

BUILDING RESTRICTIONS, PROTECTIVE COVENANTS,
& RESERVATION OF EASEMENTS

for

HERITAGE HILLS, PLAT 8

KNOW ALL MEN BY THESE PRESENTS:

That Downing Construction, Inc. (hereafter referred to as "grantor") as developer of Heritage Hills, Plat 8, in the City of Indianola, Warren County, Iowa, does hereby establish and place the following building restrictions and protective covenants and do hereby reserve certain easements, all as hereafter specifically set forth, on the real property described on Exhibit "A" attached hereto, consisting of one page.

I. DESIGNATION OF LOTS

All lots, Lots 1 through and including Lot 13, excluding Lot "A", in Heritage Hills, Plat 8, shall be known and described as residential lots and shall not be improved, used or occupied for other than residential purposes. Lot "A" shall be dedicated as a public street.

II. BUILDING AREA

No dwelling shall be constructed or permitted to remain upon any lot in this subdivision unless it meets the following requirements:

- a. One story dwellings must have a ground floor finished area of not less than 1,500 square feet.
- b. One and one-half story dwellings must have not less than 1,100 square feet of finished area on the ground floor and a total on the ground floor and second floor of not less than 1,800 square feet of finished area.
- c. Two story dwellings must have not less than 1,000 feet of finished area on the ground floor and a total on the ground floor and second floor of not less than 1,800 square feet of finished area.
- d. Split-level and split-entry dwellings must have not less than 1,400 square feet of finished area directly under the roof and a total finished area of 1,800 square feet.
- e. In the computation of floor area, the same shall not include porches, breezeways or garages.

III. DESIGN AND CONSTRUCTION

- a. No mobile home or manufactured homes as defined in the Code of Iowa shall be placed on or erected on any lot.
- b. No building shall be erected on any lot nearer than the building setback lines as shown on the recorded Plat, except as may be allowed by the City of Indianola, Iowa.
- c. 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. All driveways shall be constructed of concrete or bituminous surfacing.
- d. All dwellings must have, at a minimum, double attached, double basement, or double detached garages.
- e. Any foundation exposed more than twelve inches (12") above the ground level shall be painted or covered with siding, brick, or stone veneer similar to and in harmony with the materials with which the dwelling was constructed.
- f. No trash receptacle, tool shed, or other outside structure may be constructed on any residential lot or any lot used for residential purposes, except that one tool shed or small storage shed not exceeding 225 sq. ft. may be constructed if the shed is in harmony with the residence, with matching siding, roofing, and colors. The garage on Lot 8 of this Subdivision shall be permitted, the language herein to the contrary notwithstanding.
- g. All building structures or improvements of any kind must be completed within twelve months of the commencement date of construction.

IV. TEMPORARY STRUCTURE

No building 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.

V. RECREATIONAL VEHICLES AND BOATS

No recreational vehicle or boat shall be parked such that the recreational vehicle or boat is visible from the street for a period of longer than one week.

VI. PROVISIONS REGARDING GOLF COURSE ON NEIGHBORING OUTLOT "Z"

Outlot "Z" of Heritage Hills Plat 5 subdivision adjacent to Lots One through and including Seven of Heritage Hills Plat 8 is used as a golf course by Indianola Country Club, Inc. Lots One through and including Seven on Heritage Hills Plat 8 are subject to a perpetual easement, running with the land, permitting golf balls unintentionally to come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the said Lots to retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: these Declarants; Indianola Country Club, Inc., its successors-in-title to the golf course, or assigns; any builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing; or any officer or director of any partner.

Any portion of this subdivision immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Under no circumstances shall the owner of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement as this is a risk assumed by the owners of said Lots.

