The Co-owner of each condominium or unit shall own and there shall be appurtenant thereto an undivided interest in the land and other common elements and facilities of the regime, general or limited, an undivided one-twelfth (1/12) interest.

ARTICLE VII  
OWNERSHIP OF PARTS OF BUILDING

The owner of a condominium shall not be deemed to own pipes, wires, conduits or other public utility lines running through his condominium which are utilized for or serve more than one condominium except as a tenant in common with the owner or owners of any other condominium or condominiums which said pipes, wires, conduits or other public utility lines way serve. The owner of an condominium shall, however, be denied to own the walls and partitions which are contained in his condominium and also shall be denied to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including plaster, paint, wallpapers, linoleum, carpeting, etc., provided, however, that said plaster, paint, wallpaper, linoleum, carpeting, etc., are deemed to be permanent part of each condominium which may be required to be repaired and/or removed therefrom.

ARTICLE VIII  
UTILITY EASEMENT

In the event pipes, wires, conduits or other public utility lines run through one condominium which are utilized for or serve one or more condominiums, a valid easement for the maintenance of said pipes, wires, conduits or other public utility lines shall exist and in the event any part of



the building is partially or totally destroyed and later rebuilt, repaired or restored as hereinafter provided, a valid easement for replacement or maintenance of said pipes, wires, conduits or other public utility lines shall exist.

#### ARTICLE IX DESTRUCTION

In the event of damage to or destruction of all or any part of the property, such damage or destruction shall be rebuilt, repaired or restored by the Board of Directors in accordance with the Bylaws, unless at a special meeting of the Council of Co-owners called for such purpose within thirty (30) days after the occurrence of such damage or destruction, the Co-Owners of not less than two-thirds (2/3) of the common interests vote not to rebuild, repair or restore such damage or destruction of the property.

#### ARTICLE X FINANCIAL STATEMENT

Upon written request from any unit owners, lenders and the holders and insurers of the first mortgage on any unit or which has a prospective interest in the condominium, the Council of Co-owners shall prepare and furnish within a reasonable time a financial statement for the immediately preceding fiscal year.

#### ARTICLE XI VOTING

The record owners of each condominium in Timberlane Estates Condominiums shall be members of the Council of Co-owners of Timberlane Estates Condominiums during the period of time for which they are the owners of record of a fee simple title or a purchaser's interest in a recorded real estate contract and shall be entitled to one (1) vote for each condominium. For the purposes hereof, a mortgagee shall not be deemed an owner until such mortgagee has acquired title of record.

#### ARTICLE XII COUNCIL OF CO-OWNER'S RIGHTS AND RESTRICTIONS

Section 1. Right of Entry Upon Units and Limited Common Elements. The Council of Co-owners shall have the right to enter upon unit premises and limited common elements to effect emergency repairs, and a reasonable right of entry thereupon to effect other repairs, improvements, replacements or maintenance deemed necessary.

Section 2. Power to Grant Rights and Restrictions in Common Elements. The Council of Co-owners shall have the power to grant other rights, such as the right to grant utility easements under, through or over the common elements, which rights are reasonably necessary to the

ongoing development and the operation of the project. Damages resulting from the exercise of any of the above rights shall be borne by the Council of Co-owners.

Section 3. Assessments (1) Levy and Collection. The Council of Co-owners shall have the authority to levy and enforce the collection of general and special assessments all as set forth in the Bylaws of the Council of Co-owners. The assessments against any unit, with interest, costs and reasonable attorney's fees shall be a line upon such unit in accordance with the Bylaws and applicable law.

Section 4. Reserves and Working Capital. There shall be established an adequate reserve fund for the periodic maintenance, repair and replacement of the common elements, which fund shall be maintained out of the regular assessments for common expenses. Additionally, a working capital fund must be established for the initial months of the project operations equal to at least a two months' estimated common area charge for each unit.

Section 5. Priority of Lien. Any lien of the Council of Co-owners for common expense charges and assessments becoming payable on or after the date of recordation of the first mortgage, shall be subordinate to the first mortgage on the unit.

Section 6. Insurance. The Council of Co-owners may specify the minimum type and terms of insurance each property owner must carry on their apartment.

#### ARTICLE XIII BYLAWS

,The administration and operation of the property shall be covered by Bylaws, a true copy of which is attached hereto and filed with this Declaration, and made a part hereof. Each condominium or unit co-owner shall comply strictly with the Bylaws and with the administrative rules and regulations adopted pursuant thereto, or as the same may be lawfully amended from time to time.

#### ARTICLE XIV MISCELLANEOUS PROVISIONS

1. Air Space. In addition to the fee simple ownership of a condominium there shall be as an appurtenant thereto an exclusive easement for the use of the air or room space within the condominium and to the limited common elements of that condominium as the same exists from time to time or as altered or reconstructed from time to time subject to necessary and authorized easements for maintenance, repair and the like, which appurtenants shall be terminated automatically in the event of termination of the regime.

2. Possession of Common Elements. Each condominium owner, the Developers, and the Co-owners may use the common elements other than limited common elements for the purpose for which they are maintained, but without hindering or encroaching upon the lawful rights of other users.

3. Condemnation and obsolescence. The contingencies of condemnation and long-term obsolescence have not been provided for in this Declaration and may be governed by appropriate amendments to this Declaration and/or the Bylaws as the case may be.

4. Partition. The common elements shall remain undivided and not only may no condominium co-owner, but also no other person, may bring an action for the partition or division of the whole or any part thereof with or without sale, except in connection with removal or all of the property from the regime pursuant to 499B.8, Code of Iowa, or a specific determination not to repair, reconstruct, or rebuild with the consequence set forth in 499B.16 thereof.

5. Compliance with Rules and Regulations. Each owner, tenant or occupant of a unit shall comply with the provisions of Chapter 499B, Code of Iowa, this Declaration, and the Bylaws, decisions and resolutions of the Council of Co-owners and Board of Administration and failure to comply with the same shall be grounds for an action to recover damages or for injunctive relief.

6. Contribution Towards Common Area Expense. No owner of a unit may exempt himself from liability for his contribution towards the common expenses by waiver of the use and enjoyment of any of the common elements and facilities or by the abandonment of his condominium.

7. Conveyance. The undivided interest in the general and restricted common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

8. Future Owners. All future owners, tenants, future tenants, or any other person that might use the facilities of the project in any manner, are subject to the provisions of this Declaration, and the mere acquisition of any of the units shall signify that the provisions of this Declaration are accepted and satisfied.

#### ARTICLE XV OBLIGATIONS OF THE OWNERS

The obligations of the owners shall be as set forth herein and in the Bylaws of the Council of Co-owners.



