

**DECLARATION OF RESTRICTIONS AND COVENANTS  
TRACEVIEW ESTATES**

This Declaration is made this 18<sup>th</sup> day of September, <sup>2006</sup> 2008 by Michael L. Collins, hereinafter called Declarant.

**Article I  
Statement of Intent**

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

Therefore, the Declarant 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, their successors, and assigns, and which shall inure to the benefit of each owner thereof.

**Article II  
Definition**

For the purpose of these restrictions, the following words shall be defined as follows:

1. "The properties" shall mean and refer to lots 1-34 in Traceview Estates as surveyed, platted, and recorded in Pottawattamie County, Iowa.
2. "Lot" shall mean and refer to any platted lot shown upon any recorded subdivision map of the properties.

3. "Residence" shall mean and refer to any portion of the building situated upon the properties designed and intended for use and occupancy as a residence by a single family.
4. "Lot Owner" shall mean and refer to the record owner, including contract purchasers, whether one or more persons or entities, of the fee simple title, to any lot situated upon the properties. The foregoing does not include persons or entities who hold an interest in any lot merely as security for the performance of an obligation, unless such person or entity has acquired title pursuant to foreclosure or upon a proceeding instead of foreclosure.
5. "Front Property Line" shall mean the property line of any lot abutting the right-of-way of any street.
6. "Out Building" shall mean an enclosed, covered, structure or other structure not directly attached to the residence to which it is appurtenant.
7. "Declarant" shall mean and refer to the person signing this instrument, his successors, and assigns.
8. "Exterior Structure" shall mean any structure erected or maintained on Lot other than the main residential structure or any structural component thereof.

### **Article III** **Property Subject To This Declaration**

1. The real property which is and shall be held, transferred, sold, conveyed, and occupied, subject to this Declaration as of the date of this Declaration is that property specifically identified as Lots 1-34 in Traceview Estates, a subdivision as surveyed, platted, and recorded in Pottawattamie County, Iowa, which the following exception as listed under paragraph 2 below.
2. The covenants and restrictions contained in this Declaration shall not apply to structures existing as of the date of this Declaration with respect to restrictions and covenants pertaining to dwelling size, building material

requirements, exterior structures, and set backlines. All replacement or repair of any portion of an existing structure for any reason shall be of the same material as the original structure. If not, such repair or replacement must be consistent with the covenants and restrictions imposed under this Declaration.

## **Article IV**

### **Section 1 – Use of Land**

None of the Lots may be improved, used or occupied for other than single-family private residential purposes, and no duplex, flat or apartment house, although intended for residential purposes may be erected thereon. No Lot shall be further subdivided. No residential building which has previously been at another location shall be moved onto the Lot. No trailer, outbuilding or exterior structure erected on any Lot shall at any time be used for human habitation.

### **Section 2 – Set Back Lines**

No part of any residence, except as hereinafter provided, may be erected or maintained on any of the Lots nearer to the front property line than 75 feet, nor nearer to the side Lot line than 25 feet.

### **Section 3 – Dwelling Size**

A. Residences will be required to have the following minimum square footage, to wit:

1. One story residences: 1800 square feet of finished living area will be required on ground level.
2. One and one half story residences: 2200 square feet of finished living area will be required above the basement level, with at least 1500 square feet of finished living area required on the first floor.
3. Two-story residences: 2500 square feet of finished living area will be required above basement level, with at least 1000 square feet of finished living area required on the first floor.

4. Bi-level and split level and split entry residences: 2500 square feet of finished living area will be required with at least 1500 square feet of finished living area required on the first floor.

B. The phrase "finished living area" as used in this section shall include in all cases areas on the first and second floor of the residence enclosed and furnished for all-year occupancy computed on outside measurement of the residence. The term shall not include any area in any basement, garage, porch, or attic finished or unfinished. No residence erected on any Lot shall be more than two stories in height.

C. Each residence shall include at least an attached two-car garage.

#### **Section 4**

A. Each individual Lot Owner is to take all steps necessary to reasonably and adequately regulate the drainage from their Lot and to control unreasonable and undesirable erosion.

