

106-8116

Crescent's Golden Hills - Phase 1

Preparer

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Individual's Name

Street Address

City

Phone

Jack E. Ruesch ISBA # 04756

SPACE ABOVE THIS LINE FOR RECORDER

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
CRESCENT'S GOLDEN HILLS SUBDIVISION, A SUDIVISION IN THE
CITY OF CRESCENT, IOWA**

This Declaration is made this 13 day of October, 2005 by Golden Hills, L.L.C., an Iowa limited liability company (hereinafter referred to as the "Declarant").

STATEMENT OF INTENT

Declarant is the owner of the real property described as Lots 1 through 72 in Crescent's Golden Hills Subdivision, a subdivision in the City of Crescent, Iowa. The lots in the subdivision are collectively referred to herein as the "Lots" and each individual lot is referred to as "Lot." The Declarant desires to provide for the preservation of the values of the Lots and the subdivision and therefore desires to subject the Lots to covenants, restrictions, easements, charges and liens as provided herein for the benefit of the Lots and each Lot. Further, it is the desire of Declarant to establish and incorporate the Crescent's Golden Hills Homeowners Association, Inc. as an Iowa not-for-profit corporation with said homeowners association having the powers to maintain and administer any common properties and facilities which may be constructed in the subdivision and to enforce the covenants and restrictions and to collect and disburse the assessments and charges provided for herein. Declarant may delegate its rights, duties to said homeowners association.

Now, therefore, the Declarant hereby declares that each and all of the Lots be held, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and assessments as set forth herein, all of which shall run with such Lots and which shall be binding upon all parties having or acquiring any right, title or interest in each Lot or any part thereof and shall be binding upon their heirs, successors and assigns and which shall inure to the benefit of each owner thereof.

**ARTICLE I
RESTRICTIONS AND COVENANTS**

1. Each Lot may be improved, used or occupied only for single family, private residential purposes and as the same may be allowed under class R1 of the City of Crescent Zoning Ordinance, as now in effect or as may be hereafter amended. No residential building, which has been previously located in another location shall be moved onto a Lot. No exterior structure on any Lots shall at any time be used for human habitation. Nothing in this paragraph shall prevent the Declarant from erecting temporary buildings and using such temporary building or any residence for a model office's sales or storage purposes during the development of the subdivision.

2. No part of any residence may be erected or maintained on any of the Lots nearer to the front street right-of-way than 20 feet, nor nearer to the side lot line than 15 feet, nor nearer to the rear lot line than 25 feet. The front of the residence shall be constructed at the 20 foot front set-back.

3.

A. Residences designed for construction on Lots in Crescent's Gold Hills Subdivision will be required to have the following minimum square footage, to-wit:

1. One-story residences shall have 1200 square feet of finished living area.

2. Multi-level residences shall have a minimum of 1,400 square feet of finished space.

B. The phrase "finished living area" as used in this Section shall include in all cases on the first and second floor of the residence enclosed and finished for all-year occupancy computed on outside measurement of the residence. The term shall not include any area in any basement, garage, porch or attic, finished or unfinished. "Basement" means a lower level that is more than 50% below grade. No structure erected on any Lot shall be more than two stories in height, unless consented to in writing by Declarant, or its designee. The Declarant, or its designee, shall have hereby reserve the right to reduce the floor area requirements set forth above, provided the total reduction for any one residence may not exceed 20% of such minimum floor area, requirements for such residence and further provided that every residence must have a minimum of 1200 square feet of finished living area.

C. Each residence shall include at least an attached two-car garage.

4. All construction plans and proposed post-construction changes must be approved as provided in this Section as follows:

A. No residence or exterior structure may be erected upon any Lot unless and until the building plans specifications, exterior color scheme, materials, location,

elevation, grade and landscaping have been submitted to and approved in writing by the Declarant or, in the case of delegation of such approval power by Declarant, the Board of Directors of the Homeowners Association. No structure of any kind shall be moved on to any Lot, nor shall any change or alteration in the building plan specifications, exterior color scheme, materials, location, elevation, grade and landscaping be made until such proposed change or alteration has been submitted to and approved in writing by the Declarant or Declarant's designee.

B. After the completion of the construction of any residence or exterior structure, no exterior colors or landscaping thereof shall be changed and no exterior additions or alterations to any structure shall be made unless and until the changes have been submitted to and approved in writing by the Declarant or in the case of Delegation of such proof of power by Declarant, the Board of Directors of the Homeowner's Association. The replacement of all or any portion of a structure because of age, casualty, loss or any other reason, including but not limited to roofs and siding, shall be of the same material as the original structure unless any proposed changes have been submitted to and approved in writing by the Declarant, or in the case of delegation of such approval power, by the Board of Directors of the Homeowner's Association.

C. No building, fence, wall or other structure shall be commenced, erected or maintained upon a Lot, nor shall any exterior painting, resurfacing addition to change or alteration therein be made until the plans, specifications and plot plan showing the size, nature, kind, shape, height, materials and location of the same have been submitted to an approved in writing by the Declarant or its designee.

