

Recorded: 2/3/2020 at 8:59:59.0 AM
County Recording Fee: \$82.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$85.00
Revenue Tax:
Polk County, Iowa
Julie M. Haggerty RECORDER
Number: 201900066267
BK: 17685 PG: 163

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE
PLATEAU AT DEER CREEK,
URBANDALE, POLK COUNTY, IOWA**

PREPARED BY:

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TAXPAYER INFORMATION:

N/A

RETURN DOCUMENT TO:

MJG Holdings, LLC
PO Box 7502, Urbandale, IA 50323

Grantor:

MJG Holdings, LLC

Grantee:

N/A

Legal Description:

Lots One (1) through Ten (10) in The Plateau at Deer Creek Plat 1, an Official Plat, now included in and forming a part of the City of Urbandale, Polk County, Iowa.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE
PLATEAU AT DEER CREEK PLAT 1,
URBANDALE, POLK COUNTY, IOWA**

THIS DECLARATION is made this 28th day of January, 2020, by MJG Holdings, LLC, an Iowa limited liability company ("**Declarant**").

WHEREAS, Declarant, does hereby establish and place residential covenants, conditions and restrictions ("Covenants") upon the following legally described property:

Lots One (1) through Ten (10) in The Plateau at Deer Creek Plat 1, an Official Plat, now included in and forming a part of the City of Urbandale, Polk County, Iowa (sometimes referred to herein as "Property"),

which Property shall be held, sold and conveyed subject to the following restrictions, covenants, and conditions, and which Covenants are for the purpose of protecting the value and desirability of the Lots, and which shall run with the Property and be binding on all parties having any right, title, or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. These Covenants are deemed to benefit but not burden the Adjacent Benefited Property.

I. DEFINITIONS

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided:

- A. "**The Plateau at Deer Creek**" shall mean and refer to the real property located in the residential subdivision of "The Plateau at Deer Creek" described above.
- B. "**Declarant**" shall mean, MJG Holdings, LLC, or its successors or assigns.
- C. "**Adjacent Benefited Property**" shall mean the property adjacent to the Plat locally known as 2636 128th Street, Urbandale, Iowa and legally described as:

Outlot X in the Plateau at Deer Creek, an Official Plat, now included in and forming a part of the City of Urbandale, Polk County and Lot 1 in Deer Creek Park Plat 1, an Official Plat, City of Urbandale, Polk County, Iowa.
- D. "**Lot**" shall mean and refer to any individual parcel of land that is described above as shown upon the recorded plat of The Plateau at Deer Creek but shall not include Outlot X as shown on the Plat.
- E. "**Building Plot**" shall mean and refer to one or more platted Lots on which a home is to be located.
- F. "**Owner**" shall mean and refer to the record owner, whether one or more persons

or entities, of the fee simple title to or vendee under an installment real estate contract of any Lot or Building Plot of the above described real estate.

- G. **"Outbuilding"** shall mean an enclosed covered structure not directly attached to the residence to which it is appurtenant.
- H. **"Storm Water Detention Area"** shall mean and refer to the detention basin easement area located on Outlot X and Lots 3, 5, 6, and 9 as identified on the Plat.
- I. **"Storm Water Agreement"** shall mean and refer to the Storm Water Facility Management and Maintenance Covenant and Permanent Easement Agreement filed in connection with the Plat and covering the Storm Water Detention Area.

II. DESIGNATION OF USE

All Lots in The Plateau at Deer Creek, except those designated for streets, public easements, or common areas, shall be known and described as residential Lots or Building Plots and shall not be developed with more than one single-family dwelling each, and shall not be improved, used or occupied for other than private residential purposes, consistent with the zoning ordinance of the City of Urbandale, Iowa ("City"). No full-time or part-time business activity may be conducted on any Lot or in any dwelling or structure constructed or maintained on any Lot except those activities permitted under the terms of the zoning ordinance of the City.

