

**COPY**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
GRANT PARK 2**

**Recorder's Cover Sheet**

**Preparer Information:** (name, address and phone number)

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**Return Document To:** (name and complete address)

Kurt E. Brewer, 317 6<sup>th</sup> Avenue, Suite 700, Des Moines, IA 50309

**Grantor:** K E Brewer, L.L.C. and KNC, LLC

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
GRANT PARK 2**

**THIS DECLARATION**, made on the date hereinafter set forth by K E Brewer, L.L.C. and KNC, L.L.C. (jointly referred to as "Declarant") as developer of GRANT PARK 2, 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 80 in GRANT PARK 2, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa (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.** Lots 1-75 shall be known, described and used as single-family residential lots, and Lots 76-80 shall be know, described and used as bi-attached residences, 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 or shelter, trash receptacle, tool shed or other outstructure shall be aesthetically compatible with the dwelling and surrounding areas, and dog runs, if any, shall be totally

hidden from view by a customary and traditional screening, (including shrubbery) of suitable height (or otherwise totally hidden from view) from all other areas within Grant Park 2 and streets adjoining the Grant Park 2 residential lot property. .

**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. No dog may be kept outside the dwelling for more than one (1) hour per day, if it barks in such a manner (or barks to the extent) that a reasonable person would consider it to be a genuine annoyance or genuine nuisance

**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.

**For Bi-Attached Residential Lots:** Each residence must contain the following:

- A. 750 square feet per unit. If the dwelling is two stories, minimum first floor area shall be 550 square feet for each unit.
- B. The Bi-Attached Residential Lots shall comply with the requirements of Section 301.12 (I) of the Municipal Code of the City of Waukee, and if such lot is to be split in the future, it shall be done in accordance with Section 301.12 (H) of the Municipal Code of the City of Waukee.
- C. The common wall between the two units shall be governed by Iowa Code Chapter 563.

**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 Declarant, 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 Declarant, harmless from any and all claims, damages, fines, attorney fees, assessments, levies, and/or costs incurred by Declarant related to the citation.

**Section 17. Special Covenant for Maintenance Land Between Lot and City Street.** The covenant contained in this paragraph shall be applicable to any Lot within the development that has land not owned by the Lot Owner between a Lot and a City Street. Each of these Lot Owners shall be responsible, to maintain, repair, reconstruct, restore, replace or improve the grass, plantings, or trees between their Lot and the City Street or a neighbor's Lot. Any burm, or grass between a Lot Owners Lot and the City street must be maintained by the Lot Owner. Plantings that die, in said area, must be replaced by the lot owner in a time frame acceptable by Declarant.

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.

**Section 18. Use Restrictions:**

**STORM WATER DISCHARGE PERMITTING REQUIREMENTS**

Any construction or earth moving on any lot(s) (whether greater or less than one acre in size) shall be in compliance with all statutes, rules and/or ordinances relating to storm water and erosion control compliance and permitting. The Lot Owner understands and agrees that he/she is the sole responsible permittee for the lot(s) with respect to compliance with all terms, provisions and requirements of the NPDES Storm Water Discharge Permit No. 2, the storm water pollution prevention plan which includes the lot(s) and any and all applicable storm water and/or erosion control statutes, rules and ordinances.

Lot owner shall protect, defend, indemnify and Declarant and Kurt E. Brewer (owner of Declarant) and other Lot Owners, developers and contractors harmless from any and all damages, claims, liabilities, fines, penalties, cleanup cost and or/attorneys and consultant fees caused by, or in any manner related to: 1) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from the lot(s) identified above; and/or 2) any alleged violation of any NPDES, storm water and /or erosion control statute, rule or ordinance, after the date of sale of lot(s).

**Section 19. 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 Declarant, the owner of any lot, or portion thereof, to which these Covenants apply, or the City of Waukee (if directed by the City Council) 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. Email, Fax, hand delivery, or Regular Mail (certified or otherwise) shall suffice as an acceptable form of notification.

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 20. 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 December 1, 2028, 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 December 1, 2028, 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. Said Covenants may not be amended without the approval of the City Council of the City of Waukee.

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.

**Section 21. Addition of Lots to Covenants.** Declarant reserves the right, from time to time to amend these Covenants to submit additional residential lots which are on adjoining or abutting land to the lots covered by these Covenants.

Dated this 12<sup>th</sup> day of December, 2007.

DECLARANT

K E Brewer, L.L.C.

By: 

Kurt E. Brewer, Manager

KNC, L.L.C.

By: 

Kurt E. Brewer, Manager

STATE OF IOWA, COUNTY OF POLK, ss:

This instrument was acknowledged before me on the 12<sup>th</sup> day of December, 2007, by Kurt Brewer as a Manager of K E Brewer, L.L.C.

Lindsey Bellinghansen  
Notary Public in and for the State of Iowa.

STATE OF IOWA, COUNTY OF POLK, ss:

This instrument was acknowledged before me on the 12<sup>th</sup> day of December, 2007, by Kurt Brewer as a Manager of KNC, L.L.C.

Lindsey Bellinghansen  
Notary Public in and for the State of Iowa.

**\*NOTARIAL SEAL\***  
**\*IOWA\***  
**LINDSEY BELLINGHAUSEN**  
**Commission No. 743906**  
**MY COMMISSION EXPIRES**  
11-09-09