

Prepared by and return to: John D. Freund, 1005 Main Street, Suite 200, Dubuque, IA 52001; 563.587.8050

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
OF  
THE VILLAS OF SOUTH POINTE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE VILLAS OF SOUTH POINTE (hereinafter "Declaration") is made on the 22<sup>nd</sup> day of December, 2017 by DUBUQUE SOUTH POINTE, LLC, an Iowa limited liability company (hereinafter the "Declarant").

**RECITALS**

Declarant is the owner of certain real property in the City of Dubuque, County of Dubuque, State of Iowa, which is more particularly described as:

Lots 3 through 37, inclusive, of South Pointe, according to the plat recorded on October 18, 2017 as Instrument No. 2017-13004 in the records of the Dubuque County Recorder

(hereinafter the "Real Property").

NOW THEREFORE, Declarant hereby declares that all of the Real Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding upon all parties having any right, title, or interest in the Real Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to THE VILLAS OF SOUTH POINTE, its successors and assigns.

Section 2. "Board of Directors" shall mean the board of directors of the Association.

Section 3. "Bylaws" shall mean and refer to the bylaws of the Association as may be amended from time to time.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot will be described as determined by the Declarant.

Section 5. "Declarant" shall mean and refer to DUBUQUE SOUTH POINTE, LLC, an Iowa limited liability company.

Section 6. "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Townhouse Lot which is a part of the Real Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Every Lot Owner is, unless otherwise set forth herein, deemed to be the owner of the Townhouse Dwelling located on the corresponding Townhouse Lot.

Section 7. "Real Property" shall mean and refer to that certain real property hereinbefore described in the Preamble and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the Declarant.

Section 8. "Townhouse Lot" shall mean and refer to any plot of land upon which a Townhouse Dwelling has been or is to be constructed.

Section 9. "Townhouse Dwelling" shall mean and refer to the actual dwelling constructed upon a Townhouse Lot.

## ARTICLE II PROPERTY RIGHTS

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

- a. The right of the Association to charge reasonable fees for the use of any facility situated upon the Common Area;
- b. The right of the Association to suspend the voting rights and right to use of the facilities by an Lot Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

- c. The right of the Association (subject to the provisions of subparagraph (d) of this Section) to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfers shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded; and
- d. The Common Area shall be subject to any and all utility easements reasonably necessary or required to serve any Lot adequately.

ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Lot Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

**CLASS A.** Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) 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.

**CLASS B.** The Class B members shall be the Declarant and shall be entitled to four (4) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when all of the buildings are sold by Declarant.

ARTICLE IV  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges, and (2) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and also special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Lot Owner of the Townhouse Lot at the time that the assessment fell due. The personal obligation for delinquent assessments shall not pass to his, her, its, or their successors in title unless expressly assumed by them.

Section 2. Purpose of Annual Assessments. The annual assessment levied by the Association shall be used exclusively to promote recreation, health, safety and welfare of the residents in the Real Property and for the improvement and maintenance of the Common Area and easement areas, and for the improvement, maintenance and repair of Townhouse Lots as hereinafter provided, and for the payment of the expenses of the Association.

The annual assessments for the benefit of all members of the Association shall be determined by the initial Board of Directors and shall be reviewed and/or amended by the Board annually. During the 2017 calendar year, the monthly assessment shall be no less than One Hundred Twenty Five Dollars (\$125.00), payable the first day of each month, and the annual assessment shall be One Hundred Dollars (\$100.00), payable thirty on the earlier to occur of (a) closing on the purchase by the owner or (b) within thirty (30) days after owner receives notice of the new assessment delivered by the Developer (estimated to be in January of each year). Thereafter, the amount of the assessment shall be determined on an annual basis by a vote of the Board of Directors.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area and easement areas.

Section 4. Notice and Quorum for any Action Authorized Under Section 3. Written notice by regular mail, in accordance with the Bylaws, of any meeting called for the purpose of taking any action authorized under Section 3 above shall be sent to all members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members comprising more than fifty percent (50%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirements and quorum requirements.

Section 5. Exterior Maintenance. In addition to maintenance upon the Common Area and easement areas, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows:

- a. In General. Exterior maintenance of all lots other than Townhouse Lots shall be provided as follows:
  1. In the event an Owner of any Lot in the Real Property shall fail to maintain the decorative plantings and shrubs or conduct maintenance (where such action is required of such Owner), the Association, after approval of fifty-one percent (51%) vote of the membership, shall have the right, through its agents and employees, to enter upon said parcel and perform such maintenance. The Board of Directors shall be authorized to do and carry out this provision only after giving five (5) days' written notice to the Owner, setting out in such Notice what is

required to be done. The cost of any such maintenance shall be added to and become a part of the assessment to which such Lot is subject.