III. BUILDING TYPE AND AREA

- A. No building or structure shall be constructed, altered, or maintained on any Lot or Building Plot other than a detached single-family home with private garage or any structure allowed by the Zoning Ordinance of the City. The following requirements must also be met:
 - i. One-story dwellings must have a ground floor finished area of not less than 2,600 square feet.
 - ii. One and one-half story dwellings must have 2,000 square feet of finished area on the first floor and a total on the first floor and second floor of not less than 3,000 square feet.
 - iii. Two-story dwellings must have 1,700 square feet of finished area on the first floor and a total on the main floor and second floor of not less than 3,000 square feet.
 - iv. Split entry dwellings must have 3,000 square feet of finished area on the upper level, but a 70% credit will be given for finished area of lower level which is 50% exposed over finished grade.
 - v. Split level dwellings must have not less than 3,000 square feet of finished area directly under the roof, but a 70% credit will be given for finished

area of lower level which is 50% exposed over finished grade.

- vi. No building shall be erected on any Lot or Building Plot unless the design and location is in harmony with existing structures within the Property. All buildings, structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.
- vii. five-foot-wide sidewalks are required along public streets. At the time any building is built upon a Lot, the owner of the Lot shall be responsible for construction of the public sidewalk along the street frontage according to specifications for the City. The Declarant has no obligation to the purchaser of Lot to install the sidewalk. In the event the owner of a Lot fails to construct the sidewalk as required by the City, Declarant may, in addition to any other remedy available at law or equity, install the sidewalk and file a lien against the Lot or the Association may levy a special assessment against the Lot for the cost to install the sidewalk and if the assessment is not paid foreclose on the assessment in the same manner as mechanic's lien.

Lots 8 and 9 adjoin Hickman Road. Pursuant to City Code, the owner of Lots 8 and 9 shall be responsible for the construction, maintenance and repair of the sidewalk located on Lots 8 and 9 that adjoins Hickman Road.

- viii. In the computation of floor area under this paragraph, any porches, breezeways, attached or built-in garages, or finished basement areas shall be excluded.

B. All structures built in The Plateau at Deer Creek shall blend in with the terrain rather than contrast with it and shall have Uniform Architecture and materials on all elevations of the building, i.e. stone or brick only on the front elevation and full lap siding on the other elevations. The use of natural materials is encouraged, i.e., stained wood, stone, brick and warm-toned shingles, as well as soft, earth-tone colors. All exposed concrete block or tile foundations must be brick, stone, veneered or stucco textured. All structures built in The Plateau at Deer Creek shall be shingled with wood shakes, wood shingles, architectural grade textured and/or shadowed composition shingles, 350lb+ asphalt shingle or slate or tile roof shingles, or other architectural grade metals and colors acceptable to the Declarant described below in paragraph IV.

C. All residences shall have at a minimum, an attached 3-car garage. All driveways shall be constructed of Portland cement concrete. Each dwelling shall provide off-street parking for a minimum of three cars, in addition to the attached garage. No garage doors over nine feet in height are permitted.

D. Fences may be built forward of the centerline of the house built on a Building Plot or Lot only with Declarant review and approval. There shall be no fencing or other obstructions on any conservancy district easement, sanitary sewer easement or surface water flowage easement. All fences shall be no more than six feet in height and

shall either be of wood; stained, painted in soft, earth-toned colors or left natural to blend in with the terrain or, be made of steel or iron and painted either black or dark brown in color to blend in with the terrain. No chain link fences will be permitted.

E. No satellite dish shall be located upon any Lot unless it meets the following requirements:

- i. It shall not be mounted on a trailer or other temporary or portable device but shall be permanently installed in an acceptable fashion.
- ii. It shall be located so that no part of the device is in front of the home it serves.
- iii. It shall not exceed two (2) feet in diameter,
- iv. It shall be constructed of metal material, gray or black in color, or, to the extent technically feasible, match the color of the home it serves.
- v. If ground mounted, it shall be appropriately landscaped and screened with bushes or appropriate fencing.
- vi. It shall not extend more than 12 feet above grade.

F. No light poles shall be used or placed upon any Lot that extend more than 10 feet above grade, except for those used to light tennis courts. Any light poles used to light a tennis court, or similar sports facility, a low impact light shall be used, and approved by the Declarant prior to installation. All light poles shall be of a residential design. All pole lights shall be positioned and directed so as not to constitute a nuisance to any adjoining Lot Owner.

