

THIS DOCUMENT PREPARED BY AND WHEN RECORDED RETURN TO:  
Eugene E. Olson, 317 Sixth Ave., Suite 300, Des Moines, IA 50309-4127. Phone: 515/243-8157

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR PAINTED WOODS,**  
**WAUKEE, DALLAS COUNTY, IOWA**

Painted Woods Development Company Joint Venture, being the developer of the following described real estate, to-wit:

Lots 1 through 42, Outlots Y, Z and Outlots 9A through 14A and  
Outlots 16A through 29A of Painted Woods, an Official Plat,  
now included in and forming a part of the City of Waukee,  
Dallas County, Iowa,

does hereby establish and place residential covenants, conditions and restrictions ("Covenants") upon said real estate (sometimes referred to herein as "Property"), which shall be held, sold and conveyed subject to the following restrictions, covenants, 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. "Painted Woods" shall mean and refer to the real property located in the residential subdivision of "Painted Woods" described above.
- B. "Declarant" shall mean Painted Woods Development Company Joint Venture, or its successors or assigns.
- C. "Lot" shall mean and refer to any individual parcel of land that is described above as shown upon the recorded plat of Painted Woods but shall not include any Outlot shown on the plat of Painted Woods.

- D. "Building Plot" shall mean and refer to one or more platted Lots on which a home is to be located.
- E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to or vendee under an installment real estate contract of any Lot or Building Plot of the above described real estate.
- F. "Outbuilding" shall mean an enclosed covered structure not directly attached to the residence to which it is appurtenant.
- G. "Outlot" shall mean those unbuildable portions of the Property, specifically, Outlots Y and Z as well as Outlots 9A through 14A and Outlots 16A through 29A.

## II. DESIGNATION OF USE.

All Lots in Painted Woods, except those designated for streets, public easements or common areas, shall be known and described as residential Lots or Building Plots and shall not be developed with more than one single-family dwelling each, and shall not be improved, used or occupied for other than private residential purposes, consistent with the zoning ordinance of the City of Waukee, Iowa ("City"). All Outlots shall be non-buildable, i.e., no structure, building or home shall be constructed or maintained in any way or material stored on an Outlot except for Outlots "Y" and "Z" on which Declarant or the Painted Woods Homeowners' Association may construct and maintain entrance features, signs and related improvements. All Outlots shall remain as privately owned open space except for Outlots "Y" and "Z" as above described. Transfer of ownership of all Outlots with a numeric prefix can only, and must be, transferred in conjunction with the corresponding numeric Lot number, deeded to the same transferee. For example, Outlot 16A must be conveyed with Lot 16 and may not be separately conveyed to an Owner other than the Owner of Lot 16.

## III. BUILDING TYPE AND AREA.

A. No building or structure shall be constructed, altered, or maintained on any Lot or Building Plot other than a single-family home or any structure allowed by the Zoning Ordinance of the City. The following requirements must also be met:

- i. One-story dwellings must have a ground floor finished area of not less than 2,600 square feet.

- ii. One and one-half story dwellings must have 2,000 square feet of finished area on the first floor and a total on the first floor and second floor of not less than 3,000 square feet.
- iii. Two-story dwellings must have 1,700 square feet of finished area on the first floor and a total on the main floor and second floor of not less than 3,000 square feet.
- iv. Split entry dwellings must have 3,000 square feet of finished area on the upper level, but a 70% credit will be given for finished area of lower level which is 50% exposed over finished grade.
- v. Split level dwellings must have not less than 3,000 square feet of finished area directly under the roof, but a 70% credit will be given for finished area of lower level which is 50% exposed over finished grade.
- vi. No building shall be erected on any Lot or Building Plot unless the design and location is in harmony with existing structures within the Property.
- vii. In the computation of floor area under this paragraph, any porches, breezeways, attached or built-in garages, or finished basement areas shall be excluded.

B. All structures built in Painted Woods shall blend in with the terrain rather than contrast with it. The use of natural materials is encouraged, i.e., stained wood, stone, brick and warm-toned shingles, as well as soft, earth-tone colors. All exposed concrete block or tile foundations must be brick, stone, veneered or stucco textured. All structures built in Painted Woods shall be shingled with wood shakes, wood shingles, architectural grade textured and/or shadowed composition shingles, or slate or tile roof shingles, or other architectural grade metals and colors acceptable to the Declarant or Executive Committee described below in paragraph IV.

C. All residences shall have at a minimum, an attached 3-car garage. All driveways shall be constructed of Portland cement concrete. Each dwelling shall provide off-street parking for a minimum of three cars, in addition to the attached garage. No garage doors over eight feet in height will be permitted.

