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 Scott County Iowa
 Rita A. Vargas Recorder

File **2005-00035397**

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**RESTRICTIVE AND PROTECTIVE COVENANTS FOR
TOWN & COUNTRY SIXTH ADDITION**

Whereas, Towne & Country Manor Development Corp., an Iowa Corporation, hereinafter referred to as "Declarant" is the Owner and Developer of certain real estate in the City of Blue Grass, Scott County, Iowa, which is particularly described as follows:

Lots 1 through and inclusive of Lot 22 of the Final Plat of Town & Country Sixth Addition to the City of Blue Grass, Scott County, Iowa.

Whereas, Declarant deems it wise and expedient to subject the several lots to a plan of mutual maintenance and provide subsequent owners with certain privileges and rights.

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, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

1. "Association" shall mean and refer to the Towne & Country Homeowner's Association II, an Iowa Non-Profit Corporation, its successors and assigns.
2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such addition thereto as may hereafter be brought within the jurisdiction of the Association.
3. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or plat of the Properties with the exception of the Common Area.
4. "Member" shall mean and refer to every person or entity that holds membership in the Association.
5. "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.
6. "Declarant" shall mean and refer to Towne & Country Manor Development Corp.,

its successors and assigns if such successor or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

7. "Developer" shall mean the same as "Declarant".
8. "Improved Lot" shall mean any Lot having a building erected thereon and occupied or owned by someone other than the Declarant.
9. "Unimproved Lot shall mean any Lot not having a building erected thereon and occupied or owned by someone other than the 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 that 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 (2) 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 (1) 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 vote 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 four (4) 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 Class A membership whenever the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE III PROPERTY RIGHTS

1. Sanitary Sewer Easement and Maintenance. Subject to the Association's and the City of Blue Grass' easement rights and duties as hereinafter defined, each Owner shall have the right to use the common sewer laterals and or lines located in the same building cluster for sewage and waste water disposal purposes only. Both Owners shall have the equal right, responsibility, and duty to maintain, repair, replace or remove the sewer line located outside each Owner's structure. Each Owner's sewer lines within that Owner's structure shall be maintained, repaired and replaced by that Owner.

2. 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 or 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 cable communication service 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 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: (a) annual assessments or charges payable to the funds administered by the Association, and (b) special assessments for capital improvements, such assessments to be established and collected from time to time as hereinafter provided. 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 became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

2. Assessment Funds. The assessments levied by the Association shall be allocated to three separate funds, to be identified and used as follows:

(a) Lawn Fund and Snow Removal Fund. The Owners of each Lot shall be assessed in an amount necessary for the lawn mowing and snow removal and the spring and fall feeding of the lawns. Lawn care is to include 24 cuttings per year and spring and fall weed and feed applications.

(b) Snow removal is provided for driveway, alley, front service walk and city sidewalks. Rear patio is not included. An additional service charge of Twenty Dollars (\$20.00) per month for Owners who install fenced yards to cover additional work required for cutting and trimming around fencing. Said additional service charge may be adjusted by the Association as necessary.

(c) Building Maintenance. Each Lot shall be assessed in an amount necessary for exterior maintenance and replacement of its roof and/or siding, as needed, if the Owner fails to keep same in proper repair.

(d) Unimproved Lot Maintenance. The Declarant shall maintain all Unimproved Lots at its sole cost and expense. No services through the Assessment Funds shall be used for the Unimproved Lot maintenance.

3. Rate and Assessments. Assessments for the Lawn Maintenance and Snow Removal shall be equal and uniform for all Improved Lots and shall be collected on a quarterly installment basis, except as hereinafter provided. The Board of Directors of the Association shall fix the amount of the annual assessment against each Improved 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.

4. Date of Commencement of Annual Assessments: Due Dates. The annual Assessment provided for herein shall commence as to all Improved Lots on the first day of the month following the conveyance of the Improved Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The annual assessment shall be paid in equal quarterly 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 setting forth whether the assessments on a specified Improved Lot are current or delinquent. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

5. Effect of Non-payment of Assessments: Remedies of the Association. Any quarterly payment not paid within thirty (30) days after the due date shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum. Such a delinquency of any

quarterly 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 an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property or any action in equity. In any such action, interest, costs and reasonable attorney's fees shall be added to the amount of the delinquent assessment and collected as part of 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 (6) months from the date of foreclosure sale. Any Improved 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 said Improved Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of the Improved Lot.

6. 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 of any proceeding in lieu thereof, shall extinguish the lien only of such assessments as to payments which become 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 Owner from liability for any assessments thereafter becoming due or from the lien thereof.

7. Exemption from Assessments. All property conveyed to and accepted by a local public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

8. Alternative Payment of Annual Assessments. Any Owner may elect, in lieu of equal quarterly 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 Declarant or Board of Directors of the Association if operational, or by an architectural control committee composed of three (3) or more representatives approved by the Board (hereinafter "Architectural Control Committee"). The Board of Directors of the Association or the Architectural Control Committee has the authority to approve or disapprove the same. In the event said Declarant or Board or the Architectural Control Committee fails to approve or disapprove such design, color, and location within forty-five (45) days after said plans and specifications have been submitted to it, approval will not be required and the requirements of this Article will be deemed to have been met. Interior work is permissible at the Owner's discretion. The following are expressly prohibited:

(a) Fences. Fencing is permissible by the Developer across the rear of Lots 1 through and inclusive of Lot 22. Any and all fencing installed shall be of white vinyl construction, and shall be either 6-foot white vinyl privacy or a 3-foot white vinyl picket. If an Owner shall have a hot tub, the owner shall be permitted to erect a privacy fence surrounding the hot tub to a height no greater than six (6) feet around the hot tub. Materials and workmanship for such privacy fence shall conform to those used for decks, and in any event, the plans shall be approved by the Developer or the Architectural Control Committee. Hot tubs shall be located no further than six (6) feet from the rear of a building or the outer edge of the deck, whichever is greater.

(b) External rooftop antennas for television or radio, "dish" antennae, or free-