G. No exterior towers or antennas of any kind shall be constructed or permitted on any Lot. Reasonable television or radio antennas are permitted on a residential dwelling or garage.

H. Tool and storage sheds, tennis courts, swimming pools or Outbuildings shall be located only in rear yards and shall be at least twenty (20) feet from Lot lines, and shall be constructed using materials that are harmonious with the development pending approval of the Declarant.

I. No trash receptacles or garbage cans shall be permitted to be stored or maintained outside of a building or a structure on any Lot unless hidden by an attractive screen and landscaping of suitable height and variety.

J. Any children's play sets erected or maintained on a Lot shall be earth-tone in color, not exceed ten (10) feet in height and shall be properly maintained.

K. No manufactured, mobile or modular homes or buildings shall be placed on or erected on any Lot. No houses or buildings shall be moved into or onto the Property. All homes and buildings shall be constructed in place on a Lot; provided, however, panelized

construction on a Lot shall be permitted.

L. The minimum setbacks as specified in this Declaration shall be measured from the Lot line from which the setback is being measured to the nearest building or structure. No buildings or structures (except for permitted fences or drive entrance columns) shall be constructed or maintained within the required minimum setback area. The definition of the terms "front yard", "side yard", "rear yard", "building", "structure" or other similar term relating to setbacks shall be the same as that definition contained in the City's Zoning Ordinance now or in the future.

- i. The front yard setback shall be at least thirty (30) feet.
- ii. The side yard setbacks shall be a total of at least twenty-four (24) feet with a minimum setback of twelve (12) feet on any one side.
- iii. The rear yard setback shall be at least thirty-five (35) feet.
- iv. Lots shall also be subject to all setbacks, easements and restrictions shown on the plat of the Property that are filed of public record.

M. Items such as garbage cans, clotheslines, lawn or garden equipment, building materials and other similar items shall be stored out of public view. Garbage or trash receptacles may be placed curbside the evening before pick-up and shall be returned to acceptable storage out of view by the evening of the day of pick-up. Firewood shall not be stored on the front or side of a house. Firewood shall be neatly stacked behind the house out of sight from public view and shall not consist of more than one stack which shall not be in excess of 4' x 4' x 8' in size. Furthermore, any repair of motorcycles, automobiles, vehicles, boats or equipment shall be done completely out of public view.

N. No motorcycles, automobiles, vehicles, boats, recreational vehicles, or equipment shall be stored, parked or abandoned on any Lot, street, or driveway for a period of more than (i) twenty (20) consecutive days in any one calendar year or (ii) sixty (60) days in aggregate in any one calendar year. Nothing in this paragraph, however, shall prohibit the parking of usual and customary construction equipment and vehicles during the time construction takes place on a Lot or street.

O. All Owners as well as their contractors or agents shall be responsible for implementing appropriate storm water, management plans and erosion control measures before during and after any construction or excavation on a Lot. Such measures may include, but shall not be limited to, sedimentation areas, silt fences and ground over, including silt fences to prohibit siltation, planting and seeding to cover all exposed areas and prevent erosion or storm water detention or other appropriate management of storm water. If in the opinion of the Declarant or the City or other governmental authority erosion or storm water are not properly controlled, corrective action may be taken by the Declarant, and an automatic easement granted to implement the corrective action, and the actual costs thereof plus and administrative fee, as determined by the Declarant, shall be assessed against the offending Lot.

P. Drainage from an Owner's Lot shall not adversely affect any other Owner, Lot, street or adjacent property and each Owner shall indemnify and hold harmless all other Owners, and the Declarant from and against any and all damages or liability caused by an Owner's violation of this paragraph regarding drainage.

Q. No sign of any kind shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except (i) street markers, traffic signs, or any signs installed by the City by other governmental entities or by the Declarant, (ii) signs which have been approved by Declarant in writing not exceeding 144 square inches in area on which there shall only be exhibited the street number and/or the name of the resident, (iii) a customary sign (one per Building Lot) advertising a Building Lot or dwelling for sale, not exceeding 1,296 square inches, (iv) signs for political campaigns and public voting matters. In the event that any signs other than those described above shall be placed or exposed to view on any Lot, the agents of the Declarant are hereby given the right to enter upon such Lot and remove such signs.