D. No fences may be built forward of the centerline of the house built on a Building Plot or Lot. Yard fencing is discouraged. There shall be no fencing or other obstructions on any conservancy district easement, sanitary sewer easement or drainage easement. All fences shall be no more than six feet in height and shall either be of wood; stained, painted in soft, earth-toned colors or left

natural so as to blend in with the terrain or, be made of steel or iron and painted either black or dark brown in color so as to blend in with the terrain.

E. No satellite dish shall be located upon any Lot unless it meets the following requirements:

- i. It shall not be mounted on a trailer or other temporary or portable device, but shall be permanently installed in an acceptable fashion,
- ii. It shall be located so that no part of the device is in front of the home it serves,
- iii. It shall not exceed two ( 2 ) feet in diameter,
- iv. It shall be constructed of metal material, gray or black in color, or, to the extent technically feasible, match the color of the home it serves.
- v. If ground mounted, it shall be appropriately landscaped and screened with bushes or appropriate fencing;
- vi. It shall not extend more than 12 feet above grade.

F. No light poles shall be used or placed upon any Lot that extend more than 10 feet above grade, except for those used to light tennis courts. All light poles shall be of a residential design. All pole lights shall be positioned and directed so as not to constitute a nuisance to any adjoining Lot Owner.

G. No exterior towers or antennas of any kind shall be constructed or permitted on any Lot. Reasonable television or radio antennas are permitted on a residential dwelling or garage.

H. Tool and storage sheds, tennis courts, swimming pools or Outbuildings shall be located only in rear yards and shall be at least twenty (20) feet from Lot lines.

I. No trash receptacles or garbage cans shall be permitted to be stored or maintained outside of a building or a structure on any Lot unless hidden by an attractive screen and landscaping of suitable height and variety.

J. Any children's play sets erected or maintained on a Lot shall be earth-tone in color, not exceed ten (10) feet in height and shall be properly maintained.

K. No manufactured, mobile or modular homes or buildings shall be placed on or erected on any Lot. No houses or buildings shall be moved into or

onto the Property. All homes and buildings shall be constructed in place on a Lot; provided, however, panelized construction on a Lot shall be permitted.

L. The minimum setbacks as specified in this Declaration shall be measured from the Lot line from which the setback is being measured to the nearest building or structure. No buildings or structures (except for permitted fences, drive entrance columns, or mailboxes) shall be constructed or maintained within the required minimum setback area. The definition of the terms "front yard", "side yard", "rear yard", "building", "structure" or other similar term relating to setbacks shall be the same as that definition contained in the City's Zoning Ordinance now or in the future.

- i. The front yard setback for Lots 15-18 inclusive, and Lots 25 through 29 shall be at least thirty (30) feet, and for Lots 31-42 inclusive, shall be at least forty (40) feet. The front yard setback for all other Lots shall be at least thirty (30) feet.
- ii. The side yard setbacks shall be a total of at least twenty-four (24) feet with a minimum setback of twelve (12) feet on any one side.
- iii. The rear yard setback shall be at least thirty-five (35) feet; except for Lots 10 through 13 inclusive, and Lots 17 through 29 inclusive, where adjacent to their corresponding Outlots, there shall be no minimum rear yard setback
- iv. Lots shall also be subject to all setbacks, easements and restrictions shown on the plat of the Property that are filed of public record.

M. Items such as garbage cans, clotheslines, lawn or garden equipment, building materials and other similar items shall be stored out of public view. Garbage or trash receptacles may be placed curbside the evening before pick-up and shall be returned to acceptable storage out of view by the evening of the day of pick-up. Firewood shall not be stored on the front or side of a house. Firewood shall be neatly stacked behind the house out of sight from public view and shall not consist of more than one stack which shall not be in excess of 4' x 4' x 8' in size. Furthermore, any repair of motorcycles, automobiles, vehicles, boats or equipment shall be done completely out of public view.

N. No vehicles offensive to the neighborhood shall be stored, parked or abandoned on any Lot or street. Nothing in this paragraph, however, shall prohibit the parking of usual and customary construction equipment and vehicles during the time construction takes place on a Lot or street.

O. All Owners as well as their contractors or agents shall be responsible for implementing appropriate storm water, management plans and erosion control measures before, during and after any construction or excavation

on a Lot. Such measures may include, but shall not be limited to, sedimentation areas, silt fences and ground cover, including silt fences to prohibit siltation, planting and seeding to cover all exposed areas and prevent erosion or storm water detention or other appropriate management of storm water. If in the opinion of the Declarant or the Association or the City or other governmental authority erosion or storm water are not properly controlled, corrective action may be taken by the Declarant or the Association, and an automatic easement granted to implement the corrective action, and the actual costs thereof plus an administrative fee, as determined by the Association, shall be assessed against the offending Lot.