2. In the event that the need for maintenance or repair upon any Lot or the Common Area is caused by the willful or negligent act of the Owner of any Lot, family or guests, or invitees, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such Lot is subject.
- b. Townhouse Lots. Exterior maintenance of Townhouse Lots shall be provided as follows:
1. The Board of Directors shall make an annual determination of the amount of an annual assessment to which all Townhouse Lot Owners shall be subject, provided that no annual or special assessment shall be levied against Declarant for any Lot owned by it within the Real Property.
  2. Disbursements. The Board of Directors shall, from time to time, authorize the expenditure of the funds so assessed for exterior maintenance, including but not limited to the following: painting, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces and other exterior improvements. Such exterior maintenance shall not include glass surfaces, storm doors, decorative plantings, shrubs, or any concrete surfaces such as patios.
  3. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any extraordinary construction, reconstruction, repair or replacement of a capital improvement beneficial to Townhouse Lot Owners, provided that they have the assent of fifty-one percent (51%) of the votes of the Association and provided further that only those Townhouse Lot Owners benefitted shall be levied against, provided that no annual or special assessment shall be levied against Declarant for any Lot owned by it within the Real Property.

Section 6. Uniform Rate of Assessment. Both annual and special assessments for the benefit of all the members of the Association must be fixed at a uniform rate for all Lots and shall be collected on a monthly basis except that the annual assessment as set forth in Section 2 above shall be collected annually.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an

officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or to foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his, her, its, or their Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be filed of record with the Dubuque County Recorder and shall state with specificity the details of such lien. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhouses upon the Real Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, Chapter 563 of the Code of Iowa and the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other cause, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

Section 5. Right to Contribution or Indemnity Runs With Land. The right of any Owner to contribution or indemnity from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event as to any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators, the costs of such arbitration to be borne equally between the owners involved, provided, however, this section shall not be construed to limit the right of any Owner or law inequity.

Section 7. Encroachment. Upon any party wall, there may be an encroachment of not more than six (6) inches in laying the foundation upon an adjoining Owner's Lot so that the footing on which rests the party wall, may extend not more than six (6) inches over on the property owned by said Lot Owner. There may further be an encroachment of not more than one foot in any roof overhang so that a roof overhang belonging to one Lot Owner may hang not more than one foot over from the property of an adjoining property owner where there is a difference in the height of the two adjoining buildings.

Section 8. Material Changes to Exterior of Building. Any material changes to the exterior of any residential building subject to this Declaration, including but not limited to color changes on doors, shall require consent of the Board of Directors.

ARTICLE VI  
ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Real Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors. In the event that the Board of Directors, or its designated committee, fails to approve or disapprove of such design and location within thirty (30) days after said plans and specifications have been submitted, approval shall not be required, and this Article will be deemed to have been complied with fully.

ARTICLE VII  
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Lot Owner, shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Lot Owner to enforce any covenant or

restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other property provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-one (21) years from the date that this Declaration is recorded and thereafter shall be renewed in accordance with Iowa Code § 614.24 by the filing of a verified statement. This Declaration may be amended during the initial twenty-one (21) years by an instrument signed by the Lot Owners owning no less than ninety percent (90%) of the Lots and thereafter, if a verified statement is filed, by the Lot Owners owning no less than seventy-five percent (75%) of the Lots. Notwithstanding the foregoing, the Declarant may unilaterally file an amendment to this Declaration at any time during the initial twenty-one (21) years.

Section 4. Annexation. Additional residential property and common area may be annexed to the Real Property with the consent of fifty-one percent (51%) of the votes of the Association, provided, however, that additional land not heretofore conveyed by the Declarant within the area described in the Preamble hereto may be annexed by the Declarant without the consent of any Lot Owners within five (5) years of the date of this instrument.

Section 5. Class B Approval. As long as there is a Class B membership, the following actions will require the prior approval of one hundred (100%) of the Class B membership and the mortgagees of any Lots owned by Class B members: annexation of additional properties, dedication of common area, and amendment of this Declaration of Covenants, Conditions, and Restrictions.

Section 6. Insurance. Each Owner of a Townhouse Dwelling located upon its Real Property shall:

- a. Insure and keep insured said Townhouse Dwelling for a minimum of ninety percent (90%) of its replacement value and the proceeds of such insurance shall be used to repair, replace and restore the damaged Townhouse Dwelling as nearly as possible to the same condition that existed before the event, or events, which caused any loss;
- b. Waive and release any right or action or subrogation that said Lot Owner or owners may have against the Association or any other Owner of any townhouse located on the same block of the Real Property from any liability for loss by fire or any other casualty insured against to said Owner or Owners' townhouse or contents regardless of the cause of the loss or damage; and
- c. Upon the request of the Association, provide written proof of such insurance as required by this Section 6.

