

515-961-5370
P. 27

BUILDING RESTRICTIONS and PROTECTIVE COVENANTS

for

HERITAGE HILLS, PLAT 6

KNOW ALL MEN BY THESE PRESENTS:

That Downing Construction, Inc., (hereafter referred to as "grantor") as developer of Heritage Hills, Plat 6, in the City of Indianola, Warren County, Iowa, does hereby establish and place the following building restrictions and protective covenants and does hereby reserve certain easements, all as hereafter specifically set forth, on the real property described on Exhibit "A" attached hereto, consisting of two pages.

I. DESIGNATION OF LOTS

All lots, Lots 1 through and including Lot 16, and excluding Lots "A" and "B", in Heritage Hills, Plat 6, shall be known and described as residential lots and shall not be improved, used or occupied for other than private single family residential purposes.

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

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. Any trash receptacle, tool shed, or other outside structure of like nature shall be properly screened by reasonable shrubbery or decorative fence, or both, and any such structure shall be constructed with siding or brick veneer similar to and in harmony with the materials with which the dwelling was constructed.

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. 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.

VII. 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.

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.

IX. 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.

X. 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.

XI. LANDSCAPING AND SITE LINES

1. Following construction of the residential dwelling on any lot, the front yard, side yard, and 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.

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.

XII. EASEMENTS

Certain perpetual easements are reserved as shown on the recorded plat. The owner/occupant of the lot shall, at his or her own expense, keep and preserve that portion of the easement within his or her property in good repair and condition, and shall neither

XIII. FENCES

No fence over two feet in height shall be permitted within the setback area of any lot. Further, no snow fence, or temporary fence of any kind shall be permitted on any lot. Fencing shall be cedar, wrought iron, white PVC, or colored chain link fence in colors of green, brown, or black only.

XIV. 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.

XV. DIVISION OF LOTS

No lot in Heritage Hills, Plat 6, shall be subdivided, partitioned, or in any way developed so that more than one single family use is made of any one lot.

XVI. 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.

XVII. TOPOGRAPHY

The topography of Heritage Hills, Plat 6 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.

XVIII. GENERAL PROVISIONS

These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them.

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.

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 June, 2002.

Downing Construction, Inc.

By, D. Robert Downing, President

STATE OF IOWA:

: ss.

WARREN COUNTY:

On this _____ day of _____, A.D. 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared D. Robert Downing, to me known, who being by me duly sworn, did say that he is the president of the corporation executing the within and foregoing instrument to which this is attached, that no seal has been procured by the corporation; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that D. Robert Downing as an officer acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by him voluntarily executed.

EXHIBIT "A"

A parcel of land in Outlot Z, Heritage Hills Plat 4, an Official Plat, and the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-four (24), Township Seventy-six (76) North, Range Twenty-four (24) West of the 5th P.M., City of Indianola, Warren County, Iowa, that is more particularly described as follows:

Beginning at the Southwest corner of Lot Eighteen (18), said Heritage Hills Plat 4; thence North 89°07'42" East, 234.69 feet along the South line of said Lot Eighteen (18) to a point; thence South 00°52'05" East 23.01 feet to a point; thence North 89°56'03" East, 237.36 feet along the South lines of Lots Seventeen and Sixteen (17 & 16) in said Plat 4 to a point; thence South 00°52'05" East, 370.27 feet to a point; thence South 89°50'22 East, 41.81 feet to a point; thence South 00°10'24" West, 153.12 feet to a point on the North Right-of-Way line of West Orchard Avenue; thence Easterly along a curve to the right having a radius of 260.00 feet and a chord bearing of South 86°16'01" East, an Arc length of 30.20 feet along said North Right-of-Way line to a point on the West line of Heritage Hills Plat 3, an Official Plat; thence South 06°56'55" West, 207.49 feet along said West line to the Southwest corner of Lot Two (2) in said Plat 3; thence North 89°36'58" West, 261.93 feet along the North line of Country Club Heights, an Official Plat, to the Northwest corner of said Plat, said point also being the Northeast corner of Maple Ridge, an Official Plat; thence North 89°51'25" West, 216.39 feet along the North line of said Maple Ridge to a point; thence North 00°52'05" West, 637.45 feet to a point; thence North 18°09'45" West, 116.70 feet to the point of beginning