P. Drainage from an Owner's Lot shall not adversely affect any other Owner, Lot, street or Common Area and each Owner shall indemnify and hold harmless all other Owners, the Declarant and the Association from and against any and all damages or liability caused by an Owner's violation of this paragraph regarding drainage.

Q. There shall be no signs posted on or within the Property except those approved by the Association and except reasonable "For Sale" signs maintained by Declarant or any agents or brokers regarding sale of Lots by Owners. In no event shall any sign permitted by this paragraph be placed on any Common Areas or in the City right of way.

R. There shall be a limited noise level of thirty (30) decibels allowed to be emitted from any Lot when measured from any other Lot in the Property. Exceptions shall be lawnmowers, snow blowers, chainsaws, or other standard exterior maintenance equipment and construction work, for which levels may reach sixty (60) decibels between 6:00 A.M. and 10:00 P.M.

S. There shall be no parking on any of the streets in the Property except when required during snow removal from driveways or during repair or repaving of driveways or parking areas. Temporary or short term parking to accommodate guests of Owners or for other valid temporary reasons shall be allowed for periods of not more than 24 hours, subject to regulations established by the Association.

T. Any chemical, fertilizer, herbicide or pesticide that may be used on any Lot shall be maintained, applied and disposed of in an environmentally responsible and lawful manner. The Association reserves the right to ban or further regulate any chemical fertilizer, herbicide or pesticide pursuant to rules and regulations adopted by the Association.

U. No hunting, trapping, shooting of wildlife or discharging of firearms shall be allowed in the Property.

V. There shall be no recreational snow-mobiling or motorized off-road vehicle use or all-terrain vehicles use within the Property except directly to or from an Owner's residence and a destination outside of the Property. Such vehicles, however, may be used for the conveyance of emergency supplies or emergency transportation.

W. No person shall change the grade or elevation of any easement area within the Property dedicated to the City or other entity nor construct any fence or place any obstruction on or over the easement area.

X. No Lot Owner or other person shall plant gardens or landscaping or install or maintain plantings on or within a Common Area. The Association shall have sole control and jurisdiction over Common Areas.

IV. REVIEW OF BUILDING PLANS

No structure shall be erected upon any Lot until site plans and building plans have been first submitted to the Declarant (if it still owns any Lot in Painted Woods) or the Executive Committee of the Painted Woods Homeowner's Association (if Declarant no longer owns any Lot or if Declarant relinquishes its review rights) for their approval thereof and found in compliance with the Architectural Standards attached hereto as Addendum A, and hereby made a part of these Covenants. If the Declarant or its successors or the Executive Committee should fail to approve or disapprove said plans in writing within thirty (30) days after their submission, such plans shall be deemed to be approved.

V. LIVESTOCK AND POULTRY PROHIBITED.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot hereby restricted, except that dogs, cats, and other common pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however shall more than two dogs or two cats be maintained on any one Building Plot or Lot at any one given time. Dogs shall be kept in strict accord with the applicable leash ordinances of the City of Waukee.

Pet enclosures shall be located only in rear yards and shall be at last twenty (20) feet from any Lot lines. Said enclosures shall be constructed of wood board fencing, with spacing no greater than four (4) inches between boards, and fully screened with landscaping (preferably evergreens).

VI. LANDSCAPING AND CARE.

When dwellings are constructed, all Building Plots or Lots are to be fully sodded, from the front Lot line to a point seventy-five (75) feet back of the dwelling, except where the topography or tree cover does not make the same practical. The

balance of the Lot shall be either sodded, seeded, planted in wildflowers or left in natural vegetation.

When dwellings are constructed on a Building Plot or Lot, if the same are not already in place, the following trees must be planted thereon:

- i. A minimum of four (4) two-inch caliper flowering trees of which a minimum of three (3) shall be planted in the front yard. Flowering trees shall include magnolia, red bud and flowering crab.
- ii. A minimum of five (5) 2 ¼ inch caliper over-story trees of which a minimum of two (2) shall be in the front yard. Over-story trees shall include Oak, Ash, Elm and Maple.

