

Woodland Hills of West Des Moines Plat 2

Informational Sheet

A Special Transfer Assessment fee is due the day of your closing. In accordance with the Covenants, the Association has established a Special Transfer Assessment to be paid by all new homeowners to supplement the reserve fund used for operating deficiencies and capital improvements. The Special Transfer Assessment is \$450.00 and is due at the time the property is transferred from one owner to another. This is a one-time payment required for all new townhome owners. .

Your monthly dues are due the first day of the month following your closing and the first of each month thereafter. Your monthly dues fee is \$150.00 every month. A monthly statement WILL NOT be sent. Your payments should be made payable to Woodland Hills of West Des Moines Association and sent to:

Woodland Hills of West Des Moines

%Kimberley Development Corporation

P.O. Box 369

Ankeny, IA 50021

The Association insurance does not cover your home so be sure and contact your own insurance agent for this coverage and any additional coverage you might need.

If you have any questions, please contact 515-963-8335

Homeowners Signature_____Date_____

Phone Number_____

Doc ID: 006401720010 Type: AMEND
Recorded: 07/01/2016 at 10:23:40 AM
Fee Amt: \$52.00 Page 1 of 10
Dallas County Iowa
Chad C. Airhart RECORDER
File#

BK 2016 PG 11094

Prepared by & Return to: Matthew M. Hurn, Wasker, Dorr, Wimmer and Marcouiller, PC, 4201 Westown Pwky, Suite 250, West Des Moines, IA 50266

AMENDED AND RESTATED DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDMENT TO DECLARATION is made this 26th day of April, 2016, by Kimberley Development Corporation, an Iowa corporation and their successors and assigns (Declarant).

WHEREAS, Declarant filed a Declaration of Covenants, Conditions, Easements and Restrictions for Woodland Hills of West Des Moines Plat 2 dated the 10th day of September, 2015 and filed the 12th day of October, 2015 as part of Book 2015 Page 16594 of the Records of the Dallas County Recorder ("Declaration"). AND Declarant desires to amend and restate the above Declaration with the following Amended and Restated Declaration of Covenants, Conditions, and Restrictions.

NOW, therefore, Declarant by the execution and recording hereby amends and restates the above described Declaration as set forth herein:

WHEREAS, Declarant is the owner of certain real property legally described as follows: Lots 1 - 19 in Woodland Hills of West Des Moines Plat 2, an Official Plat, now included in and forming a part of West Des Moines, Dallas County, Iowa; and

WHEREAS, Declarant is desirous of protecting the value and desirability of the Plat;

NOW, THEREFORE, Declarant hereby declares that all property within the Plat shall be held, sold and conveyed and be subject to the following restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of the Plat and shall run with the land and shall be binding on all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

I. DEFINITIONS.

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided:

- A. "Plat" shall mean and refer to the real property described as Lots 1 - 19 in Woodland Hills of West Des Moines Plat 2, an Official Plat, now included in and forming a part of West Des Moines, Dallas County, Iowa;
- B. "Declarant" shall mean and refer to Kimberley Development Corporation, an Iowa corporation;
- C. "Lot" shall mean and refer to an individual parcel of land within the Plat;
- D. "Building Lot" shall mean and refer to one or more Lots, or one or more Lots and the portion or portions of adjacent platted Lots in the Plat, used for the construction of one dwelling as herein permitted;
- E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the legal or equitable title to any Lot or Building Lot that is a part of the Plat; and
- F. "City" shall mean the city of West Des Moines, Iowa.

II. DESIGNATION OF USE.

All Lots shall be known and described as residential lots and shall not be improved, used or occupied for other than private residential purposes. No full-time or part-time business activity may be conducted on any Lot or in any dwelling or structure constructed or maintained on any Lot except those activities permitted under the terms of the zoning ordinance of the City.

