

payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as assessments, under this Section. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

6.7 Foreclosure of Lien; Remedies. A lien for Common Expenses may be foreclosed against a Unit or Units under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit.

6.8 Lien Priority: Foreclosure. A lien under this Section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if a first mortgage on a Unit is foreclosed, and no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (e)(1) to (3), (f), and (i) of the Act which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.9 Voluntary Conveyances: Statement of Assessments. In a voluntary conveyance of a Unit the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Unit until satisfied. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Unit, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

SECTION 7

RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the

occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

7.1 General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2 Subdivision Prohibited. Except as permitted by the Act, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

7.3 Residential Use. The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings shall be used for residential-related purposes, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.4. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than 7 days, or any occupancy which includes services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

7.4 Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements; except (i) an Owner or Occupant residing in a Unit may keep and maintain his or her business or professional records in such Unit and handle matters relating to such business by telephone or correspondence therefrom, provided that such uses are incidental to the residential use, do not involve physical alteration of the Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by customers or employees and (ii) the Association may maintain offices on the Property for management and related purposes and (iii) Declarant shall be entitled to lease or rent any Dwelling owned by Declarant without restriction for twenty-four (24) months following the recording of this Declaration.

7.5 Leasing. Leasing of Units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit shall be leased for transient or hotel purposes, (ii) that no Unit may be subleased except with the written consent of Declarant, (iii) that all leases shall be in writing, (iv) that all Leases shall be for minimum term of six (6) months, and (v) that all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.

7.6 Driveways and Parking. Each Owner shall install a driveway of asphalt, concrete or paving stones within eighteen (18) months of commencement of construction of the Dwelling. The use of driveways and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association.

7.7 Inoperable Motor Vehicles. No Owner or Occupant of any Unit shall allow a motor vehicle to remain on such Unit for a period of more than fifteen (15) days if such motor vehicle lacks vital component parts or is in an inoperable condition.

7.8 Quiet Enjoyment; Interference Prohibited. All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units, and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests.

7.9 Compliance with Law. No use shall be made of the Property which would violate any then existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

7.10 Alterations. Except for those made by Declarant in consideration of its initial sale of a Unit, no construction upon a Unit and no alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner or Occupant, or their guests, in any part of the Common Elements, or in any part of Unit which affects the Common Elements or which is visible from the exterior of the Unit, without the prior written authorization of the Declarant during the period of Declarant control as provided for in Section 14.7 or, following the term of Declarant control, by the Board, or a committee appointed by it, as provided in Section 8. The Declarant, the Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for alterations, and shall be the sole judge of whether the criteria are satisfied.

7.11 Time Shares Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

7.12 Access to Units. In case of emergency, all Units and Limited Common Elements are subject to entry, without notice and at any time, by an officer or member of the Board of the Association, by the Association's management agents or by any public safety personnel. Entry is also authorized for maintenance purposes under Section 9 and for enforcement purposes under Section 13.

7.13 Pets. Pets shall be permitted to be kept by any Owner provided that pets such as dogs, cats and other animals must be capable of being kept within the living unit. Any Owner having a dog shall install an invisible fence at the Owner's expense adjacent to the Unit, which shall encompass an area of 3,500 square feet or less. Owners must obtain approval for the

location of the invisible fence prior to its installation, which approval shall be obtained from the Association. Owners must keep the pets upon a leash when the pet is out of the Dwelling or the invisible fence. Owners shall control their pets so as to avoid any disturbance of other Owners. Each Owner shall be responsible for policing waste materials left in the Common Elements by their pets. Violation of these regulations by any Owner shall entitle the Board of Directors of the Association to revoke the Owner's ability to keep a pet on the property, lot or townhome. No other animals, rabbits, livestock, fowl or poultry of any kind shall be kept, raised or bred in or upon the Common Elements or any lot or any portion thereof, nor shall they be kept, bred or maintained for any commercial purposes. Outdoor cages, kennels or pet houses shall be permitted upon Lots 3 through 13, Block Two, only if such cages, kennels or pet houses are not visible from Latoka Heights Lane.