ARTICLE XVI  
FIRST LIEN HOLDER'S RIGHT

Section 1. Notice of Action. A holder, insurer or guarantor of a first Mortgage, upon written request to the Council of Co-owners (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 interests 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 owners 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 condensation loss or any casualty loss which affects a material portion of the condominium 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 owners association pursuant to paragraph 14(a)(i) and (ii).

Section 2. Other Provisions for First Lien Holders. The following provisions shall be binding with respect to the condominium by virtue of the constituent documents, applicable law or otherwise:

- (a) Any restoration or repair of the condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on units to which at least 2/3rds 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 the first mortgages on units to which at least 2/3rds 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 condensation or partial destruction of the condominium project is fixed in advance by the declaration or by applicable law, no reallocation of interests 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 the first mortgage on units to which at least 2/3rds of the votes of units are 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 in a condominium which has requested notice in accordance with the provisions of Section 1 above.

#### ARTICLE XVII ALTERATIONS AND IMPROVEMENT

Except as provided in Article III (3), there shall be no alteration of the building containing the condominium units nor shall there be any alterations or improvements added to the premises, lands or other common elements or facilities until 90% of the units have been sold by the developers. Thereafter no alterations or improvements shall be made or added without the question being first put to a vote at a membership meeting of the Council of Co-owners as provided by the Bylaws, and any such alterations or improvements may be done only if 75% of the voting units in existence are voted in favor thereof and if the dissenting co-owners are relieved from the cost and their share of the cost is borne by the assenting co-owners.

#### ARTICLE XVIII COVENANTS RUNNING WITH THE LAND

All the covenants, agreements, obligations, conditions and other provisions set forth in this Declaration and the Bylaws shall be deemed covenants running with the land so long as the property is subject to the Horizontal Property Act, and said covenants may be enforced by appropriate legal action including a suit for injunctions, mandatory or restraining, and action for damages by the Board of Directors or by any apartment owner.

#### ARTICLE XIX AMENDMENT OF DECLARATION

Except for changing the TIMBERLANE ESTATES CONDOMINIUMS and except for the provisions of Article III (3) and Article XX, this Declaration may be modified or amended from time to time by a vote of the owners of not less than two-thirds (2/3) majority of all the common interests at any annual meeting or at any special meeting called for such purpose and any amendment shall be effective only upon an instrument setting forth such amendment and vote at such meeting duly certified by the President or Vice-President and Secretary or Treasurer of the Council of Co-owners and duly recorded.

## ARTICLE XX

The developers expressly reserve for themselves and their successors and assigns, for a period of five (5) years or until 90% of the proposed twelve (12) condominium units have been sold and title passed to the purchasers, whichever event first occurs, the right to execute on behalf of all contract purchasers, unit owners, mortgagees, other lien holders, and parties claiming any legal or equitable interest in the Horizontal Property Regime or in any unit, any amendments to this Declaration which it may deem appropriate, including but not limited to:

1. Adding units and lands to the area included within the Condominium Regime and adjusting proportionate share of the common elements, share of costs, and voting rights proportionately. The voting right and proportionate share of the common elements of the owners of each unit shall be determined in the isomer set forth within the Bylaws.
2. Adding to or altering the location, size or purpose of easements and lands for utilities, roads, access, parking, egress, drainage or financing purposes.
3. To permit the users or occupants of lands owned by or controlled by the grantor to utilize easements, roads, drainage facilities, utility lines, and the like within and servicing the condominium, on such fair and equitable terms and conditions as shall be negotiated with the Condominium Regime.
4. To surrender or modify rights of the grantor in favor of the unit owners or the Condominium Regime or their respective mortgagees.
5. To amend, alter, or change the interior design and of all units and to alter the boundaries between units and the parking areas.
6. Any amendment to the Declaration will become effective upon the recording of an amendment to the Declaration in the office of the Mills County Recorder. The grantor will, thereafter, provide copies of said amendment to each owner and mortgagee affected thereby.

## ARTICLE XXI SEVERABILITY

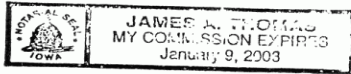
The invalidity of any part or portion hereof or of any part or portion of the Bylaws shall not affect the validity of the remaining portion.

Dated this 31 day of July, 2001.

Gotschall Development L.L.C.  
  
Richard Gotschall, Managing Partner

STATE OF IOWA                    )  
  )  
COUNTY OF MILLS                )

On this 31 day of July, 2001, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Richard E. Gotschall, Managing Partner of Gotschall Development LLC, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.



James A. Thomas  
Notary Public in and for said State

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BYLAWS OF THE COUNCIL OF CO-OWNERS OF  
THE HORIZONTAL PROPERTY REGIME (CONDOMINIUMS) KNOWN AS  
TIMBERLANE ESTATES CONDOMINIUMS

ARTICLE I  
CONDOMINIUM PLAN OF OWNERSHIP

SECTION 1. OWNERSHIP. The property known as "Timberlane Estates Condominiums", Glenwood, Iowa, is submitted to the provisions of Chapter 499B of the Code of Iowa.

SECTION 2. APPLICABILITY OF BYLAWS. The provisions of these Bylaws are applicable to the property. The term "property" as used herein shall include both the land and the building or buildings located thereon.

SECTION 3. PERSONAL APPLICATION. All present or future owners, tenants, future tenants, or their employees, or any other person that might use the facilities of the condominium in any manner, are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of any of the condominiums or the mere act of occupancy of any of said condominiums will signify that these Bylaws are accepted, ratified and will be complied with.

ARTICLE II  
MANAGEMENT OF THE REGIME

SECTION 1. COUNCIL OF CO-OWNERS, MEMBERSHIP, VOTE OR OTHER ACTION OF OWNERS. The business and affairs of the regime shall be governed and managed by the Council of Co-Owners of Timberlane Estates Condominiums (hereinafter referred to as Council). All owners of condominiums shall automatically be members of the Council and membership in said Council shall automatically cease upon termination of such ownership interest. Whenever a vote or other action of the condominium 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 Council subject to the Bylaws.

SECTION 2. AGREEMENTS AND COMPLIANCE. All owners, tenants' families, guests, and other persons using or occupying the regime shall be bound by and strictly comply with the provisions of this Declaration and the Bylaws and applicable provisions of the other condominium documents, and all agreements and determination lawfully made by the Council, the officers duly elected by said Council, or their agents, shall be binding on all such persons. A failure to comply with the Bylaws, or the provisions of any other condominium document, or any other agreement or determination thus lawfully made shall be grounds for an action to recover the sums due for damages on the part of the Council or any owner as may be applicable and for mandatory or injunctive relief; and the use of any legal remedy by the, Council or by an owner to enforce compliance shall in no event constitute a waiver of any other available remedy.