ARTICLE VIII  
MISCELLANEOUS

Section 1. All lots shall be used solely and exclusively as and for single family residences.

Section 2. No Lot may be subdivided nor may any house or garage be moved upon any Lot from any other location except by Declarant.

Section 3. Except as otherwise provided in these Restrictive Covenants, all townhouses shall comply with all applicable ordinances of the City of Dubuque, Iowa as the same may now or hereafter exist.

Section 4. No building, trailer, tent, pre-fab, mobile home, barn, double-wide vehicles, modular component or manufactured house, foundation, basement, garage, shack or other non-dwelling type building shall be moved onto a Lot, constructed on a Lot or used as a residence, temporarily or permanently. Only a newly constructed townhouse may be used as a dwelling.

Section 5. No home occupation or business shall be allowed which increases vehicular traffic on the roadway adjacent to the property described above. No business of any kind or nature, for pecuniary profit or otherwise, shall be conducted on the property, nor shall any educational institution, school, or children's nursery be conducted, held or carried on the Real Property. Nothing contained in this section shall apply to Declarant nor be construed to prohibit sales or development of the Real Property.

Section 6. Only passenger automobiles are permitted to stand at any time upon the above-described Real Property, except for service vehicles actually used in the construction of the residence and improvements or for the purposes of performing services to the Owner of any said Lot.

Section 7. No boat, snowmobiles, automobile, bus, truck, camping, or recreational vehicle or trailer, nor a trailer used to carry the same, nor any other vehicle or device capable of carrying passengers or cargo shall be kept or stored on any said Lot except within the garage. All applicable laws regarding the parking and storage of machinery or vehicles on public streets shall be obeyed.

Section 8. No unused old automobiles, machinery or junk materials shall be kept on any of said lots, nor shall any vehicle built for or adapted to or modified for racing purposes be kept or stored upon any of said Lots.

Section 9. Building materials may be stored or kept for immediate incorporation into a structure on said real estate.

Section 10. No planting, transplanting or gardening shall be done, except within individual Townhouse Lots. No fences, hedges or walls shall be erected or maintained upon the

Real Property except as approved by the Board of Directors or the City of Dubuque in the case of any Townhouse Lot which abuts a public street or right-of-way.

Section 11. All electrical, gas, telephone and television cable services to the residence must be installed and maintained underground by the respective property Owner, their successors and assigns. No towers or CB antennas shall be constructed, installed or maintained on any Lot. Satellite dishes not in excess of two feet (2') in diameter are permitted.

Section 12. The buildings, lots, driveways, walks and lawns must be maintained in a manner consistent with the adjacent subdivisions in the City of Dubuque, Iowa.

Section 13. No noxious or offensive activity shall be carried on in any townhouse, garage or Common Area, nor shall anything be done therein or thereon which may be, or become, a nuisance to the other Lot Owners.

Section 14. No trash or garbage shall be kept on any Lot except in adequate sanitary containers and all Lots shall be kept free of weeds and debris. No materials are to be buried on any portion of any Lot. No waste shall be stored in or on the Common Area.

Section 15.

Section 15. Firewood shall be stored within the residence. If stored outside, then it shall be stacked and ranked immediately adjacent to the rear of the residence in an orderly fashion. If the wood is purchased by the truckload, then it must be cut and stacked within one (1) week.

Section 16. No firearms, air rifles, or BB guns shall be discharged within said Lots and no hunting of any animals shall be permitted within said Lots.

Section 17. All lot requirements shall be in conformity with the County and City zoning regulations in existence at the time of the construction.

Section 18. No one shall congregate in Common Area, with the exception of those Common Area specifically designated for congregating. Such designation shall be clearly posted for the residents.

Section 19. Storage. Nothing shall be stored in the Common Area without prior consent of the Board of Directors except in storage areas or as otherwise expressly provided in this Declaration. No boats, campers, trailers, recreational vehicles, or snowmobiles shall be kept or stored on the Real Property except within a garage.

Section 20. Insurance. No Lot Owner shall permit anything to be done or kept in his or her Townhouse Dwelling or in or on the Common Area which will result in the cancellation of insurance on any Townhouse Dwelling or any part of the Common Area or which will be in violation of any law. All insurers and reinsurers must be licensed, or otherwise authorized by law, to conduct business in the State of Iowa.

Section 21. Waste. No waste shall be committed in or on the Common Area.