#### VII. WEED CONTROL.

The Owner and/or person in possession of each Building Plot or Lot, whether vacant or improved, shall keep the same free of rubbish, trash, weeds, and debris. If said Owner or person in possession fails to keep a Lot free of rubbish, trash, weeds and debris and is in receipt of written notice delivered by certified mail from Declarant, the Homeowners' Association or by any property owners owning property within seventy-five ( 75 ) feet of such Lot, to cut such weeds and remove such debris within ten (10) days, and failing to do so, the Declarant, the Homeowners' Association or the Lot Owner giving such notice, as the case may be, may enter upon the Lot to cut or cause to be cut such weeds, or to remove or cause to be removed such rubbish and/or debris, and said Declarant, the Homeowners' Association or Lot Owner shall have a right of action against the Owner of such Lot for collection of the cost thereof.

#### VIII. EXISTING TREES

The knocking down or cutting down of trees or saplings shall be limited to the absolute minimum needed for construction on a Lot or the removal of diseased or dead trees. Established trees removed for construction shall be only those directly on the structure site or not greater than ten (10) feet from the structure or four (4) feet from any road or driveway. Any Owner desiring to fell or cut down any tree must obtain prior written permission from the Declarant or the Executive Committee described below in Article IV after submission of an acceptable tree removal plan, including a plan for tree replacement.

#### IX. TEMPORARY STRUCTURES OR EQUIPMENT.

No building or structure of a temporary character including but not limited to trailers, basements, tents, shacks, garages or Outbuildings shall be used at any

time as a residential dwelling on any Building Plot, or Lot either temporarily or permanently.

X. RECREATIONAL EQUIPMENT.

No recreational vehicle, all-terrain vehicle, motor home, boat, snowmobile, motorcycle, personal water craft or trailer may be parked or stored upon any Lot for more than thirty (30) days during any calendar year, unless the same is located in a garage or Outbuilding.

XI. COMMERCIAL ACTIVITY PROHIBITED.

No home occupation or business, nor any commercial activity shall be conducted on any Building Plot or Lot, except as permitted by Waukee City Zoning Ordinance.

XII. EASEMENTS.

Easements for installation and maintenance of utilities, sewers, and drainage facilities, as well as certain shared driveways, are reserved as shown on the recorded plat of Painted Woods and easements filed with the Dallas County Recorder in connection with the plat. The Owner and/or a person in possession of a Building Plot or Lot shall, at his expense, maintain, keep and preserve that portion of the easement within his property at all times in good repair and condition and shall neither erect nor permit erection of any building or structure of any kind, nor permit any growth of any kind within said easement which might interfere in any way with the use and patrolling of any of the utility services and drainage within the easements or contemplated to be installed within the easements in the future. Furthermore, all Lot Owners and/or a person in possession of a Building Plot or Lot shall comply with the terms and conditions of any recorded easements pertaining to Painted Woods.

XIII. MAILBOXES.

Declarant shall have the right to establish written standards regarding mailboxes within the Property to ensure uniformity and to prevent distractions. These standards may include the color, type, style, lettering, and nature of the mailbox and shall be provided to a Lot Owner by the Declarant at the time building plans are submitted by the Lot Owner for review. These standards may also require that a Lot Owner pay an assessment as part of the plan review process described above in paragraph IV and acquire a specified style of mailbox through a specific vendor or manufacturer or from the Declarant or Painted Woods Homeowners' Association for a fee. The United States Postal Service, however, may now or in the future establish rules and regulations which may require Declarant to modify the mailbox standards.

XIV. ASSESSMENTS.

A. Future City Improvements.

Declarant acknowledges that the City in the future may wish to construct and install public improvements on or adjacent to the Property for items such as sanitary sewer lines or public streets or any other improvements authorized by Chapter 384 of the Iowa Code and to specially assess the Property for the cost thereof (but not parkland or a bike and pedestrian trail).

B. Agreement Concerning Special Assessment.

Declarant by the execution of this Declaration expresses its consent, desire and agreement that special assessment improvements constructed for the benefit of the Property as described in subparagraph A above in the future may be levied against the entire Property and each Lot therein, on an equal basis but not for a park or a bike and pedestrian trail. The Declarant and Lot Owners within the Property shall have no obligation to pay any special assessment for parkland or a bike and pedestrian trail for the reason that Declarant has previously agreed to deposit cash for the benefit of the City regarding a bike and pedestrian trail as well as parkland.

C. Proximity of Public Improvement.

The City may assess each Lot equally within the Property despite the fact that Chapter 384 of the Iowa Code or court decisions would otherwise impose a limitation in connection with the proximity of the public improvements to the Lot being assessed. The Declarant, as well as all subsequent purchasers, successors in interest and assigns, and Lot Owners within the Property hereby waive any objection to the legality of the City spreading special assessments equally among all Lots within the Property to the extent that the City is otherwise legally able to specially assess the Property in the future pursuant to Chapter 384 of the Iowa Code.