SECTION 3. INCLUDED POWERS, FORECLOSURE OF LIEN, WAIVER OF PARTITION. Each owner agrees that the Council has and shall exercise all powers, rights and authority granted to it by Chapter 499B, Code of Iowa, as the same way be hereafter amended, and such as are more particularly set forth in the condominium documents, including the making of assessments chargeable to owners and a lien on condominiums for any common expenses, and the right to foreclose the lien thereof and acquire an condominium at the foreclosure sale and to hold, lease, mortgage, or convey the same, but such acquisition shall be on behalf of all condominium owners, all of whom shall be deemed to have waived his right of partition with respect thereto.

SECTION 4. NO AVOIDANCE OF WAIVER OF USE; RIGHT OF ENTRY. The liability of an condominium owner for all assessments made by the Board or by the Council may not be avoided by waiver of the use of enjoyment of any common element or any recreational facility or by abandonment of any condominium for which an assessment is made. The Council shall have the right exercisable at reasonable times to enter a condominium as may be necessary or advisable to carry out its responsibilities.

### ARTICLE III VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

SECTION 1. VOTING. Voting shall be on the basis to which the owner or owners of each condominium is assigned in the Declaration.

SECTION 2. QUORUM. Except as otherwise provided in these Bylaws, the presence in person or by proxy of those owners having a majority or more of the votes assigned in the Declaration shall constitute a quorum.

SECTION 3. PROXIES. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

SECTION 4. ADJOURNMENT. Any meeting of the Co-owners of the condominium unit, whether annual or special, may be adjourned from time to time whether a quorum be present or not without notice other than the announcement at the meeting, and such adjournment may be to such time and to such place as may be determined by a majority vote of the common interests present at the meeting. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting as originally called and notified.

SECTION 5. MINUTES OF COUNCIL OF CO-OWNERS. The Secretary shall furnish the minutes of any meeting of the Council of Co-owners when requested in writing by any condominium unit owner.

ARTICLE IV  
MEETINGS OF COUNCIL

SECTION 1. PLACE OF MEETINGS. Meetings of the Council of Co-owners of Timberlane Estates Condominiums (hereinafter referred to as "Council") shall be held in such place convenient to the Co-Owners in the City of Glenwood, as may be designated by the President.

SECTION 2. OFFICERS. The President or Vice President and Secretary of the Board of Directors of the Council shall serve as President and Secretary respectively of the Council. The Secretary shall keep a minute book wherein the actions taken by the Council shall be recorded.

SECTION 3. ANNUAL MEETING. The first annual meeting of the Council shall be held on September 1, 2001. Thereafter, the annual meeting of the Council shall be held on the 1st day of February of each succeeding year. At such meetings vacancies and expired terms of the Board shall be filled by ballot of the owners. The owners way at the annual meeting also transact such other business of the Council as way properly cam before them.

SECTION 4. SPECIAL MEETINGS. It shall be the duty of the President to call a special meeting of the Council upon a petition signed by the owners having a majority of the votes assigned in the Declaration being presented to the Secretary or upon the call of any two (2) directors. The notice of any such special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of three-fourths (3/4) vote of the owners.

SECTION 5. NOTICES OF MEETINGS AND OTHER NOTICES. A written or printed notice of all meetings, annual or special stating the place, day and hour of the meeting and whether it is annual or special and in case of each special meeting stating briefly the business proposed to be transacted thereat, and any other notices permitted or required to be delivered by these Bylaws shall be given by mailing such notice, postage prepaid, at least ten (10) days before the date assigned for the meeting or by delivery of such notice personally at least two (2) days before the date assigned for the meeting, to the Co-owners of the condominium units at their address at Timberlane Estates Condominiums or at the address given to the Board for the purpose of service of such notices. Upon written request for notices delivered to the Board, the holder of any duly recorded mortgage from any owner of a condominium unit may obtain a copy of any and all notices permitted or required to be given to the owner of the condominium unit whose interest is subject to said mortgage. Upon notice being given in accordance with the provisions hereof, the failure of any owner of a condominium unit to receive actual notice of any meeting shall not in any way invalidate the meeting or proceedings thereat. Each such Co-owner shall keep the Board informed of any changes in address.

SECTION 6. WAIVER OF NOTICE. Before or at any meeting of the Council, any owner nay, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by an owner at any meeting of the Council shall be a waiver

of notice by him of the time and place thereof unless the owner is attending the meeting for the purpose of objecting to the meeting because inadequate notice was given. If all the owners are present at the meeting of the Council, no notice shall be required and any business may be transacted at such meeting.

SECTION. 7. ADJOURNED MEETINGS. If any meetings of owners cannot be organized because a quorum has not attended, the owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than twenty-four (24) hours nor more than one (1) week from the time the original meeting was called.

#### ARTICLE V ADMINISTRATION

SECTION 1. BOARD OF DIRECTORS--NUMBER AND QUALIFICATION. The affairs of the Council of Co-Owners shall be governed by a Board of Directors (hereinafter referred to as "Board"). The number of the initial Board is two (2) who shall serve until the date hereafter fixed for the expiration of their terms or until their successors are elected, and thereafter, board members shall be elected for terms of one (1) year or until successors are elected. The names and address of the persons who are to serve as the initial board members are as follows:

NAME	ADDRESS
Richard Gotschall	116 S. Walnut, P O Box 271 Glenwood IA 51534
Candace A. Gotschall	116 S. Walnut, P O Box 271 Glenwood IA 51534

A majority of the number of board members shall constitute's quorum for the transaction of business. Thereafter, the Board shall be composed of three (3) persons, all of whom shall be owners or spouses or mortgagees of condominium units, or, in the case of corporate owners or mortgagees, shall be officers, stockholders or employees of such corporations, or in the case of fiduciary owners or mortgagees shall be the fiduciaries or officers or employees of such fiduciaries.

SECTION 2. CHAIRMAN, MEETING, NOTICE. The President shall preside at all meetings of the Board. The Board shall hold meetings as often as the business of the Council may require at the call of the President or any two (2) directors. The secretary shall give notice of each meeting of the Board, either orally or in writing by mailing or delivering the same not less than one (1) day before the meeting, unless otherwise prescribed by the Board. The failure by the secretary to give such notice or by any director to receive such notice shall not invalidate the proceedings of any meeting at which a quorum of directors is present.

SECTION 3. QUORUM AND ADJOURNMENT. The majority of the directors shall constitute

a quorum. No action taken, other than the appointment of directors to fill temporary vacancies or as otherwise provided in these Bylaws, shall be binding unless it received the concurring vote of a majority of the directors present. In the absence of a quorum, the President or a majority of the directors present may adjourn the meeting from time to time without further notice until a quorum be had.

