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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF
LOTS 1 - 91, INCLUSIVE, NEWPORT HILL,
A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereunder set forth, is made by NS - NEWHILL, 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 as follows:

Lots 1 thru 91, inclusive, all in Newport Hill, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska,

and such property that may be added thereto by the Declarant. Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation of the values and amenities of the Lots in Newport Hill, for the maintenance of the character and residential integrity of Newport Hill, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of all lots in Newport Hill.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots 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 residents of the Lots. 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 be subject to all and each of the following conditions and other terms:

ARTICLE I.

1. Each Lot shall be used exclusively for single-family residential purposes except for such 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 church, school, park or for other non-profit use.

2. No residence, building, fence (other than fences constructed by the Declarant), wall, pathway, driveway, patio, patio cover enclosure, deck, rock garden, swimming pool, dog house, pool house, tennis court, flag pole, satellite receiving station or disc, solar heating or cooling, device, playground equipment or other external improvement, above or below the ground (herein collectively referred to as "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading, excavation or tree removal 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 two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall, include a description of location, type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall review such plans in relation to the type and exterior of Improvements constructed, or approved for construction on neighboring Lots and in the surrounding area, and

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FULLENKAMP, DOYLE & JOBEUN
11440 WEST CENTER ROAD
OMAHA, NEBRASKA 68144-4482
ATTN: Brian Doyle

any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a residential community with homes constructed of high quality materials and presented in a high quality manner. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant, in its sole and absolute discretion, to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, 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 any right to control, direct, change, object 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 Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot, except for Lots excepted from this requirement by virtue of Paragraph 1 of this article, other than one detached single-family dwelling which does not exceed two stories in height. Such dwellings on any Lot shall conform to the surrounding dwellings of similar regime and any general scheme or plans formulated by Declarant and shall have high pitched roofs and brick, drivot, stone or stucco fronts. All Improvements on the Lots shall Comply with all requirements of the ordinances, rules and regulations of the applicable governmental authority, and in addition (if the following exceeds the minimum requirements of the applicable governing authority), there shall be a thirty-five (35') foot front yard setback, twenty-five (25') foot rear yard setback, thirty-five (35') feet street side yard setback, and for all other side yards a seven (7') foot side yard setback.

4. Subject to the specific requirements set forth below, all foundations shall be constructed of concrete, concrete blocks, brick or stone. The exposed front foundation walls and any exposed foundation walls of all main residential structures facing any street must be constructed of or faced with clay-fired brick or stone or other material approved by Declarant. All corner lots with exposed foundation walls facing any side street in clay-fired brick or stone or other material approved by Declarant. All exposed side and rear concrete or concrete block foundation walls not facing a street must be covered with clay-fired brick, stone, siding or shall be painted to match exactly the main color of the home. All driveways must be constructed of concrete, brick, paving stone, or laid stone. Any fireplace chimney or enclosure of any fireplace flue which is located on the front side of a residence shall be constructed of, or finished with, clay-fired brick or stone or other material approved by Declarant. All fireplace chimneys facing any street shall be faced with clay-fired brick or stone or other material approved by Declarant. All other fireplace chimneys, may be covered with wood, vinyl siding or other material if approved in writing by Declarant. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt shingles that are HERITAGE 50 Year-weathered wood in color. Direct vent fireplaces are allowed if approved by Declarant.

5. No streamers, posters, banners, balloons, exterior illumination or other rallying devices will be allowed on any Lot in the promotion or sale of any Lot, residential structure or property unless approved in writing by the Declarant. 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 business activities of any kind whatsoever shall be conducted on any Lot including home occupations as defined in applicable ordinances, rules and regulations of the applicable governing authority; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Provided, however, the foregoing paragraph shall not apply to the business activities, sign and billboards or the construction and maintenance of buildings, including model homes, if any, by Declarant, its agents, assigns and designated builders, during the construction and sale of the Lots.

6. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including but not limited to, odors, dust, glare, sound, lighting, smoke vibration and radiation. 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.

7. No outside radio, television, ham broadcasting, earth station, satellite dish or other electronic antenna or aerial shall be erected or placed on any structure or on any Lot, except, with the prior written approval of Declarant, one (1) satellite dish of 24" or less in diameter or diagonal measurement which is screened from view of any street or sidewalk will be permitted per Lot. The foregoing notwithstanding, any earth station, satellite dish or other electronic antenna or aerial specifically exempted from restriction by statute, regulation, binding order of a court or governmental agency shall be maintained in accordance with the strictest interpretation or condition for such use as may be permitted by such order.

