

# **RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS CEDAR WOOD ADDITION, STAGES 1 & 2**

## **ARTICLE 1 DEFINITIONS**

- 1 "Association" shall mean and refer to Cedar Wood Home Owners Association, Inc., an Iowa non-profit corporation, its successors and assigns.
- 2 "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.
- 3 "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Part of the Southwest Quarter of Section 15, Township 78 North, Range 4 East of the 5<sup>th</sup> P.M., Scott County, Iowa more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter of said Section 15: thence North 89° 57' 00" West along the North line of the Southwest Quarter of the said Section 15 a distance of 569.18 feet; thence South 00° 55' 00" West a distance of 773.00 feet; thence South 89° 05' 00" East a distance of 265.00 feet; thence North 53° 54' 06" East a distance of 176.94 feet; thence South 88° 45' 30" East a distance of 159.00 feet; thence North 01° 14' 30" East along the East line of the Southwest Quarter of the said Section 15 a distance of 676.00 feet to the point of beginning containing 9.56 acres.

Excepting therefrom Lots 1 through 56 of said Addition and all right-of-way granted for Cedar Wood Court, Tanglefoot Lane and Devil's Glen Road.

- 1 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or plan of the Properties with the exception of the Common Area
- 2 "Member" shall mean and refer to every person or entity who holds membership in the Association.
- 3 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot 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.
- 4 "Declarant" shall mean and refer to the River Bend Development, Inc., an Iowa corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.
- 5 "Developer" shall mean the same as "Declarant".

## **ARTICLE II MEMBERSHIP AND VOTING RIGHTS**

1. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.
2. The Association shall have two classes of voting membership as follows:



Class A Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by this Article. When more than one person or entity holds such interest in any Lot all such persons or entities shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot, and no fractional votes shall be cast with respect to any Lot.

Class B The Class B member shall be the Declarant. The Class B member shall be entitled to five (5) votes for each Lot in which it holds the interest required for membership required by this Article, provided that the Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever first occurs:

- a. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- b. On June 1, 1979.

### **ARTICLE III PROPERTY RIGHTS**

1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

b. The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and Facilities and in aid thereof to mortgage said property; and the rights of such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder;

c. The right of the Association to suspend voting rights and right to use the recreational facilities by an Owner for any period during which any assessment or monthly installment thereof, against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and

d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance; and

e. The right of the Association to adopt reasonable rules and regulations for the use of the Common Area and facilities thereon.

2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns that it will convey fee simple title to the Common Areas to the Association free and clear of all encumbrances and liens prior to the conveyance of the first Lot in the Properties as above defined. The Deeds conveying the Common Area shall contain a covenant that the Common Areas will be held by the Associations for open space and recreational purposes only.

4. Sanitary Sewer Easement and Maintenance. Subject to the Association's easement rights and duties as hereinafter defined, each Owner shall have the right to use the sewer laterals located below the basement floor grade under each of the Lots located in the same building cluster composed of contiguous Lots, for sewage and waste water disposal purposes only. The Association shall have the exclusive right and duty to maintain, repair, replace or remove the sewer laterals beneath the basement floor grade of any Lot on the properties and also any

sewer lateral located outside the sewer easement area as defined in the plats of the properties. Any damage to said laterals caused by the negligence or willful act of any Owner or his tenants, guests or family, shall be repaired at the sole expense of such Owner. All sewer pipes and lines located above the basement floor grade on any Lot shall be maintained, repaired and replaced by the Owner of said Lot.

5. Electrical and Telephone Easement and Maintenance. Subject to the Association's easement rights and duties as hereinafter defined, each Owner shall have the right to use the electrical and telephone communications services lines located above grade at the rear of each unit, within and attached to the rear walls on each of the Lots located in the same building cluster composed of contiguous Lots, for electrical service and telephonic communications services. The Association shall have the exclusive right and duty to maintain, repair, replace or remove the electrical and telephone communications services and facilities located within this easement. The Association may delegate the maintenance, repair, replacement or removal of any such services to the respective local utility companies servicing said properties. Any damage to the electrical or telephonic communications facilities within said easement area caused by the negligence or willful act of any Owner or his tenants, guests or family, shall be repaired at the sole expense of such Owner. The cost of any maintenance or repairs necessitated other than by negligence or willful acts shall be borne by the Owner of the Lot for which the maintenance or repairs are a benefit.