Section 22. Signs. No sign of any kind shall be displayed to the public view on or from any Townhouse Dwelling or the Common Area, except those used in the sale of the property shall be permitted or those posted by Declarant.

Section 23. Common Area. Except as otherwise expressly provided, nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Board of Directors.

Section 24. Clothes Drying. No outdoor clothes lines may be installed or used.

Section 25. Planting and Fences. Except within individual Townhouse Dwellings, no planting, transplanting, or gardening shall be done more than four feet (4') out from the building, and no fences, hedges, or walls shall be erected or maintained, except as approved by the Board of Directors or the City of Dubuque in the case of any Townhouse Lot which abuts a public street or right-of-way.

Section 26. Vehicles. Motorcycles, motorbikes, motor scooters, or other similar vehicles shall not be operated within the Real Property except for the purpose of transportation directly from a parking space to a point outside the Real Property or from a point outside the Real Property directly to a parking space.

Section 27. Leases. A Lot Owner may lease his or her Townhouse Dwelling subject to the following conditions: (1) the entire Townhouse Dwelling must be leased; (2) the lease must be in writing; (3) the lease agreement must provide that its terms are subject to the provisions of this Declaration and the Bylaws and that failure by the tenant to comply with such provisions shall constitute a default under the lease; (4) the lease shall also contain an acknowledgment signed by the tenant that the tenant has received true copies of the Declaration and the Bylaws; (5) no Townhouse Dwellings may be leased for transient or hotel purposes; and (6) such reasonable rules and regulations as the Board of Directors may establish from time to time.

Section 28. Animals. No animals shall be raised, bred, or kept in any Townhouse Dwelling for any commercial purpose. No outside kennels are permitted. The conditions are as follows:

- a. The animal species chosen as a household pet may either be a cat or a dog, subject to any City, County or State restrictions. No exotic animal (excluding cat, dog, or traditional household pet) is to be permitted.
- b. The cat or dog chosen must be of a non-aggressive species. Aggressive species include but are not necessarily limited to Pit Bulls and Staffordshire Terriers, Doberman Pinschers, Rottweilers, Chows, Great Danes, Presa Canarios, Akitas, Alaskan Malamutes, German Shepherds, Siberian Huskies, Wolf-hybrids, or a mix of any of the foregoing.

- c. The pet must be housed indoors.
- d. No pet is to be left outside unattended. The pet is only permitted on the lawn directly behind the Townhouse Dwelling owned by the Lot Owner housing the pet. No dogs are to be allowed on the other half of the rear lawn, in the front, or on the side of the Townhouse Dwellings.
- e. All feces must be collected immediately upon deposit and disposed of properly by disposing down the toilet or by storing in an airtight container, which is to be emptied weekly. The feces storage unit must be airtight so as to allow no offensive smell to emit. The feces container is to be stored in the Lot Owner's garage and is not to be stored out of doors.
- f. In the event the pet damages or destroys any Common Area of the Real Property or reduces the uniformity of the lawn or landscaping in any manner, then the damage, destruction or lack of uniformity must be repaired by the pet owner within thirty (30) days of the defect occurring. The repair is to occur at the pet owner's expense. In the event that the pet owner does not repair the defect within thirty (30) days, then any Lot Owner or the Association may repair the defect and submit the bill for such repair to the pet owner, at which time the pet owner shall pay, indemnify, and hold harmless the Lot Owner or Association arranging the repair from any and all liability for the expense.
- g. No pet shall make any noise inside or outside which disturbs their neighbors' peaceful enjoyment of the premises.
- h. If any Lot Owner or the Association voices any objection to a violation of any of these provisions by the pet owner, then the Board of Directors shall make a determination after hearing from the pet owner whether the pet shall be removed from the Real Property. If the Board of Directors delivers notice of hearing to the pet owner and the pet owner does not respond, then the Board of Directors may make a determination in the pet owner's absence.

Section 29. Lawn and Landscaping Maintenance and Snow and Ice Removal. The Association shall employ the services of a professional for purposes of cutting and maintaining the lawns. The Association shall charge an appropriate fee for the same, to be incorporated into the association fees as determined by the Board of Directors. Each Lot Owner shall be responsible for removing from his, her, or their yard, walks, and driveway any and all objects that would interfere with proper lawn care, landscaping, and snow and ice removal, including but not limited to toys, belongings, pet feces, etc. The Association may determine, in the Association's sole discretion, that a Lot Owner must remove items of personal property from the yard or surrounding premises so as to facilitate such maintenance in a reasonably efficient manner.

