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DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

1989 FEB -3 AM 11:09

THIS DECLARATION, made on the date hereinafter set forth by Gayle Avenue Partnership, hereinafter referred to as "Declarant".

Gayle Avenue Partnership
OFFICE OF DEEDS

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the County of Sarpy, State of Nebraska, which is more particularly described as:

Lots 1-thru-8 inclusive, Bella West, Replat III, an addition to the City of Bellevue, as surveyed, platted and recorded in Sarpy County, Nebraska.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Section 1. "Association" shall mean and refer to the West Ridge Townhomes Homeowners Association, a Nebraska Non-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner whether one or more persons or entities of a fee simple title to any Lot upon which a residential unit is constructed which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

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Section 5. "Declarant" shall mean and refer to Gayle Avenue Partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On January 1, 1989.

ARTICLE III

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges to be established and collected as hereinafter provided. The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the health, safety and welfare of the residents in the properties, and to maintain insurance on and to provide maintenance for said properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be Six Hundred Dollars (\$600.00) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1, of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased above five (5%) percent by a vote of two-thirds (2/3s) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The annual assessment, not to exceed the maximum amount allowed by sub-paragraphs (a) and (b) above, shall be set annually in accordance with the By-Laws of the Association by the Board of Directors of the Association.

Section 4. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Rate of Assessment. Annual assessments must be fixed, based on the status of each lot. All lots which have residential units completed as evidenced by a certificate of occupancy issued by the local governmental authority, will be assessed the full amount per unit as set by this Declaration. Lots without a residential unit or with a unit under construction, but without a certificate of occupancy, will be assessed on a lot basis at ten (10%) percent of the full amount. Model homes and unsold "spec" homes owned by the Declarant shall be assessed as lots with completed residential units. The assessments may be collected on a monthly basis.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the issuance of the first certificate of occupancy. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at fourteen (14%) percent per annum or the maximum legal rate allowable in the State of Nebraska whichever is less. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein for any reason.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Failure to pay any assessment shall not be construed as or constitute a default under an existing or insured mortgage.

Section 9. Exterior Maintenance. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3s) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

Section 10. Painting/Snow Removal/Lawn Maintenance. Section 9 placing the primary responsibility for exterior maintenance upon the individual Owner, notwithstanding, in order to facilitate uniformity of exterior maintenance, the exterior painting of all units, lawn care and snow removal shall be the responsibility of the Association.

Section 11. Insurance. The Association shall provide insurance with respect to the improvements of each lot in an amount equal to the full replacement value of said improvements or in an amount as may be required by any mortgageholder, whichever is higher, against loss by fire, lightning and other perils covered by standard extended coverage endorsement, and insurance against such other hazards and in amounts as are normally carried by owners of like units. The premium for such insurance shall be included in and paid from the homeowners annual assessment. Owner's personal property shall not be covered thereunder, it being the Owner's sole responsibility to provide such coverage. Liability insurance associated with the owned units shall be the responsibility of each individual Owner. All losses covered by said insurance shall be repaired and or replaced to the full extent permitted by the insurance proceeds. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

ARTICLE IV

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon the Properties and placed on the dividing line between the units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding the above, the blanket insurance

policy shall be deemed to be the primary source of recovery in all such cases, and to the extent additional moneys are required, the above rule shall apply.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by a negligent or willful act causes that party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Notwithstanding, the above, the blanket insurance policy will be deemed to be the primary recovery source and any amount required for said repairs which is not paid by said policy proceeds shall be borne by the owner whose negligent or willful act caused the wall to be exposed.

Section 5. Right to Contribution Runs With the Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Land and shall pass to such Owner's successor in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose an arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be a majority of the arbitrators.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

RESTRICTIONS, EASEMENTS AND MISCELLANEOUS PROVISIONS

Section 1. Restrictions. Every Owner shall have full rights of ownership and enjoyment to his individual lot, subject to the following restrictions:

- (a) No noxious or offensive trade or

activity shall be carried upon any lot; nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No outside above-ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any building plot. Except while under construction, any wood storage piles and equipment shall be walled in or kept screened by adequate planting or by other means in such manner as to conceal them from view. Trailers and recreational vehicles shall not be continuously parked on driveways or side yards.

(b) No fences shall be erected in front of the main residential structure and all weeds and grass shall be cut down to a maximum height of six inches above ground level. All lots shall be kept free of all types of trash and debris.

(c) No trailer, basement, tent, shack, garage, barn or other building erected on said real estate 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 until all exterior construction is fully completed according to approved plans.

(d) No cattle, horses, sheep or poultry, hogs or any other livestock shall be kept or maintained on any lot in West Ridge Townhomes. This paragraph shall not be construed, however, as a prohibition to the keeping of ordinary domestic pets.

(e) All exterior lighting shall be so installed and maintained so as not to unreasonably disturb adjoining lots.

(f) Except for approved chemical temporary toilets to be used only during construction; no outdoor toilets may be constructed or maintained on any lots.

(g) As required by the City of Bellevue, concrete sidewalks four (4) feet wide by four (4) inches thick shall be constructed for the Association. Said sidewalk shall be constructed, completed and paid for by the then owner at the time of completion of the main residential structure and shall be located four (4) feet back of the curb line.

(h) As an aid to freer movement of vehicles at street intersections and in order to provide adequate protection for the safety of children, pedestrians, operators of vehicles and/or property, all fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures shall be so constructed, built and maintained so as to provide clear, unobstructed vision at corners of street intersections.

(i) Said lots shall be used only for residential purposes except such lots, or portions thereof, as may hereinafter be conveyed or dedicated for public, church, educational or charitable uses.

(j) No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than dwellings not to exceed two and one-half (2 1/2) stories in height, a private garage, attached breezeways and other out buildings incidental to such residential uses. No external television or other antenna shall protrude above the highest point of the roof of the dwelling situated on the lot on which such antenna is located.

(k) Each dwelling shall contain at least one attached, detached or basement single car garage and driveway constructed of concrete, brick or asphaltic material which is a minimum of ten (10) feet wide with sufficient area to provide off-street parking for a least two automobiles.

(l) No signs whatsoever, including but without limitation to commercial signs, political signs and similar signs visible from streets and neighboring property or roads shall be erected or maintained upon any lot except: Such signs as shall be required by legal proceedings; residential identification signs of a combined total face area of three (3) square feet or less for each residence; during the time of construction of any residence or other improvements, job identification signs having a maximum face area of nine (9) square feet per sign and of a type usually employed by contractors, subcontractors and tradesmen; and not more than one "For Sale" or "For Rent" sign having a maximum face area of nine (9) square feet.

Section 2. Utility Meters. Each lot shall have separate water, electrical, gas and/or other applicable utility meters for separate reading.

Section 3. Utility Service Lines. Each lot shall be serviced by separate utility service lines with separate utility service shut-off provided.

Section 4. Reciprocal Easements. Ingress or egress easements to any residence lot shall be paramount to any encumbrance on any lot herein covered and shall run with the land.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an 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 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically extend for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year

period by an instrument signed by not less than ninety (90%) percent of the lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property may be annexed to the Properties with the consent of two-thirds (2/3s) of each class.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 2nd day of April, 1987.

DECLARANT:
GAYLE AVENUE PARTNERSHIP, a
Nebraska General Partnership

By Jeffrey E. Renner
Jeffrey E. Renner, Partner

By Edward F. Gilbert
Edward F. Gilbert, Partner

By L. Kenneth Polikov
L. Kenneth Polikov, Partner

By Keith B. Edquist
Keith B. Edquist, Partner