6. Easement of Access for Maintenance. The Association and such persons as may be engaged by the Association for maintenance purposes shall have the right to enter upon the exteriors of any residence site for the performance of maintenance at any reasonable time. The Association and such persons as may be engaged by the Association for maintenance and repair purposes, including the respective Utility Companies servicing the properties, shall have the right to enter a residence unit only upon reasonable notice under the circumstances in order to repair, replace or maintain the electrical or telephonic communication services facilities serving adjacent residence units.

## **ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS**

1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each improved Lot owned within the properties, hereby covenants, and each owner of any Lot by acceptance of this Deed therefore, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected from time to time as hereinafter provided. The term "improved Lot" shall mean any Lot having a building erected thereon and ready for occupancy. The annual and special assessments, together with interest, costs and reasonable attorney's fees for collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with interest, costs, and reasonable attorney's fees for collection, shall also be the personal obligation of the person or entity who was the Owner of such property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. The Declarant shall maintain all unimproved Lots at its sole cost and expense. The Declarant shall in addition pay to the Association an assessment equal to 10% of the assessment for any improved Lot for each unimproved Lot owned by the Declarant.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and in particular for the maintenance of the Properties and replacement of roofs as herein provided (including maintenance of sanitary sewers and electrical and telephonic communication distribution systems), and for services and facilities related to these purposes and related to the use and enjoyment of the Common Area, and for the improvement, maintenance and insuring of the Common Area.

3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Eighty and no/100 Dollars (\$180.00) per Lot, payable in equal monthly installments of \$15.00 each.

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 percent (5%) 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 percent (5%) over the maximum assessment for the previous year by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

c. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum assessment as so determined.

#### 4. Special Assessments.

d. For Capital Improvements Upon the Common Area. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each Class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

e. Street Improvements on Tanglefoot Lane and Devils Glen Road. In addition to the annual and special assessments authorized above, there shall be a special assessment against all residential lots within Cedar Wood Addition, Stages 1 and 2, to pay any special assessments levied by the City of Bettendorf against any lot or lots in the Cedar Wood Addition, Stages 1 and 2, for street, storm sewer and public sidewalk improvements on Tanglefoot Lane and Devils Glen Road as they abut Cedar Wood Addition, Stages 1 and 2. The special assessment under this section shall automatically become a lien against all residential lots (i.e.: all lots except lots 57, 75 and 84) of Cedar Wood Addition, Stages 1 and 2, as of the date of the Municipal Assessment against a lot or lots within Cedar Wood Addition, Stages 1 and 2, is levied by action of the City of Bettendorf, Iowa.

The amount of the special assessment under this section against each residential lot within Cedar Wood Addition, Stages 1 and 2, shall be determined by dividing the total amount of the City of Bettendorf special assessment(s) against any lot or lots by 125, the number of residential lots within Cedar Wood Addition, Stages 1 and 2.

The assessment under this section shall be due and payable to the Cedar Wood Home Owners Association with such time as specified by the Board of Directors of Cedar Wood Home Owners Association, Inc.

Funds collected under this section shall be applied by the Board of Directors of Cedar Wood Home Owners Association, Inc., to pay the municipal special assessment against any lot or lots within Cedar Wood Addition, Stages 1 and 2, for which the assessment under this section is collected.

5. Notice and Quorum for any Action Authorized Under Sections 3 and 4 (a). Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4(a) 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 percent (60%) 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 (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all improved Lots and shall be collected on a monthly installment basis, except as hereinafter provided.

7. Date of Commencement of Annual Assessment: Due Dates. The annual assessment provided for herein shall commence as to all improved Lots of the first day of the month following the conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year, and shall be payable at the rate of \$15.00 per month. The Board of Directors of Association 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 annual assessment shall be paid in equal monthly installments, and the due dates and delinquency dates shall be uniformly established by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association forth whether the assessments on a specified Lot are current or delinquent. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

