

Instrument #: 2018-09223  
11/20/2018 01:48:21 PM Total Pages: 3  
XZCV COVENANTS  
Recording Fee: \$ 17.00  
Polly Glascock, Recorder, Warren County Iowa



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Prepared by & Return to: Jacob M. Oeth, Hogan Law Office, 3101 Ingersoll Ave., Suite 103, Des Moines, IA 50312 (515) 279-9059

**NOTICE OF DECLARATION OF BUILDING RESTRICTIONS AND  
RESTRICTIVE COVENANTS FOR DEER CREEK SUBDIVISION**

**DILIGENT DEER CREEK, LLC**, an Iowa limited liability company (“Diligent”), as owner and developer of the following described real estate:

Lots 1 - 23 of Deer Creek Plat 2, an Official Plat in Indianola, Warren County, Iowa (the “Lots”), hereby provides notice to the owners of the Lots that the Lots are subject to and governed by all of the terms and conditions of that certain Declaration of Building Restrictions and Restrictive Covenants for Deer Creek Subdivision recorded February 15, 2007 in Book 2007 at Page 1475 in the records of the Recorder of Warren County, Iowa (the “Declaration”), establishing certain covenants, conditions, restrictions and easements on the real estate described in Exhibit “A” to the Declaration and attached hereto (the “Property”), and subsequently amended by Amendment recorded September 24, 2013 in Book 2013 at Page 9482 as it applies with respect to the following described portion of the Property:


Lots 1 - 34 of Deer Creek Plat 1, an Official Plat in Indianola, Warren County, Iowa.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Dated October 5, 2018.

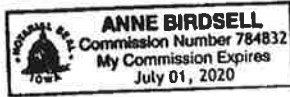
**DILIGENT DEER CREEK, LLC**

By: Diligent Development Group, LLC, its Manager

By:   
David A. Brown, Manager

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me on October 5, 2018, by David A. Brown, as Manager of Diligent Development Group, LLC, Manager of Diligent Deer Creek, LLC.



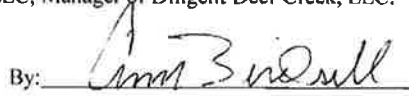
By:   
Notary Public

EXHIBIT "A"

A parcel of land in the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 35, Township 76 North, Range 24 West of the 5<sup>th</sup> P.M., City of Indianola, Warren County, Iowa, that is more particularly described as follows:

Beginning at the E $\frac{1}{2}$  corner of said Section 35; thence N88°58'03"W, 1304.08 feet along the South line of said NE $\frac{1}{4}$  to the SW corner of the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 35, said point also being the SE corner of DEER RUN, an Official Plat recorded in Book 10, Page 533-549 at the Warren County Recorder's Office; thence N00°30'44"E, 1323.63 feet along the West line of said SE $\frac{1}{4}$  NE $\frac{1}{4}$ , said West line also being the East line of said DEER RUN, to the NW corner of said SE $\frac{1}{4}$  NE $\frac{1}{4}$ ; thence N00°30'40"E, 665.50 feet along the West line of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 35, said West line also being the East line of said DEER RUN, to the NW corner of the S $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 35; thence S89°22'10"E, 1294.40 feet along the North line of said S $\frac{1}{2}$  to the NE corner of said S $\frac{1}{2}$ , said point also being the East line of said NE $\frac{1}{4}$  NE $\frac{1}{4}$ ; thence S00°14'11"W, 666.11 feet along the East line of said NE $\frac{1}{4}$  NE $\frac{1}{4}$  to the NE corner of SE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 35; thence S00°14'11"W, 1332.22 feet along the East line of said SE $\frac{1}{4}$  NE $\frac{1}{4}$  to the point of beginning and containing 59.463 acres

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Warren County, Iowa  
Polly J. Glascock Recorder  
Fee Book 2013-9482  
09/24/2013 @03:16PM # Pages 2  
XZCV COVENANTS  
Total Fees: \$12.00

This Document prepared by and return to:  
Claire B. Patin, P. O. Box 215, Indianola, IA 50125 (515) 961-2574

\$12.00  
pd

**AMENDMENT TO DECLARATION OF  
BUILDING RESTRICTIONS AND RESTRICTIVE COVENANTS  
FOR DEER CREEK SUBDIVISION**

**WHEREAS**, the undersigned are owners of a majority of the lots in Deer Creek Plat 1 Subdivision, ("Subdivision") situated in Warren County, Iowa, and legally described as follows:

Lots 1 through 34, Deer Creek Plat 1, a Subdivision in Warren County, Iowa.