Owners of lots adjacent to golf course areas, as well as their family members, tenants, guests, invitees, and pets shall be obligated to refrain from actions which would distract from the playing qualities of the adjacent golf course. Such prohibited activities would include, but not be limited to, burning materials where the smoke will impair visibility on the golf course, maintenance of dogs or other pets under conditions which interfere with golf course play due to loud barking or other actions, playing of loud radios, stereos, televisions, or musical instruments, use of public address systems, or similar interference with play. Owners of lots adjacent to golf course areas, as well as their family members, tenants, guests, invitees, and pets, shall have no right of access to the golf course, including without limitation running, jogging, or walking on cart paths, foot paths, or fairways, and may not retrieve balls from course property.

The golf course may not be used for play of golf after 10:00 p.m. and lighting of the course shall be directed away from adjacent residences.

The golf course will in the course of its maintenance use herbicides, fertilizer, and insecticides, and owners of lots in this subdivision, or of residences thereon, are put on notice that such will be the case, and said owners or residents shall have no right to control or object to the use of such herbicides, fertilizer, and insecticides, provided they are used in accordance with applicable laws and regulations. Likewise, the owner of the golf course shall have no right to control or object to the use of such herbicides, fertilizer, and insecticides, by lot owners provided they are used in accordance with applicable laws and regulations.

Any dispute or controversy between a lot owner or resident, as well as their family members, tenants, guests, or invitees, and the Indianola Country Club related to the use of the golf course or adjacent properties, shall be settled by arbitration in accordance with the rules of the American Arbitration association.

VII. RUBBISH CONTAINERS

No rubbish containers shall be visible from the street except on pickup day and one day before and one day after pickup day.

VIII. UTILITIES

All utility connection facilities and services shall be underground, including, but not limited to water, sewer, electric, gas, telephone, and cable television service. No individual water supply system or individual sewage disposal system shall be permitted on any lot. In the event public sanitary sewer is not available to serve lots, each lot shall have an individual sewage disposal system or septic tank system. In this event, each lot owner must hook up to the public sanitary sewage system as soon as the same is available to the lots.

IX. TOWERS AND ANTENNAS

No extension towers or antennas of any kind, including but not limited to satellite receiving dish antennas, shall be constructed, modified, or permitted on any lot, except for satellite dishes of one meter or less in diameter, or any antenna permitted by the Federal Communications Commission under its regulations at 47 C.F.R. Section 1.4000, as may be amended from time to time. Reasonable television or radio antennas are permitted on dwellings or garages.

X. 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.

XI. ANIMALS PROHIBITED

No animals or livestock or poultry of any kind shall be raised, bred, or kept on any lot, including but not limited to, horses, cattle, mules, donkeys, geese, chickens, rabbits, swine, sheep or goats, provided that dogs and cats may be kept so long as they are not kept, bred, or maintained for commercial purposes. In no event shall no more than two dogs be maintained on any one lot at any time.

XII. LANDSCAPING AND SITE LINES

1. Following construction of the residential dwelling on any lot, the front yard, side yard, and, except for Lots One through and including Seven as provided below, twenty feet of the rear yard measured from the rear of the dwelling structure shall be fully sodded, and the remainder of the lot must be seeded or sodded. At the time of the sodding or seeding, at least two trees of at least two inches in diameter must be planted in the front yard of the lot, and an additional such tree will be planted on the street side of each corner lot. Lots One through & including Seven shall be fully sodded and may not be seeded.

2. No hedge or shrub planting which obstructs sight lines at elevations between two and six 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 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 edgeway 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.

XIII. EASEMENTS

Certain perpetual easements are reserved as shown on the recorded plat and as set forth herein, including without limitation as set forth in Article VI. The owner of the lot shall, at his or her (its) own expense, keep and preserve that portion of the easement within the owner's property in good repair and condition, and shall neither erect or permit erection of any building structure or fences of any kind within the easement which might interfere in any way with the use of said easement.

XIV. FENCES

No fence shall be permitted within the front setback area of any lot. Further, no snow fence, temporary fence, solid fence, or fence higher than four feet shall be permitted on any lot. Fencing shall be wrought iron or PVC only. Notwithstanding the foregoing, all fencing is allowed around swimming pools as may be required by applicable building codes.