SECTION 4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS. The Board for the benefit of the Co-owners of the condominium owners, shall have the following powers and duties:

- a. To engage and contract for all goods and services which the Board in its discretion, deems necessary for the proper operation of the premises or as required or permitted by these Bylaws or by law, payment for which will be made from the assessments and service charges paid by the Co-owners in accordance with these Bylaws and as assessed by the Board.
- b. To provide, or cause to be provided, all services, including utility services, used in common or jointly by the common elements, limited common elements and condominium units as initially incorporated in the premises, or as shall be incorporated in the premises from time to time in accordance with these Bylaws, payment for which will be made from assessment and service charge as assessed by the Board.
- c. Collection of the assessments from unit owners.
- d. To maintain or cause to be maintained detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and other expenses incurred and to make such records and the vouchers authorizing the payments available for the examination by the owners of the condominium units during reasonable business hours.
  - a. To render or cause to be rendered annually a statement to the Co-owners of the condominium units of all receipts and disbursements during the preceding year.
  - b. To render or cause to be rendered statements, when required by law, of any assessments which remain unpaid by any Co-owner of the condominium units.
  - c. To bring action on behalf of two or more of the Co-owners of the condominium units, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one condominium unit as the Board deem advisable.



- d. To elect the officers of the Council and otherwise exercise the powers regarding officers of the Council as set forth in these Bylaws.
- i. To determine who shall be authorized to make and sign all instruments on behalf of the Council and the Board.
- j. To designate and remove personnel necessary for the maintenance, repair and replacement of the common elements, and to engage such other services necessary and proper for, and incidental to, the operation of the premises as deemed advisable by the Board.
- k. To procure fidelity bonds covering all officers and employees of the Council handling and responsible for the Council's fund and personal property, and to procure Directors and Officers Liability Insurance if the Board deems it advisable. The premiums for such bonds and insurance shall be paid by the Council as common expenses.
- l. To perform any and all duties Imposed on the Board by applicable law.
- m. To determine policies and to adopt house rules and regulations governing the details of the operation and use of the premises, including the common and limited common elements and to amend such house rules and regulations from time to time as the Board deems advisable.

SECTION 5. VACANCIES, SUCCESSOR AND SUBSTITUTE DIRECTORS. If any permanent vacancy shall occur in the Board through death, resignation, removal or other cause, and unless such vacancy is filled by a special meeting of the Council called for such purpose, the remaining directors, by majority vote of the remaining directors shall elect a successor director to fill such vacancy and to hold office until the next annual meeting of the owners. At such annual meeting, the owners shall elect the successor director to fill such vacancy and to hold office for the unexpired portion of the term.

In case of a temporary vacancy due to the absence of any director from the State of Iowa, or the sickness or disability of any director, the remaining directors, by majority vote of the remaining members, may appoint a substitute director who shall be a director during such absence or disability and until such director returns to duty. The determination by the Board, as shown in the minutes, of the fact of such absence or disability and the duration thereof shall be conclusive.

SECTION 6. COMPENSATION OF MEMBERS OF BOARD. There shall be no compensation paid to members of Board for acting as such, but they shall be reimbursed for expenses incurred by them.

SECTION 7. LIABILITY AND INDEMNIFICATION OF MEMBERS OF BOARD. The



directors and officers shall be free from all personal liability for any acts done on behalf of the Council and in the capacity of a director or officer of for any losses incurred by the Council or the Co-owners of the condominium units unless the same shall have occurred through their willful negligence or misconduct. Every director and officer shall be indemnified by the Council against all reasonable costs, expenses and liabilities (including attorney fees) imposed upon him in connection with any claim, suit, proceeding or investigation of whatever nature by reason of his being or having been a director or officer of the Council as common expenses, except as liable for willful negligence or misconduct in the performance of his duties as director or officer. The foregoing right of indemnification shall inure to the benefit of the heirs, administrators and executors of such person.

## ARTICLE VI OFFICERS

SECTION 1. ELECTION OF OFFICERS. The officers of the Council shall be elected annually by the Board at the Annual Meeting to be held immediately following the annual meeting of the Council and shall hold office at the pleasure of the Board.

SECTION 2. DESIGNATION. The principal officers of the Council shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board and shall serve as such officers without compensation. Any member of the Board way at the same time hold the positions of any two (2) officers, except President and Vice President.

SECTION 3. PRESIDENT. The President shall be the chief executive officer of the Council. The President shall preside at all meetings of the Board and of the officers of the Council. The President shall have all of the general powers and duties which are usually vested in the office of president including but not limited to the power to appoint committees from among the owners from time to time as the President may decide to appoint to assist in the conduct of the affairs of the Council.

SECTION 4. VICE PRESIDENT. The Vice President shall take the place of the President and shall perform said duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the board shall appoint solve other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon the Vice President by the Board.

SECTION 5. SECRETARY. The Secretary shall keep the minutes of all meetings of the Board and Council; shall have charge of such books and papers as the Board and Council way direct; and shall, in general, perform all duties incident of the office of Secretary.

SECTION 6. TREASURER. The Treasurer shall have responsibility of Council funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Council. The Treasurer shall be responsible for the

deposit of all moneys and other valuable effects in the name, and to the credit, of the Council in such depositories as may from time to time be designated by the Board.

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

The ownership, use, occupation and enjoyment of each condominium and the common elements of the regime shall be subject to restrictive covenants, conditions, easements, or other encumbrances of record and to the provisions of the Bylaws of Timberlane Estates Condominiums, this Declaration, and all statutes or ordinances legally applicable to the regime.

SECTION 1. SPECIFIC COVENANTS. The specific covenants are:

- a. Condominiums shall be used and occupied for single family dwelling purposes only.
- b. A condominium may be rented or leased by the co-owner on an occasional or casual basis only provided the entire condominium is rented, and the occupancy is only by the lessee and his family. Any lease which is for a period of one (1) year, or renewal of a previous lease term which would result in the tenant eventually residing on the premises for more than one (1) year, shall be subject to the approval of the Council. No lease shall relieve the co-owner as against the Council and other owners from any responsibility or liability imposed by the condominium.
- c. No owner of a condominium shall have power to convey, mortgage, pledge, sell or lease such condominium unless and until, (1) all common charges assessed or accrued have been paid; (2) all unpaid liens against such condominium in favor of the Council or individual members thereof have been satisfied.
- d. No condominium Co-Owner may paint or add structures or equipment to the exterior.
- e. The Council may (1) approve temporary structures, the, same being otherwise prohibited, (2) adopt and enforce other reasonable restrictions and regulations relating to the use and enjoyment of the condominium premises.
- f. A person purchasing an condominium who has a family pet may bring the family pet with him, providing that said family pet is made known to the Council. The owner of each unit shall be responsible for all cleanup which would need to be

done to the common areas in the event the pet leaves feces, etc. on said common areas. However, no additional animals or poultry shall be kept on the premises and the family pet shall not be replaced. No animal pens, shed, fences or other out buildings or structures of any kind shall be erected by any condominium owner on any common area. No activity is allowed which duly interferes with the peaceful possession and proper use of the property by its co-owners, nor shall any fire hazard or unsightly accumulation or refuse be allowed.