**WHEREAS**, on or about February 15, 2007, certain Building Restrictions and Restrictive Covenants ("Covenants") for Deer Creek Plat 1 Subdivision were filed of record in Book 2007, Page 1475, Office of the Recorder of Warren County, Iowa.

**WHEREAS**, pursuant to Section 11.a. of said Covenants, the Covenants may be amended, in whole or in part, by a majority of the owners of the lots in said Subdivision, by written agreement.

**WHEREAS**, the owners of a majority of the lots within said Subdivision have consented to certain amendments to said Covenants.

**WHEREFORE**, the owners of a majority of the lots in said Subdivision do hereby amend the Covenants as follows:

**Section 1. b. TYPE AND SIZE OF DWELLING** is hereby amended to delete said Section 1.b. and substitute the following:

**Section 1.b. TYPE AND SIZE OF DWELLING.** No residential building shall be erected on any lot unless the design and location is in harmony with existing structures within the subdivision. In any case, the following restrictions shall apply to all dwellings: one-story, ground floor living area or no less than 1,550 square feet; split-entry, finished living area of no less than 1,700 square feet; one and a half story, finished living area of no less than 1,750 square feet; two-story, finished living area of no less than 1,750 square feet. In computation of living area, the same shall not include porches, breezeways, basements or garages.

Section 1.1. BUILDING SET-BACK is hereby amended to delete said Section 1.1. and substitute the following:

Section 1.1. BUILDING SET-BACK. No residence or other structure shall be located closer than thirty (30) feet from the front lot line.

In all other respects the Covenants described herein above are hereby reaffirmed and ratified.

Dated this 13 day of September, 2013.

KKLJ, L.L.C.

KKLJ, L.L.C.

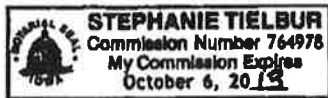
By: Tony Kaska, Manager

By: Jeff Jensen, Manager

(Being all of the Managers of KKLJ, L.L.C.)

STATE OF Iowa :  
COUNTY OF Polk : ss.

On this 13th day of September, 2013, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Tony Kaska, to me personally known, who being by me duly sworn, did say that he is a Manager of KKLJ, L.L.C., an Iowa limited liability company, executing the foregoing instrument, that the instrument was signed on behalf of the limited liability company by authority of the limited liability company; and said Manager acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company, by it and by him voluntarily executed.



Stephanie Tielbur  
Notary Public in the State of Iowa

STATE OF Iowa :  
COUNTY OF Polk : ss.

On this 23rd day of September, 2013, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Tony Kaska, to me personally known, who being by me duly sworn, did say that he is a Manager of KKLJ, L.L.C., an Iowa limited liability company, executing the foregoing instrument, that the instrument was signed on behalf of the limited liability company by authority of the limited liability company; and said Manager acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company, by it and by him voluntarily executed. *Jeff Jensen*



Christopher J. Kuhn  
Notary Public in the State of Iowa

PLAT FOR RECORD

07 FEB 15 PM 3:59

BOOK 2007 PAGE 1475  
POLLY J. GLASCOCK, RECORDER

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Prepared by and return to: Claire B. Patin, P. O. Box 215, Indianola, IA 50125

**DECLARATION OF BUILDING RESTRICTIONS AND  
RESTRICTIVE COVENANTS  
FOR DEER CREEK SUBDIVISION**

This Declaration of Building Restrictions and Restrictive Covenants for Deer Creek Subdivision is made as of this 31<sup>st</sup> day of March, 2006, by KKLJ, LLC, an Iowa Limited Liability Company.

