

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
**97-007955**

97 APR 28 PM 3:35

*Shirley J. Lawrence*  
REGISTER OF DEEDS

97-07955

Journal	<i>a</i>
Verify	<i>W</i>
O.E.	<i>10</i>
Proof	<i>57</i>
Fee	<i>117.50</i>
Ck	<input checked="" type="checkbox"/>
Cash	<input type="checkbox"/>
Charge	<input type="checkbox"/>

(Exhibit B of Development Agreement)

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS**

THIS DECLARATION is made on the date hereinafter set forth by Construction Sciences, Inc. ("CSI"), a Nebraska Corporation with offices at 3425 Madison Street, Omaha, Nebraska 68127, who is hereinafter referred to as the "Declarant."

WHEREAS, the Declarant is the owner of certain real property platted as lots 1 through 175 in Oakhurst Subdivision in Sarpy County, Nebraska.

NOW, THEREFORE, the Declarant hereby declares that all of Lots 1 through 175 in Oakhurst shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements ("covenants"). These covenants shall run with such lots and shall be binding upon all parties having or acquiring any right, title or interest in such lots, or any part thereof, and they shall inure to the benefit of each Owner thereof. If the present or future Owners of any of the lots in Oakhurst, or their grantees, heirs, successors or assigns shall violate or attempt to violate any of these covenants, it shall be lawful for BHOA or Oakhurst property owners to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them so doing or to recover damages or other dues for such violation.

**1. Definitions**

1.1. "BHOA" shall mean and refer to the Blackhawk Homeowners Association, a Nebraska non-profit corporation.

1.2. "Blackhawk" shall refer to a subdivision in Sarpy County, Nebraska, platted as lots 1 through 151, Blackhawk Subdivision.

1.3. "Declarant" shall mean and refer to Construction Sciences, Inc. or CSI and its grantees, successors and assigns.

97-07955A

1.4. "Lot" shall mean and refer to any platted lot in Oakhurst or in a subsequent plat of Oakhurst.

1.5. "Oakhurst" shall mean the subdivision in Sarpy County, Nebraska owned by Declarant which is final platted as Lots 1 through 175.

1.6. "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot which is subject to this Declaration.

1.7. "Transition Area A" shall mean Lots 1 through 28, 142, and 166 through 175, in Oakhurst.

1.8. "Transition Area B" shall mean Lots 64, 65, 78 through 82, 127, 128, 137 through 141 and 162 through 165 in Oakhurst.

2. Said Lots shall be used only for single-family residential purposes, except such Lots, or portions thereof, as may hereafter be conveyed or dedicated by the Owners thereof for church, park, play ground or outdoor recreational facilities.

3. No structures shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family home not to exceed two and one-half stories in height, a private garage, and attached breezeways incidental to residential uses.

CSI shall develop single-family homes in Oakhurst in accordance with the following requirements:

a) CSI shall construct single family homes on Lots in Transition Area A known by the CSI plan type names of Legend, Summerset, Sterling, Pembroke, McClain and Westover, which homes represent CSI's most expensive six (6) models. The minimum square footage, of homes in Transition Area A, exclusive of basements, porches, breezeways, carports and garages, shall be (1) for single story homes: 1,239 sq. ft., and (2) for two story homes: 1,708 sq. ft. Single story homes shall have finished basements and all Legend, Sterling, Pembroke, McClain and Westover homes shall incorporate the "Flex-Space Option" offered by CSI. Fifty percent of the homes on Lots in Transition Area A, excluding Lots 166 through 175, shall be constructed with three-car garages.

b) Oakhurst Lots 64, 65, 78 through 82, 127, 128, 137 through 141 and 162 through 165. CSI shall construct single family homes on Lots in Transition Area B known by the plan type names of Legend, Summerset, Sterling, Pembroke, McClain, Westover, Windsong, Freedom, and Advantage, which homes represent CSI's largest and most expensive nine (9) models. The minimum square footage of such homes, exclusive of basements, porches, breezeways, carports and garages, shall be (1) for single-story homes: 1,239 sq. ft.; (2) for two-story

homes: 1,708 sq. ft.; (3) for split entry homes: 1,990 sq. ft. which includes a finished lower level; (4) for bi-level homes: 1,536 sq. ft., and (5) for tri-level homes: 1,717 sq. ft.

c) The exposed foundation walls at the front of all homes in Transition Areas A and B shall be constructed of or faced with genuine brick and side wall foundations facing any street shall be constructed of and or faced with genuine brick. The foundation walls of the homes on all other Lots in Oakhurst shall be either simulated-brick poured foundations or concrete block foundations with genuine brick fronts.

d) After the date hereof, should CSI develop new plan types which meet or exceed the minimum square footages set forth above, then such plan types may be constructed as well.