Section 30. Street Maintenance and Snow and Ice Removal. All streets within the Real Property are privately owned by the Association as part of the Common Area and shall be maintained by the Association, including the removal of snow and ice from the streets and sidewalks within the Real Property. The Association shall charge an appropriate fee for the same, to be incorporated into the association fees as determined by the Board of Directors. Under no circumstances shall any snow or ice be deposited within any public streets or rights-of-way. A public water main runs underneath the private streets described herein, and access for repair and maintenance of such water main shall be governed by an easement agreement between Declarant and the City of Dubuque.

Section 31. Roofing Maintenance. It is expected that the property will need to be re-roofed approximately every 15 to 20 years. Each Lot Owner shall be responsible for his, her, its, or their pro-rata share of the cost of re-roofing the entire roof covering one or more Townhouse Dwellings. In the event that an act of nature causes damage or destruction to any roof and the Lot Owner files a claim related thereto and receives an insurance payment with respect thereto, the Lot Owner shall make all necessary repairs or replace the roof, as the case may be, as soon as practicable.

Section 32. Mailboxes. The mailboxes installed at the Real Property at the time of the execution of these documents are uniform. No Lot Owner may replace or modify the mailboxes in any manner without unanimous approval of all Lot Owners and the consent of the Association.

Section 33. Lawn Furniture. All patio furniture is restricted to the established patio area of each individual Townhouse Dwelling. No picnic tables or patio furniture, lawn chairs, or other furniture may be placed in the front yard or Common Area of the Real Property. No tables or chairs may be placed in the yard or Common Area of the Real Property or on the front porch of the Townhouse Dwellings.

Section 34. Birdbaths and Benches. No birdbaths or benches may be installed in the yard or Common Area with the exception of those incorporated into the landscaping.

Section 35. Exterior Lighting Maintenance. All exterior lighting must be maintained. Each Lot Owner is responsible for the exterior lighting affecting his, her, its, or their Townhouse Dwelling and garage. Each Lot Owner must replace any burned out bulbs or damaged exterior lighting within seventy-two (72) hours of the defect occurring. If the Lot Owner does not remedy a defect within seventy-two (72) hours, then the Association or any other Lot Owner may employ the services of someone to complete this work. The Lot Owner whose responsibility it was to complete the work originally must pay, indemnify, and hold the Association or other Lot Owner harmless for this expense. All exterior lighting, with the exception of pathway lighting, shall be turned off at 11:00 p.m.

Section 36. Sump Pump Maintenance. If the Real Property utilizes sump pumps, then each Lot Owner shall maintain his, her, its, or their sump pump in good and operational

condition at all times. Where practicable, all sump pumps should connect to the closest subdrain or stormwater sewer.

Section 37. Noise. No Lot Owner, guest, or other person shall make any noise or allow any noise to be made either inside the Townhouse Dwelling or in the Common Area which would compromise their neighbors' peaceful enjoyment of the premises. No noise may be heard outside of any Townhouse Dwelling after 10:00 p.m. No parties or social gatherings may occur outside without advance approval of the Board of Directors.

Section 42. Pond and Walking Trails. The Association shall maintain the pond and all walking trails located within the Real Property and shall charge an appropriate fee for the same, to be incorporated into the association fees as determined by the Board of Directors. No motorized vehicles of any kind shall be used in the pond or on the walking trails.

Executed this 22<sup>nd</sup> day of December, 2017.

DUBUQUE SOUTH POINTE, LLC:  
By [Signature]  
Print Name: James Trausch  
Its Member

STATE OF IOWA                    )  
COUNTY OF DUBUQUE    ) ss.

On this 22<sup>nd</sup> day of December, 2017, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared James Trausch, to me personally known who, being by me duly sworn, did say that he or she is the Member of the limited liability company executing the within and foregoing instrument, that no seal has been procured by the limited liability company by authority of its members, and that James Trausch, as Member, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the limited liability company, by it and by him or her voluntarily executed.

Vanessa Cahill  
Notary Public in and for Said State



Prepared by and return to: John D. Freund, 1005 Main Street, Suite 200, Dubuque, IA 52001; 563.587.8050

RE: Lots 3 through 37, inclusive, of South Pointe, according to the plat recorded on October 18, 2017 as Instrument No. 2017-13004 in the records of the Dubuque County Recorder.

Previously recorded document: 2017-15878

**FIRST AMENDMENT**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS, AND RESTRICTIONS**  
**OF**  
**THE VILLAS OF SOUTH POINTE**

This FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE VILLAS OF SOUTH POINTE (hereinafter "First Amendment") is made on the 29 day of MARCH, 2019 by DUBUQUE SOUTH POINTE, LLC, an Iowa limited liability company (hereinafter the "Declarant").