III. BUILDING TYPES.

- A. No building or structure shall be constructed, altered, or maintained on any Building Lot other than a detached single family dwelling with an attached private garage.
- B. No building or structure of any kind shall be moved onto any Lot.

IV. GARAGES AND DRIVEWAYS.

All dwellings shall have a minimum of a two-car attached garage. All dwellings shall have a Portland cement concrete driveway not less than 16 feet in width and running from the street to the garage.

V. TEMPORARY AND OTHER STRUCTURES; CERTAIN USES.

No temporary building or structure shall be built or maintained on any Lot. No camper, motor home, watercraft, trailer, unfinished dwelling basement, tent, shack, or garage shall be used at any time as a dwelling. No truck with a gross vehicle weight greater than 10,000 pounds and no camper, motor home, watercraft, trailer, or mechanical equipment may be parked or maintained on any Lot (except inside a garage) or on the public street adjacent to any Lot, other than on a temporary basis; provided that this restriction shall not apply to passenger vans or "conversion vans" or to pickup trucks, SUV's or to equipment or trailers used in connection with construction of or rebuilding of a dwelling on any Lot. Temporary shall mean no more than a total of thirty (30) days per year. At no time may any vehicle, trailer or camper be parked or maintained in the yard of any Lot. At no time shall a vehicle or any mobile equipment be disassembled, repaired or serviced on any Lot, except inside a garage or dwelling.

VI. FENCES.

No fences of any kind shall be allowed on any lot whatsoever. Dog Runs are not allowed.

VII. EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat as recorded. The Owner and/or occupant of each Lot, jointly and severally, shall at the expense of such Owner and/or occupant, maintain, keep, and preserve that portion of the easement within the Lot at all times in good repair and condition and shall neither erect nor permit erection of any building, structure or other improvement of any kind within the easement areas (except customary ground cover) which might interfere in any way with the use, maintenance, replacement, inspection or patrolling of any of the utility services and drainage facilities within such easement areas. Any berm and/or swale constructed for drainage purposes shall be preserved and maintained to accomplish the purposes for which it was constructed.

VIII. 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 a nuisance, either temporarily or permanently.

IX. SIGNS.

No sign of any kind shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except (i) street markers, traffic signs, or any signs installed by the City by other governmental entities or by the Declarant, (ii) signs which have been approved by Declarant in writing not exceeding 144 square inches in area on which there shall only be exhibited the street number and/or the name of the resident, and (iii) a customary sign (one per Building Lot) advertising a Building Lot or dwelling for sale, not exceeding 1,296 square inches. In the event that any signs other than those described above shall be placed or exposed to view on any Lot, the agents of the Declarant are hereby given the right to enter upon such Lot and remove such signs.

Declarant reserves the right to install entrance and directional signs with respect to the Plat, at locations and of design determined by the Declarant in a manner consistent with the ordinances of the City.

This section shall not apply to the Development or to the Builder of units "For Sale" within the Development.

X. TRASH RECEPTACLES.

No trash receptacles or garbage cans shall be permitted to be placed on a Lot outside a dwelling or garage. However, unscreened trash in proper containers and/or bags shall be allowed to be placed on a Lot outside a dwelling, or garage no earlier than twelve (12) hours prior to a scheduled pick up of such trash. Such unscreened trash containers must be returned to the inside of a dwelling or garage, within twelve (12) hours following the scheduled pick up of such trash.

XI. UTILITIES.

All utility connection facilities and services shall be underground.

XII. TOWERS AND ANTENNAS.

No exterior transmission towers, antennas or television and/or microwave transmission dishes of any kind shall be constructed, installed, modified, or permitted on the ground, on dwellings, or on garages. Notwithstanding the foregoing, exterior towers, antennas or television and/or microwave receiver dishes which are designed to receive direct broadcast satellite service, including direct home satellite service, and have a diameter of one (1) meter or less, or which are designed to receive video programming services by a multipoint distribution service, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and are one (1) meter or less in diameter or diagonal measurement, shall be permitted. No more than one (1) such tower, antenna or television and/or microwave receiver dish shall be permitted on each Lot. No more than one (1) penetration into the dwelling shall be permitted for the cable from such tower, antenna or television and/or microwave receiver dish. No other exterior towers or antennas shall be constructed, installed, modified or permitted on the ground, on dwellings, or on garages. Satellite dishes must be located on the rear half of the home, on a side elevation, it would have to be located on the rear-half of the side of the home.