XV. WEED CONTROL

The owner or person in possession of each lot, whether vacant or improved, shall keep the same free of weeds and debris and agrees that after written notice given by certified mail to such owner or person in possession by any property owner owning property within five hundred feet of such lot, such weeds shall be cut and such debris shall be removed within fifteen days, failing which the property owner, giving such notice, may enter upon the property to cut or cause to be cut such weeds, or to remove or cause to be removed such debris, and shall have a right of action against the owner of such lot for collection of the costs thereof. Each lot in the subdivision shall be kept mowed by the owner thereof or planted into a ground cover suitable for a residential subdivision in harmony with the surrounding lots in the subdivision.

XVI. DIVISION OF LOTS

No lot in Heritage Hills, Plat 8, shall be subdivided, partitioned, or in any way developed so that more than one single family use is made of any one lot, except for Lot 8 which may have thereon only a garage serving a residential lot in an adjacent subdivision.

XVII. PUBLIC COMMERCIAL ACTIVITY

No public commercial activity shall be permitted on the premises of any lot except for those permitted under the zoning regulations of the City of Indianola, Iowa, applicable to the lots in this subdivision.

XVIII. TOPOGRAPHY

The topography of Heritage Hills, Plat 8 is such that surface water may flow from certain lots onto other lots in the subdivision. In regard to all matters concerning surface water, each lot shall be subject to such easements as may exist from the flowage and surface water of the law of the state of Iowa, as may be in effect from time to time; and all owners shall have such rights and obligations with respect thereto as may be provided by such law.

XIX. GENERAL PROVISIONS

These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until January 1, 2018, at which time said covenants shall be automatically extended for an additional period of ten years, which extension shall occur automatically each ten years thereafter, unless a majority of the owners of the lots in said plat, by written agreement filed in the Office of the Recorder of Warren County, Iowa, amend said restrictions in whole or in part. These covenants may be amended by a majority vote of the owners of said lots at any time, with the owner or owners having one vote for each lot owned in this subdivision, and provided owners of an undivided interest in a lot shall have one vote to cast between or among them.

Easement provisions contained herein run with the land perpetually and are not subject to termination by time as are the covenants. They are binding on the heirs, successors, and assigns hereto.

These restrictions shall not be applicable to any portion of any subdivision dedicated to the use of the public as a street.

If the owner or person in possession of any lot in this subdivision violates or attempts to violate any of the covenants or restrictions herein established and validly enforced, it shall be lawful for any person or persons owning any other lots in said plat to prosecute any proceedings in law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, and either to prevent that person or persons from so doing or to recover damages or seek other remedy provided at law for such violation.

Invalidation or modification of any one of these covenants by judgment or court order shall, in no way affect any of the other provisions which shall remain in full force and effect, except that in conflict with the stricken provision.

DATED at Indianola, Iowa, this ____ day of _____, 2007.

DOWNING CONSTRUCTION, INC., BY

D. Robert Downing, President

Denis Frischmeyer, Vice-President

STATE OF IOWA)
)SS.
COUNTY OF WARREN)

On this ___ day of _____, 2007, before me, a Notary Public in and for the State of Iowa, personally appeared D. Robert Downing to me personally known, who being by me duly sworn did say that he is the President, of Downing Construction, Inc., an Iowa corporation, and that as such officer, he acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said D. Robert Downing behalf of Downing Construction, Inc., by it and by him voluntarily executed, and that said corporation has no corporate seal.

Given under my hand and seal of office, this ___ day of _____, 2007.

Notary Public in and for the
State of Iowa

STATE OF IOWA)
)SS.
COUNTY OF WARREN)

On this ___ day of _____, 2007, before me, a Notary Public in and for the State of Iowa, personally appeared Denis L. Frischmeyer to me personally known, who being by me duly sworn did say that he is the Vice- President, of Downing Construction, Inc., an Iowa corporation, and that as such officer, he acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said Denis L. Frischmeyer behalf of Downing Construction, Inc., by it and by him voluntarily executed, and that said corporation has no corporate seal.

Given under my hand and seal of office, this ___ day of _____, 2007.

Notary Public in and for the
State of Iowa