8. Effect of Non-payment of Assessments: Remedies of the Association. Any monthly payment not paid within thirty (30) days after the due date shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum. Such a delinquency of any monthly payment shall give the Association the right to declare the remainder of the entire annual assessment for that year immediately due and payable. The Association may bring any action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property by an action in equity. In any such action, interest, costs and reasonable attorney's fee shall be added to the amount of the delinquent assessment and collected as part of the said judgment. In the event of such a foreclosure, if the Association waives any and all rights to a deficiency Judgment against the Owner, the period for redemption as provided by the statutes of the State of Iowa shall be reduced to six months (6) from the date of foreclosure sale. Any Lot ultimately acquired by the Association through Sheriff's Deed after such a foreclosure shall be sold by the Association within a reasonable time either at public or private sale, and any surplus remaining after the payment of all assessments, interest, costs, and attorney's fees shall be paid over to the former Owner of the said Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Area or by abandonment of his Lot.

9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage placed upon any Lot. 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 proceedings in lieu thereof, shall extinguish the lien only of such assessment as to payments which became due prior to such sale or transfer, provided that such sale or transfer shall not extinguish the personal obligation of the prior Owner or his heirs, successors or assigns, for payment of such assessment. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

10. Exempt Property. The following property subject to the Declaration shall be exempt from the assessments created herein:

f. all properties dedicated to and accepted by a local public authority; and

g. the Common Area.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

11. Alternative Payment of Annual Assessment. Any Owner may elect, in lieu of equal monthly payments, to pay the entire annual assessment in one lump sum, on or before February 1 of any calendar year. The exercise of this right to make a single annual payment of the annual assessment shall not require said Owner to make payment of subsequent annual assessments in one lump sum.

## **ARTICLE V**

### **ARCHITECTURAL CONTROL**

1 Scope of 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, elevation, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives approved by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design, color, location within forty-five (45) days after said plans and specifications have been submitted to it, approval will not be required and the requirement of this Article will be deemed to have been met.

2 Reasons for Architectural Control. The primary purpose of Architectural Control, properly exercised, is to protect the value of Lots in the development. This control is not to be viewed as a means for suppressing expressions of individuality.

Secondary purposes of Architectural Control are:

- a. To protect the developers' investment in unsold lots;
- b. To give the Owners essential information regarding the development;
- c. To offer advice to insure the best possible solution of the design problem for all concerned; and
- d. To help insure the neighborhood that nothing shall be done on any Lot which would impair the attractiveness of any other Lot.

## **ARTICLE VI**

### **SPECIFIC PROVISIONS AND USE RESTRICTIONS**

1. Type of Housing Structures. No housing structures, inconsistent with the concepts initially promulgated by Declarant or subsequently approved by the Architectural Control Committee or Board of Directors of the Association shall be permitted.

2. Completion. Construction of each building shall be substantially completed within one year after start of construction.

3. Adoption of Codes. In order to maintain reasonable control of construction for the benefit and safety of the residents, and to fully comply with all legal requirements, all construction shall be done under the requirements of the latest edition of the Building Codes in effect in the City of Bettendorf, Scott County, Iowa.

4. Exterior Maintenance. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: Paint and maintain gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements, excluding patios and enclosed courtyards. Such exterior maintenance shall include the removal of snow from all paved areas in the Properties, excluding patios and dedicated streets. Such exterior maintenance shall not include glass surfaces, and shall also exclude repairs for damages which are insured by the normal Homeowners policy on hazard and fire insurance insuring the Owners. The Association shall replace roofs on the dwelling buildings when necessary due to age. In the event that the need for maintenance is caused through the willful or negligent act of the Owner, his family, guests, tenants or invitees, the cost of such maintenance shall be added to and become part of the assessment to which such Lot is subject.

5. Type of Use. Each Lot shall only be used for single-family dwelling purposes.

## ARTICLE VII

### PARTY WALLS

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 Lots 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.

2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use, as restricted by the provisions of Article IX of this Declaration.

3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, the Owners who make use of the wall shall restore it, subject to the provisions of Articles VIII and IX hereunder, and the Owner or Owners who make use of the wall shall contribute to the cost of restoration thereof in proportion to such use, as provided in Articles VIII and IX of this Declaration, with prejudice, however, to the right of any of such Owners to call for a larger contribution from the other Owner under any rule of law regarding liability or negligent or willful acts or omissions.

