

Prepared by: Brad Deets, Development Services Director, City of Waukee, 230 W. Hickman Road, Waukee, Iowa 50263 (515) 277-1258

When Recorded Return to: Rebecca Schuett, Deputy City Clerk, City of Waukee, 230 W. Hickman Road, Waukee, Iowa 50263

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CLAYTON COMMONS PLAT 1, WAUKEE, DALLAS COUNTY, IOWA**

THIS DECLARATION is made this 2nd day of November, 2009 by City of Waukee, Iowa, a municipal corporation (the "Declarant")

WHEREAS, Declarant is the owner of certain real property legally described as follows:

Lots 1 through 9 of Clayton Commons Plat 1, an Official Plat now included in and forming a part of the City of Waukee, Dallas County, Iowa,

WHEREAS, Declarant is desirous of protecting the value and desirability of the Plat.

NOW, THEREFORE, Declarant hereby establishes and places residential covenants, conditions and restrictions ("Covenants") upon said real estate within the Plat, which shall be held, sold and conveyed subject to the following covenants, restrictions and conditions, and which are for the purpose of protecting the value and desirability of said Lots, and which shall run with the real estate and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

I. DEFINITIONS

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

- A. “Plat” shall mean and refer to the real property described as Lots 1 – 9 in Clayton Commons Plat 1, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.
- B. “Declarant” shall mean and refer to City of Waukee, Iowa, an Iowa municipal corporation, its successors and assigns.
- C. “Lot” shall mean and refer to an individual parcel of land within the Plat.
- D. “Building Lot” shall mean and refer to one or more Lots, or one or more Lots and the portion or portions of adjacent platted Lots in the Plat, used for the construction of one dwelling as herein permitted.
- E. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the legal or equitable title to any Lot or Building Lot that is a part of the Plat.
- F. “Outbuilding” shall mean an enclosed, covered structure (other than a dwelling or the attached garage), such as a tool shed or garden house.
- G. “City” shall mean the city of Waukee, Iowa.

## II. DESIGNATION OF USE

All of said Lots shall be single-family residential Lots and shall not be improved, used, or occupied for other than private single-family residential purposes. No commercial activity shall be conducted or maintained on any lot at any time, including activities that might otherwise be permitted by applicable zoning ordinances with the exception of home occupations as permitted by City zoning ordinance.

## III. BUILDING TYPES

- A. No building or structure shall be constructed, altered, or maintained on any Building Lot other than a detached single family dwelling with an attached private garage.
- B. No building or structure of any kind shall be moved onto any Lot.
- C. The construction of any building or structure on any Building Lot shall be performed utilizing then acceptable construction methods and procedures, including (but not limited to) on-site “stick-built” construction and/or off-site modular or panelized construction.

- D. Outbuildings shall be permitted as allowed by City zoning ordinance.

#### IV. DWELLING AREA

No dwelling shall be constructed or permitted to remain upon any said Lot unless it meets the following floor area requirements:

- A. One-story dwellings must have a ground floor finished area of not less than 1,200 square feet.
- B. One and one-half and two story dwellings must have not less than 800 square feet of finished area on the ground floor and a total on the ground floor and second floor of not less than 1,600 square feet of finished area.
- C. Split-entry dwellings must have not less than 1,200 square feet of finished area directly under the roof and a total finished area of 1,200 square feet.
- D. Split-level dwellings must have not less than 1,200 square feet of finished area directly under the roof and a total finished area of 1,400 square feet.
- E. In computation of floor area, the same shall not include porches, breezeways, or garages.

#### V. DESIGN AND CONSTRUCTION

- A. No manufactured home as defined in Section 435.1 of the Code of Iowa (2009), as amended, shall be placed on or erected on any of said Lots.
- B. No dwelling shall be constructed, altered, or maintained on any Lot unless it has a driveway running from a road to the dwelling, which must be of sufficient area to park at least two cars off the road right of way. All driveways must be constructed of concrete and installed prior to completion of dwelling.
- C. No dwelling shall be constructed, altered, or maintained on any Lot unless it has a sidewalk running parallel to the road across the entire width of the front yard; the location, dimensions, and specifications for sidewalks shall be as required by the design and development standards of the City of Waukee, Iowa. All driveways must be constructed of concrete and installed prior to completion of dwelling.
- D. All dwellings must have, at a minimum, double attached garages, with a minimum size of not less than 22 feet by 22 feet.