4. The Lots in Oakhurst shall average at least 7200 sq. feet. Except as hereinafter provided, no dwelling shall be located on any Lot nearer than 25 feet to the front lot line, nor shall any dwelling be located nearer than 10 feet to any dwelling located on an adjoining Lot; provided, however, that if the Board of Appeals of the City of Bellevue, Nebraska, shall by resolution permit a lesser minimum setback, lot area or side yard for any Lot, then as to such Lot the determination of said Board shall govern and shall automatically supersede these covenants.

5. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No outside radio, television or other electronic antenna shall be erected on any Lot without recorded written consent of owners of record of all property within two hundred feet of any Lot line on which such structure is sought to be or is placed. No outside above-ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any Lot.

6. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale" or "For Rent"; nor shall the Lot or dwelling thereon be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner or Owners of any Lot or any dwelling thereof. Further, no business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing shall not apply to the business activities, signs and billboards or the construction and maintenance of dwellings, if any, by Declarant, its agents or assigns, during the construction and sale of the lots or homes thereon. Nothing in this provision shall prohibit CSI from constructing its usual signage for its model home area.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted

97-07955C

on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot, other than in an enclosed structure, unless it is on concrete pad at the rear of the dwelling in which case the rear yard shall be enclosed by a wood fence of not less than six feet in height. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this paragraph 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of dwellings during their period of construction. All Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Bellevue, Nebraska.

9. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling nor shall refuse, rubbish or cutting be deposited on any street, road or Lot. No permanent clothes line shall be permitted outside of any dwelling at any time.

10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the Owners of adjacent Lots or the occupants of lots in Blackhawk.

11. No swimming pool shall be permitted which extends more than one foot above ground level.

12. A public sidewalk shall be constructed of concrete four (4) feet wide by three and one half (3-1/2) inches thick in front of each built upon lot and upon the street side of each built upon corner lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the Owner of the Lot prior to the time of completion of the dwelling and before occupancy thereof, provided, however, this provision shall vary to comply with any requirements of the City of Bellevue. It is understood, however, that from time to time because of weather or material shortages the Owner may be allowed to move in prior to sidewalk construction, but only after an escrow has been established to assure such construction when weather and material availability permits.

13. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any lot, except that a dog house constructed

97-079550

for one (1) dog shall be permitted, provided always that the construction plans, specifications and the location of the proposed structure have been first approved by all owners of Lots located in whole or in part within one hundred feet of the Lot on which such dog house is to be placed. In any event, dog houses shall only be allowed at the rear of the dwelling, concealed from public view. No dog runs or kennels of any sort shall be allowed.

14. No trailer, basement, tent, shack, garage, barn or other out-building erected on no Lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

15. Except as provided herein, all exposed side and rear concrete block or masonry foundation walls must be painted. All driveways must be constructed of concrete, brick or laid stone. Fireplace chimneys shall be covered with brick or wood. The roof of all dwellings shall be covered with asphalt or wooden shingles.

16. Dwellings shall not be moved from outside of Oakhurst to any Lot within it.

17. All telephone, cable television, electric, power and any other service lines from property line to dwelling shall be underground.

18. A perpetual license and right is hereby reserved unto and granted to Sanitary and Improvement District No. \_\_\_\_\_ of Sarpy County, Nebraska, and to the City of Bellevue, Nebraska, their respective employees, representatives, successors, assigns and the employees, and representatives of its successors or assigns, to enter upon said property to construct, reconstruct, repair, maintain, improve, and inspect each sewer, and to inspect sewage thereof or therein.

19. Declarant shall be allowed to operate and maintain model homes in Oakhurst. This right shall not expire with the sale of the last buildable lot in Oakhurst.

20. Any fence constructed on a Lot shall be of wood construction. If a fence is constructed on a Lot, the Owner of such Lot shall at his sole expense maintain and keep such fence in good order, including removal of graffiti and the prevention of placing signs banners, or any such thing on the fence, and repair and replace the same with the same style and equal quality fence when and if reasonably necessary.

21. For the purposes of these covenants, two story height, as herein before mentioned in paragraph 3, shall, when the basement wall is exposed, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s).