8. No tree houses, sheds, shacks, doll houses, windmills or similar structures shall be permitted on any Lot.

9. No repair of any boats, automobiles, motorcycles, trucks, campers (trailers, van-type, auto-drawn or mounted), snowmobiles, recreational vehicles (RV), other self-propelled vehicles 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 or similar chattels offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

10. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than two (2) consecutive days and no more than twenty (20) days combined within any calendar year. No motor vehicle may be parked or stored outside on any Lot except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers or other commercial vehicles shall be stored, parked, kept or maintained in any yards, driveways, or streets. However, this Section 9 does not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable ordinances, rules and regulations of the applicable governmental authority.

11. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container or fuel tank shall be permitted to be stored outside of any dwelling unless, completely screened from view, except on a designated day each week for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be

deposited on any street, road or Lot. No clothes line or other outside facilities for drying or airing clothes shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards in an area no larger than eight (8') feet by ten (10') feet.

12. Fencing is permitted only with Declarant's written approval. If approved, no fence shall be permitted to extend beyond the front line of a main residential structure. Unless other materials are specifically approved in writing by Declarant, fences shall only be composed of wood, black wrought iron, or black aluminum. Fencing in the Group A Lots only may be black vinyl coated chain link fencing, provided it must be expressly approved by Declarant in writing and such approval may be withheld in Declarant's sole and absolute discretion. Unless approved by the Declarant and any local governing authority, no fences or walls may exceed a height of six (6) feet. Any Lot abutting any amenity in Newport Hill, including greenspaces and park, shall only use black wrought iron type fencing (made of iron, aluminum, or vinyl) if such fencing is approved in writing by the Declarant, no other type of fencing shall be allowed on any such Lot without specific written permission of Declarant. Except as provided above, no chain link fencing shall be allowed. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. Any fences, hedges or mass planted shrubs installed by or at the direction of the Declarant shall not be subject to the provisions of this paragraph.

13. No swimming pool may extend more than four foot above ground Level. Subject first to the provisions of paragraph 2 of this Article, any swimming pool allowed by this paragraph shall be fenced. In addition to the requirements of paragraph 2 of this Article, before any above ground swimming pool may be installed on any Lot, the Owner thereof shall first obtain written approval by Declarant of an appropriate landscaping plan. Approval can be denied at Declarant's sole discretion.

14. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. The Declarant has created a water drainage plan by grading the Lots and/or installing improvements for storm drainage in accordance with generally accepted engineering principles. A copy of the Drainage plan is attached hereto as Exhibit "A" and is incorporated herein by this reference. No building or other impediment shall be placed on, nor any Lot graded in such a fashion as to cause damage to any neighboring building or Lot(s). Excavation dirt shall not be spread across any Lot, nor shall any Lot be graded or regraded in such a manner as to materially change the grade or contour of any such Lot. Declarant, its representatives and agents, including its engineer, shall not incur any liability for damage due to drainage on any Lot regardless of whether such drainage was established in conformance with Declarant's drainage plan.

15. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof, provided however, this provision shall vary to comply with any requirements of the applicable governing authority, by virtue of ordinance, rule, regulation or agreement.

16. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

17. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog, provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns, if required by this Declaration. Dog houses shall only be allowed at the rear of the residence, attached to or immediately adjacent to the residence. Dog runs or kennels shall

be permitted only with the written approval of the Declarant or its assigns; provided always that any permitted dog run or kennel shall be located immediately adjacent to the rear of the residence and hidden from view. No animals, livestock, agricultural-type animals, fowl or poultry of any kind, including, pot-bellied pigs, shall be raised, bred or kept on any Lot, except that subject to the ordinances of Douglas County, Nebraska, small household pets maintained within the residential structure may be kept, in a number not exceeding that allowed by ordinance, rule or regulation of the applicable governing authority, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are not left outside of the residential structure unattended and not permitted to run loose outside the Lot of the Owner. No excessive barking of any dog, or other excessive noise of any kind from any animal, shall be permitted on any Lot. Any dog or other animal that barks or makes other noise outside the home of any Lot at any time shall wear electronic collars to prevent such barking or other noise.

18. Prior to placement on any Lot, any exterior air conditioning condenser unit shall be first approved by the Declarant according to the requirements set forth in Article I, paragraph 2, and shall be placed in the rear yard or any side yards so as not to be visible from public view.