WHEREAS, KKLJ, LLC is the owner of certain real property located in Warren County, Iowa, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference and KKLJ desires to subject such property, except for Lot 62, to the provisions of this Declaration.

NOW, therefore, KKLJ, LLC hereby declares that all the property described in Exhibit "A", except Lot 62, is subject to this Declaration and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following Covenants, Conditions and Restrictions which are for the purpose of protecting the value and desirability of the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the described property or any portion thereof and their respective heirs, successors, successors-in-title, assigns and shall inure to the benefit of each owner thereof.

**1. BUILDINGS AND STRUCTURES**

a. **RESIDENTIAL BUILDING.** All lots described herein shall be known and used solely as residential lots and no structure shall be erected on any said lot other than one single-family dwelling, not to exceed two stories in height, with no less than a two-car attached garage.

b. **TYPE AND SIZE OF DWELLING.** No residential building shall be erected on any lot unless the design and location is in harmony with existing structures within the subdivision. In any case, the following restrictions shall apply to all dwellings: one-story, ground floor living area or no less than 1,600 square feet; split-entry, finished living area of no less than 1,900 square feet; one and a half story, finished living area of no less than 1,900

square feet; two-story, finished living area of no less than 2,000 square feet. In computation of living area, the same shall not include porches, breezeways, basements or garages.

c. GARAGES. Before a residential building on any lot may be occupied, a two or three-car garage shall be built and attached to said residential building. Built-in basement garages shall be permitted.

~~f. NO MOBILE HOMES OR MODULAR HOMES.~~ No manufactured or modular housing shall be permitted on said lots, in particular, houses that are materially constructed off-site and assembled on location.

e. PROHIBITED TYPES OF DWELLINGS. No residence or improvement already erected shall be moved onto or be permitted on any lot. No sub-terranium or berm homes shall be permitted.

~~f. OUTBUILDINGS. One outbuilding shall be permitted on each lot provided that the dimensions of the building do not exceed the lesser of: (1) 24' x 24', or (2) 25% of the square footage of the residence ground floor living area, excluding porches, breezeways, basements or garages. The mean height of the outbuilding shall not exceed 12'. The outbuilding shall be constructed in the rear of the lot and only when there is a residence constructed or being constructed on the lot. The material used on the exterior of the outbuilding must be similar to that used on the residence and shall be subject to the approval of the developer for architectural control, as set forth hereinbelow. No barn shall be permitted on any lot.~~

g. ARCHITECTURAL CONTROL. No residence, ~~outbuilding~~, structure or ~~fencing~~ shall be constructed, altered or maintained on any portion of any building lot unless and until detailed plans, specifications, proposals and site plans have been filed in writing with and have been approved in writing by KKLJ, LLC. These plans shall include details of design, location, color scheme, elevation, site grade and dimensions of structures, walks and driveways and shall also state the type of construction and materials to be used in construction. KKLJ, LLC shall not reasonably withhold approval of any plans submitted pursuant hereto; provided, however, that failure to meet the Covenants, Conditions and Restrictions contained herein shall be grounds for disapproval of such plans.

h. BUILDING MATERIALS. All buildings of any type shall be constructed of new materials.

i. BUILDING SET-BACK. No residence or other structure shall be located closer than forty (40) feet from the front lot line.

j. DRIVEWAYS. No building or structure shall be constructed, altered or maintained on any building lot unless it has a driveway from the street running to the garage. All driveways shall be constructed or concrete or bituminous (?) surfacing and must be of sufficient area to park at least four cars entirely off the street.

k. **CONSTRUCTION TIME FRAME.** All building structures and improvements must be completed within twelve (12) months of the commencement date of construction.

l. **TEMPORARY STRUCTURES.** No building or structure of a temporary character, nor any mobile home, basement, tent, shack, garage, outbuilding or motorized or non-motorized recreational vehicle shall be used at any time as a residential building.