4 Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

5 Right to Contribution Runs With 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 successors in title.

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

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arbitrator, and the decision regarding such dispute shall be by a majority of all the arbitrators. The arbitration shall be carried out under the rules of the American Arbitrators Association, and pursuant to Section 679.18 of the Iowa Code, 1971. The decision of the arbitrators shall be binding upon the parties.

## **ARTICLE VIII**

### **INSURANCE**

Duties of Association. The Association shall have the duty to purchase, carry and at all times to maintain in force insurance covering all of the Common Area, the improvements thereon and appurtenant thereto, for the interest of the Association, in such amounts and with such endorsements and coverage as shall be similar in construction, location and use to similar property. Such insurance shall include, but need not be limited to:

- a. Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, as determined annually by the insurance carrier;
- b. Public liability and property damage insurance on a broad form basis; and
- c. Fidelity Bond for all officers and employees of the Association having control over the receipt or disbursement of funds in such penal sums as shall be determined by the Association in accordance with its By-Laws.

Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage to improvements upon the common Area for the repair of which the Association is bound hereunder, the Association shall levy a special assessment as provided for in Article VI of this Declaration to cover the deficiency. If the insurance proceeds are insufficient to replace or repair any loss or damage for which an Owner is bound hereunder, such Owner shall, as his undivided responsibility, pay any excess costs of repair or replacement.

Duties of Owners. Each Owner shall have the duty to purchase, carry and at all times to maintain in force insurance covering the Lot and dwelling unit owned by the Owner, the improvements thereon appurtenant thereto against loss or damage by fire and hazards covered by a standard Homeowner's extended coverage policy

in an amount which shall be equal the maximum insurable replacement value, as determined annually by the insurance carrier. The Association shall be named a co-insured on all such policies in order to enforce the replacement and reconstruction of any such insured dwelling pursuant to the provisions of Article IX of the Declaration. Each Owner shall replace his dwelling upon damage or destruction by fire or other casualty, and if he does not commence replacement or reconstruction within sixty (60) days of said destruction or damage, the Association shall use the insurance proceeds to replace and repair said damage, and the Owner shall pay any excess costs of repair or replacement as herein specified.

## **ARTICLE IX**

### **REPAIR AND RESTORATION**

General. Notwithstanding that the placing, carrying and maintaining in force of insurance against all loss, damage and destruction is provided for in this Declaration, the Association and the Owners shall have the affirmative obligation for repair and restoration as set forth in this Article.

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Individual Residence Unit. Should any individual residence unit, defined as that residence unit located upon a single Lot, or any part of such an individual residence unit, including windows, be damaged or destroyed by fire or other casualty or by intentional mischief, the Owner of the Lot upon which the same is situated shall, at his own costs and expense repair and restore the same or cause the same to be repaired and restored substantially in accordance with the original plans. All such repair and restoration work and the plans and specifications therefore shall be approved, done and performed in accordance with all applicable laws, ordinances, regulations and building codes of the City of Bettendorf, Scotty County, Iowa, subject to the approval of the Association.

More than One Individual. Should more than one individual residence unit or any parts thereof, including windows, be damaged or destroyed by fire or other casualty or by intentional mischief, the Owners of each of the Lots upon which such damage or destruction has occurred shall bear the cost of the same proportionately based upon the nature and extent of such damage as it affects the individual residence of each such owner. In the event of a dispute between the responsible parties as to the apportionment of such costs, the Association shall fix and apportion them to and between the responsible parties and the determination of the Association shall be conclusive and binding.

Facilities on Common Area. If any facilities on Common Area, or any part or portion thereof, be damaged or destroyed by fire or other casualty or by intentional mischief, the Association shall be responsible for the cost and expense of repair and restoration, and the same shall be done substantially in accordance with the original plans and specifications for the improvement of that property.

Timing and Completion. The repair and restoration work referred to in this Article IX shall be commenced with thirty (30) days after the happening of the destruction or damage, time being of the essence, and once commenced the same shall be pursued diligently to completion. If such repair and restoration work is not timely commenced, the Association may, by notice to the responsible party, elect to repair or restore the same or cause the same to be repaired or restored on behalf of and at the cost and expense of the responsible party or parties, and in that event all insurance proceeds collected and any additional amount of costs and expense in excess thereof shall be forthwith paid over to the Association to be used by or to reimburse it for such repair or restoration.

