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*Handwritten initials*

Prepared by: Gregory A. Skinner, ISBA AT0007257 514 SW Irvinedale Dr., Ankeny, IA 50023 (515) 964-3121

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
PARKVIEW CROSSING PLAT 8**

THIS DECLARATION, made on the date hereinafter set forth by Jerry's Homes, Inc. ("Declarant") as developer of Parkview Crossing Plat 8 and in support of the DECLARATION, states and provides as follows:

**RECITALS**

WHEREAS, Declarant is the owner of certain property in the City of Waukee, Dallas County, Iowa, which is more particularly described as:

Lots 1 through 8 and Outlot 'Y' in Parkview Crossing Plat 8, an Official Plat located in the City of Waukee, Dallas County, Iowa.

to be known as Parkview Crossing Plat 8 (the "Property"); and

WHEREAS, Declarant desires that the Property 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 thereof.

NOW, THEREFORE, Declarant hereby declares that the Property 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 on all parties having any rights, 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.**

A. "Association" shall mean and refer to Parkview Crossing Plat 8 Owners

Association, Inc., its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa as amended.

- B. "Association Responsibility Elements" shall mean: i) Common area, if any, maintenance; ii) compliance with the terms of the Parkview Crossing Plat 8 Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement dated November 23, 2010 and recorded in Book 2010 Page 16302 of the Dallas County, Iowa records;
- C. "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- D. "City" shall mean and refer to the City of Waukee, Iowa.
- E. "Common area, if any," shall mean all real property (including the landscaping and improvements thereto and thereon) and/or personal property and/or fixtures owned and maintained by the Association for the common use and enjoyment of the Owners, if any.
- F. "Declarant" shall mean and refer to Jerry's Homes, Inc., an Iowa corporation and its successors and assigns, if such successors or assigns acquire all Lots owned by the Declarant for the purpose of resale or development.
- G. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions to which the Properties are subject, as the same may be amended from time to time.
- H. "Federal Mortgage Agencies" shall mean and refer to those federal agencies who have or may come to have an interest in the Properties, or any portion thereof, such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, or successors to their interest.
- I. "Lot" shall mean and refer to the lots numbered I through 35 shown on the attached Exhibit "A" preliminary plat for Parkview Crossing Plat 8, and any additional lots within any replats of the Properties made and recorded in accordance with statutes of the State of Iowa which may later be brought within the jurisdiction of the Association and the Declaration, but does not include the Common areas, if any.
- J. "Member" shall mean and refer to those persons entitled to membership as provided in this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Association.

- K. "Owner" shall refer to the record owner, whether one or more persons or entities, including the Declarant, of a fee simple title to any part of the Properties, but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the property by provision or operation of law. A vendee in possession under a recorded contract of sale of any part of the Properties shall be deemed the owner thereof.
- L. "Properties" shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, but shall exclude and not refer to any portion thereof conveyed, dedicated or granted to the City now or in the future.
- M. "Storm Water Management Facility Area" shall mean all real property identified as:

All of Lot 'Z', Parkview Crossing Plat 8, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa

## 2. RESTRICTIONS.

Section 1. Single Family Residences. All lots shall be known, described and used as single family residential lots.

Section 2. Temporary Structures. No trailer, basement, tent, shack, mobile home, motor home, manufactured home, garage, barn or other outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted at any time.

Section 3. Parking or Storing. No boat, trailer, camper, motor home, mobile home, truck, or bus shall be parked or stored on any lot. No automotive vehicle not bearing current registration shall be parked at or on any lot.

Section 4. Exposed Foundation and Exteriors. No exposed tile foundations shall be permitted and all exposed exterior concrete wall material shall be painted or covered with brick or stone veneer. The exterior of any dwelling and garage located on any Lot shall be finished with earth tone or neutral colored material (including all stain or painting of wood, brick, stone, pulverized stone or pressed wood).

Section 5. Screening and Fences. Any dog run, trash receptacle, tool shed or other out structure of like nature, shall be properly screened by reasonable shrubbery or decorative fence or both. No snow fence or temporary fence of any kind shall be permitted on any Lot. Lots 1 through 8 shall be restricted to 48" in height black vinyl chain link fencing.

Section 6. Noxious Activities. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 7. Animals and Livestock. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other small commonly accepted household pets may be kept, provided that they are not kept or maintained for any commercial purposes and are kept in strict accord with applicable leash laws.