**RECITALS**

A. On December 22, 2017, Declarant executed a Declaration of Covenants, Conditions, and Restrictions of The Villas of South Pointe (hereinafter "Declaration"), which was filed on December 27, 2017 as Instrument No. 2017-15878 in the records of the Dubuque County Recorder.

B. Pursuant to Article VII, Section 3, Declarant may amend the Declaration at any time during the initial twenty-one (21) years of the Declaration.

C. Declarant wishes to amend the Declaration and sets forth the amendments in this First Amendment.

NOW THEREFORE, Declarant hereby amends the Declaration as follows:

1. Article IV, Section 5(b)(2) is hereby deleted and replaced by the following:
  2. Disbursements. The Board of Directors shall, from time to time, authorize the expenditure of the funds so assessed for exterior maintenance, including but not limited to the following: painting, repair, gutters, downspouts, exterior building surfaces and other exterior improvements. Such exterior maintenance shall not include replacement and care of roofs, glass surfaces, storm doors, decorative plantings, shrubs, or any concrete surfaces such as patios.
2. Article VII, Section 7 is hereby deleted and replaced by the following:

Section 7. No boat, snowmobiles, bus, commercial vehicle, camping, or recreational vehicle or trailer, nor a trailer used to carry the same, nor any other vehicle or device with a primary purpose of cargo shall be kept or stored on any said Lot except within the garage. All applicable laws regarding the parking and storage of machinery or vehicles on public streets shall be obeyed.
3. Article VIII, Section 5 is hereby deleted and replaced by the following:

Section 5. No home occupation or business shall be allowed which results in a substantial and material increase in vehicular traffic on the roadway adjacent to the property described above. No commercial, industrial, or retail business of any kind or

nature, for pecuniary profit or otherwise, shall be conducted on the property, nor shall any educational institution, school, or children's nursery be conducted, held, or carried forth on the Real Property except as otherwise stated herein. Notwithstanding the foregoing, a "child care home" as described in Section 237A.3, Code of Iowa (2018) shall be permitted in any residence located within the Real Property. Nothing contained in this section shall apply to Declarant nor be construed to prohibit sales or development of the Real Property.

4. Article VIII, Section 6 is hereby deleted and replaced by the following:

Section 6. Only passenger automobiles (including but not limited to pickup trucks) are permitted to stand at any time upon the above-described Real Property, except for service vehicles used in the construction of the residence and improvements or for the purposes of performing services to the Owner of any said Lot.

5. Article VIII, Section 28(b) is hereby deleted and replaced by the following:

b. No pit bulls shall be permitted.

6. Article VIII, Section 31 is hereby deleted and replaced by the following:

Section 31. Roofing Maintenance. It is expected that the property will need to be re-roofed approximately every fifteen (15) to (20) years. Each Lot Owner shall be responsible for replacing the roof and for his, her, its, or their pro-rata share of the cost of re-roofing the entire roof covering one or more Townhouse Dwellings (for example, a roof covering two (2) Townhouse Dwellings shall be replaced by the owners thereof, and the expense shall be split equally between the owners of those Townhouse Dwellings). In the event that an act of nature causes damage or destruction to any roof and the Lot Owner files a claim related thereto and receives an insurance payment with respect thereto, the Lot Owner shall make all necessary repairs or replace the roof, as the case may be, as soon as practicable. If the then-current roof is in good repair, then the Lot Owners shall not be required to replace the same, notwithstanding that it may be older than twenty (20) years.

7. Article VIII shall include a new Section 43 as follows:

Section 43. Dubuque South Pointe, LLC shall cause one (1) birch tree to be planted outside each Townhouse Dwelling, and the expense for the same shall be borne by the Lot Owner of the corresponding Townhouse Dwelling.

All other terms and conditions of the Declaration, where not inconsistent with those contained herein, shall remain in full force and effect.

Executed this 26 day of March, 2019.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF THE VILLAS OF SOUTH POINTE]

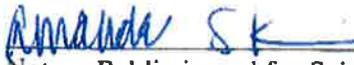
DUBUQUE SOUTH POINTE, LLC:

By 

James Trausch, its Manager

STATE OF IOWA                    )  
COUNTY OF DUBUQUE        ) ss.

On this 25 day of MARCH, 2019, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared James Trausch, to me personally known who, being by me duly sworn, did say that he is the Manager of the limited liability company executing the within and foregoing instrument, that no seal has been procured by the limited liability company by authority of its members, and that James Trausch, as Manager, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the limited liability company, by it and by him or her voluntarily executed.