R. There shall be a limited noise level of thirty (30) decibels allowed to be emitted from any Lot when measured from any other Lot in the Property. Exceptions shall be lawnmowers, snow blowers, chainsaws, or other standard exterior maintenance equipment and construction work, for which levels may reach sixty (60) decibels during hours permitted by any ordinance of the City.

S. There shall be no parking on any of the streets in the Property except when required during snow removal from driveways or during repair or repaving of driveways or parking areas. Temporary or short-term parking to accommodate guests of Owners or for other valid temporary reasons shall be allowed for periods of not more than 24 hours, subject to regulations established by the Declarant.

T. Any chemical, fertilizer, herbicide or pesticide that may be used on any Lot shall be maintained, applied and disposed of in an environmentally responsible and lawful manner. The Declarant reserves the right to ban or further regulate any chemical fertilizer, herbicide or pesticide pursuant to rules and regulations adopted by the Declarant.

U. No hunting, trapping, shooting of wildlife or discharging of firearms shall be allowed on the Property.

V. There shall be no recreational snow-mobiling or motorized off-road vehicle use or all-terrain vehicles used within the Property except directly to or from an Owner's residence and a destination outside of the Property. Such vehicles, however, may be used for the conveyance of emergency supplies or emergency transportation.

W. No person shall change the grade or elevation of any easement area within the Property dedicated to the City or other entity nor construct any fence or place any obstruction on or over the easement area.

IV. REVIEW OF BUILDING PLANS

Structures shall not be erected upon any Lot until site plans and building plans have first been submitted to the Declarant, its designated representative or successor for its approval of the dwelling's size and aesthetics of the exterior materials and colors to be used on the structures to be erected, and have been further approved by the City through the issuance of a City building permit. The site plan shall show the house and garage, its exterior finish and colors, fencing, light poles, driveways and any other features to be developed upon the Lot. Building plans may be submitted to the Declarant or its successors for review at any time after an Owner takes title to a Lot. If the Declarant or its successors should fail to approve or disapprove said plans in writing fifteen (15) days after their submission, such plans shall be deemed to be approved.

V. LIVESTOCK AND POULTRY PROHIBITED

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot hereby restricted, except that dogs, cats, and other common pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than two dogs or two cats be maintained on any one Building Plot or Lot at any one given time. Dogs shall be kept in strict accord with the applicable leash ordinances of the City of Urbandale.

VI. LANDSCAPING AND CARE

When dwellings are constructed, all Building Plots or Lots are to be fully sodded from the front Lot line to a point seventy-five (75) feet back of the dwelling, except where the topography or tree cover does not make the same practical. The balance of the Lot shall be either sodded, seeded, planted in wildflowers or left in natural vegetation.

When dwellings are constructed on a Building Plot or Lot, if the same are not already in place, the following trees must be planted thereon: A minimum of twenty (20) trees, a combination of 2-inch caliper flowering trees and 2 ¼ inch caliper over-story trees of which a minimum of eight (8) shall be planted in the front yard. (*Flowering trees shall include magnolia, red bud and flowering crab. Over-story trees shall include Oak, Elm and Maple.*) Any trees that the Owner should remove due to construction of the dwelling should be replaced in addition to the twenty (20) tree minimum per lot. The owner should submit a full Landscaping plan to the Declarant prior to installation for review and approval.

VII. WEED CONTROL

The Owner and/or person in possession of each Building Plot or Lot, whether vacant or improved, shall keep the same free of rubbish, trash, weeds, and debris. If said Owner or person in possession fails to keep a Lot free of rubbish, trash, weeds and debris and is in receipt of written notice delivered by certified mail from Declarant, or by any property owners owning property within seventy-five (75) feet of such Lot, to cut such weeds and remove such debris within ten (10) days, and failing to do so, the Declarant, or the Lot Owner giving such notice, as the case may be, may enter upon the Lot to cut or cause to be cut such weeds, or to remove or cause to be removed such rubbish and/or debris, and said Declarant, or Lot Owner shall have a right of action against the Owner of such Lot for collection of the cost thereof.