22. Invalidity of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

97-07955E

23. These covenants shall run with the land and shall be binding on the Declarant, all Owners and all persons claiming under them for a period of 25 years from the date these covenants are recorded. BHOA shall have the right, power and authority to enforce the terms and conditions of this Declaration against the Declarant and any Owner of a Lot as herein defined.

DATED this 21<sup>st</sup> day of February, 1997.

By

Title

PRESIDENT

Notary Public

STATE OF NEBRASKA

)

) ss.

COUNTY OF DOUGLAS

)

The foregoing instrument was acknowledged before me on this 21<sup>st</sup> day of February, 1997 by John J. Smith, President of Construction Sciences, Inc., a Nebraska corporation, on behalf of the corporation.

GENERAL NOTARY-STATE of Nebraska  
DEBORAH A. BURKE  
My Comm. Exp. Jan 14, 2001

Printed Name:

Notary Public

My Commission Expires:

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2000 22860

2000 SP 12 PM 4: 11

*Glenn J. Downing*

REGISTER OF DEEDS

Counter \$ m  
Verify *[Signature]*  
D.E. *[Signature]*  
Proof *[Signature]*  
Fee \$ 97.50  
Ck ☐ Cash ☐ Chg ☒ SLT

FIRST AMENDMENT TO COVENANTS

THIS FIRST AMENDMENT TO COVENANTS is made the date hereinafter set forth by Construction Sciences, Inc. (n/k/a HearthStone Homes, Inc.), a Nebraska Corporation.

RECITALS

A. On April 28, 1997, a document entitled Declaration of Covenants, Conditions, Restrictions and Easements for Oakhurst Subdivision located in Sarpy County, Nebraska (hereinafter the "Declaration") for Lots One (1) – One Hundred Seventy Five (175), inclusive, all In OAKHURST, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, was recorded by Construction Sciences, Inc. a Nebraska, Corporation, Declarant, in the office of Register of Deeds of Sarpy County, Nebraska as Instrument No. 97-007955.

B. The Declarant is the owner of Lots One (1) – One Hundred Forty One (141) of Oakhurst Subdivision in Sarpy County, Nebraska.

NOW, THEREFORE, Developer hereby declares that the Declaration recorded April 28, 1997 as Instrument No. 97-007955 in the Office of the Register of Deeds of Sarpy County, Nebraska, should be and hereby is amended in the following manner:

I. by deleting therefrom Paragraph 20 and adding in its place and stead the following:

20. Any fence constructed on a Lot shall be of wood or vinyl slat construction. Vinyl, chain link material shall not be allowed. If a fence is constructed on a lot, the Owner of such Lot shall at his sole expense maintain and keep such fence in good order, including removal of graffiti and the prevention of placing signs banners, or such thing on the fence, and repair and replace the same with the same style and equal quality fence when and if reasonably necessary.

All other terms of said Covenants shall remain in full force and effect.

Dated this 11 day of September. 2000.

HearthStone Homes, Inc.  
(f/n/a Construction Sciences, Inc.)

By *[Signature]*  
John J. Smith, President

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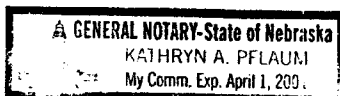
(SLT)

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STATE OF NEBRASKA )  
                              ) ss.  
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12 day of SEPTEMBER 2000 by John J. Smith, President of HearthStone Homes, Inc., a Nebraska corporation, known to me to be the identical person who executed the above instrument and acknowledged the same to be his voluntary act on behalf of said corporation.

Witness my hand and Notarial Seal this 12 day of SEPTEMBER 2000.



Kathryn A. Pflaum  
Notary Public



FILED SARPY CO. NE.

INSTRUMENT NUMBER

2002-16371

2002 MAY -1 P 2:43 PM

*Sharon J. [Signature]*

REGISTER OF DEEDS  
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Counter *DA*

Verify *m*

D.E. *m*

Proof *m*

Fee \$ 128.00

Ck ☐

Cash ☐

Orig ☒

Stamp

SEC

COPY

**DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OAKHURST  
IN SARPY COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by a HearthStone Homes, Inc., a Nebraska corporation, hereinafter referred to as the "Declarant."

**PRELIMINARY STATEMENT**

The Declarant is the owner of certain real property located within Sarpy County, Nebraska and described as follows:

Lots 176 through 351, inclusive, Oakhurst as surveyed, platted and recorded in Sarpy County, Nebraska;

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot."