7.14 Campers. No trailer homes, mobile homes, trailers, boats, motor homes, campers or recreational vehicles may be stored upon the Property outside an enclosed garage, nor shall any such home or vehicle be used for a temporary or permanent residence upon the Property, except that such storage or use may occur on an Owner's designated parking area for not longer than three (3) weeks during any calendar year. No vehicles of any type may be allowed upon the Property except upon the designated roadway or parking areas.

7.15 Storage. No Owner may store personal property of any nature upon any Common Elements. No Owner may store firewood outside. Personal property used on a seasonal basis, such as grills, picnic tables and patio type furnishing, may be kept outdoors in the Owner's patio or deck area. No other personal property may be stored or kept outside by an Owner except as may be permitted by the Board of Directors of the Association.

7.16 Sewer and Water Service. Owners shall be responsible for the maintenance and repair of all sewer stubs and water service lines from the point at which they enter onto the Unit.

7.17 Restricted Display. No Owner shall display, hang or store any clothing, sheets, blankets, laundry or other articles outside his or her townhome, or which may be visible from the outside of his or her townhome (other than draperies, curtains or shades of a customary nature and appearance, and in any event, subject to the rules and regulations of the Board) or paint or decorate or adorn the outside of his or her townhome, or install outside his or her townhome any canopy or awning, or outside radio or television antenna or other equipment, fixtures or items of any kind, without the prior written permission of the Association.

7.18 Heating and Cooking Tanks. Tanks for the storage of heating and cooking fuel that are installed outside any Dwelling on any Unit shall be either buried below the surface of the ground, or painted or screened by fencing or shrubbery to the satisfaction of the Board.

7.19 Signs. No signs or entry markers other than a sign identifying the Dwelling and/or a "For Sale" sign shall be displayed on any Unit. Identification signs shall not exceed two (2) square feet in size and shall be constructed of natural materials and/or finished in natural colors. Identification signs shall conform with the overall Association signage plan approved by the Board. "For Sale" signs not exceeding six (6) square feet in size may be displayed under the supervision of the Board; except that no "For Sale" signs other than those of the Declarant shall

be permitted prior to the disposition of the last Unit originally offered for sale by the Declarant within the Property or within the Additional Real Estate.

7.20 Overnight Storage of Boats, Etc. Overnight parking or storage of any boats, snowmobiles, trailers, recreational or camping vehicles, all-terrain vehicles, or other vehicles on any Unit outside of a garage shall be in accordance with the Rules and Regulations.

7.21 Storage of Trash, Garbage and Rubbish. No Unit or portion thereof shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers and no exterior burning of household refuse shall be done except in such areas as may be designated by the Board.

7.22 Antennas. Exterior antennas or satellite dishes on the Units or on improvements to the Units shall only be permitted with the written consent of the Board.

7.23 Accessory Buildings. No fish houses, storage sheds, accessory buildings or other outbuildings shall be allowed upon any Unit or upon the Common Elements unless permitted with the written consent of the Board.

7.24 Lawn Ornaments. No lawn ornaments shall be placed upon any Unit or upon the Common Elements by any owner or occupant without the prior consent of the Board. One (1) bird feeder is allowed upon each Unit.

7.25 Fences. No fences shall be allowed to be constructed upon any Unit or upon the Common Elements without the prior written consent of the Board.

7.26 Use of Common Elements. Owners shall not place any swing sets, playground equipment or other item of personal property upon the Common Elements and shall not make any improvement to the Common Elements without the prior written consent of the Board.

7.27 Garages. Each Dwelling shall have an attached garage with a minimum of three (3) stalls.

7.28 Garden. The Owner or Occupant of each Unit shall be allowed to maintain a garden within the confines of such Unit so long as it does not exceed the dimensions of 10' x 12'. Such garden shall be kept in a well-maintained condition.