XIII. MAINTENANCE.

The Owner and/or occupant of each Lot shall be responsible to keep the landscaped areas of each lot such as all planting areas, shrubbery, flower beds and any other areas of each lot free of trash, weeds and debris and to keep the landscaping well maintained and healthy. Such maintenance shall not include the mowing or maintenance of the sodded portions of the lots as this responsibility shall be the responsibility of the Home Owners Association. The Owner and/or occupant of each Lot shall be responsible to maintain the exterior of any dwelling, the driveway, the sidewalks, decks, patios, windows, doors, and all other improvements located on the Owner's lot.

XIV. CERTAIN ANIMALS PROHIBITED.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than a total of three (3) dogs and/or cats be kept at any one Building Lot at any one time. Dogs must be kept inside the dwelling. Dogs are not allowed to be kept outdoors unattended. Vicious dogs, including but not limited to, Rottweilers, Doberman Pinschers and Pit Bulls, are prohibited. Complaints regarding animals shall be brought before the Board, which shall have the right to prohibit the continued habitation of animals on any Lot. Any person owning or keeping a pet shall be responsible for and shall at all times remove pet waste or excrement on lots and common areas. Failure to comply in a prompt or responsible manner may result in a fine or special assessment by the Association against such lot on which the pet is kept. Owners of any pets shall bear full responsibility for their respective pets.

XV. ACCESSORY STRUCTURES.

No accessory structure or building, swimming pool, tennis court, gazebo, tool shed or any other structure will be allowed to be constructed on any lot whatsoever.

XVI. SURFACE WATER.

The topography of the Plat is such that surface water may flow from certain Building Lots onto other Building Lots. In regard to all matters concerning surface water, each Building Lot shall be subject to and benefited by such easements as may exist from the flowage of surface water under the laws 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 laws. As shown on the plat, the natural water drainage is intended to run across the back of the lots and during rainy or wet seasons it should be anticipated that these drainage areas will carry surface water and may remain wet.

XVII. HOMEOWNERS ASSOCIATION.

1. Definitions.

In addition to the definitions set forth above, the following terms shall have the following definitions, except as otherwise specifically provided:

- A. "Association" shall mean and refer to Woodland Hills of West Des Moines Plat 2 Owners Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504A of the Code of Iowa, 2001, as amended;
- B. "Association Responsibility Elements" shall mean the following:
 - (i) All signs, monuments, fountains and similar entrance features utilized by the Plat and any plats added to the Association in the future;
 - (ii) All buffer park landscape plantings and materials located within the Plat and any plats added to the Association in the future; and
 - (iii) Outlot "X" of the Plat.
 - (iv) The yard surrounding the residential structure upon a Lot, excluding gardens, plants or flowers installed.
 - (v) Snow removal of Driveways and front sidewalks
 - (vi) Private streets.
- C. "Board of Directors" shall mean and refer to the Board of Directors of the Association; and
- D. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

2. Membership and Voting.

Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership. Subject to provisions hereof, the Owners of a Lot 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.

Notwithstanding any other provision of this Declaration, Declarant shall be the sole voting Member of the Association until Declarant no longer owns any portion of any Lot, or until Declarant waives, in writing, its right to be the sole voting member, Declarant shall have the right to elect all Directors and to cast all votes as it deems appropriate. Each Owner by acceptance of a deed to a Lot shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.

The voting Members shall elect a Board of Directors of the Association as prescribed by the Bylaws of the Association. The Board of Directors shall manage the affairs of the Association.

