

DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF HARVEST HEIGHTS ON THE CREEK A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA

THIS DECLARATION, made on the date hereinafter set forth, is made by Harvest Heights, LLC, a Nebraska limited liability company, hereinafter referred to as the "Declarant."

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described on Exhibit A, attached hereto and incorporated by this reference.

Declarant intends to subdivide the Land into Lots 1 through 48, all inclusive, and Outlot A, in Harvest Heights on the Creek, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, (the "Development"). Attached hereto as Exhibit B is a true copy of the Development plat to be recorded, identifying the Lots described in this Declaration. The Development and all future subdivisions and additions shall be subject to the provisions of this Declaration.

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

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

ARTICLE I.  
RESTRICTIONS AND COVENANTS

1. Lots 1 through 5 are reserved for commercial use and are herein referred to collectively as the "Commercial Lots" and each individually as a "Commercial Lot."

2. Lots 6 through 48 are reserved for single family residential use and are herein referred to collectively as the "Residential Lots" and each individually as a "Residential Lot."

3. The Commercial Lots and the Residential Lots are collectively referred to herein as the "Lots" and individually as a "Lot."

4. Each Residential Lot shall be used exclusively for single-family residential purposes, and each Commercial Lot shall be used exclusively for commercial purposes permitted under the City of Waterloo zoning code and this Declaration. Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a school, park or for non-profit use shall not be restricted to residential or commercial use. Each Residential Lot may have one (1) outbuilding on the lot, provided the front elevation of the outbuilding matches the front elevation of the residential house. Outbuildings must be used for residential related uses, and not for any commercial activities including without limitation storage of equipment or inventory for use in a business. Out buildings are subject to the approval of Declarant as provided in Section 2 below.

5. No building, residence, fence, wall, driveway, patio, patio enclosure, swimming pool, dog house, tree house, pool house, antenna satellite receiving station or "discs," flag pole or any other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, reconstructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

A. An owner desiring to erect an Improvement shall deliver one set of construction plans, landscaping plans, plot plans, grading plans, and building elevations (herein collectively referred to as the "plans"), to Declarant at 2513 River Road Drive, Waterloo, Nebraska. Such plans shall include a description of the type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, the owner shall notify the Declarant of the owner's mailing address.

B. Declarant shall review such plans in light of the conditions and restrictions of Article I of this Declaration and in relation to the type and exterior of improvements constructed, or approved for construction, on the Lots. All Improvements shall be constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in a reasonable manner to protect the value of all Lots in a manner consistent with this Declaration. If Declarant determines that the proposed Improvement does not conform with the surrounding Improvements or topography or will not protect and enhance the integrity and character of all the Lots and neighboring Lots, Declarant may refuse approval of the proposed Improvement.

C. Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

D. No Lot owner or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Article I, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

E. Landscape plans submitted: as per section (A) above, the plans shall conform to the following standards:

- \* Plans shall indicate any grade changes, walls and berms. All tie walls must be of brick, limestone, concrete pavers, boulders or other approved interlocking materials. No wood/railroad tie walls will be allowed.
- \* Each site shall be landscaped with a mixture of plant materials consisting of shade trees, ornamental trees, evergreen trees, evergreen shrubs, deciduous shrubs and perennials/groundcovers.
- \* Selected plant materials should provide a variety of form, shape and color during all four seasons.
- \* Landscaping shall be installed during the first available planting season following substantial completion of the building.

The Lot owner is encouraged to develop a landscape design and plant palette, which generates an individual identity and reinforces the architectural and site planning of Development.

F. Construction of any commercial building or residence must have received the necessary building permits and commenced construction within twenty-four (24) months from the date of Lot purchase. If construction has not commenced within the twenty-four (24) month period, the Developer shall have the right to buy back the Lot for eighty-five percent (85%) of the purchase price paid by the owner by providing a written notice to the owner. The owner shall not commence any construction efforts once notice has been provided.

G. All construction must comply with the applicable permitting requirements and the zoning and building codes of the City of Waterloo.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling that does not exceed two stories in height. Ranch style homes shall contain a minimum of 1,250 square feet of interior living space. Two story single-family homes shall contain a minimum of 1,700 square feet of interior living space. No mobile or trailer home may be lived in or used as a residence on any lot. No modular

homes are permitted.

4. The exposed front foundation walls and any foundation walls facing any street, and the garage pillars must be constructed of or faced with brick, stone or other material approved by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys extending above the roofline shall be covered with brick, stone or other material approved in writing by Declarant. The roof of all Improvements shall be covered with black or a weathered wood color shingles, or other material approved in writing by Declarant. Hardboard, pressed wood, bonded wood and the like will not be approved by Declarant for coverage of any roof. Pitches on main roof lines must be at least 6/12 or steeper unless a different slope is specifically approved by Declarant.

5. The front entry of businesses in buildings on Commercial Lots must face 240<sup>th</sup> Street or Blondo Street. Building fronts must be made or faced with brick, stone or other material approved by Declarant and must be at three (3) feet from the sidewalk to the top of the facing. Overhead doors may only be located on the rear building elevation unless approved by Declarant in advance. Owner must submit a photo or color rendering of the overhead door with the plans submitted for approval to the Developer.

6. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale". No Lot or Improvement shall be used in any way for any purpose that may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. No business activities of any kind shall be conducted on any Residential Lot, provided, however, this paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles be abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on any Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be parked or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except non-commercial vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. This Paragraph shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other Improvements during the period of construction. All residential Lots shall provide at least a minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the Village of Waterloo or Douglas County, Nebraska. No vehicle may be parked on the street for ten (10) consecutive days or longer. Vehicles that are not moved may be towed.