XIV. ENFORCEMENT OF COVENANTS.

The Covenants shall be deemed to run with the land to which they apply, and the Declarant and/or a Lot Owner or the Painted Woods Homeowners' Association may bring an action in any court of competent jurisdiction to enforce these Covenants and enjoin their violation or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity.

XV. AMENDMENTS TO COVENANTS.

So long as Declarant owns any Lot within the Property, including an interest as contract vendor, it shall have the absolute right to make minor amendments to this Declaration in order to correct any deficiencies, clarify any provision thereof or to carry out the intent of this Declaration or to address development issues not contemplated at the date hereof.

XVI. PERIOD OF COVENANTS.

All of the foregoing Covenants, Conditions and Restrictions set forth in this Declaration shall continue and remain in full force and effect at all times and as to the Property, regardless of how title was acquired, from the date of filing of this Declaration until the 1<sup>st</sup> day of December, 2025, unless amended by an affirmative vote of two-thirds (2/3) of the Lots within the Property, excluding Common Areas (with each Lot entitled to one (1) vote), on which date these Covenants, Conditions and Restrictions shall automatically be extended an additional ten (10) years (and extended for successive ten (10) year terms thereafter in the same fashion) unless after the 1<sup>st</sup> day of December, 2024 two-thirds (2/3) of the Lot Owners within the Property (excluding Common Areas) in writing consent to terminate this Declaration or any part thereof, in which event this Declaration, or part thereof, shall be null and void effective as of the date when the Consent is filed with the Recorder of Dallas County, Iowa. Any Amendment or Consent shall be accompanied by an Affidavit by any officer of the Homeowners' Association certifying that two-thirds (2/3) of the Lot Owners within the Property (excluding Common Areas) have so consented as disclosed by the records of the Association. In determining ownership for purposes of consent, the records of the Association shall be conclusive. The Painted Woods Homeowners' Association shall be the attorney in fact vested with authority to file any extension of these Covenants, Conditions and Restrictions with the Dallas County Recorder if required by law.

XVII. ENFORCEABILITY 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. All Property subject hereto shall also be subject to any and all rights and privileges of the City of Waukee, Iowa, acquired or hereafter acquired by said City by dedication, conveyance, filing or recording of plats or

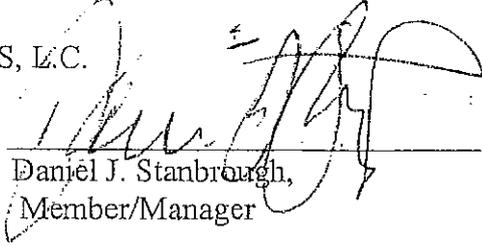
covenants as authorized by law. Wherever there is a conflict between these Covenants, Conditions or Restrictions and/or the zoning ordinance or law of the City, County or State, wherein the subject property is located, that which is most restrictive shall be binding.

DATED THIS 17 DAY OF November, 2004

**Painted Woods Development Company Joint  
Venture, Declarant**

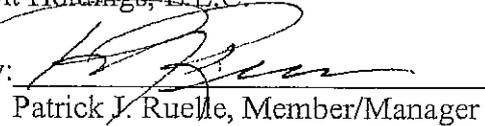
By: DTS, L.C.

By:

  
Daniel J. Stanbrough,  
Member/Manager

By: Colt Holdings, L.L.C.

By:

  
Patrick J. Ruelle, Member/Manager

STATE OF IOWA     )  
                          ) SS  
COUNTY OF POLK    )

On this 17 day of November, 2004, before me, a Notary Public in and for the said State, personally appeared Patrick J. Ruelle, to me personally known, who being by me duly sworn did say that that person is Manager of said limited liability company, that said instrument was signed on behalf of the said limited liability company by authority of its managers and the said Patrick J. Ruelle acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Tara L. Davis  
Notary Public in and for the State of Iowa  
My Commission Expires 6-17-06

STATE OF IOWA     )  
                          ) SS  
COUNTY OF POLK    )



On this 17 day of November, 2004, before me, a Notary Public in and for the said State, personally appeared Daniel J. Stanbrough, to me personally known, who being by me duly sworn did say that that person is Manager of said limited liability company, that said instrument was signed on behalf of the said limited liability company by authority of its managers and the said Daniel Stanbrough acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Tara L. Davis  
Notary Public in and for the State of Iowa  
My Commission Expires 6-17-06