- g. Each condominium co-owner covenants and agrees with all other condominium owners to repair and maintain his own condominium and keep the same in good repair for the benefit of all such other condominium owners as may be required and applicable and to pay his share or his separately metered utility expenses.
- h. Each condominium co-owner shall give notice to the Council of every lien against his condominium other than mortgages, taxes and the council assessments, and of any suit or proceeding which may affect the title to his condominium, within ten (10) days after the lien attaches or the owner receives notice of such suit.
- i. A condominium owner shall be liable to the Council for the expenses of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of his family, guests, employees, agents or lessees, which liability shall include any increase in insurance rates resulting therefrom.
- j. No noxious or offensive activity shall be carried on upon any unit, nor shall anything be done thereon which way or may become an annoyance or nuisance to the neighborhood.
- k. No sign of any kind shall be displayed to the public view on any unit except a sign of not more than five (5) square feet advertising the property for sale, or signs used by the developer to advertise the property during the construction and marketing period.
- l. No unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition out of public view. No excess or mused building material or materials shall be kept, stored, or otherwise maintained on any unit in a location within public view, other than for use or uses connected and conterminous with approved or permitted construction.
- m. Only the vehicles of the condominium owner or its guests or invitees may be parked on the driveway of the unit or on the private road which services the

regime. No inoperative vehicles of any kind shall ever be parked on the driveways or on the private road, and guests or invitees may only park on said areas for a reasonable time so as not to interfere with the use and enjoyment of the other owners of the units. No boats, trailers or other item shall be allowed to park on the driveways on the private road for a period of over twenty-four (24) hours. There shall be no commercial ventures operating on the premises or in the units other than one-man businesses which can be operated without walk-in traffic.

SECTION 2. EASEMENTS AND LICENSES. Easements and licenses for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these areas no structure planting or other material shall be permitted to remain which may damage or interfere with the installation and maintenance of utilities access to meters, shut off valves and other things, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement and license area of each unit and all improvements in it shall be maintained continuously by the owner of the unit, except for the improvements for which a public authority or utility company is responsible. Service areas are for the purpose of allowing the utilities access to meters, shut off valves and other things associated with the service provided by the utilities.

An express easement is also hereby dedicated to the Association over any patio, courtyard or other exterior premises or within any dwelling unit for purpose of access or maintaining the exterior of the structure including, but not limited to, roofing, gutters, flashing, shutters and exterior or party walls.

SECTION 3. NONDISCRIMINATION. The covenants and restrictions contained herein are in no way intended to be used or to be interpreted so as to discriminate on the basis of race, color, creed, sex or national origin.

SECTION 4. DURATION. The covenants and restrictions herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Board, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-owners of three-fourths (3/4) of the units has been recorded, agreeing to change said covenants and restrictions in whole or in part.

#### ARTICLE VIII MAINTENANCE, ALTERATION AND IMPROVEMENT

SECTION 1. TERMS. Although the same are not susceptible to precise delineation, and the use of one shall not be deemed to exclude the applicability of another unless specifically so stated or



required by the content, certain terms are employed in this Article as follows: "Maintenance" is generally used to include all repair, renovation, restoration, reconstruction, or rebuilding as may be necessary to maintain the partnership units and condominium property in the same or better condition as when this Declaration was adopted; "Alteration" relates to changes from such state other than maintenance; "Improvement" relates generally to the addition of new structures, elements, or facilities other than those referred to in this or any supplemental declaration. The provisions of this Article are applicable where the work done or required is not caused by specific casualty but shall also apply in the event of maintenance, alteration or improvement necessitated by casualty or condemnation unless different provisions are specifically made in the condominium documents dealing with such contingencies.

## SECTION 2. MAINTENANCE BY THE COUNCIL OF CO-OWNERS OF TIMBERLANE ESTATES CONDOMINIUMS.

- a. All common elements and facilities limited or general shall be maintained by the Council as a common expense unless responsibility is otherwise imposed on the condominium owner as in paragraph 3 of this Article or otherwise.
- b. Incidental damage caused to a condominium through maintenance by the Council shall be repaired by the Council as a common expense.
- c. If a condominium owner defaults in his responsibilities of maintenance, the Council shall assume the same as a common expense and levy a special assessment against the condominium collectible as other assessments.
- d. All elements shall be considered common and maintained by the Council except those specified under paragraph 3 of this Article. Maintenance by Co-Owner, and paragraph 4 of this Article Maintenance of Limited Common Elements.

SECTION 3. MAINTENANCE BY OWNER OR CO-OWNER. The owner or co-owner of a condominium unit (hereinafter referred to as owner) at owner's expense shall keep the interior as well as all fixtures and appliances located therein, of each condominium unit and garage unit appurtenant thereto in good order and repair and shall be responsible for any damage or loss caused by failure to observe or perform this covenant. Each owner shall be responsible for the repair, maintenance and replacement of all exterior doors and the mechanical operators thereof and window glass and screens appurtenant to said owner's condominium; it being understood that the only Council maintenance of exterior doors shall be the painting or finishing of the exterior surfaces thereof. The owner shall also be responsible for any damage caused by owner to the common elements by the negligent use thereof. The owner shall be responsible to maintain at owners expense any personalty such as carpet, furnishings, plug in appliances located within a unit. Each condominium owner at owner's expense shall also maintain any fixtures or equipment such as heating units, furnaces, air-conditioning units and plumbing fixtures such as patios, decks, concrete stoops, over-hanging garage unit doors which are



constructed by developers but exclusively for the use and possession of one condominium. The condominium owner shall likewise maintain at owner's expense any improvements or alterations subsequently added by owner and it shall be owner's duty to perform said maintenance without disturbing the rights of other condominium owners and to report promptly to the association any defects of need for repairs which are the initial responsibility of the Council or as to which the Council otherwise has authority to maintain. Each owner shall have the right, at owner's sole cost and expense to paint, paper, panel, plaster, tile, finish and to do other such work on the interior surfaces of the ceilings, floors and walls, to substitute now finished surfaces for the finished surfaces then existing on said ceilings, floors and walls, and to finish, alter or substitute any plumbing, electrical or other such fixtures attached to said ceiling, floors or walls, provided, however, that this section shall not be construed as permitting interference with or damage to the structural integrity of the building or interference with the use and enjoyment of the premises by other owners nor shall it be construed to limit the intent expressed in Section 1 of this Article VIII.