SECTION 8

ARCHITECTURAL CONTROL

8.1 Restrictions on Alterations. The following restrictions and requirements shall apply to alterations on the Property:

- a. Except as expressly provided in this Section 8, and except for alterations made by Declarant in consideration of its initial sale of a Unit, no construction upon a Unit

and no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Unit which is visible from the exterior of the Unit (collectively referred to as "alterations"), shall be commenced, erected or maintained in a Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Declarant during the period of Declarant control as provided for in Section 14.7 or, following the term of Declarant control, by the Board of Directors or a committee appointed by it. Notwithstanding the foregoing, Declarant's written consent shall also be required for alterations until Declarant no longer owns any unsold Unit and has no further rights to add Additional Real Estate to the Property.

- b. The criteria for approval shall include and require, at a minimum, (i) substantial uniformity of color, size, location, type and design in relation to existing improvements and topography, (ii) comparable or better quality of materials as used in existing improvements, (iii) ease of maintenance and repair, (iv) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations, (v) compliance with governmental laws, codes and regulations, and (vi) such other reasonable criteria and requirements as established by the Board.
- c. Approval of alterations which encroach upon another Unit or the Common Elements shall create an appurtenant easement for such encroachment in favor of the Unit with respect to which the alterations are approved; provided, that any easement for a deck or patio other than as originally constructed shall be approved by resolution of the Board of Directors and a file of such resolutions shall be maintained permanently as a part of the Association's records.
- d. Alterations described in Section 15 shall be governed by that Section.

8.2 Review Procedures. The following procedures shall govern requests for alterations under this Section:

- a. Detailed plans, specifications and related information regarding any proposed alteration, in form and content acceptable to the Declarant or the Board of Directors, shall be submitted to the Declarant or the Board of Directors, as the case may be, at least sixty (60) days prior to the projected commencement of construction. No alterations shall be commenced prior to approval.
- b. The Declarant or the Board of Directors shall give the Owner written notice of approval or disapproval. If the Declarant or the Board of Directors fails to approve or disapprove within sixty (60) days after receipt of said plans and specifications and all other information requested by the Declarant or the Board of Directors, then approval will not be required, and this Section shall be deemed to

have been fully complied with so long as the alterations are done in accordance with the plans, specifications and related information which were submitted.

- c. If no request for approval is submitted, approval is denied, unless (i) the alterations are reasonably visible and (ii) no written notice of the violation has been given to the Owner in whose Unit the alterations are made, by the Association or another Owner, within six months following the date of completion of the alterations. Notice may be direct written notice or the commencement of legal action by the Association or an Owner. The Owner of the Unit in which the alterations are made shall have the burden of proof, by clear and convincing evidence, that the alterations were completed and reasonably visible for at least six months following completion and that the notice was not given.

8.3 Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Unit to its prior condition if any alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

SECTION 9

MAINTENANCE

9.1 Maintenance by Association. The Association shall provide for the mowing, fertilizing and watering of the lawn upon the Common Elements and of the lawn within each Unit. The Association is not obligated to maintain exterior building surfaces, landscaping and shrubs nor is the Association obligated to provide snow removal and garbage disposal unless otherwise approved under Section 9.2. The Association shall have easements as described in Section 13 to perform its obligations under this Section 9.

9.2 Optional Maintenance by Association. In addition to the maintenance described in Section 9.1, the Association may, with the approval of sixty-seven percent (67%) of votes cast in person or by proxy at a meeting called for such purposes, undertake to provide exterior maintenance to the Dwellings, maintenance of water, plumbing and sewer systems within the Units, landscaping and shrub maintenance, snow removal, and garbage disposal.

9.3 Maintenance by Owner. Except for the exterior maintenance required to be provided by the Association under Section 9.1 or 9.2, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. However, the Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior

maintenance which the responsible Owner fails to or improperly performs and assess the Unit and the Owner for the cost thereof.