The Declarant desires to provide for the preservation of the values and amenities of Oakhurst, for the maintenance of the character and residential integrity of Oakhurst.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots now and hereafter encumbered by this Declaration shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as more fully described herein. The Lots, and each Lot are and shall be subject to all and each of the following conditions and other terms.

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ARTICLE I.  
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Area, or as a church, school, park, or for other nonprofit use.

2. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height, as measured from the highest adjacent public sidewalk grade elevation. The main body of the dwelling shall be painted in earth tone colors. The Declarant reserves the right to appoint an architectural review committee to review and approve or disapprove of any and all plans for improvements in the subject subdivision to ensure compatibility and maintenance of the residential integrity.

3. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale" or "For Rent." No business activities of any kind whatsoever, except those home occupation businesses allowed by virtue of city ordinance, shall be conducted on any lot; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Provided, however, this Paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots or any other property owned by the Declarant, its agents or assigns.

4. No exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot, except, those 18" or less in diameter or diagonal measurement, which shall be screened from public view. The foregoing notwithstanding, any earth station, satellite dish or other electronic antenna or aerial specifically exempted from restriction by statute, regulation, binding order of a court or governmental agency shall be maintained in accordance with the strictest interpretation or condition for such use as may be permitted by such order.

5. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot (other than in an enclosed structure); nor shall vehicles or parts of vehicles, unlicensed or otherwise offensive to the neighborhood, be visibly stored, parked or abandoned on any Lot. Any and all cars parked within the subdivision must be in running condition with all tires inflated. No unused building material, junk or rubbish shall be left exposed on the Lot except during

actual building operations, and then only in as neat and inconspicuous a manner as possible.

6. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than seven (7) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot or their guests. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable ordinances of the Governing Jurisdiction.

7. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothesline shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards.

8. No fence shall be permitted to extend beyond the front line of a main residential structure. No chain link fencing shall be permitted on any lot; except, that Lots 176 - 219 and 344 - 351 inclusive, shall require a four (4) foot high, black, vinyl chain link fence along the rear property line adjacent to the golf course. In addition, any fence constructed behind the front building line on these lots, shall be constructed of four (4) foot high, black, vinyl chain link material. No hedges or mass planted shrubs shall be permitted more than the (10) feet in front of the front building line. If a fence is constructed on any Lot by the developer or by the owner, the owner of any such Lot shall, at his sole expense, maintain and keep such fence in good order, including the removal of graffiti and the prevention of posting of signs, banners or any other thing on said fence, and repair and replace the same with the same style and equal quality fence when and if reasonably necessary.

9. Above ground swimming pools shall be no more than (8') feet or less in diameter and shall extend no more than three (3') feet above ground level.

2007-16371C

10. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the improvement. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot.

11. A public sidewalk shall be constructed of Portland concrete four (4) feet wide by three and one-half (3 1/2") inches thick in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the Governing Jurisdiction. It is understood, however, that from time to time because of weather or material shortages, occupancy may be allowed prior to sidewalk construction, but only after an escrow has been established to assure such construction when weather and material availability permits.

12. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

13. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

14. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one doghouse constructed for one (1) dog. Doghouses shall only be allowed at the rear of the residence, screened from public view. No outdoor enclosures for domestic animals (dog runs or kennels) of any kind shall be allowed on any Lot, including similar areas for pot-bellied pigs.

15. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, including grass clippings, and no vegetation on vacant Lots shall be allowed to reach a height in excess of that allowed by ordinance and regulations of the Governing Jurisdiction.

16. Notwithstanding any provision in this Declaration, Declarant, its agents, successors and assigns, shall be allowed to operate and maintain model homes, sales office trailers and construction trailers within the subdivision. This right does not expire with the sale of the last buildable lot in the subdivision.

2002-16371 D

17. No structure, carport, detached garage, trailer, basement or tent shall be erected or used on any Lot at any time. Only sheds which do not exceed ten (10') feet wide, twelve (12') feet deep, and eight (8') feet high may be erected on a Lot, so long as materials and colors are similar to those utilized for the construction of the single family residence of that same Lot.

18. No structure or dwelling shall be moved from outside the subdivision to any Lot without the written approval of Declarant. No structure of a temporary character may be used as a dwelling at any time.

19. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon that may be or become an annoyance or nuisance to the neighborhood.