Approval of Plans. No work provided for in the Article or elsewhere in the Declaration shall be commenced and no structure shall be painted or repainted on the exterior thereof or constructed, altered or repaired until completed plans and specifications for the work, including color scheme, shall have been submitted to and approved by the Association or its Architectural Control Committee and by any governmental body having jurisdiction of such work.

Mechanic's Liens. All work of whatever nature on the Properties when commenced shall be done, performed, expeditiously pursued and completed in accordance with the approval given. Neither the Association nor any Owner who or which performs any work, or causes any work to be performed, on any of the Properties shall suffer or permit any mechanics', material-men's or other such or similar liens arising from any claims for damages or growing out of any work, or any other claim or demand, to be enforced against the properties or any part or

portion thereof, but the Association or such Owner, as the case may be, shall pay or cause to be paid all such liens, claims and demands before any action is brought to enforce this same against any part or portion of the Properties; and the Association and each such Owner separately, but jointly and severally, covenants to indemnify all other Owners of contiguous Lots and hold them free and harmless from all liability for any and all such liens, claims or demands together with all costs and expenses in connection therewith. If the Association or any such Owner, as the case may be, shall in good faith contest the validity of any such lien, claim or demand, then the Association or such Owner, as the case may be, shall, at its own expense defend itself and other Owners against the same and shall pay and satisfy any adverse judgment that may be rendered against any Owner of the subject property.

Acceptable Completion. No work on the Properties which requires the approval of the Association pursuant to this Declaration shall be deemed completed until the Association shall have issued its Certificate of Acceptable Completion. The Association shall issue such Certificate upon written request therefor or shall set forth in writing its specific objections to work as not completed or complying. If the Association fails to issue a Certificate of Completion (or its written specific objections) within sixty (60) days after a request in writing for the same has been made to it, acceptable completion of the work shall be presumed.

## **ARTICLE X**

### **PETS**

- 1 Limitation of Pets. There shall be no more than one animal household pet residing on any Lot. This restriction shall be binding upon each Owner of said Lot, his tenants, or contract purchasers residing on such Lot.
- 2 Leash Restrictions. Whenever any house pet is outside the building located upon any Lot, such house pet must be kept either on a leash of sufficient strength to restrain such pet, or within a fence or other enclosure sufficient to prevent his running at large.
- 3 Exercise Restrictions. No household pets shall be exercised on any of the Common Areas, except in such designated areas as specified by the Association.
- 4 Exceptions. The restriction of this Article shall not apply to fish or birds as household pets.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

1. Enforcement. The Association, or any Owner shall have the right to enforce by any proceedings at law or in equity all restrictions, conditions, covenants, or reservations now or hereafter imposed by the provisions of the Declaration. The Association shall have the sole right to enforce, by proceedings at law or in equity, the liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant to restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
2. Severability. Invalidation of any one of these covenants or restrictions by Judgment or Court Order shall in no wise affect any other provisions which shall remain in full force and effect.
3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty-one (21) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. This Declaration may be amended during the first twenty-one (21) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by no less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded to be binding.
4. Annexation.
  - a. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of member. Such annexation shall be effective only upon the recording of a verified certificate executed by the President and Secretary of the Association which certifies that two-thirds (2/3) of each class of members of the Association has actually consented to such annexation.

b. Additional land within the area described on that one certain preliminary development plan and plat on Cedar Wood, dated April 4, 1972, as submitted to the City Plan and Zone Commission of Bettendorf, Iowa may be annexed by the Declarant without the consent of the Members within five years of the date of this instrument, provided that the document of annexation is contained in an Owner's dedication of a subdivision approved as part of the Cedar Wood Planned Unit Development heretofore approved by the City of Bettendorf, Scott County, Iowa.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 25<sup>th</sup> day of June, 1973.

Common Seal of  
River Bend  
Development Inc.