m. **FENCES.** No fences, walls, of enclosures of any type of nature whatsoever shall be constructed, erected, or placed within thirty feet of the center line of the creek or other natural waterway running through the subdivision. Any fencing shall be in the rear yard only and shall be constructed of wrought iron or vinyl chain link fencing in colors of green, brown or black, with a maximum height of four (4) feet, unless necessary to meet the City Building Code.

n. **POOLS.** No above-ground or non-permanent swimming pools shall be permitted on any lot.

o. **UNDERGROUND UTILITIES.** All utility connection facilities and services shall be underground, including, but not limited to water, sewer, electric gas, telephone, and cable television service.

2. **SUBDIVIDING.** No lot may be subdivided, partitioned, or in any way developed so that more than one single family use is made of any one lot.

3. **GOOD NEIGHBORS.**

a. **LANDSCAPING.** Following construction of a residential dwelling on any lot, the front yard and side yards shall be fully sodded and the remainder of the lot shall be seeded or sodded.

b. **LOT MAINTENANCE.** 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.

c. **CONSTRUCTION DEBRIS.** It shall be the responsibility of all lot owners to prevent all materials and debris from spreading to other lots and golf course areas. Should any debris enter these areas, it shall be the owner's responsibility to collect and remove said debris without delay.



d. **ANNOYANCE AND NUISANCE.** No obnoxious or offensive trade shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

e. **TRASH.** If stored outside, trash receptacles shall be properly screened by reasonable shrubbery.

4. **VEHICLE PARKING AND STORAGE.** All motorized and non-motorized vehicles and recreational vehicles, including motor homes, campers, boats, trailers, snowmobile, motorcycle all terrain vehicles and other equipment shall be stored in a garage or shed. All terrain vehicles and snowmobiles may be driven on any undeveloped lot until such time as construction of the residential dwelling is completed. At no time shall a vehicle or any mobile equipment be disassembled, repaired or serviced on any lot except inside a garage or building.

5. **YARD SIGNS.** Only signs to show property for sale or rent shall be permitted on any lot. No signs of any kind shall be placed in the rear of the property.

6. **SIGNAL RECEIVING DEVICES.** No television or radio antenna, satellite tower or satellite dish exceeding 18 inches in diameter, shall be erected upon any lot or structure in such a manner as to be visible from the exterior of any building or residence.

7. **LIVESTOCK AND ANIMALS.** 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 provided they are not kept, bred or maintained for commercial purposes. Notwithstanding the foregoing, no more than two (2) dogs over six (6) months of age shall be allowed per lot. No pit bull terriers, doberman pinschers, rottweilers or dogs of a similar temperament shall be allowed. No coonhounds or similar hunting dogs shall be allowed. Pets must be contained within lot boundaries at all times. No dog runs shall be erected.

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

9. **EASEMENTS.**

a. **UTILITY EASEMENT.** A perpetual easement is hereby reserved for utility installation and maintenance or drainage as shown on the recorded plat and full rights or ingress and egress over any part of the property for the purpose of installing and servicing the utilities.

b. **GOLF COURSE AND PLAY.** Easements to permit the doing of every act necessary and proper to the playing of golf on any golf course which may be constructed adjacent to the lots which are subject to these Covenants are hereby reserved and established. These acts shall include, but not be limited to the flight of golf balls over and upon lots, the recovery of golf balls from lots, the use of necessary and usual equipment upon such golf course, and the usual and common noise level created by players of the game of golf, and

with all usual and customary activities associated with the operation of a golf course and/or country club, including but not limited to all equipment necessary to construct, improve or maintain any such golf course. KKLJ, LLC or any successor in interest shall have the right to prescribe in writing to the governing body charged with the operation of any such golf course the manner and extent to which the rights under this reserve easement shall be exercised. In addition, KKLJ, LLC may, in its sole discretion, limit, withdraw or prohibit certain of the acts authorized by the easements hereby reserved.