B. No boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, van, aircraft, grading or excavation equipment, or any other, portable vehicle shall be stored, repaired, or routinely parked on the streets of the subdivision as shown by the plat. Each Lot Owner shall provide off-street parking to adequately meet his or her needs and, in any event, off-street parking for two automobiles, shall be provided in addition to the attached two-car garage space.

#### **Section 5**

A. Building Material Requirements. Shingles need to be Heritage style or better and approved by developer. Exterior walls of all buildings, structures, and appurtenances thereto shall be made of brick, stucco, wood shingles, concrete siding, wood siding, wood paneling, glass blocks, vinyl siding, steel siding, or any combination thereof with at least 20% of the front side to be brick or stone. This shall include, but not be limited to, exterior foundation walls. No exposed foundation on front of home.

B. Utilities. All sewage and septic systems on each Lot shall comply with the applicable state and local ordinances and regulations.

## **Section 6**

A. No residence or exterior structure shall ever be placed, erected, or used for business, professional, trade, or commercial purposes on any Lot, provided, however that this restriction shall not prevent a Lot Owner from maintaining an office area in his or her residence as long as it does not require daily traffic or become a nuisance to neighboring Lot Owners.

B. No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any trash, ashes, or other refuse be thrown, placed or dumped upon any Lot, nor shall any trash, ashes or other refuse accumulate or remain on any Lot, nor shall anything be done which may be or become an annoyance or a nuisance to the neighborhood, including but not limited to mechanical work on automotive or other equipment of any kind. Each Lot Owner shall properly maintain his or her Lot 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.

C. No incinerator or trash burner shall be allowed on any Lot, no fuel tank shall be permitted to remain outside of any residence, and except on pick-up day, no garbage or trash shall be permitted outside of any dwelling unless within an area that is fully screened from view from any adjoining street or Lot as shown on the plat.

D. No Lot Owner shall use, suffer or permit any person or persons in any manner whosoever, to use owner's Lot for any purpose in violation of the laws and regulations of the United States, the State of Iowa, or the ordinances and regulations of Pottawattamie County, Iowa, or any other lawful authority. No Lot Owner shall use, suffer or permit any person or persons in any manner whatsoever, to use owner's Lot for any purpose which will constitute an unreasonable and improper invasion upon the quiet use and enjoyment (to include playing loud music) of any other Lot Owner's property.

## **Section 7**

A. All Lots, whether occupied or unoccupied, and any improvements placed thereon shall be maintained in such manner as to prevent their becoming unsightly, unsanitary or a hazard to health.

B. No vehicles, including but not limited to : trailers, buses, campers, motor homes, recreational vehicles, boats, trucks, or commercial vehicles or any similar apparatus shall be parked on the street.

C. No television, radio citizens' band, short wave or other antenna, solar panel, wind-driven electrical generating system, sun energy system, or other unsightly projection shall be attached to the exterior of any residence or erected in any yard.

D. Dogs and other pets shall be confined to their owners Lot. No dogs or pets shall be allowed to run at large.

E. Each Lot Owner shall keep drainage ditches, culverts, and swales located on his or her Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon his or her Lot as may be reasonably required for proper drainage. Retention ponds shall be properly maintained by lot owner. These may be seeded and mowed but always kept in working order. Nothing is to be done to these areas to interfere with drainage.

#### **Section 8 – exterior**

A. No chain link fences are allowed unless it is a coated chain link fence and approved by the developer.

B. All pools shall be fenced. All pools and hot tubs shall be kept clean and maintained in an operable condition. All exterior hot tubs not located on a deck or porch shall be enclosed.

#### **Section 9 – animals and pets**

A. No animal of any kind shall be raised, bred or kept on any Lot except that up to two exterior animals which would be considered household pets such as two dogs or two cats or a combination thereof. Residents may have interior pets which will not be included in the exterior animal limit. All of the above may be kept as long as they are in compliance with the Pottawattamie County, Iowa Zoning Ordinances. Under no circumstances are any poultry, including but not limited to chickens, ducks, geese, exotic birds or turkeys, donkeys, reptiles, mules or members of the swine family, to

be raised, bred or kept on any lot. There shall also be no large animals kept on the Lot such as horses and cows and other similar animals.