D. All such plans and specifications shall be submitted to the Declarant. The Declarant will provide written notice of any approval of a proposed improvement to the owner at the address specified by owner in the submission of the plans. Such notice will be mailed, if at all, within 30 days after the date of submission of the plans. If notice of approval is not mailed within such 30-day period, the proposed improvement shall be deemed disapproved by the Declarant.

E. The Declarant intends that the Lots shall be developed as a residential community with homes constructed of high quality. The primary purpose of the design and other controls in these covenants is to protect and preserve the value of the improvements constructed on the Lots in Crescent's Golden Hills Subdivision for the benefit of both the individual Lot owners and the public in general. The Declarant may refuse approval of any proposed improvement if Declarant, in its sole discretion, determines that the proposed improvement will not meet these purposes. No Lot owner or owners or other person or persons shall have any right to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed improvement. The Declarant will incur no liability, responsibility or obligation by virtue of the authority granted to the Declarant in these covenants or a result of any act or failure to act by Declarant with respect to any proposed improvement.

5. Construction of the residence on a Lot shall commence not later than 24 months after the initial conveyance of title from Declarant to Lot owner. This period of 24 months shall be binding upon subsequent purchase of any Lot and shall run from the initial conveyance from the Declarant. This period shall not be extended without the written consent of the Declarant. If construction is not so commenced within 24 months after the initial conveyance of title from the Declarant, then Declarant will have the right, at its option, to repurchase the Lot from the Lot owner for the purchase price, less 10% of the total original purchase price. The Declarant may exercise this option at any time after the expiration of the 24-month period, so long as construction has not commenced. Declarant shall also have the first right of refusal to purchase any Lot if the Lot owner desires to sell such Lot within the 24 months following the initial conveyance from Declarant. During this period, Lot owner shall give the Declarant immediate written notice of any accepted offer to purchase the Lot and Declarant will then have 30 days after the date of the notice to exercise its first right of refusal hereunder by tendering its offer to purchase to Lot owner on substantially the same terms and conditions at the prior accepted offer. If the Declarant does not exercise its first right of refusal within the 30-day period, this right shall terminate. All options and first rights of refusal hereunder shall terminate upon completion of construction of the residence on the Lot.

6. Any material and equipment used during construction and landscaping shall be stored and maintained on the lot in an orderly manner and any discarded materials, rubbish and unneeded equipment shall be removed from the lot weekly. Construction and landscaping activities, including the storage of equipment and materials, will be confined to the lot on which the construction is in process.

7. No boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, van, aircraft, grading or excavating equipment, or any other portable vehicle shall be stored, repaired, or routinely parked on the streets of the subdivision. Vans, aircraft, grading or excavating equipment, shall be stored or maintained on any part of a lot (other than in an enclosed structure) for more than 20 days within a calendar year. No motor vehicles may be parked or stored outside on any lot, except vehicles driven on a regular basis by the occupants of the dwelling located on the lot.

8. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of 48 hours shall be permitted on any lot at any time. There shall be no exterior television or radio antenna, satellite receiving dishes in excess of 24 inches in diameter or exterior solar heating or cooling devices of any sort permitted on any lot.

9. Dogs and other pets shall be confined to the owner's lot. No dog or other pet shall be allowed to run at large at any time.

10. No advertising signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any lot except one sign per lot consisting of not more than seven square feet advertising that a lot is for sale.

11. Each lot owner shall take all steps reasonably necessary to adequately regulate the drainage from the lot and to control unreasonable and undesirable erosion.

12. No noxious or offensive activity shall be carried on any lot. No incinerator or trash burner shall be permitted on any lot. No garbage can or trash can or container or fuel tank shall be permitted unless completely screened from view except for pick up purposes. No garden, lawn or maintenance equipment of any kind shall be stored or permitted to remain outside of any dwelling or suitable storage facility except when in actual use. No garbage, refuse or rubbish shall be deposited on any street, road or lot. Clotheslines shall not be permitted outside any dwelling at any time.

13. Any exterior lighting installed in any lot shall either be indirect or of such a controlled focus intensity that to not disturb the occupants of adjacent lots.

14. All swimming pools shall be fenced. All pools and hot tubs shall be kept clean and maintained in an operable condition. All exterior hot tubs not located on a deck or porch must be enclosed.

15. The owner of each lot shall keep the landscaping uniformly mowed and trimmed and shall properly maintain and replace all trees and landscaping. Noxious weeds and plants shall be kept reasonably mowed and dead or unsightly growth shall be removed from all improved lots.

16. No lot owner shall use or permit any person or persons in any manner whatsoever to use the lot for any purpose that will constitute an unreasonable and improper invasion upon the quiet use and enjoyment of any other lot owner's property. Further, no lot owner shall use or permit any person or persons in any manner whatsoever to use the lot for purpose in violation of any law.

17. All improvements placed upon the lot shall be maintained in such manner as to prevent the improvements from becoming unsightly, unsanitary or a hazard to health.