SECTION 4. MAINTENANCE INVOLVING MORE THAN ONE CONDOMINIUM. If maintenance is required involving maintenance, repair, renovation, reconstruction, restoration, or rebuilding of more than one condominium, the Council, in order to provide centralized direction, may assume supervisory responsibility therefor and provide for such supervisory expense as a common expense.

SECTION 5. ALTERATION OF IMPROVEMENT BY CONDOMINIUM OWNER OR CO-OWNER. No condominium owner shall make any structural alteration or improvement to owner's condominium or any common element therein or facility or remove any portion thereof until after 90 percent of all condominium units have been sold by the developers, then thereafter only with the approval of the Council hereinafter provided. An owner desiring to make such alterations must apply to the Board in writing for permission to do so and shall submit sufficient plans and specifications to enable the Board to make a full evaluation of the proposed alteration or improvement, and in any event, no such alteration or improvement shall be made unless the Board shall specifically approve the design and safety thereof. No work by an owner may be permitted which may jeopardize the soundness of the building. Any alteration or improvement of a condominium shall not increase the undivided interest of any owner in the common elements of the appurtenances to the condominium. The provisions of this Section 5 shall not apply to units owned by the Developer until such units shall have been initially sold by the Developer and paid for.

SECTION 6. ALTERATIONS AND IMPROVEMENTS BY COUNCIL OF CO-OWNERS. There shall be no alterations of the condominium buildings or garage units nor further improvements added to the lands or common elements or condominium units by the Council except upon the question being put to a vote of the Council and such may be done only if 75 percent of the votes are in favor thereof and the dissenting co-owners are relieved from the cost and their share of the cost is borne by the assenting co-owners. An alteration or improvement pursuant to this paragraph shall not alter the interest appurtenant to each

condominium in the common elements and such interest shall remain as before irrespective of whether the owner voted in favor of or against the alteration or improvement.

## ARTICLE IX OBLIGATIONS OF THE OWNERS

SECTION 1. ASSESSMENT. All owners are obligated to pay monthly assessments imposed by the Board or the Council to meet all property communal expenses including liability insurance premiums and insurance premiums for casualty losses. The assessments shall be made pro rata according to the percentage assigned to the condominium in the Declaration; provided, however, increased premiums resulting from differences in the number of rooms in a unit or use of space or from additions, alterations or improvements by an owner to the owner's unit shall be added to the assessment against such unit. Further assessments for expenses during completion of development shall be divided into developed area expenses and undeveloped area expenses. Developed area expenses shall be prorated on the basis of completed condominiums while undeveloped area expenses shall be prorated on the basis of total proposed condominiums. It is the intent of the developer, to pay the larger share of expenses relating to the undeveloped portion of the project and for the owners of the condominiums to pay the larger share of the expenses on the developed property. The board shall decide what expenses are developed area expenses and which are undeveloped area expenses until the 12 proposed condominium are completed or the developer abandons the project at which time there shall be no further division of expenses into said categories. Such assessments may include monthly payments to a general operating reserve fund, part of which may be allocated to a reserve fund for contingencies. Each owner will voluntarily pay said monthly assessment to the Treasurer and upon failure to do so, shall be subject to the provisions of Section 2 of this Article. All owners shall pay before they become delinquent the real property taxes and special assessments which will be levied on their respective condominiums under the provisions of Section 499B.11 of the 2001 Code of Iowa. All utilities used in each condominium shall be metered separately and the expense of said utilities shall be paid by the owner of the condominium directly to the supplier or suppliers thereof.

SECTION 2. LIEN AGAINST OWNER OF UNIT. All sums assessed by the Board but unpaid for the lien on such condominium prior to all other liens except only (1) tax liens on the condominium in favor of any assessing unit and special district, and (2) all sums unpaid on the first mortgage of records. Such lien may be foreclosed by suit by the Board or the representatives thereof, acting on behalf of the condominium owners, in like manner as a mortgage of real property. In the event of any such foreclosure, the condominium owner shall be required to pay a reasonable rental for the condominium, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The Board or the representatives thereof, acting on behalf of the condominium owners, shall have the power to bid in the condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

SECTION 3. LIABILITY OF GRANTOR AND GRANTEE FOR UNPAID COMMON EXPENSES AND CONDOMINIUM UNIT EXPENSES. In a voluntary conveyance, the grantee of a condominium unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses and condominium unit expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee shall be entitled to a statement from the Board setting forth the amount of the unpaid assessments against the grantor for such share, and neither such grantor nor such grantee shall be liable for, nor shall the condominium unit conveyed be subject to a lien for, any unpaid assessments for common expenses and condominium unit expenses against the grantor in excess of the amount therein set forth.

SECTION 4. RIGHT OF ENTRY. An owner shall grant the right of entry to the management agent or to any other person authorized by the Board or the Council in case of any emergency originating in or threatening owner's condominium, whether the owner is present at the time or not.

An owner shall permit other owners, or their representatives, when so required, to enter his condominium for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner. In case of an emergency, such right of entry shall be immediate.

SECTION 5. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENT. In addition to the annual assessments authorized herein the Board or the Council may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common properties, including the necessary fixtures and personal property relating thereto, PROVIDED THAT any such assessment shall have the assent of three-fourths (3/4) of the votes of the Council who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

SECTION 6. EASEMENT FOR ENCROACHMENTS - UNITS AND COMMON ELEMENTS. In the event any portion of the common elements encroaches upon any unit or any unit encroaches upon the common elements or another unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

ARTICLE X  
BOOKS AND RECORDS



SECTION 1. BOOKS AND RECORDS. The Council shall keep all appropriate books and records to accurately show the financial position of the Council and its legal obligations.