20. All permanent utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

21. Declarant does hereby reserve unto itself the right to require the installation of siltation fences or erosion control devices and measures in such location, configurations, and designs as it may determine appropriate in its sole and absolute discretion.

22. The provisions for lot use, lot area, sideyards, and front yard shall be amended if the public agency having zoning authority shall determine and permit a lesser area, a lesser distance, or a different use either by means of rezoning or the granting of waivers or special use permits.

ARTICLE II  
CONDITIONS AND RESTRICTIONS  
RELATING TO GOLF COURSE LOTS

1. "Lots Adjoining Golf Course" shall mean and refer to Lots 176 through 219, and 344 through 351 inclusive, Oakhurst, for which one or more of the Lot boundary line(s) is shared with any boundary line of the Tregaron Golf Course (herein "Golf Course").

2. Declarant anticipates that the proximity of the Lots Adjoining the Golf Course will enhance the desirability and value of the said Lots to purchasers and their successors and assigns. Nevertheless, purchasers and owners of the Lots Adjoining Golf Course should be aware that: (i) golfers will from time to time hit golf balls from Golf Course onto and over the Lots Adjoining Golf Course; and (ii) normal operation and maintenance of the Golf Course will involve operation of mowers and other power equipment during the evening and early morning hours.

2002-16371 E

3. The Declarant, for itself, its successors and assigns, including but not limited to Hearthstone Homes, Inc. hereby declares and expressly disclaims responsibility, directly or indirectly, for: (i) intrusion of misdirected or errant shots onto the Lots Adjoining Golf Course; (ii) intrusion of noise from mowing and other power equipment during all hours of the day and night; and (iii) any claim, complaint, cause of action, course of action, or matter relating to the operation and control of the Golf Course by the owner or lessee thereof, its successors or assigns. For this purpose, an "errant shot" shall refer to a golf shot which is hit onto Lots Adjoining Golf Course. The Owners of the Lots within Oakhurst shall indemnify and hold the Declarant, its successors and assigns, harmless for any claims, complaints, damages or other liability arising therefrom.

### ARTICLE III. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U.S. West Communications and any company which has been granted a franchise to provide a cable television system in the area subdivided, their successors and assigns, to erect, operate, maintain, repair and renew poles, wires, cables, conduits and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat and power and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, and the reception on, over, through, under and across a five-foot (5') wide strip of land abutting all front and side side boundary lot lines; an eight-foot (8') wide strip of land abutting the rear boundary lines of all interior lots; and a sixteen-foot (16') wide strip of land abutting the rear boundary lines of all exterior lots. The term exterior lots is herein defined as those lots forming the outer perimeter of the above-described subdivision. Said sixteen-foot (16') wide easement will be reduced to an eight-foot (8') wide strip when the adjacent land is surveyed, platted and recorded, and we further grant a perpetual easement to Metropolitan Utilities District of Omaha, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five-foot (5') wide strip of land abutting all cul-de-sac streets. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

2. U.S. West Communications, Inc. and/or any other telecommunications company may, upon completion of its distribution system, require a connection charge on some or all of the Lots at the time service is requested.

2002-16371 F

3. Other easements as provided for in the final plat of Oakhurst, which is filed in the Register of Deeds of Sarpy County, Nebraska and other easements provided for in further platting(s), or as reserved by the Declarant.

ARTICLE IV.  
GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this declaration to either prevent or restrain any violation or to recover damages or other dues of such violation. Nothing herein contained shall in any way be construed to impose any obligation, of any kind, upon the Developer and/or Declarant or any successor and assigns of the same, any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this declaration shall run with and bind the land for a period of forty (40) years from the date hereof, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by Declarant, or any person, firm corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

3. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

2002-163716

IN WITNESS WHEREOF, the Declarant has caused these present to be  
executed this 22<sup>nd</sup> day of OCTOBER 2001.

DECLARANT:

HearthStone Homes, Inc. a  
Nebraska corporation,

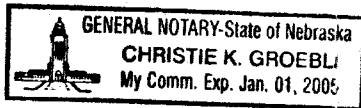
By: [Signature]

John J. Smith, President

STATE OF NEBRASKA     )  
                                      )ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 22 day of  
October 2001 by John J. Smith, President of HearthStone Homes, Inc. a  
Nebraska corporation, known to me to be the identical person who executed the  
above instrument and acknowledged the same to be his voluntary act and deed and  
the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 22 day of October 2001.



Christie K. Groebli  
Notary Public