9.4 Damage Caused by Owner. Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter upon any Unit to do so), and the cost thereof may be assessed against the Unit of the Owner responsible for the damage.

SECTION 10

INSURANCE

10.1 Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:

- a. Property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of the Common Elements, less deductibles. The policy or policies shall cover personal property owned by the Association. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverage and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverage or endorsements in effect.
- b. Comprehensive public liability insurance covering the use, operation and maintenance of Common Elements, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the Property. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverage and limits with respect to such hazards as may be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

- c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.
- d. Workers' Compensation insurance as required by law.
- e. Directors and officers liability insurance with such reasonable limits and coverage as the Board shall determine from time to time.
- f. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

10.2 Premiums. All insurance premiums shall be assessed and paid as a Common Expense.

10.3 Loss Payee: Insurance Trustee. All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties, including Eligible Mortgagees, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association in accordance with Section 515B.3-113(e) of the Act. Reconstruction shall be completed in accordance with the provisions of Section 11.1 of this Declaration.

10.4 Waivers of Subrogation. All policies of insurance shall contain waivers of subrogation by the insurer against the Association, or an Owner, members of the Owner's household, officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.

10.5 Cancellation: Notice of Loss. All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be

canceled or substantially modified, for any reason, without at least 30 days prior written notice to the Association, to the FHA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.

10.6 Restoration in Lieu of Cash Settlement. All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

10.7 No Contribution. All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.

10.8 Effect of Acts Not Within Association's Control. All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

10.9 Owner's Personal Insurance. Each Owner shall obtain and maintain at his or her own expense fire and other casualty insurance on such Owner's Unit and personal property and shall also obtain and maintain personal liability insurance. All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association. Such fire and casualty insurance shall cover at a minimum the full insurable replacement cost of the Unit and the personal property located in the Unit and shall be in a form satisfactory to the Association. It shall further provide that such policy shall not be canceled or substantially modified by any party without at least 30 days prior written notice to the Association. Each Owner shall furnish the Association satisfactory evidence of the maintenance of such insurance. The Association may, but shall not be required, to make payment of casualty insurance premiums on behalf of any Owner who defaults in his or her obligation to make such payments. Any amount so paid by the Association shall be immediately due and payable by such Owner and may be included in the maintenance assessment against such Unit.

SECTION 11

RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

11.1 Reconstruction. The obligations and procedures for the repair, reconstruction or disposition of the Property following damage to or destruction thereof shall be governed by the

OFFICE OF COUNTY RECORDER

Douglas County, Minnesota

Filed for record this 8th day of

June, 20 05 at

2:30 o'clock P. m.

Doc. No. 271192

Darlene Chermak Recorder
Dawn Crouse Deputy

**FIRST AMENDMENT TO RESTATED DECLARATION OF
HORIZON HEIGHTS, COMMON INTEREST COMMUNITY NO. 134**

THIS FIRST AMENDMENT TO RESTATED DECLARATION is made this 2nd day of June, 2005, by the requisite number of Owners of Units as required by Section 16 of the Restated Declaration dated June 8, 2004, recorded June 9, 2004, as Document No. 257686 in the Office of the Douglas County Recorder and by Clear Top, Inc., successor Declarant to Clear Top, LLC.

WHEREAS, it appears necessary to adopt an amendment to the Restated Declaration for clarification purposes.

THEREFORE, the undersigned hereby adopt this First Amendment to Restated Declaration relative to Horizon Heights, Common Interest Community No. 134.

1. Section 7.27 of the Restated Declaration is hereby amended to provide as follows:

7.27 Garages. Each Dwelling shall have an attached garage with a minimum of 700 square feet.

☐ Check here if all or any part of this Property is registered (Torrens).

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

OFFICE OF COUNTY RECORD
Douglas County, Minnesota

Filed for record this 18th da
March, 20 04 i
11:30 o'clock A m.

Doc. No.