19. No grass, weeds or other vegetation shall be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees shall 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. Lots shall not be used for dumping of earth or any waste materials, and no grass, weeds or other vegetation on vacant Lots shall be allowed to reach a height of twelve (12) inches or more, except as provided below. Except for Lots owned by the Declarant, any grass, weeds or other vegetation which has reached a height of twelve (12") inches or more shall be cut and cleared within seven (7) days of reaching a height of twelve (12") inches by the owner of the Lot on which such grass, weeds or other vegetation is located. Except for Lots owned by Declarant, such grass, weeds and other vegetation shall be cut as close to ground level as possible and shall be maintained so that at any time the same does not again reach a height of twelve (12") inches or more above the ground. Lots owned by the Declarant shall be mowed at least four times a calendar year. Any such cuttings of grass, weeds and/or other vegetation shall be raked and removed from the Lot. Except for the Declarant, if any owner of any Lot fails to comply with the requirements of this paragraph, Newport Hill Homeowners Association shall cause such weeds, grass and other vegetation to be cut and assess the costs thereof upon the owner of such Lot, as a special assessment pursuant to Article II, below.

20. No Residence shall be constructed on a Lot unless the entire Lot as originally platted is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plat. This paragraph shall not apply to replatting of lots approved by the Declarant.

21. With the exception of temporary sales offices maintained by Declarant, its designated builders, agents or assigns and non-metal outbuildings of frame construction with design harmonious with the main residential structure fronting the street so long as there are no view restrictions on such Lot, no structure of a temporary character, carport detached garage, trailer, basement, tent outbuilding shed or shack or other similar structure shall be erected upon or used on any Lot at any time, either temporarily or permanently, unless approved of in writing by the Declarant. For the purposes of this paragraph, it is Declarant's intent that unobtrusive outbuildings constructed with similar brick materials as used on the home may be allowed if there is no obstruction of neighboring view sheds and Declarant's prior written approval is obtained. Such outbuildings are to be for outdoor recreational used and/or storage of vehicles, i.e. wood frame sheds, pool houses, etc., however, Declarant retains the sole and absolute power to approve or deny any request to construct the same. No structure or dwelling shall be moved from outside Newport Hill to any Lot or modular home constructed on any Lot without the written approval of the Declarant.

22. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

23. Prior to any construction on a Lot, siltation fences or erosion control devices and other measures shall be required to be installed by the owner of the Lot, at such owner's sole costs and expense, in such location, configurations and designs as Declarant may determine appropriate in its sole and absolute discretion, at the sole cost and expense of lot owner. Any such siltation fences or erosion control devices, or lack thereof, shall remain the responsibility of the lot owner and Declarant shall have no responsibility or liability due to any erosion or drainage issues that may occur, whether or not caused by Declarant's directions.

ARTICLE II HOMEOWNERS ASSOCIATION

1. The Association. Declarant has caused or will cause the incorporation of NEWPORT HILL HOMEOWNERS ASSOCIATION, a Nebraska nonprofit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots and other lots in Newport Hill, such purposes include:

A. The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as water features, swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas, and signs and entrances for Newport Hill. Common Facilities may be situated on property owned or leased by the Association, on public property or private property subject to an easement in favor of the Association or on property dedicated to any governmental authority.

B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the, use or enjoyment of the Common Facility.

C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Newport Hill; and the protection and maintenance of the residential character of Newport Hill.

D. The entering into and compliance with the duties and obligations of the maintenance agreement required in Article II, Section 5.

2. Owners' Easements of Enjoyment and Delegation of Use. Every owner shall have a right and easement of enjoyment in and to the Common Facilities which 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 Common Facility;

B. The right of the Association to suspend the voting rights and right to use of the Common Facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

C. The right of the Association to dedicate or transfer all or any part of the Common Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of the Members has been recorded.

Any owner may delegate, in accordance with the rules and regulations of the Association, his right of enjoyment to the Common Facilities to the members of his/her family.

3. Membership and Voting. Newport Hill is initially divided into separate residential lots which includes Lots 1 - 91, and shall include future phases of Newport Hill if added by the Declarant pursuant to Amendments to this Declaration recorded with the Douglas County Register of Deeds (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot.

Except for Lots owned by the Declarant, the Owner of each Lot whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly before the Members of the Association. Lots owned by the Declarant shall be each be entitled to twenty (20) votes on each matter properly before the Members of the Association.

4. Purposes and Responsibilities. The Association shall have the powers conferred upon nonprofit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

A. The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

B. The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within or near Newport Hill.

C. The fixing, levying, collecting, abatement and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

D. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members serving thereunder.

E. The exercise of all of the powers and privileges and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

F. The acquisition by purchase or otherwise, holding or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

G. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

H. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the general administration and management of the Association, and execution of such documents and doing and performance of their duties and responsibilities for the Association.

I. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

J. The entering into and compliance with the duties and obligations of the maintenance agreement required in Article II, Section 5.

5. Mandatory Duties of Association. The Association shall maintain and repair any fence, entrance signs, landscaping, green spaces, and drainage areas which have been installed by the Developer/Declarant in easement areas or outlots of the Newport Hill subdivision and center islands dividing dedicated roads, in generally good and neat condition. The Association shall own, operate and maintain outlots in Newport Hill deeded to it by the Declarant, and any outlots in future phases of Newport Hill deeded to it by the Declarant. The Association shall enter into a maintenance agreement with S.I.D. No. 544 and the City of Bennington which obligates the Association on a permanent and continuous basis to provide for the proper and continuous ownership, maintenance and upkeep of all medians, street islands, outlots, trails, and common areas, including all subdivision signs, entrance signs and related fixtures, and including all landscaping and related fixtures. This provision of this Declaration shall not be amended, deleted or modified in any manner without the advance written consent of the City of Bennington.

6. Covenant for and Imposition of Dues and Assessments. The Declarant, for each Lot owned, 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 dues and assessments as provided for herein. The Association may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

7. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant or any of Declarant's designated builders.

8. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest, thereon, costs and reasonable attorney's fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest, thereon, costs and reasonable attorney's fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal

obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

9. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purpose of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Sections 4 and 5 of this Article.

10. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 12, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of Six Hundred (\$600.00) Dollars per year for the first year and in each calendar year beginning on January 1, 2009, one hundred twenty five percent (125 %) of the aggregate dues charged in the previous calendar year.

11. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred and no/ 100 Dollars (\$200.00) per Lot.

12. Excess Dues and Assessments. With the approval of seventy-five percent of the vote of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.

13. Rate of Assessment. Assessments and dues shall be fixed at a rate or rates as determined by the Board and the Board may establish different rates for different lots based on proximity to amenities within Newport Hill subdivision, in addition dues may be abated as to individual Lots, as provided in Sections 6 and 7, above.

14. Certificate as to Dues and Assessments. The Association shall upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

15. Effect of Nonpayment of Assessments - Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of rate of sixteen percent (16%) per annum or the legal rate of interest, whichever is less, compounded annually. The Association may bring in action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall, be indemnified against the interest, costs and reasonable attorney's fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Facilities or abandonment of his Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an Owner by payment of all sums due together with interest, costs and attorney's fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

16. Subordination of the Lien to the Mortgage. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust as collateral for a home improvement or purchase money loan. Sale or transfer of any Lot shall not affect or terminate the dues and assessments lien.

17. Additional Lots. Declarant reserves the right, without consent or approval of any Owner or Member, to expand the Association to include additional residential lots in any subdivision which is contiguous to any of the Lots. Such expansion(s) may be affected from time to time by the Declarant or Declarant's assignee by recordation with the Register of Deeds of Douglas County, Nebraska of an Amendment to this Declaration, or a separate Declaration, executed and acknowledged by Declarant or Declarant's assignee, setting forth the identity of the additional residential lots (hereinafter "Subsequent Phase Declaration").

Upon the recording of any Subsequent Phase Declaration which expands the residential lots included in the Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the "Lots" for purposes, of this Article II, and the Owners of the additional residential lots shall be Members of the Association with all rights, privileges and obligations accorded or accruing to Members of the Association.

ARTICLE III. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Sanitary & Improvement District No.544 of Douglas County, Nebraska, Omaha Public Power District, Qwest Telephone Company, and any company which has been granted a franchise to provide a cable television system within the Lots, Metropolitan Utilities District and any company allowed by law or which has been granted a franchise to provide natural gas within the Lots, and Douglas County, Nebraska, 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 an 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 eight (8) 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 sixteen (16) 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 sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. A perpetual easement is further reserved for Sanitary & Improvement District No. 544 of Douglas County, Nebraska, Metropolitan Utilities District, their successors and assigns and any company allowed by law or which has been granted a franchise to provide natural gas within the Lots to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities only, and to extend thereon pipes, hydrants and other related facilities, and to extend therein pipes for the transmission of gas and water on, through, under ad across a five (5) foot wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining

walls or loose rock walls shall be placed in the easementways but some may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

3. A perpetual easement is further reserved in favor of the Declarant and the Association, its successors and assigns to create, install, repair, reconstruct, paint, maintain, and renew a bufferyard and/or fence, standards and related accessories located on, over and upon a ten (10') foot wide strip of land abutting the rear boundary lines of all exterior or perimeter Lots and all Lots abutting or adjacent to any Outlot in Newport Hill.