  
Notary Public in and for Said State



Doc ID: 011383780005 Type: GEN  
 Kind: AMEND TO RESTRICT COVENANTS  
 Recorded: 07/18/2025 at 03:52:08 PM  
 Fee Amt: \$27.00 Page 1 of 5  
 Dubuque County Iowa  
 Keith Lucy Recorder

File **2025-00007529**

Prepared By and Return To: Jennifer A. Clemens-Conlon - #AT0001534,  
 2080 Southpark Court, Dubuque, IA 52003 (563) 582-2926

SECOND AMENDMENT TO DECLARATION OF COVENANTS,  
 CONDITIONS, AND RESTRICTIONS OF  
 THE VILLAS OF SOUTH POINTE

This Second Amendment to Declaration of Covenants, Conditions and Restrictions of the Villas of South Pointe (hereinafter "Second Amendment") is made this 18<sup>th</sup> day of July, 2025 by Dubuque South Pointe, LLC, an Iowa limited liability company (hereinafter "Declarant").

RECITALS

1. On December 22, 2017, Declarant executed a Declaration of Covenants, Conditions, and Restrictions of the Villas of South Pointe (hereinafter "Declaration") and which was filed on December 27, 2017 as Instrument No. 2017-15878 of the records of Dubuque County, Iowa.
2. On March 25, 2019, Declarant executed a First Amendment to Declaration of Covenants, Conditions, and Restrictions of the Villas of South Pointe (hereinafter "First Amendment") and which was filed on April 4, 2019 as Instrument No. 2019-3295 of the records of Dubuque County, Iowa.
3. Said Declaration governed Lots 3 through 37, inclusive, of South Pointe according to the Plat recorded on October 18, 2017 as Instrument No. 2017-13004 of the records of Dubuque County, Iowa.
4. Pursuant to Article VII, Section 3 of the Declaration "... the Declarant may unilaterally file an amendment to this Declaration at any time during the initial twenty-one (21) years".
5. Lots 3 through 37, inclusive, constituted part of Phase 1 of the Villas of South Pointe and which Phase 1 included amenities such as a berm intended to serve both Phase 1 and subsequent phases of South Pointe Development.

6. Lots 90-92 and Lots 121-131, inclusive, constituted part of Phase 2 of South Pointe. Phase 3, not yet developed, includes amenities such as lake and walking trails intended to serve Phases 1, 2 and 3 of South Pointe Development.

7. Declarant owns Lots 90-92 and Lots 121-131, inclusive, of South Pointe #2 and seeks to submit said lots to the covenants, conditions and restrictions referred to herein.

8. Declarant owns Lot A of South Pointe #2 upon which the lake and walking trails is located and which it is anticipated will constitute Phase 3 of South Pointe and which Declarant anticipates, upon development of Phase 3, submitting said lots to the covenants, conditions and restrictions referred to herein.

9. Declarant wishes to amend the Declaration to incorporate lots within South Pointe #2 as specifically described herein and further amend said Declaration in the particulars as more specifically set forth herein.

NOW THEREFORE, Declarant amends the Declaration as follows:

- A. "Real Property" as defined within the Declaration shall hereafter include Lots 3 through 37, inclusive, of South Pointe according to the Plat recorded on October 18, 2017 as Instrument No. 2017-13004 of the records of Dubuque County, Iowa, and Lots 90-92 and Lots 121-131, inclusive, of South Pointe #2, according to the Plat recorded on July 25, 2024 as Instrument No. 2024-6836 of the records of Dubuque County, Iowa.
- B. Article VI shall be amended and substituted with the following:

"ARCHITECTURAL CONTROL.

Section 1. Until such time as 85% of the lots governed by the Declaration of Covenants, Conditions and Restrictions of the Villas of South Pointe have been transferred from Dubuque South Pointe, LLC, the Developer ("Dubuque South Pointe, LLC") shall maintain control over the architectural review process. The function of the Developer under this architectural review process shall be assignable at the option of the Developer to a committee selected by the Developer to be known as the Architectural Review Committee. The Developer has the sole right to appoint the committee members and may also remove members at any time. Upon the sale of 85% of the lots governed by these restrictive covenants, Developer's control over the architectural review process under this Section shall automatically be assumed by the Board of Directors of the Association.

No building, fence, wall, driveway access, landscaping or structure shall be commenced, erected or maintained upon the Real Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, elevations, grade, proposed landscaping, location or any other matter having visual impact on the properties shall have been submitted to and approved in writing, by the party

having architectural control, as to harmony of external design and location in relation to surrounding structures and topography.