- E. All building structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.
- F. All buildings shall be constructed of new materials.
- G. The exterior of any and all buildings located on any Lot shall be finished in an earth tone conservative color design that will blend well with the abutting subdivisions. The front elevation of the dwelling and garage on each Lot shall include as an accent the use of brick or stone veneer. The remainder of the exterior of any and all buildings shall be of quality and maintenance free materials including brick, stucco, steel, vinyl, cedar, redwood or 30-year concrete board (commonly referred to as "Hardie Plank" or "James Hardie Siding").
- H. All areas of exposed concrete, concrete block or tile foundations shall be either painted to blend with the exterior wall finishes, or covered with brick or stone veneer or the equivalent.
- I. All roof material shall be slate, tile, cedar shakes, or composition shingles. Composition shingles shall be architectural grade, with a minimum thirty-year (30) warranty. Shingle colors shall be muted earth tones and be compatible with and complimentary to the exterior materials and colors of the building structures.

## VI. TEMPORARY STRUCTURES

No buildings or structure of a temporary character and no trailer, basement, tent, shack, garage or Outbuilding shall be used at any time as a residential dwelling on any Lot, either temporarily or permanently.

## VII. VEHICLES, RECREATIONAL VEHICLES, BOATS

No vehicle, recreational vehicle or boat shall be parked so that such vehicle, recreational vehicle, or boat is visible from the street for a period of time longer than one week; nor shall any vehicle or recreational vehicle that is incapable of self-propulsion be parked on any Lot at any time.

## VIII. TRASH RECEPTACLES

No trash receptacles or garbage cans shall be permitted to be placed on a Lot outside a dwelling, garage or outbuilding unless hidden by an attractive screen of suitable height, or unless sunken to ground level in a hole lined with permanent cribbing. However, unscreened trash in proper containers and/or bags shall be allowed to be placed

on a Lot outside a dwelling, garage or Outbuilding no earlier than twelve (12) hours prior to a scheduled pick up of such trash. Such unscreened trash containers must be returned to the screened area or underground location, or inside a dwelling, garage or Outbuilding within twelve (12) hours following the scheduled pick up of such trash.

#### IX. UTILITIES

All utility connection facilities and services shall be under ground.

#### X. SATELLITE DISHES, TOWERS AND ANTENNAS

No exterior transmission tower, antenna or television transmission dish of any kind shall be constructed, installed, modified, or permitted on the ground, on dwellings, on garages or on Outbuildings. Notwithstanding the foregoing, an exterior tower, antenna or receiver dish which is twenty-four (24) inches or less in diameter shall be permitted. No more than one (1) such exterior tower, antenna or receiver dish shall be permitted on each Lot. No more than one (1) penetration in the dwelling shall be permitted for the cable from such exterior tower, antenna or receiver dish. No other exterior towers or antenna shall be constructed, installed, modified or permitted on the ground, on dwellings, on garages or on Outbuildings.

#### XI. NUISANCES

No noxious or offensive activity or odors shall be permitted on or to escape from any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance, either temporarily or permanently, to owners of other Lots.

#### XII. CERTAIN ANIMALS PROHIBITED

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than a total of three (3) dogs and/or cats be kept at any one Building Lot at any one time. Dogs must be either kept in the dwelling or in a shelter aesthetically compatible with the dwelling and the surrounding areas, and dog runs, if any must be completely screened or otherwise hidden from view from any other Lot and all streets within the plat.

#### XIII. LANDSCAPING AND SIGHT LINES

No hedge or shrub planting which obstructs sight-lines at elevations between two (2) and ten (10) feet above the roadways shall be placed or permitted to remain on any

corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner within the triangular area formed from the intersection of the street property line with the edge of a driveway. No trees shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines.

A minimum of three (3) trees with a minimum two (2) inch caliper shall be required on each Lot prior to occupancy.

#### XIV. EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the plat as recorded. The Owner and/or occupant of each Lot, jointly and severally, shall at the expense of such owner and/or occupant, maintain, keep, and preserve that portion of the easement within the lot at all times in good repair and condition and shall neither erect nor permit erection of any building, structure or other improvement of any kind within the easement areas (except customary ground cover) which might interfere in any way with the use, maintenance, replacement, inspection or patrolling of any of the utility services and drainage facilities within such easement areas. Any berm and/or swale constructed for drainage purposes shall be preserved and maintained to accomplish the purposes for which it was constructed.