Section 8. Mechanical Repair Work. No automotive, boat or other mechanical repair work may be performed at or on any lot and all hobby type activity of a similar nature shall be confined to the interior of buildings on the lot. No bulky or unsightly piece of machinery shall be kept on any lot at any time.

Section 9. Maintenance of Improvements. All improvements erected on said lots shall be maintained in good repair and appearance by the Owner. The lots shall be kept in good appearance, free from weeds and rubbish. The Owner is responsible for snow removal of all driveways, walks and sidewalks. All building structures or improvements of any kind must be completed within 12 months of the commencement date of construction.

Section 10. Maintenance of Lots. All lots shall be maintained in good appearance by the Owner by undertaking reasonable mowing of the yards (including the area between the sidewalk and street) and trimming of bushes and trees as necessary.

Section 11. Business or Commercial Activity. No occupation, business or commercial activity shall be conducted on any lot, except as may be provided by the City's zoning ordinances. No commercial vehicles may be regularly parked at or on any lot. No sign of any kind shall be displayed on any lot except a sign advertising the specific property for sale or rent, except for signs used by the developer or builder to advertise the property during construction and sales period as specified by the City's sign permit ordinance.

Section 12. Sidewalks. Public sidewalks shall be installed on all lots as required by the City's ordinance. A private sidewalk shall be installed on each lot within one year after Declarant conveys the applicable lot to a lot owner, the costs for which shall be borne by the lot owner.

Section 13. Setback Lines. No building shall be erected on any Lot nearer than the building setback lines as shown on the recorded plat.

Section 14. Driveway Requirement. No building or structure shall be constructed, altered or maintained on any Lot unless it has a driveway running from a street to the dwelling, which must be of sufficient area to park at least two cars entirely off the street right-of-way.

Section 15. Shingles. 3-tab shingles shall be allowed on any dwelling, garage or other

permitted structure constructed on any lot.

Section 16. Miscellaneous Structures. Playhouses, utility buildings, storage sheds or other similar structures shall be permitted; provided that the exterior and the roof of any such structure shall be constructed of the same material, have the same color and appearance as the residential dwelling on the same Lot and are located only in rear yards.

Section 17. Garages. All single-family residences constructed shall have as a minimum an attached two car garage.

For Single Family Residential Lots: Each residence must contain the following:

- A. One-story ranch style dwellings must contain a minimum of 1,100 square feet of finished ground floor area.
- B. One and one-half story dwellings must contain a minimum of 1,200 square feet of finished area on the main and second floor level.
- C. Two-story dwellings must contain a minimum of 1,300 square feet of finished area on the main and second floor level.
- D. Split-level and foyer dwellings must contain a minimum of 1,100 square feet.

Section 18. Satellite Dish. No satellite dish or parabolic device used to receive television signals from satellites shall be located upon any lot unless it meets the following requirements:

- A. It shall not be mounted on a trailer or other temporary or portable device, but shall be permanently installed in a fashion acceptable to Declarant;
- B. It shall be located so that no part of the dish is in front of the home it services;
- C. It shall not exceed two (2) feet in diameter;
- D. It shall be appropriately landscaped and screened with shrubs and bushes or appropriate fencing; and
- E. It shall not exceed more than six (6) feet above grade unless attached to residence.

Section 19. Utilities. All utilities, including trunk and service lines for telephone, electricity and cable television, shall be constructed and located underground.

Section 20. Sodding or Seeding. All portions of a lot (except common areas, if any) not occupied by structures, walkways, driveways, parking or landscaping shall be sodded or seeded

with grass within ninety (90) days after completion of the residence thereon unless weather conditions make this requirement impossible to satisfy, in which event, they shall be sodded or seeded within sixty (60) days after weather conditions reasonably permit compliance with this requirement.

Section 21. Modification of Restrictions. These covenants, restrictions and provisions are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-one years after the date they are recorded in the Dallas County Recorder's Office, and may be renewed for successive twenty-one year periods by recording a written notice as provided in Iowa Code § 614.24, as amended. These Building Restrictions and Protective Covenants may be amended by an instrument signed (i) by the Grantor as long as the Grantor owns a Lot primarily for resale purposes, or (ii) by not less than seventy-five percent (75%) of the Lot owners if the Grantor does not own a Lot. Any amendment must be recorded. These covenants may not be modified or amended without prior written consent of the City of Waukee, Dallas County, Iowa.