VIII. EXISTING TREES

The knocking down or cutting down of trees or saplings shall be limited to the absolute minimum needed for construction on a Lot or the removal of diseased or dead trees. Established trees removed for construction shall be only those directly on the structure site or not greater than ten (10) feet from the structure or four (4) feet from any road or driveway. Any Owner desiring to fell or cut down any tree must obtain prior written permission from the Declarant after submission of an acceptable tree removal plan, including a plan for tree replacement.

IX. TEMPORARY STRUCTURES OR EQUIPMENT

No building or structure of a temporary character including but not limited to trailers, basements, tents, shacks, garages, or Outbuildings shall be used at any time as a residential dwelling on any Building Plot, or Lot either temporarily or permanently.

X. COMMERCIAL ACTIVITY PROHIBITED

No home occupation or business, nor any commercial activity shall be conducted on any Building Plot or Lot, except as permitted by Urbandale City Zoning Ordinance.

XI. EASEMENTS

Easements for installation and maintenance of utilities, sewers, and drainage facilities, as well as certain shared driveways, are reserved as shown on the recorded plat of The Plateau at Deer Creek and easements filed with the Polk County Recorder in connection with the Plat. The Owner and/or a person in possession of a Building Plot or Lot shall, at his expense, maintain, keep and preserve that portion of the easement within his property at all times in good repair and condition and shall neither erect nor permit erection of any building or structure of any kind, nor permit any growth of any kind within said easement which might interfere in any way with the use and patrolling of any of the utility services and drainage within the easements or contemplated to be installed within the easements in the future. Furthermore, all Lot Owners and/or a person in possession of a Building Plot or Lot shall comply with the terms and conditions of any recorded easements pertaining to The Plateau at Deer Creek. Declarant reserves unto the Association a nonexclusive easement over the Storm Water

Detention Area together with an easement for reasonable access to the Storm Water Detention Area, for the sole benefit of the Association in performance of its maintenance obligation under this Declaration.

XII. MAILBOXES

Neighborhood mailbox cluster units shall be installed by the Declarant according to United States Postal Service regulations. Thereafter, the United States Postal Service shall maintain, repair, and replace the mailbox or in the event the United States Postal Service fails to do so, then the Association shall maintain, repair, and replace the mailbox. The Owner and/or occupant of the Lot(s) on which a mailbox cluster unit is located shall be responsible for removal of snow and ice which would obstruct access to the mailbox cluster units by the mail carrier and other Owners.

XIII. ENFORCEMENT OF COVENANTS

The Covenants shall be deemed to run with the land to which they apply, and the owner of the Adjacent Benefited Property, Declarant and/or a Lot Owner may bring an action in any court of competent jurisdiction to enforce these Covenants and enjoin their violation or for damages for the breach thereof for any other remedy or combination of remedies recognized at law or in equity if the Lot Owner is in violation of these Covenants, the Declarant shall serve a 10-day notice to remedy the violation. The prevailing party in any enforcement action shall be entitled to recover his or her attorney fees and costs.

XIV. AMENDMENTS TO COVENANTS

This Declaration may be amended from time to time with the approval of the Owners. Such approval shall be given by the affirmative vote of the owner the Adjacent Benefited Property and not less than three fourths (3/4) of the Owners. The Owner of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. **Provided, however, until the Declarant has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Owners or other party.** Such amendments or modifications by the Declarant shall be effective the date the amendment or modification has been filed with the Recorder.

XV. ENFORCEMENT AND WAIVER

- a. In the event that any one or more of the foregoing Covenants, Conditions or Restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the Covenants Conditions mid Restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- b. All Property subject hereto shall also be subject to all rights and privileges of the City of Urbandale, Iowa, acquired or hereafter, acquired by said City by dedication, conveyance, filing or recording of plats Or covenants as authorized by law. Wherever there is a conflict between these Covenants, Conditions or Restrictions and/or the zoning ordinance or law of the City, County or State, wherein the subject property is located,

that which is most restrictive shall be binding.