9. No incinerator, trash burner or outside fuel tank shall be permitted on any Lot.
10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.
11. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. Fences must comply with applicable setback requirements imposed by the Village of Waterloo and Douglas County, Nebraska. All fences must be constructed of black wrought iron or white PVC. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant. No fence shall be of the chain link or wire type.
11. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot.
12. Sidewalks and driveway approaches shall be constructed of concrete. Sidewalks shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof. Repairs and replacement of drives and sidewalks shall be of concrete. No asphalt overlay is permitted. This Paragraph 12 shall vary as needed to comply with any requirements of the Village of Waterloo and Douglas County, Nebraska.
13. Any exterior air conditioning condenser unit shall be placed in the rear yard or a side yard so as not to be visible from the street. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots, other than those of the Declarant, shall be allowed to reach a height in excess of twelve (12) inches.
14. No carport, trailer, basement, tent, outbuilding, shack, or structure of a temporary character shall be erected upon or used on any Lot at any time for a residence, either temporarily or permanently. An owner may erect a swing set, playground equipment, pool house or other non prohibited structure on a Lot only after securing the prior written approval of Declarant.
15. Each owner shall repair and maintain in good condition any and all trees, shrubs, and bushes placed in and along public sidewalk easement area on their Lot. Should any of such trees, shrubs or bushes die or deteriorate into poor condition, the owner of the Lot shall, at its expense, remove such trees, bushes or shrubs.
16. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.
17. No manufactured home, as that term is defined in Section 71-4603(1) of the Nebraska Revised Statutes, 1943, shall be permitted on any Lot.

18. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant, shall be taken by the owner or owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

19. The land is subject to a redevelopment contract with the Village of Waterloo which provides for the division of ad valorem real estate taxes and the issuance of bonds secured thereby. While such division of taxes is applicable, the land subject to such division (1) shall not be used for any charitable, religious, educational or other use that would be exempt from the payment of ad valorem real estate taxes or cause the nonpayment of such taxes; and, (2) shall not be assessed in a manner whereby the structures, or any portion thereof, to be taxed separately from the underlying land so as to effect the division of taxes. Further, while such division is applicable, the owner shall (1) maintain insurance for ninety percent (90%) of the full value of the structures on the land; (2) in the event of casualty, apply such insurance proceeds to their reconstruction; and (3) cause all real estate taxes and assessments levied on the land to be paid prior to the time such become delinquent. The Owner hereby permits and authorizes the Declarant to enter into amendments to such redevelopment contract that are necessary to provide for the division of excess ad valorem real estate taxes to the extent allowed by law.

### ARTICLE III. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Black Hills Energy, Cox and any company which has been granted a franchise to provide a cable television system or telephone service within the Lots, and the Village of Waterloo, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an five (5) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior Lots that are adjacent to presently platted and recorded Lots; and a five (5) foot wide strip of land abutting the rear boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The ten (10) foot wide easement will be reduced to a ten (10) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. Other easements are provided for in the final plat of Development which is filed in the Register of Deeds of Douglas County, Nebraska.

ARTICLE V.  
GENERAL PROVISIONS

1. Except for the authority and powers specifically granted only to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover all loss or damages arising out of such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, but shall be automatically renewed for successive periods of five (5) years each unless terminated as provided below. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of fifteen (15) years from the date hereof. Thereafter this Declaration may be amended or, after twenty-five (25) years, terminated, by an instrument signed by the owners of not less than seventy-five percent (75%) of the Residential Lots and the owners of not less than sixty percent (60%) of the Commercial Lots.

3. By written consent of the Declarant, for a period of fifteen (15) years from the date hereof, any or all of the covenants, conditions, restrictions, and easements as they apply to the Lots may be waived, modified, or amended for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver, modification or amendment will have on the Development and the owner requesting the waiver. Declarant's decision on any requested waiver, modification or amendment shall be final and there shall be no right of appeal of Declarant's decision. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Paragraph, or as a result of any act or failure to act by Declarant with respect to any requested waiver, modification, or amendment.

4. Declarant, or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, Declarant may, but shall not be required to appoint another party to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

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

**Executed on Following Page**

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Harvest Heights, LLC a Nebraska limited liability company, "Declarant"

By: \_\_\_\_\_  
Travis Harlow, Manager

STATE OF NEBRASKA    )  
  ) SS.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Travis Harlow, personally known to me to be the Manager of Harvest Heights, LLC a Nebraska limited liability company, and acknowledged the same to be his voluntary act and deed and the voluntary act and deed of the limited liability company.

\_\_\_\_\_  
Notary Public



**Exhibit A**  
Legal Description of Land

The Southwest Quarter of the Southwest Quarter and the West 10 acres of the Southeast Quarter of the Southwest Quarter of Section 10, Township 15 North, Range 10 East of the 6<sup>th</sup> P.M., Douglas County, Nebraska, except those parts taken for roadway purposes and except a parcel of land described as:

Commencing at the Northwest corner of said South Quarter Southwest Quarter; thence North 90°00'00" East (assumed bearing) on the North line of said Southeast Quarter Southwest Quarter, a distance of 105.00 feet to a point on the East line of a parcel of land previously described in Miscellaneous Book 436, Page 639, said point being the true point of beginning; thence continuing North 90°00'00" East on said North line, a distance of 224.66 feet to a point on the West right-of-way line of County Road No. 86; thence South 00°20'09" West on said West right-of-way line, a distance of 238.93 feet to a point on the East line of said parcel; thence North 43°03'32" West on said East line a distance of 327.00 feet to the true point of beginning. (the "Land").

# Exhibit B The Development Plat

US HWY 275