Whenever approval is required under the architectural review process, appropriate plans and specifications shall be submitted to the Developer, the Architectural Review Board or the Board, as may be appropriate, who shall respond in writing to such plans and specifications within sixty (60) days after said plans and specifications have been submitted to it. The Developer may withhold approval for any reason deemed by it to be appropriate. The Architectural Review Board or the Board of Developers may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not unreasonably withheld or withheld for capricious reasons. If such plans and specifications are not approved or disapproved within sixty (60) days after submission, approval will not be required, and this paragraph shall be deemed fully complied with.

- C. The following sentence of Article VIII, Section 11, shall be stricken:

“No towers or CB antennas shall be constructed, installed or maintained on any lot. Satellite dishes not in excess of two feet (2’) in diameter are permitted.”

- D. Article VIII, Section 18, shall be stricken.

- E. The following sentence of Article VIII, Section 27, shall be stricken:

“(5) no Townhouse Dwellings may be leased for transient or hotel purposes”.

- F. Article VIII, Section 28(d), shall be stricken.

- G. Article VIII, Section 28(e), shall be stricken.

- H. Article VIII, Section 28(g), shall be stricken.

- I. Article VIII, Section 28(h), shall be stricken.

- J. Article VIII, Section 33, shall be stricken.

- K. The following sentences of Article VIII, Section 35, shall be stricken:

“Each Lot Owner must replace any burned out bulbs or damaged exterior lighting within seventy-two (72) hours of the defect occurring. If the Lot Owner does not remedy a defect within seventy-two (72) hours, then the Association or any other Lot Owner may employ the services of someone to complete this work. The Lot Owner whose responsibility it was to complete the work originally must pay, indemnify, and hold the Association or other Lot Owner harmless for this expense. All exterior lighting with the exception of the pathway lighting shall be turned off at 11:00 p.m.”

- L. The following sentence of Article VIII, Section 37 shall be stricken:

“No parties or social gatherings may occur outside without advance approval of the Board of Directors.”

M. Article VIII, Section 42 shall be amended and substituted with the following:

“Berm, Lake and Walking Trails. The South Pointe Homeowners Association shall maintain the berm, lake and all walking trails located on Lot B of South Pointe and Lot A of South Pointe #2 and shall assess each Lot Owner being a member of the South Pointe Homeowners Association and each Lot Owner being a member of the Villas of South Pointe a fee as determined by the South Pointe Homeowners Association. The same amount shall be charged to each Lot Owner within each Association for the maintenance of the berm, lake and walking trails. Each Lot Owner of a lot in the South Pointe Homeowners Association and in the Villas of South Pointe shall have an easement right to enjoy the lake and walking trails conditioned upon said Lot Owner having paid in full all assessments as set forth herein. In the event that any Lot Owner fails to make such timely payment, their easement rights may be suspended by the Association by written notice to said Lot Owner with said suspension to continue until payment in full of all accrued assessments. The Association shall accept title to said berm, lake and walking trails upon Declarant transferring title to the Association.

N. Article VIII, Section 44, shall be added as follows:

“Additional lots may be subjected to this Declaration at any time by the Declarant. Any such addition shall be referred to in a written instrument which shall be recorded with the Dubuque County Recorder’s Office.”

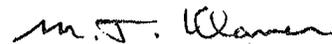
O. Article IX shall be added as follows:

“The undersigned Declarant hereby reaffirms and commits all of Lots 3-37, inclusive, of South Pointe and all of Lots 90-92 and Lots 121-131, inclusive, of South Pointe #2 to the terms and conditions of the Declaration of Covenants, Conditions, and Restrictions of the Villas of South Pointe dated December 22, 2017, filed on December 27, 2017 as Instrument No. 2017-15878 of the records of Dubuque County, Iowa and the First Amendment to Declaration of Covenants, Conditions, and Restrictions of the Villas of South Pointe dated March 25, 2019, filed on April 4, 2019 as Instrument No. 2019-3295 of the records of Dubuque County, Iowa as subsequently modified herein.”

P. The following sentence shall be added to Article VIII, Section 30, as follows:

“The Association shall accept title to the following streets upon Declarant transferring title to the Association: Autumn Ridge, Fieldstone, Rolling Creek and Edenbrook.”

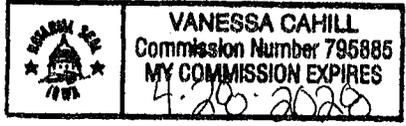
Dubuque South Pointe, LLC



By: Michael J. Klauer, its Manager

STATE OF IOWA        )  
                                  ) ss:  
DUBUQUE COUNTY    )

This document was acknowledged before me on this 18<sup>th</sup> day of July, 2025  
by Michael J. Klauer, as Manager of Dubuque South Pointe, LLC.



Vanessa Cahill  
Notary Public in and for said state

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