XVI. RENTAL RESTRICTIONS

No Owner shall use their dwelling as a rental property for duration less than one-year continuous terms and all rentals require approval of the Declarant and Adjacent Benefited Owner. Any rental requests should be submitted in writing by Certified Mail to the Declarant and Adjacent Benefited Owner for review and approval.

XVII. PERIOD OF COVENANTS

This Declaration shall continue and remain in full force and effect at all times as to the Plat and as to the Owners of any Lot, regardless of how title was acquired, until the date twenty-one (21) years after the recording of this Declaration. This Declaration may be extended for successive periods of twenty-one years each thereafter by the filing of a claim by any lot owner with the Polk County Recorder pursuant to the provisions of Section 624.24 of the Iowa Code prior to the end of the original term or prior to the end of any succeeding term of this Declaration. Notwithstanding the foregoing, any easements or other rights not subject to expiration under Iowa law and granted in this Declaration shall survive the termination or expiration of the Declaration.

XVIII. STORMWATER

The topography of the Plat is such that surface water may flow from certain Building Plots onto other Building Plots. In regard to all matters concerning surface water, each Building Plot shall be subject to and benefited by such easements as may exist from the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time; and all Owners shall have such rights and obligations with respect thereto as may be provided by such laws. When construction of a dwelling is complete, the Lot, as well as all adjacent Lots on which the finish grades have been disturbed by the construction activity, must be restored to the finish grades which are consistent with the original engineering design of the Plat. In addition, the Owner must restore all Lots on which their building activities may have caused a disturbance of final soil stabilization, a disturbance of newly seeded ground for soil stabilization, or a disturbance or removal of silt fence, to their original condition prior to the construction activities. This work must be done within seven (7) days after construction of the dwelling has been completed. **By acceptance of a deed for any Lot, Owner agrees to comply with any stormwater maintenance or similar agreement affecting the Plat.**

Any construction or earth moving on any Lot shall be in compliance with all laws relating to storm water discharge permitting. The Owner shall be solely responsible for the Lot with respect to compliance with all terms, provisions and requirements of any NPDES Storm Water Discharge Permit No. 2 and any storm water pollution prevention plan which includes the Lot. Ready mix concrete trucks may wash out only on property in which the concrete is being used. Owners shall be responsible to other Owners for assuring that concrete delivered to their Lot remains on their Lot. The intended Owner shall be held responsible for clean up if concrete delivered to a Lot is spilled or washed onto streets or other lots. During the ownership of the Lot, Owner shall protect, defend, indemnify and hold the owner of the Adjacent Benefited Property, Declarant and other Owners harmless from any and all damages, claims, liabilities,

finances, penalties, cleanup costs and/or attorneys and consultant fees caused by, or in any manner related to (i) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from the Lot and/or (ii) any alleged violation of any NPDES or storm water discharge rule or regulation.

XIX. HOMEOWNERS ASSOCIATION.

A. Definitions.

In addition to the definitions set forth above, the following terms shall have the following definitions, except as otherwise specifically provided:

1. "Association" shall mean and refer to The Plateau at Deer Creek Homeowners Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa, 2017.
2. "Association Responsibility Elements" shall mean the following: The Storm Water Detention Area.
3. "Board of Directors" shall mean and refer to the Board of Directors of the Association.
4. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

B. Membership and Voting.

Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership. Subject to provisions hereof, the Owners of a Lot 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, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

Notwithstanding any other provision of this Declaration, Declarant shall be the sole voting Member of the Association until Declarant no longer owns any portion of any Lot, or until Declarant waives, in writing, its right to be the sole voting member, Declarant shall have the right to elect all Directors and to cast all votes as it deems appropriate. **EACH OWNER BY ACCEPTANCE OF A DEED TO A LOT SHALL BE DEEMED TO HAVE RELEASED DECLARANT FROM ALL CLAIMS WITH RESPECT TO ACTIONS TAKEN OR NOT TAKEN WHILE DECLARANT CONTROLS THE ASSOCIATION.**

The voting Members shall elect a Board of Directors of the Association as prescribed by the Bylaws of the Association. The Board of Directors shall manage the affairs of the Association.