The Association shall suspend the voting rights of a Member for any period during which any assessment hereunder against his/her/its Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

Unless the Articles of Incorporation or the Bylaws of the Association otherwise provide, written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for

which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President or Secretary, or the officer or persons calling the meetings, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Member at his/her/its address as it appears on the records of the Association, with postage thereon prepaid.

3. Assessments.

Declarant hereby covenants for each Lot and the Owner of each Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) monthly assessments and (2) special assessments to be established and collected as hereinafter provided. The monthly assessments and special assessments, together with late fees, interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall further be the joint and several personal obligation of each person who was the Owner of such property at the time when the assessment became due.

The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents of the Plat and any plats added to the Association in the future; and for the insurance, improvement, maintenance, repair, replacement, removal and demolition of the Association Responsibility Elements and for other purposes specifically provided herein.

A portion of such monthly assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair, replacement, removal and demolition of the Association Responsibility Elements. Notwithstanding the foregoing, Declarant may use any reserve funds, if established, to defray operating costs, as it deems appropriate.

In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, removal or demolition of a capital improvement that the Association is required to maintain or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

A Lot shall not be subject to any monthly assessments or special assessments until the first day of the month following the date of conveyance to an Owner of the Lot.

Declarant shall not be liable for any monthly assessments or special assessments upon Lots owned by it. Declarant is not responsible for the establishment of a budget as long as Declarant is the sole voting member of the Association.

The Association and Declarant are not required to submit statements for assessments to any Owner. All payments shall be made on or before the due date. Both monthly assessments and any special assessments must be fixed at a uniform rate for all Lots. All special assessments shall be collected by the Association, in advance, in semi-annual installments due on January 1 and July 1. Such semi-annual installments shall be prorated to the date of conveyance to an Owner of the Lot.

Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be One Hundred Fifty Dollars and 00/100 (\$150.00) per Lot. Thereafter, the maximum monthly assessment may be increased effective January 1 of each year, but such increase shall not be more than 10% greater than the maximum assessment for the previous year without a vote of a majority of Members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of

Directors shall fix the monthly assessment at an amount not in excess of the maximum. Additionally, a special transfer assessment of \$450.00 will be due from the buyer the day that any lot is transferred from one owner to another.

The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The Board of Directors shall establish the due dates for all assessments. 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. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18% per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment all cost and expenses incurred by the Association in collecting said assessments, including reasonable attorney's fees, whether or not legal action is required in connection therewith.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The assessment shall be paid prior to or at the closing of sale or transfer of any Lot. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

4. Declarant's Rights.

Declarant reserves the right to use any of the Lots as models and to sell, assigns, or conducts other businesses in connection with the construction and development of the project from any of such Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain models, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold.

5. Maintenance.

The Association shall provide all maintenance, repair, replacement, removal and demolition of the Association Responsibility Elements, including (but not limited to) all repairs, replacements and maintenance of the streets including snow removal, sanding of the streets, repairs, replacements and care of signs, monuments, fountains and other structures, and all necessary repairs, replacements and maintenance of lawns, fertilization of the lawns, lawn mowing and trimming, maintaining of the lawn irrigation system including all systems and the water cost, and all necessary snow removal from the private driveways and front sidewalk up to the front door and the sidewalks out at the street.

Each property owner shall be responsible for the care, maintenance and replacement for all trees, shrubs, flower beds, edging, and generally for all landscaped areas located on their respective lots, additionally homeowner is responsible for repair, replacement, care and maintenance of the driveway and sidewalk leading to front door, excluding snow removal.

In the event that the need for maintenance or repair is caused through the willful or negligence act of any Owner, or the Owner's family, guests, invitees, agents or contractors, the cost of such maintenance or repairs shall be assessed to such Owner.

6. Insurance.

The Association shall purchase and maintain a comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall insure the Association and the Owners against claims relating to the Association Responsibility Elements. The Association shall pay the premiums for all such insurance hereinabove described and the cost thereof shall become a part of the monthly assessment.

