

Preparer; When recorded, Return to: David L. Wetsch, 974 - 73rd Street, Suite 20, Des Moines, IA 50312 (515) 223-6000

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
GRANT PARK**

THIS DECLARATION, made on the date hereinafter set forth by KE Brewer, LLC ("Declarant") as developer of GRANT PARK, 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:

Government Lot 12 and the South 33 feet of Government Lot 5 all in Section 4, Township 78 North, of Range 26 West of the 5th P.M., City of Waukee, Dallas County, Iowa, EXCEPT Beginning 184.4 feet South of an Iron Pin at the Northwest Corner of Government Lot 12 in Section 4-78-26 West of the 5th P.M., Dallas County, Iowa, thence East 358.8 feet; thence North 261.4 feet, thence Southwesterly (bearing South 87E4'W) on a line 33.0 feet North of and parallel to the North line of said Government Lot 12, 359.6 feet to the West section line of said Section 4, thence South 217.4 feet to the point of beginning;

to be known as **GRANT PARK** (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 shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any rights, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Section 1. Single Family Residences. All lots shall be known, described and used as single family residential lots, all as permitted by the City of Waukee ("City").

Section 2. Temporary Structures. No trailer, basement, tent, shack, mobile home, Motor 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. No exposed tile foundations shall be permitted and all exposed exterior concrete wall material shall be painted or covered with brick or stone veneer.

Section 5. 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.

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, bred 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 or 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. The lots shall be kept in good appearance, free from weeds and rubbish.

Section 10. 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 11. 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 or said sanitary sewers, storm sewers or 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 or utility company is responsible.

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. Garages and Approval of Floor Plans. All single-family residences constructed shall have an attached two-car garage, and each shall have Declarant's approval of garage and floor plans prior to construction. No manufactured homes, as defined by Iowa Building Codes, may be brought on to the Lot. All homes shall have a minimum roof-pitch of 6/12. All residences shall have a minimum finished square footage of living space, exclusive of attached garages, breezeways, porches and finished basement areas as follows:

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

- A. One-story ranch style dwellings must contain a minimum of 1100 square feet of finished ground floor area.
- B. One and one-half story dwellings must contain a minimum of 1200 square feet of finished area on the main and second floor level.
- C. Two-story dwellings must contain a minimum of 1400 square feet of finished area on the main and second floor level.
- D. Split-level and foyer dwellings must contain a minimum of 1000 square feet.

Section 14. 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 15. Utilities. All utilities, including trunk and service lines for telephone, electricity and cable television, shall be constructed and located underground.

Section 16. Sodding or Seeding. All portions of a lot (except common areas) not occupied by structures, walkways, driveways, parking or landscaping shall be sodded, seeded, or hydro-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. As to erosion control:

- i) The Owner of each residential lot, whether vacant or improved, their agents, assigns, heirs, and /or building contractors shall take all necessary precautions to prevent, stabilize, and/or control erosion on their lot and the Property, to prevent sediment migration and soil erosion from extending beyond the boundaries of their lot and the Property, and, in the event it occurs, to promptly clean up all eroded sediment and to restore all affected areas to their original condition.
- ii) The owner and/or person in possession of each lot whether vacant or improved, shall, at closing of any sale or conveyance of a lot, execute an agreement complying with all applicable Federal, State, and local erosion control regulations, laws and ordinances and permits which pertain to the Property, including, but not limited to, becoming a transferee of the Iowa Department of Natural Resources NPDES General Permit No. 2 (the "Permit").
- iii) If KE Brewer, LLC, or any lot or lot owner is cited for an alleged violation of any erosion control regulations, laws or ordinance provision which occurs after closing of any sale conveyance of a lot by any jurisdictional authority for a condition on or from the Property, the Owner shall indemnify and hold KE Brewer, LLC, harmless from any and all claims, damages, fines, attorney fees, assessments, levies, and/or costs incurred by KE Brewer, LLC, related to the citation.

Section 17. Special Covenant for Maintenance Regarding Detention Pond. The covenant contained in this paragraph shall be applicable to Lots 1 through 96 inclusive. Each of these lot owners shall be responsible on a pro rata basis, to maintain, repair, reconstruct, restore,

replace or improve the Detention Pond, as required by the City of Waukee. Each owner of the affected lots, by acceptance of a Deed therefore, agrees to pay on a pro rata basis, all costs associated with fulfilling this obligation. Should any one or more lot owners fail to fulfill such obligation, the remaining lot owners, or the City of Waukee, may enforce such obligation by the institution of a legal or equitable action against the defaulting lot owners. In such event, the prevailing party shall also be entitled to an award of reasonable attorney fees. In addition to the remedy of legal action, and all other available remedies, the City of Waukee shall also be authorized to file with the Dallas County Recorder's Office, an Affidavit of Lien setting forth the amount of the delinquent obligation. Such filing shall then constitute a lien on the subject property, which lien shall have priority over all mortgages and other liens with the exception of real estate taxes. The restrictive covenant contained in this paragraph shall be binding upon the Declarant, any future owners of any of the lots affected by the covenant, their heirs, successors and assigns. This covenant may be enforced by any lot owner or the City of Waukee. Notwithstanding anything in this section to the contrary, until such time as all of the lots specified in this paragraph have been sold, the Declarant shall remain solely responsible for the maintenance obligations specified herein. Notwithstanding the terms and provisions of Section 19 below, the provisions of this paragraph may not be amended or abrogated without the prior written consent of two-thirds (2/3) of the owners of all lots, and the prior written consent of the City of Waukee.

Section 18. 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 constructed 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 these 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 19. Term of Covenant: Severability.

- A. Duration. These Covenants shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, his successors and assigns, or the owner 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 of ten 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 any 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 any 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.

Dated this 5th day of Aug., 2005.

DECLARANT

Kurt E. Brewer

Kurt E. Brewer, Operating Manager
of KE Brewer, LLC

STATE OF IOWA)
)ss
COUNTY OF Dallas)

On this 5th day of Aug, 2005, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Kurt E. Brewer, to me personally known, who being by me duly sworn, did say that he is the Operating Manager of the Limited Liability Company executing the within and foregoing instrument, that no seal has been procured by said Limited Liability Company; that said instrument was signed on behalf of the Limited Liability Company by authority of the Limited Liability Company; and that Kurt E. Brewer, as Operating Manager, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the Limited Liability Company, by it and by him voluntarily executed.

Beth Richardson
NOTARY PUBLIC - STATE OF IOWA