The Association shall suspend the voting rights of a Member for any period during which any assessment hereunder against his/her/its Lot remains unpaid and for a period not to exceed sixty

(60) days for any infraction of the published rules and regulations of the Association.

Unless the Articles of Incorporation or the Bylaws of the Association otherwise provide, written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President or Secretary, or the officer or persons calling the meetings, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Member at his/her/its address as it appears on the records of the Association, with postage thereon prepaid.

C. Assessments.

1. **Creation of Lien and Personal Obligation of Assessments.** Declarant hereby covenants for each Lot and the Owner of each 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 (1) a general annual assessment and (2) special assessments to be established and collected as hereinafter provided. The annual assessment and special assessments, together with late fees, 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 assessments are made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall further be the joint and several personal obligation of each person who was the Owner of such property at the time when the assessment became due. The Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, removal or demolition of a capital improvement that the Association is required to maintain or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

2. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the insurance, improvement, maintenance, repair, replacement, removal and demolition of the Association Responsibility Elements. A portion of such annual assessment shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair, replacement, removal and demolition of the Association Responsibility Elements.

3. **Limitation on Assessments.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner other than the Declarant or an affiliate of Declarant, the maximum annual assessment shall be **fifty dollars and no/100 (\$50.00)** per Lot. Thereafter, the maximum annual assessment may be increased effective January 1 of each year at an amount fixed by the Board of Directors. The Board of Directors shall fix any increase or decrease in the amount of the annual assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The Board of Directors shall establish the due dates for all assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be

binding upon the Association as of the date of its issuance. The Association and Declarant are not required to submit statements for assessments to any Owner.

4. **Uniformity of Assessments.** Both annual assessments and special assessments must be fixed at a uniform rate for all Lots and shall be collected by the Association, in advance, in annual installments due on January 1. All payments shall be made on or before the due date. Upon conveyance of a Lot from the Declarant to another party, the annual assessment and special assessments prorated to December 31 must be paid to the Association.

5. **Effect of Nonpayment of Assessments.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18% per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment all cost and expenses incurred by the Association in collecting said assessments, including reasonable attorney's fees, whether or not legal action is required in connection therewith.

6. **Subordination of the Lien to Mortgage.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The assessment shall be paid prior to or at the closing of sale or transfer of any Lot. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

D. Maintenance.

The Association shall provide all maintenance, repair, replacement, removal and demolition of the Association Responsibility Elements, including (but not limited to) all necessary repairs and replacements required with respect to the Storm Water Detention Area.

In the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, or the Owner's family, guests, invitees, agents or contractors, the cost of such maintenance or repairs shall be assessed to such Owner.

E. Insurance.

The Association shall purchase and maintain a comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall insure the Association and the Owners against claims relating to the Association Responsibility Elements. The Association shall pay the premiums for all such insurance hereinabove described and the cost thereof shall become a part of the monthly assessment.

F. Addition of Outlot X.

Declarant or owner of the Adjacent Benefited Property shall have the irrevocable right to subject Outlot X in the Plat to the terms of this Declaration at any time in the future without the consent of the Association. Outlot X shall be automatically subject to the applicable terms and conditions of this Declaration and Owners of Lots within the additional land shall automatically become Members of the Association in the same fashion as described in this Declaration and shall be subject to the same applicable terms, conditions, duties and assessments as described in this Declaration. Declarant shall signify the addition of Outlot X by filing an amendment to this Declaration with the Recorder of Polk County, Iowa. No approval of the Association or any other person shall be necessary.

Dated this 28 day of January, 2020.

MJG Holdings, LLC Declarant

By: [Signature]
Michael Galloway, Manager

By: [Signature]
Jennifer Galloway, Manager

STATE OF IOWA)
) ss
COUNTY OF POLK)

On this 28 day of January 2020, before me, a Notary Public in and for the said State of Iowa, personally appeared **Michael Galloway and Jennifer Galloway as Managers of MJG Holdings, LLC**, to me personally known, who being by me duly sworn did say they are Managers of said limited liability company, that said instrument was signed on behalf of the said limited liability company by authority of its managers and acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Anne E. Stokely
Notary Public in and for the State of Iowa
Commission No. 709795