SECTION 2. AVAILABILITY. The Council shall make available to unit owners, lenders and the holders and insurers of the first mortgage on any unit, current copies of the Declaration, Bylaws and other rules governing the condominium, and other books, records and financial statements of the Council. The Council also shall make available to prospective purchasers current copies of the Declaration, Bylaws, other rules governing the condominium, and the most recent annual Financial Statement, if such is prepared. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

#### ARTICLE XI INSURANCE, DAMAGE OR DESTRUCTION

SECTION 1. FIRE INSURANCE. The Council shall procure and maintain from a financially responsible company or companies qualified to do business in Iowa (and, if necessary to procure the required coverage, from other companies) a policy or policies (herein called "The Policy") of fire insurance, with extended coverage endorsement, for as nearly as practicable to one hundred percent (100%) of the insurable replacement cost value of the buildings and/or structures and/or building service equipment without deductions for depreciation (such value to be determined annually by the Board and to exclude property of every kind and description which underground (meaning thereby, below the level of contiguous ground and covered by earth, or below the level of the lowest basement floor of the buildings and/or structures except underground conduit or wiring therein when beneath the buildings and/or structures which are covered herein)) in the name of the Council as insured as trustee for each of the owners of the condominium units in proportion to their respective common interests in the common elements. Such policy:

- a. Shall contain no provision limiting or prohibiting other insurance by the co-owner of any unit and shall provide that the liability of the insurer shall not be affected by, nor shall the insurer claim any right of set-off, counterclaim, apportionment, pro-rata, or contribution by reason of, any such other insurance.
- b. Shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the building, whether or not within the control or knowledge of the Board, or if obtainable, shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Board or the co-owner or tenant of any unit, or by reason of any act or neglect of the Board or the co-owner, or tenant of any condominium unit.
- c. Shall provide that the policy may not be cancelled (whether or not requested by the Board) except by giving to the Board and to the owner of each condominium

unit and the holder of any recorded mortgage who shall have requested such notice of the insurer in writing addressed to him at the premises, thirty (30) days' written notice of such cancellation.

- d. Shall contain a provision waiving any right of subrogation by the insurer to any right of the Council against the co-owner or lessee of any condominium unit.
- e. Shall contain a provision waiving any right of the insurer to repair, rebuild and replace, if a decision is made pursuant to Section 2(b) of this Article XII not to repair, reinstate, rebuild or restore the damage or destruction.
- f. Shall contain a standard mortgage clause which:
  - 1. Shall name the holder of any mortgage affecting any condominium unit whose name shall have been furnished to the Board.
  - 2. Shall provide that the insurance as to the interest of the mortgagee shall not be invalidated by any act or neglect of the Board or the owner, co-owner, or tenant of any condominium unit.
  - 3. Shall waive any requirement invalidating such mortgagee clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium (provided, however, in case the Board shall fail to pay the premium due or to become due under the policy, the mortgagee may pay the same prior to the effective date of the termination of the policy), any contribution clause, and any right to be subrogated to the rights of any mortgagee against the owner, co-owner or lessee of and condominium unit or the Board or to require an assignment of any mortgage to the insurer, except that the insurer will have the right of subrogation to the extent of insurance proceeds received by and retained by the mortgagee if the insurer shall claim no liability as to the mortgagor or owner, co-owner but without impairing mortgagee's right to sue.
  - 4. Shall provide that without affecting the protection afforded to the mortgagee by such mortgagee-clause, any proceeds payable under such clause shall be payable to the Council or to an Insurance Trustee as provided by the Bylaws; and
  - 5. Shall provide that any reference to a mortgage in the policy shall include all mortgages on any unit, in order of preference.

SECTION 2. PUBLIC LIABILITY INSURANCE. The Board shall procure and maintain from a



financially responsible company or companies qualified to do business in Iowa, (and, if necessary to procure the required coverage from other companies) a policy or policies (herein called "The Policy") of Public Liability Insurance to insure the Board, each unit owner as the owner of the common interest, and the Managing Agent or agents and other employees of the Council against claims for personal injury and property damage arising out of the existence of premises or operations or contractors or construction work under a Comprehensive General Liability form to include (1) coverage of Automobile Liability for owned-hired or non-owned automobiles, (2) Water Damage Legal Liability and (3) Fire Damage Legal Liability. Said insurance shall more owners, co-owners and employees as aforesaid as additional insured, it being understood and agreed that the insurance will exclude coverage for the personal activities of owners, co-owners of the condominium units and employees as aforesaid, and for liability arising out of the ownership of individual condominium units. Said insurance shall be for such limits as the Board may decide. Such policy:

- a. Shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the building, whether or not within the control or knowledge of the Board, or by any breach of warranty or condition caused by the co-owner of any condominium unit, or by any act or neglect of the owner or tenant of any condominium unit.
- b. Shall provide that the policy may not be cancelled (whether or not requested by the Board) except by giving to the Board and to the co-owner of each condominium unit who shall have requested such notice of the insurer in writing addressed to him at the premises, thirty (30) days' written notice of such cancellation.

SECTION 3. ADDITIONAL INSURANCE. The Board may also procure insurance against such additional risks as the Board may deem advisable for the protection of the condominium unit owners of a character normally carried with respect to such properties.

SECTION 4. INSURANCE REVIEW. The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and action taken on such review to the owner of each condominium unit, and to the holder of any mortgage on any condominium unit who shall have requested a copy of such report. At the request of any mortgagee of any condominium unit, the Board shall furnish to such mortgagee a copy of the Policy described in paragraph (a) of this Section 1 and of any policy to which a mortgagee endorsement shall have been attached pursuant to paragraph (c). Copies of every policy of insurance procured by the Board shall be available for inspection by any condominium unit owner (or contract purchaser) from the Council.

SECTION 5. OWNER'S INSURANCE. Any such coverage procured by the Board shall be without prejudice to the right of the owners of condominium units to insure such condominium units and the contents thereof for their own benefit at their own expense. Neither the Council nor

the Board will provide insurance coverage for the contents of a unit. Insurance coverage on furnishings and other items of personal or other property belonging to an owner and public liability coverage within each unit shall be the sole and direct responsibility of the unit owners thereof. All policies of insurance carried by owners shall contain waivers of subrogation.

**SECTION 6. DAMAGE, DESTRUCTION AND REPLACEMENT.** In the event of damage to or destruction of all or any part of the building, all available insurance proceeds, including proceeds received for damage to building on any Policy taken out by the Council or the Board shall be held in trust by the Board or, in any cause described in subparagraph (c) of this Section, by the Insurance Trustee, to repair, reinstate, rebuild, or replace the building (herein called "the work") in accordance with the original plans and specifications or if the work according to the original plans and specifications is not permissible under the applicable laws and regulations, then in accordance with other plans and specifications prepared by the Board, on behalf of all owners, and approved by the owners of not less than a majority in interest of the common interests in the premises. In the event of any deficiency between said insurance proceeds and the cost of the work, each owner of a condominium unit shall pay his proportionate share of said deficiency as common expenses. The Board shall have the authority as agent of all owners, to enter into contract or contracts to accomplish the work.

Nevertheless in the event that, after damage to or destruction of all or any part of the building, the Board and the owners of not two-thirds less than fifty-one percent (51%) of the common interests shall determine that such damage or destruction shall not be rebuilt, repaired or restored, or in the event substantial damage to or destruction of the common elements shall not have been rebuilt, repaired or restored within a reasonable time after occurrence thereof, the premises shall be subject to an action for partition by any owner of a common interest or lienor as if owned in common, in which event the premises shall be sold and the net proceeds of sale, together with the net insurance proceeds, shall be considered as one fund and shall be divided among all condominium unit owners in proportion to the respective common interests, provided that no payment shall be made to a condominium unit owner until there has been paid from his share of such net proceeds all liens on his unit and the premises shall be removed from the horizontal property regime.