254041

Dorlene Chermak
Dorlene Chermak

Recd

De

SECOND AMENDMENT OF DECLARATION OF
COMMON INTEREST COMMUNITY NO. 134
(A PLANNED COMMUNITY)
HORIZON HEIGHTS

Scott J. Jarnet

THIS SECOND AMENDMENT OF DECLARATION, made this 22 day of
February, 2004, by and between the undersigned Owners constituting sixty-seven percent (67%)
or more of the Units within the Property and constituting the eligible Mortgagees with respect to
at least fifty percent (50%) of the Units lying within the Plat of Horizon Heights.

WITNESSETH:

WHEREAS, the Declaration of Horizon Heights, Common Interest Community Plat
No. 134, a Planned Community, dated September 20, 2001, was filed of record in the Office of
the Douglas County Recorder on September 20, 2001, as Document No. 215186 ("Declaration");
and

WHEREAS, the First Amendment of Declaration of Horizon Heights, Common Interest
Community No. 134, dated February 28, 2003, was filed of record in the Office of the Douglas
County Recorder on April 30, 2003, as Document No. 239781 ("First Amendment"); and

WHEREAS, the defined terms in the Declaration shall have the same meaning in this
Second Amendment of Declaration; and

1-3-B-1
1-16 B-2

WHEREAS, the undersigned desire to amend the Declaration and the First Amendment as hereinafter set forth.

NOW, THEREFORE, the Declaration is hereby amended in the following respects:

1. Section 2.3 of the Declaration shall be amended to provide as follows:

2.3. "Access Easements" Lot 2, Block Two, Horizon Heights shall be the beneficiary of a non-exclusive driveway easement across that portion of the Common Elements which is labeled "Driveway Easement Area" and is in the proximity of said Lot 2 as illustrated on the "Exclusive Yard Easement Area Map" which is on file with the Secretary of the Association. Lots 11, 12 and 13, Block Two, Horizon Heights, shall be the beneficiary of a non-exclusive driveway easement across that portion of the Common Elements which is labeled "Driveway Easement Area" and is in the proximity of said Lots 11, 12 and 13 as illustrated on the "Exclusive Yard Easement Area Map" which is on file with the Secretary of the Association. All other Units within Blocks Two and Three shall be the beneficiary of an appurtenant non-exclusive easement for access from such Unit to Latoka Heights Lane on and across that portion of the Common Elements lying between such Unit and Latoka Heights Lane. The Owners and Occupants using any driveway across a portion of the Common Elements shall be responsible for the maintenance, repair, improvement and replacement of such driveway. In the event that any driveway contained upon the Common Elements is jointly used by the Owners and Occupants of more than one Unit, the cost to maintain repair, improve and replace the jointly shared portion of such driveway shall be equally shared by the benefitted Owners and Occupants.

2. Section 2.4 of the Declaration shall be amended to provide as follows:

2.4 "Exclusive Yard Easement" Each Unit within Blocks Two and Three shall be the beneficiary of an appurtenant easement for the exclusive use and enjoyment of that portion of the Common Elements as illustrated on the "Exclusive Yard Easement Area Map" on file with the Secretary of the Association for yard, lawn, garden, driveway and sidewalk purposes, subject, however, to the provisions of this Declaration including but not limited to Sections 2.3, 2.5, 9.1 and 12 and such Rules and Regulations as may be adopted by the Association from time to time.

3. Section 12.5 of the Declaration shall be amended to provide as follows:

12.5 "Yard, Lawn and Garden Easement" The Association hereby grants unto each Unit an exclusive easement for yard, lawn, garden, driveway and sidewalk purposes over and across that portion of the Common Elements as illustrated on the "Exclusive Yard Easement Area Map" on file with the Secretary of the Association, subject, however, to the driveway easements in Section 2.3, the easements for maintenance by the Association in Section 9.1, the easements as reserved by the Association and Declarant in this Declaration, the easements as noted on the Plat, and all easements of record in the Office of the Douglas County Recorder.