## **Section 10 – Signs**

A. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any Lot provided, however that not more than one advertising board on each Lot or tract which shall not be more than seven square feet in size and may be used for the sole exclusive purpose of advertising for sale or lease the Lot or tract upon which it is erected. Declarant reserves the right to install and maintain any entrance/identification signs for the property on Lots 1-34.

## **Section 11 – Landscaping, Lawns and Trees**

A. The owner of each Lot shall keep the lawn uniformly mowed and clipped and shall properly maintain and replace all trees and landscaping. Noxious weeds and plants shall be kept reasonably mowed and dead or unsightly growth shall be removed from all improved Lots.

## **Section 12 – Soil Erosion and Sediment Control Easement**

A. Prior to any land disturbing activity, as defined in Section 161.64 (3) Code of Iowa, on any Lot, the lot owner shall cause a soil erosion and sediment control plan to be prepared in accordance with the technical standards and specifications of the District Soil Conservationist. When necessary the lot owner shall submit the plan to the Soil Conservation District for approval, as provided in Chapter 161A, Code of Iowa. The Lot owner shall be liable for the successful implementation and completion of the said plan. This covenant shall constitute an easement that runs with the land and shall bind the Lot owner and his, her or their successors and assigns. This easement may be enforced as provided in Article V, Section 4 and/or under the provisions of Chapter 161A, Code of Iowa.

The purchaser of any Lot in this subdivision shall become the sole responsible permittee for said Lot with respect to compliance with all terms, provisions and requirements of the General Permit for the said Lot and shall protect, defend, indemnify, and hold Declarant harmless from any claims,

liabilities, fines, penalties, clean up costs and/or attorney fees resulting from any alleged violation thereof after the date of sale of the Lot. The purchaser agrees to sign all documents necessary to show the assumption of the responsibility. The covenants and provisions of this document shall survive closing.

### **Article V – Association Dues and Responsibilities**

A. At the time of closing, all buyers will pay a one time fee of \$500 per lot. This check will be made out to SWINT and is a mandatory fee.

B. At the time of closing all buyers will also pay their first year of association dues in the amount of \$250. These dues will be placed in an account and Michael Collins will use funds to maintain all easement areas until the subdivision is developed and residents are able to hold meetings, elect officers, and properly run the association.

C. The association will at a minimum will adhere to bylaws, follow all parts of the easement agreement, and assure that covenants are being properly followed.

### **Article VI General Provisions**

#### **Section 1 – Duration**

These covenants and restrictions contained in this Declaration shall run with the land, and shall be binding for an initial term of twenty years from the date these Declarations are recorded, afterwhich time they shall be automatically extended for successive periods of ten years each by any Lot Owner filing for record in the Pottawattamie County Recorder's Office an Affidavit of Renewal.

#### **Section 2 – Notices**

Any notices required to be sent to any member or 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 Lot Owner.

### **Section 3 – 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 any 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.

### **Section 4 – Severability**

If one of these covenants or restrictions are held invalid by a judgement or court order, this shall in no way effect any other provision which shall remain in full force and effect.

### **Section 5 – Amendment**

By unanimous written consent of all of the Lot Owners of the properties within the subdivision as then constituted, evidenced by a Declaration duly executed and acknowledged by such Lot Owners and recorded in the Office of the Recorder of Pottawattamie County, Iowa, this instrument may be modified and amended.

### **Section 6 – Grantee's Acceptance**

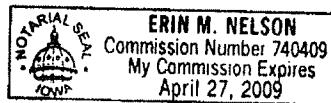
Each grantee or purchaser of any Lot shall by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, accepts such deed or contract subject to each and all of the provisions of this Declaration of Restrictions and Covenants. By such acceptance, such grantee or purchaser shall for himself or herself, and for his or her devisees, personal representatives, grantees, successors and assigns, lessees and lessors, covenants, consents and agrees to and with this Declaration and grantee or purchaser of each other Lot to keep, observe, comply with and perform the covenants, conditions and restrictions contained in this Declaration.

By Denise M. Collins  
power of attorney for Michael J. Collins

Michael L. Collins, Declarant  
(Denise Collins, Power of Attorney)

STATE OF IOWA )

COUNTY OF POTAWATTAMIE )



On this 18 day of Sept, 2006, before me  
Erin M. Nelson, personally appeared Denise M. Collins, Power of  
Attorney for Michael L. Collins, 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.