Except in the circumstances described in subparagraph (b) of this paragraph, if the cost of the work (as estimated by the Board) shall exceed \$20,000.00 and the holder of any mortgage or mortgages on any condominium unit or units so affected (herein called "the mortgagee") shall so require, all proceeds of insurance shall be paid over not to the Board but to a trust company authorized to do business in Iowa and selected by the Board (herein called "the Insurance Trustee") and shall be paid out from time to time or at the direction of the Board as the work progresses, but subject to the following conditions:

- a. The work shall be in the charge of an architect or engineer (who may be an employee of the Board) and before the Board commences any work, other than temporary work to protect property, the mortgagee shall have approved the plans

and specifications for the work to be submitted by the Board, which approval shall not be unreasonably withheld or delayed.

- b. Each request for payment shall be made on seven (7) days' prior notice to the Insurance Trustee and shall be accompanied by a certificate to be made by such architect or engineer stating:
  - 1. That all of the work completed has been done in compliance with the approved plans and specifications.
  - 2. That the sum requested is justly required to reimburse the Board for payments by the Board to, or is justly due to, the contractor, subcontractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the work (giving a brief description of such services and materials), and
  - 3. That when added to all sums previously paid out by the Insurance Trustee the sum requested does not exceed the value of the work done to the date of such certificate.
- c. Each request shall be accompanied by waivers of liens satisfactory to the Insurance Trustee covering that part of the work for which payment or reimbursement is being requested and by search prepared by a title company or licensed abstractor or by other evidence satisfactory to the Insurance Trustee, that there has not been filed with respect to the premises any mechanics' or other liens or instrument for the retention of title in respect of any part of the work not charged of record.
- d. The request for any payment after the work has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the premises legal.
- e. The fees and expenses of the Insurance Trustee as determined by the Board and the Insurance Trustee shall be paid by the Council as common expenses, and such fees and expenses may be deducted from any proceeds at any time in the hands of the Insurance Trustee.
- f. Such other conditions not inconsistent with the foregoing as the Insurance Trustee may reasonably request.

Upon the completion of the work and payment in full therefor, any proceeds of insurance then and thereafter in the hands of the Board or the Insurance Trustee shall be paid or credited to the owners of the condominium units (or to the holder of any mortgage on a unit if there be a

mortgage) in proportion to their respective common interests.

## ARTICLE XII OTHER PROVISIONS

SECTION 1. COVENANT TO OBEY LAWS. The co-owner of each condominium unit shall be subject to the Horizontal Property Act and the Declaration filed pursuant to said Act and shall abide by the Bylaws and Rules and Regulations as the same are or may from time to time be established by the Board.

The co-owner of each condominium unit shall observe, comply with, and perform all rules, regulations, ordinances and laws made by the Board of Health and any other governmental authority of the municipal, state and federal government applicable to the premises.

The foregoing paragraph shall apply to all co-owners of the condominium units, tenants of such owners, employees of owners and tenants, and any other persons who way in any manner use the premises or any part thereof.

SECTION 2. HOUSE RULES AND REGULATIONS. The house rules and regulations governing the details of operation and use of the common elements shall be adopted and from time to time, amended by two-thirds vote of the Board. Any owner of a condominium unit shall have the right to propose any amendment to such rules and regulations by directing a request in writing to the Board or any member of the Board. The Board, upon notice of such written request, shall consider such proposal and shall record its action on such proposal in the minutes of the meeting at which the action was taken.

SECTION 3. NOTICES. Except as otherwise provided in these Bylaws, any notice permitted or required to be given to the owner of a condominium unit may be given in writing personally to such owner, or to any one of them if such owner is more than one person, or deposited in the United States mails, postage prepaid, address to such owner at his most recent address as it appears in the records of the Board, and said notice shall be deemed to be delivered when delivered personally as aforesaid or deposited in the United States mails as aforesaid.

## ARTICLE XIII AMENDMENT

Amendments to the Bylaws shall be proposed and adopted in the following manner:

- (1) Notice of the subject matter of a proposed amendment shall be included in notice of any meeting at which a proposed amendment is considered.
- (2) A resolution adopting a proposed amendment must receive approval of a majority of the votes of the entire membership of the Board and sixty percent (60%) of the total votes



authorized to the owners by the Declaration. .

Directors and owners not present at the meetings considering the amendment may express their approval in writing.

- (3) An amendment may be proposed by either the Board or by the Council of Co-owners, and after being proposed and approved by one of such bodies it must be approved by the other.
- (4) An amendment when adopted shall become effective only after being recorded in the Mills County Recorder's office.
- (5) These Bylaws shall be amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Horizontal Property Regime
- (6) Anything contained in these Bylaws or in the Declaration to the contrary notwithstanding, Developers, or their successors, have the right to amend these Bylaws for the clarification hereof or for the benefit of all unit owners without the requirement of unit owners approval until ninety percent (90%) of the proposed units are sold and paid for.

#### ARTICLE XIV ENFORCEMENT

The violation of any rule or regulation adopted by the Council or the Board or the breach of any of these Bylaws, covenants and restrictions, or the breach of any provisions of the Declaration of Horizontal Property Regime, shall give the Board the right, in addition to any other rights set forth in these Bylaws:

- a. To enter into the unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Administrators shall not thereby be deemed guilty, in any manner, of trespass.
- b. To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.
- c. To deny partially or wholly access to, benefit from, or use of all or any facilities, functions, or services, or suspend, partly or wholly, all or any rights or privileges of membership, or to take any other disciplinary action directed by the Board.

#### ARTICLE XV COMPLIANCE AND SEVERABILITY

These Bylaws are set forth to comply with the requirements of Chapter 499B of the Code of Iowa. In case any of these Bylaws conflict with the provisions of said statutes or any other rule of law, it is hereby agreed and accepted that the provisions of the statute or law will apply and Bylaws conflicting therewith will be deemed inoperative and null and void without validating the remaining Bylaws.

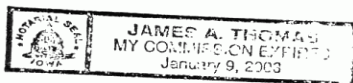
The foregoing were adopted this 14 day of Sept, 2001, by the Grantors as owners of all units in Timberlane Estates Condominiums as the Bylaws applicable to Timberlane Estates Condominiums.


Gotschall Development LLC

  
Richard E. Gotschall, Managing Partner

STATE OF IOWA                    )  
  ) SS:  
COUNTY OF MILLS                )

On this 14 day of Sept, 2001, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Richard E. Gotschall, Managing Partner of Gotschall Development LLC, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.



  
Notary Public in and for said State