Each property owner shall be responsible for their own homeowner's property insurance coverage.

7. Addition of Property.

Declarant shall have the right at any time to convey additional Association Responsibility Elements to the Association. Nothing in this Section, however, shall be deemed to be an obligation on the part of Declarant to convey additional Association Responsibility Elements to the Association in the future. The Association shall be obligated to accept any additional Association Responsibility Elements so conveyed by Declarant and to hold and maintain the additional Association Responsibility Elements pursuant to the terms of this Declaration.

Declarant shall have the irrevocable right to subject additional land to the terms of this Declaration at any time in the future without the consent of the Association. The additional land shall be automatically subject to the applicable terms and conditions of this Declaration and Owners of Lots within the above-described land shall automatically become Members of the Association in the same fashion as described in this Declaration and shall be subject to the same applicable terms, conditions, duties and assessments as described in this Declaration. Declarant shall signify the addition of land by filing an amendment to this Declaration with the Recorder of Dallas County, Iowa. No approval of the Association or any other person shall be necessary.

XVIII. ENFORCEMENT OF COVENANTS.

This Declaration shall be deemed to run with the land, and the Declarant or the Owner of any Lot may bring an action in any court of competent jurisdiction to enforce this Declaration to enjoin its violation or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity, and shall further be entitled to recover reasonable legal fees and costs if the Declarant or Owner prevails in any such action.

XIX. AMENDMENTS OF COVENANTS.

This Declaration may be amended from time to time with the approval of the Owners. Such approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the Owners. The Owner of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Provided, however, until the Declarant has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Owners or other party. Such amendments or modifications by the Declarant shall be effective only after all other Owners are provided with a copy of the amendment or modification and the amendment or modification has been filed with the Recorder.

XX. PERIOD OF COVENANTS.

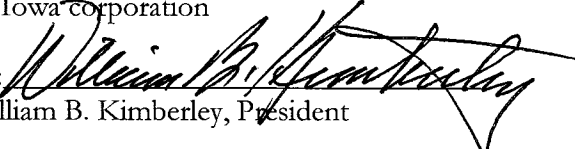
This Declaration shall continue and remain in full force and effect at all times as to the Plat and as to the Owners of any Lot, regardless of how title was acquired, until the date twenty-one (21) years after the recording of this Declaration, on which date this Declaration shall automatically be extended for two (2) successive periods of five (5) years each, unless on or before the end of the base period, or the first extension period, the Owners of not less than fifty percent (50%) of the Lots, by written instrument duly recorded, declare a termination of the same.

XXI. ENFORCEMENT AND WAIVER.

- A. In the event that any one or more of the foregoing covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions and restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect;
- B. The Plat shall also be subject to any and all rights and privileges of the City, now held or hereafter acquired, by dedication or conveyance, or by reason of the platting and recording of the Plat, or by this Declaration or by law. Wherever there is a conflict between this Declaration and the zoning ordinance of the City, the more restrictive shall be binding; and
- C. This Declaration shall not be applicable to property dedicated to the City, and the City may allow appropriate public use on city-owned property within the Plat.

IN WITNESS WHEREOF, this Declaration of Residential Covenants, Conditions and Restrictions, was made the date first written above by the Declarant.

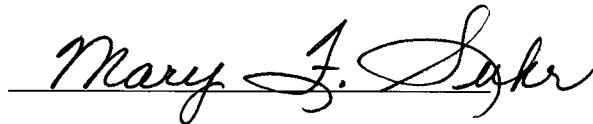
Kimberley Development Corporation,
an Iowa corporation

By: 
William B. Kimberley, President

STATE OF IOWA)
ss:
COUNTY OF POLK)

This instrument was acknowledged before me on 26th day of April, 2016, by William B. Kimberley, as President of Kimberley Development Corporation.





Notary Public in and for said State