### **3. EASEMENTS AND ENCROACHMENTS.**

Section 1. Easement for Maintenance. Declarant reserves unto the Association a nonexclusive easement over the Common area, if any, and over the Storm Water Management Facility Area, for the sale benefit of the Association in performance of its maintenance obligation under this Declaration. This easement shall not be for the benefit of the members or the public at large.

Section 2. Easement for Signs. Declarant reserves unto itself, its successors and assigns, for so long as it owns any portion of the Properties, the right and easement to erect and maintain identification and "For Sale" sign or signs within the Properties, including any Common area, if any, as Declarant deems reasonably necessary, provided the same are consistent with the ordinances of the City.

Section 3. Utility Easements. Easements for installation and maintenance of sanitary sewers, utilities and flowage or drainage channels, if any, are reserved as shown and/or noted on the recorded plat. Within these easements, no structure, improvements, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation, operation or maintenance of said sanitary sewers, storm sewers, drainage ways, utilities, or which may change or alter the direction of flowage or drainage channels in the easements, or which may obstruct the easement area of each lot. All authorized improvements located within these easements shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority, utility company or Association is responsible.

Section 4. Additional Easement Rights of the Declarant. Declarant reserves unto itself: for the benefit of all Lots and Owners, an easement and full right, title and authority to relocate,

alter, or otherwise leave the location of any drainage, utility, and sewer easement and to grant such further easements, licenses and rights of way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within any portion of the Common area, if any, or Storm Water Management Facility Area. Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, or other

easement, license or right-of-way by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Dallas County, Iowa and the Association and any Owner of any Lot shall be subject to the right and easements reserved herein; provided, however, the rights reserved in this Section 4 shall not be exercised in a manner which unreasonably and adversely affects the Common area, if any, or any Owner's use or enjoyment thereof or which unreasonably restricts the rights of ingress or egress to any Common area, if any, or Storm Water Management Facility Area. The rights and easements reserved by Declarant in this Section 4 shall run with the land and Declarant's right to further alter or grant easements shall automatically terminate when Declarant shall have conveyed the last Lot within the Properties.

Section 5. Easement for Emergency Purposes. An easement and right is hereby dedicated and granted to officers, employees or contracted agents of the City for the administration of general public services including tire protection, law enforcement, water service and animal control and for use in case of emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, over and upon the Common area, if any, and Storm Water Management Facility Area and easements reserved or granted for the benefit of the Association. This provision shall not be amended without the prior written approval by the City.

#### **4. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 1. Membership. The owner or owners of the Properties or any subdivisions thereof shall be members of the Association. Membership shall be appurtenant to the ownership of the real property and shall be indivisible from such ownership.

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

- (1) Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one 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.
- (2) Class B. The Class B member shall be the Declarant or its assigns so long as it is the owner of any Lots. The Class B member shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A

membership on the happening of either of the following events, whichever occurs earlier:

- (a) when 75% of the Lots in all phases are deeded to homeowners; or
- (b) on January 1, 2016.

Section 3. Board of Directors. The Owners entitled to vote shall elect a Board of Directors of the Association as prescribed by the Association's Bylaws. The Board of Directors shall manage the affairs of the Association.

Section 4. Suspension of Voting Rights. The Association shall suspend the voting rights of a Member for any period during which any assessments against his or her Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration, if those Federal Mortgage Agencies have an interest in the Properties or any portion thereof: Annexation of additional properties, dedication of Common areas, if any, and amendment to this Declaration.

## **5. COVENANT FOR ASSESSMENTS.**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each 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 agrees to pay to the Association: (1) monthly assessments or charges, and (2) special assessments for capital improvements and operating deficits, and other special assessments as provided in this Declaration; such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made senior to all liens except a first mortgage of record and any ad valorem taxes. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement, maintenance, repair and replacement of the Association Responsibility Elements and for other purposes specifically provided herein, including, but not limited to, payment of legal liabilities or obligations of the Association and all fees, costs, expenses, and

attorneys fees in connection therewith.