#### XV. STORM WATER DISCHARGE PERMITTING REQUIREMENTS

Any construction or earth moving on any Lot shall be in compliance with all laws relating to storm water discharge permitting. The Owner shall be solely responsible for the Lot with respect to compliance with all terms, provisions and requirements of any NPDES Storm Water Discharge Permit No. 2 and any storm water pollution prevention plan which includes the Lot.

#### XVI. FENCES

No fences or other structures may be built or maintained within the front building setback areas as shown on the Plat as recorded and no fences shall be built or maintained in front of the front line of the residential dwelling extended to the side Lot lines. The fence fabric or fence screening material shall be mounted on the exterior face of the fence posts or fence framing. No chain link fence, including chain link fence around a dog run, shall be permitted unless it is a black vinyl clad fence. All fences shall be kept in good repair and attractive appearance.

## XVII. MAINTENANCE

The Owner and/or occupant of each Lot shall jointly and severally be responsible to keep the same free of trash, weeds and debris and to keep the lawn and landscaping well maintained and healthy, including (but not limited to) maintaining the lawn at a height not to exceed six (6) inches. The Owner and/or occupant of each Lot shall jointly and severally be responsible to maintain the exterior of any dwelling, the driveway, fence, screening and all other improvements.

## XVIII. ENFORCEMENT OF COVENANTS

This Declaration shall be deemed to run with the land. If the Owners of any Lot or their heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for any person, persons, or organization owning any of the Lots of said subdivision or the City of Waukee at its sole discretion to bring an action in any court of competent jurisdiction to enforce this declaration to enjoin its violation for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity, and shall further be entitled to recover reasonable legal fees and costs, including attorney fees, if the Owner prevails in any such action.

## XIX. AMENDMENT OF COVENANTS

This Declaration may be amended from time to time with the approval of the Owners and subject to consent of the Waukee City Council. Such approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the Owners. The Owner of each Lot (or joint owners of a single lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Such amendments shall be filed with the Dallas County Recorder.

## XX. PERIOD OF COVENANTS

This Declaration shall continue and remain in full force and effect at all times as to the Plat and as to the Owners of any Lot, regardless of how title was acquired, until the date twenty-one (21) years after the recording of the Declaration on which date this Declaration shall automatically be extended for two (2) successive periods of five (5) years each, unless on or before the end of the base period or the first extension period, the Owners of not less than fifty percent (50%) of the Lots, by written instrument duly recorded, declare a termination of the same.

XXI. ENFORCEMENT AND WAIVER

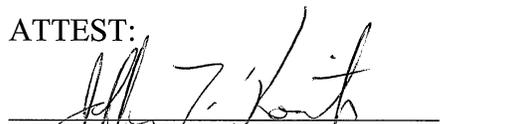
- A. In the event that any one or more of the foregoing covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions and restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- B. The Plat shall also be subject to any and all rights and privileges of the City, now held or hereafter acquired, by dedication or conveyance, or by reason of the platting and recording of the Plat, or by this Declaration or by law. Wherever there is a conflict between this Declaration and the zoning ordinance of the City, the more restrictive shall be binding.

IN WITNESS WHEREOF, this Declaration of Residential Covenants, Conditions and Restrictions, was made the date first written above by the Declarant

CITY OF WAUKEE, IOWA,  
a municipal corporation

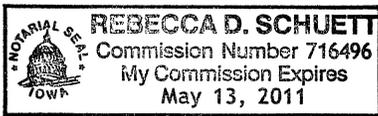
  
\_\_\_\_\_  
William F. Peard, Mayor

ATTEST:

  
\_\_\_\_\_  
Jeffrey L. Kooistra, City Administrator

STATE OF IOWA            )  
  ) SS  
COUNTY OF DALLAS    )

On this 12th day of November, 2009, before me, the undersigned, a Notary Public in and for said County and the State of Iowa, personally appeared William F. Peard and Jeffrey L. Kooistra, to me personally known, who being by me duly sworn, did say that they are the Mayor and City Administrator/Clerk of the City of Waukee, Iowa, a municipal corporation, executing the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed of the City of Waukee, by it and by them voluntarily executed.



By: Rebecca D. Schuett  
Printed Name: Rebecca D. Schuett  
Notary Public in and for the State of Iowa