Signed by William E. Stradt, President

Signed by Mel Foster, Jr, Secretary

**AFFIDAVIT REGARDING AMENDMENT TO RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS CEDAR WOOD ADDITION STAGES 1 AND 2**

WHEREAS, it has been determined by a Blacktop Committee and the Board of Directors of Cedar Wood Homeowners Assn., Inc., that all asphalt in Cedar Wood needs new blacktop; and

WHEREAS, Article IV, Covenant for Maintenance Assessments of the Restrictive and Protective Covenants and Conditions for Cedar Wood Addition, Stage 1, dated June 25, 1973, filed June 26, 1973 and recorded as Document No. 9864-73 in the office of the Recorder of Scott County, Iowa, which Restrictive and Protective Covenants and Conditions were imposed upon Cedar Wood Addition, Stage 2 by the Dedication of Owners in the platting proceedings of Cedar Wood Addition, Stage 2, dated July 16, 1973, filed November 8, 1973 and recorded as Document No. 18307-73 in the office of the Recorder of Scott County, Iowa does not permit assessments against residential lot owners for blacktopping; and

WHEREAS, it is believed that blacktopping all the asphalt would be of equal benefit to all residential lot owners in Cedar Wood; and

WHEREAS, it would be desirable to spread assessments for the blacktop of the asphalt equally among all lots owners within Cedar Wood;

NOW THEREFORE BE IT RESOLVED that Section 4, Special Assessments for Capital Improvements, of Article IV of the Restrictive and Protective Covenants and Conditions be amended to read as follows:

4. Special Assessments

- c. Blacktopping of Asphalt in Cedar Wood Addition, Stage 1 and 2. In addition to the annual and special assessments authorized above there shall be a special assessment against all residential lots within Cedar Wood Addition, Stage 1 and 2, to pay for any special assessment for blacktopping the asphalt. The special assessment under this section shall automatically become a lien against all residential lots 1 through 128 (i.e.: all lots except lots 57,75 and 84) of Cedar Wood Addition, Stage 1 and 2, at the date the final bid for the blacktopping has been accepted by the Board of Directors.

DATED July 18, 1998 CEDARWOOD HOMEOWNERS ASSOCIATION, INC.

Signed by Sue Neblett, President

Signed by Mary J Kelly, Acting Secretary

STATE OF IOWA, COUNTY OF SCOTT, SS:

On this 18<sup>th</sup> day of July, 1998, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Sue Neblett and Mary J Kelly, to me personally knows, who, being by me duly sworn, did say that they are the President and Acting Secretary, respectively, of said corporation (that said corporation has no seal); that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said President and Acting Secretary, as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

(Notary Seal) Signed by Amber L Teiss Notary Public in and for said County and State

**AMENDMENT TO DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS AND  
CONDITIONS CEDAR WOOD ADDITION, STAGES 1 AND 2 ADDITIONS TO THE CITY OF  
BETTENDORF SCOTT COUNTY, IOWA**

We, Darryl Worley and Carla Osborn, first being duly sworn, and upon oath do state that we are respectively the President and Acting Secretary of Cedar Wood Homeowners Association, Inc., an Iowa non-profit corporation, of which every person or entity who is a record owner of a fee or undivided fee interest in any lot located in the Cedar Wood Addition, Stages 1 and 2, is a member.

We certify that the following resolution was adopted at a special meeting of the Cedar Wood Homeowners Association, Inc. held on May 8, 2004 by an affirmative vote of 91 members of the Association (each residential lot having one vote) and that those in favor constituted in excess of 75% of the Lot Owners as required under Article XI, Section 3 of the Restrictive and Protective Covenants and Conditions covering Cedar Wood Additions, Stages 1 and 2, dated June 25, 1973, filed June 23, 1973 and recorded as Document No. 9864-73, and as extended by Claims filed June 16, 1994 as Documents No. 18239-94 and 18224-94.

BE IT RESOLVED: that General Provisions of Article XI of the Restrictive and Protective Covenants and Conditions be amended to read as follows:

**5. Legal Fees.**

In any legal action brought by either party to enforce the terms of the Restrictive and Protective Covenants hereof, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorney fees.

DATED June 28, 2004 CEDARWOOD HOMEOWNERS ASSOCIATION, INC.

Signed by President, Daryl Worley

Signed by Acting Secretary, Carla Osborn

STATE OF IOWA, COUNTY OF SCOTT, SS: On this 28<sup>th</sup> day of June, 2004, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Darryl Worley and Carla Osborn, to me personally known, who, being by me duly sworn, did say that they are the President and Acting Secretary, respectively, of said corporation (that said corporation has no seal); that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said President and Acting Secretary, as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

(Notary Seal) Signed by Diana S. Worley Notary Public in and for said County and State