#### 10. GOLF COURSE AREAS.

a. **INTERFERENCE.** Owners of lots adjacent to all golf course areas, as well as their families, tenants, guests, invitees and pets shall be obligated to refrain from any actions which would distract from the playing qualities of any golf course located on property adjacent to said lots. Such prohibited activities shall include, but not be limited to, maintenance of dogs or other pets under conditions which interfere with golf course play due to their loud barking or other actions, playing loud radios, televisions, stereos or musical instruments, trespassing on any part of the golf course, picking up balls or similar interference with play.

b. **ACCESS.** Owners, as well as their families, tenants, guests, invitees and pets shall have no right of vehicular or pedestrian access to the golf course, including without limitation no access for the right of running, walking, bicycling, skateboarding, rollerblading, fishing, swimming, boating, animal exercising or other similar activities. No owner or other person listed above shall have any right or privilege in or to the golf course or its amenities contained therein, except under such conditions and requirements as may be established by the golf course owner or operator.

#### 11. COVENANT PROVISIONS

a. **DURATION.** The Covenants, Conditions and Restrictions of this Declaration shall be deemed Covenants running with the land, and shall remain in force and effect for a period of twenty-one (21) years from the date hereof, at which time they may be renewed by the filing of a statement of preservation under the laws of the state of Iowa. The Covenants, Conditions and Restrictions of this Declaration may be amended, in whole or in part, by a majority of the owners of the lots, by written agreement filed in the Office of the Warren County Recorder. The owners shall have one vote for each lot owned, and the 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 the subdivision dedicated to the use of the public as a street.

b. **ENFORCEMENT.** If any party shall violate or attempt to violate any of the Covenants, Conditions or Restrictions contained herein, it shall be lawful for KKLJ, LLC or any owners of building lots in Deer Creek Subdivision entitled to the protection provided herein, to prosecute proceedings in law or in equity against the person or persons violating or attempting to violate any such Covenants, Conditions or Restrictions and to recover damages for such violation.

c. INVALIDATION. 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.

KKLJ, LLC

By: Tony Kaska

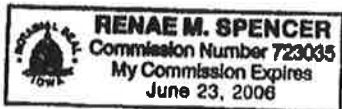
By: 

STATE OF IOWA :

: SS

COUNTY OF WARREN :

On this 31<sup>st</sup> day of March, 2006, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Tony Kaska and Jeff Jensen, to me personally known, who being by me duly sworn, did say that they are the Managers and Manager of KKLJ, LLC, an Iowa limited liability company, executing the foregoing instrument, that the instrument was signed on behalf of the limited liability company by authority of the limited liability company; and they acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company, by it and by them voluntarily executed.



Renae M. Spencer  
Notary Public in the State of Iowa

(Attachment: Exhibit "A" - Legal Description of Property)

A parcel of land in the E½ NE¼ of Section 35, Township 76 North, Range 24 West of the 5<sup>th</sup> P.M., City of Indianola, Warren County, Iowa, that is more particularly described as follows:

Beginning at the E¼ corner of said Section 35; thence N88°58'03"W, 1304.08 feet along the South line of said NE¼ to the SW corner of the SE¼ NE¼ of said Section 35, said point also being the SE corner of DEER RUN, an Official Plat recorded in Book 10, Page 533-549 at the Warren County Recorder's Office; thence N00°30'44"E, 1323.63 feet along the West line of said SE¼ NE¼, said West line also being the East line of said DEER RUN, to the NW corner of said SE¼ NE¼; thence N00°30'40"E, 665.50 feet along the West line of the NE¼ NE¼ of said Section 35, said West line also being the East line of said DEER RUN, to the NW corner of the S½ NE¼ NE¼ of said Section 35; thence S89°22'10"E, 1294.40 feet along the North line of said S½ to the NE corner of said S½, said point also being the East line of said NE¼ NE¼; thence S00°14'11"W, 666.11 feet along the East line of said NE¼ NE¼ to the NE corner of SE¼ NE¼ of said Section 35; thence S00°14'11"W, 1332.22 feet along the East line of said SE¼ NE¼ to the point of beginning and containing 59.463 acres

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