4. A perpetual easement is further reserved in favor of the Allwine Prairie, its owners, managers, operators and their successors and assigns for smoke over and through all Lots from controlled burns of prairie grass, brush and other material as provided for in the Plat and Dedication instrument recorded in the Register of Deeds, Douglas County, Nebraska.

5. A perpetual easement and the right of reasonable access has been reserved in favor of Boyer Young Easement Holding Company on, over, through, under and across a ten-foot (10') wide strip of land abutting all interior boundary lines of easements dedicated in the Plat of Newport Hill, including Lots 1 - 91, inclusive, as surveyed, platted and recorded in Douglas County, Nebraska (all lots collectively referred to hereinafter as "Newport Hill"), and replats thereof, which easements abut all front and side boundary lot lines of all lots within the plat; and a ten-foot (10') wide strip of land abutting all interior boundary lines of easements dedicated in the Plat of Newport Hill and any replats thereof which easements abut all rear boundary lines of all lots within the plat, except exterior lots of Newport Hill; and an eighteen (18') foot wide strip of land abutting all interior boundary lines of easements dedicated in the Plat of Newport Hill and any replats thereof, which easements abut all rear boundary lines of all exterior lots in Newport Hill, which eighteen (18') foot wide easement on all exterior lots will be reduced to a ten (10') foot wide strip when the adjacent land is surveyed, platted and recorded if said eighteen (18') foot wide easement is not occupied by any facilities contemplated herein and if requested by the owner for the purpose of erecting, installing, constructing, operating, maintaining, repairing and renewing poles, wires, cables, conduits and other related facilities, and appurtenances thereof above and below ground, and to extend thereon or therein wires or cable for the carrying and transmission of electric current for light, heat and power and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, internet access system, telephone system and/or any other communications system, and the reception related thereto.

6. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which Qwest Telephone Company files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date") then Qwest Telephone Company may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority.

Should such charge be implemented by Qwest Telephone Company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) Qwest Telephone Company sends each owner of record a written statement or billing for Four Hundred Fifty and no/ 100 Dollars (\$450.00) for each unimproved Lot.

7. Other easements and right-of-way dedications are indicated in the final plat of Newport Hill which is or will be filed in the Register of Deeds of Douglas County, Nebraska, and any subsequent plats or replats of Newport Hill.

ARTICLE IV. GENERAL PROVISIONS.

1. Except for the authority and powers specifically granted 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 damages or other dues 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.

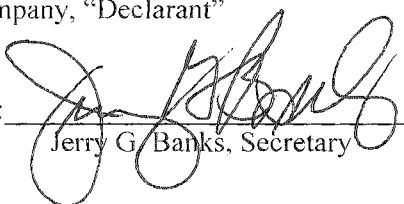
2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date of this Declaration. Thereafter the covenants, restrictions and other provisions of this Declaration shall automatically renew for successive ten (10) year periods unless terminated or amended by the owners of not less than seventy-five (75%) percent of said Lots, which termination or amendment shall thereupon become binding upon all Lots. This Declaration may be amended by NS - Newhill, LLC, a Nebraska limited liability company, or any person, firm, corporation, partnership or entity designated in writing by NS - Newhill, LLC, a Nebraska limited liability company, in any manner which it may determine in its full and absolute discretion for a period of twenty (20) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration. Provided however, that no termination or amendment of any provisions of this Declaration regarding the maintenance or ownership of outlots, or regarding the maintenance agreement required by Article II, Section 5, shall be made without the advance written consent of the City of Bennington, which written consent shall only be provided if another proper entity, as approved by the City of Bennington, assumes full responsibility for the maintenance agreement required in Article II, Section 5, and in addition assumes ownership of all outlots within Newport Hill Subdivision.

3. NS - Newhill, LLC, a Nebraska limited liability company, 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, the rights of the Declarant shall automatically transfer to the Association and the Association may exercise such rights or appoint another entity, association or individual to serve as Declarant, and the Association or such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

4. Invalidation of any one or more provisions of this Declaration by judgment or court order shall in no way effect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed. this 30th
day of OCTOBER, 2007.

NS - NEWHILL, LLC, a Nebraska limited liability
company, "Declarant"

By: 
Jerry G. Banks, Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 30 day of October
2007 by Jerry G. Banks, as Secretary of NS - Newhill, LLC, a Nebraska limited liability company, on
behalf of said limited liability company.


Notary Public