Section 3. Maximum Monthly Assessment:

- (1) Until January 1 of the year following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be in the amount \$10.00.
- (2) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment may be increased effective January 1 of each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- (3) From and after January I of the year immediately following the conveyance of the first Lot to and Owner, the maximum monthly assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (4) The Board of Directors shall fix the monthly assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the monthly 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 performing any of its stated obligations and responsibilities under this Declaration, including, without limitation, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common area, if any, and/or the Storm Water Management Facility Area, including fixtures and personal property related thereto, which the Association is required to maintain, or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of all classes of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for an Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than 10 days, nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership subject to the assessment shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments must be

fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessments. The monthly assessments provided for herein shall be due as to each Lot on the first day of the month and shall commence as to Lots on the first day of the first month. The first monthly assessment shall be adjusted according to the number of days remaining in that month. The Board of Directors shall fix the amount of the monthly assessment against each Lot at least thirty (30) days in advance of the effective date of such increase. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form 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 12% per annum or at the highest rate allowed by Iowa law, whichever is higher. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of such assessment the cost of preparing and filing the petition in such action, including reasonable attorney's fees.

Section 9. Subordination of Assessments Liens. If any Lot subject to a lien created by any provision in this Declaration shall be subject to the lien of a first mortgage of record: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of such mortgage or the acceptance of a deed in lieu of the foreclosure by the mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure; purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure and have not been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting owner personally.

Section 10. Enforcement of Covenants.

- A. Legal Action. These Covenants shall be deemed to run with and be a burden upon the land to which they apply and all improvements thereon. The owner of any lot or portion thereof to which these Covenants apply may bring an action in any Court of competent jurisdiction to enforce these Covenants and enjoin their violation, mandate their compliance or to recover damages for the breach thereof or for any other remedy or combination of remedies recognized at law or in equity.
- B. Delays in Enforcement. No delay or omission on the part of any owner of land to which these Covenants apply in exercising any rights, power or remedy herein allowed shall be construed as a waiver of acquiescence therein. No right, claim or action shall accrue to and no action or claim shall be brought or maintained by anyone against Declarant on account of any action or inaction under these Covenants.
- C. Conflict with Governmental Regulations. All property subject to these Covenants shall be also subject to any and all regulations of the City and any other governmental entities having jurisdiction, including, but not limited to, zoning ordinances, subdivision ordinances, building codes or other such regulations. Whenever there is a conflict between the provisions of those Covenants and the ordinances, statutes or regulations of the City, Dallas County, State of Iowa or the United States Government, the provision which is most restrictive shall be binding.

Section 11. Term of Covenants: Severability.

- A. Duration. These Covenants shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns, or the owners or owners from time to time of any lots subject to these Covenants, their respective legal representatives, heirs, successors, and assigns, until January 1, 2024, provided however, within such time period, these covenants may be amended or abrogated at any time, by a written document signed and acknowledged by the owners of 51 % of the lots (including lots owned by Declarant) and recorded with the Dallas County Recorder. After January 1, 2024, said Covenants shall be automatically extended for successive periods often years on each tenth anniversary thereof, unless a written instrument, signed and acknowledged by not less than the owners of two-thirds (2/3rds) of the lots shall, prior to such anniversary date, be recorded with the Dallas County Recorder amending or abrogating the same in whole or in part. Notwithstanding the foregoing, none of the rights and duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval.
- B. Severability. In the event that one or more of the terms or conditions of these

Covenants shall be declared for any reason, by the court of competent jurisdiction, to be null and void, such judgment or decree shall in no way affect, modify, change, abrogate or nullify any of the remaining covenants, conditions, restrictions or terms not so expressly held to be void and the remaining parts of these Covenants shall remain in full force and effect.

Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (1) All property which is dedicated to and accepted by a public authority; and
- (2) All Common area, if any;

No other land or improvements located within the Properties shall be exempt from said assessments, charges or liens, except as otherwise provided herein.

Dated this 18 day of November, 2010.

**DECLARANT**  
JERRY'S HOMES, INC.

By: *Jeffrey D. Grubb*  
Jeffrey D. Grubb, Vice President

STATE OF IOWA            )  
  ) ss.  
COUNTY OF POLK        )

On this 18 day of November, 2010, before me the undersigned, a Notary Public in and for said State, personally appeared Jeffrey D. Grubb, to me personally known, who being by me duly sworn did say that he is the Vice President of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and that the said Jeffrey D. Grubb as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



*Annie Harbour*  
Notary Public in and for the State of Iowa