18. The exterior walls of all buildings, structures and appurtenances shall be constructed of brick, stucco, wood shingles, wood siding, wood paneling, vinyl, glass blocks or any combination thereof. The exposed front foundation walls and any exposed foundation walls facing any street must be constructed of cement block or poured concrete. Fireplace chimneys shall be covered with materials approved in writing by Declarant. The roof of all improvements shall be covered with simulated shakes, wood cedar shakes or 30-year rated shingles of not less than 240 pounds of weight per 10 foot square of shingles or other material improved by Declarant.

19. All driveway approaches shall be constructed of concrete, brick or material acceptable to Declarant. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete, brick or material acceptable to Declarant. No asphalt overlay of driveway approaches will be permitted.

20. A public sidewalk shall be constructed in accordance with the standards and specifications of the City of Crescent at the location in the right-of-way required by the ordinances and regulations of the City of Crescent by the owner of each Lot. The sidewalk must be installed prior to the initial issuance of a certificate of occupancy for the residence built on the Lot. Thereafter, each owner shall be responsible to maintain the sidewalk and keep the same free of snow and ice and other accumulations.

21. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yard so as not to be visible from public view.

22. All fences, walls, privacy screens or similar barriers must be approved by Declarant or its designee and in no event shall any barriers obstruct the scenic view of any lot.

23. No animal of any kind shall be raised, bred or kept on any lot except no more than two dogs, cats or other household pets provided the keeping of said animals is in all times in compliance with the ordinances of the City of Crescent.

ARTICLE II HOMEOWNERS' ASSOCIATION

1. Declarant has caused the incorporation of Crescent's Golden Hills Subdivision Homeowners' Association, an Iowa not for profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety recreation welfare and enjoyment of the residents of Crescent's Golden Hills Subdivision, including the following:

- a. Although Declarant does not intend to provide or construct common facilities, the Association in the future may acquire, construct, landscape, improve, maintain, operate and repair common facilities for the general use, benefit and enjoyment of the Members. The facilities may include playgrounds and parks, non-dedicated roads and paths, entry areas, signs and other green areas.
- b. The promulgation enactment and amendment and enforcement of rules and regulations relating to the use and enjoyment of any common facilities, provided that such rules shall always be uniformly applicable to all Members. The rules and regulations may permit or restrict use of common facilities by Members, their families, their guests and/or by other persons who may be required to pay a fee or other charge in connection with the use or enjoyment of any common facility which may hereafter exist.
- c. The exercise, promotion, enhancement and protection of the privileges and interest of the residents of Crescent's Golden Hills Subdivision and the protection and maintenance of the residential character of Crescent's Golden Hills Subdivision

2. Crescent's Golden Hills Subdivision consists of 72 separate Lots. The owner ("Owner") of each Lot shall be a Member of the Association. For purposes of this Declaration, the term Owner of a Lot means and refers to the record owner, whether one or more persons or entities have fee simple title to a Lot but excluding any entities having any interest in any Lot merely as security for the performance of an obligation, (such as a contract seller, the trustee or beneficiary of a deed of trust or a mortgagee.) The purchaser of a Lot under land contract or similar instrument shall be considered to be the owner of a Lot for purposes of the Declaration. Membership shall be appurtenant to ownership of each Lot and may not be separated from ownership of each Lot. The owner of each Lot, other than the Developer, whether one or more persons and entities shall be entitled to one vote on each matter properly coming before the Members of the Association. The Declarant shall be entitled to 100 votes per Lot owned by the Declarant. If the subdivision is constructed in phases, the Declarant shall also have an additional 100 votes for so long as the Declarant or its assigns owns any portion of the subdivision land that has not yet been subdivided into individual Lots.

3. The Association shall have all the powers conferred upon not for profit corporations by the Iowa Nonprofit Corporation Act, as the same presently exists or as may be amended and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors and by the officers if authorized by the Board of Directors shall include, but shall not be limited to the following:

- a. The acquisition, development, maintenance, repair, replacement, operation and administration of any common facilities and the enforcement of any rules and regulations regulating the common facilities.
- b. The landscaping, mowing, repair, replacement and maintenance of all common entry areas, signs and outlots. The outlots are intended to facilitate drainage within the subdivision. The Association shall also be responsible for the maintenance and any necessary repair of the pond area located within Phase I of the subdivision.
- c. The fixing, levying, collecting, abatement and enforcement of all charges, dues or assessments made pursuant to the terms of the Declaration.
- d. The expenditure, commitment and payment of the Association funds to accomplish the purposes of the Association, including but not limited to payment for purpose of insurance covering any common facility against property damage and casualty and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.
- e. The exercise of all of the powers and privileges and the performance of all the duties and obligations of the Association as set forth in the Declaration, including all powers, privileges, duties, obligations delegated to the Association by the Declarant, as the same may be from time to time amended.

- f. The acquisition by purchase or otherwise, holding or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.
 - g. The deposit, investment, reinvestment of Association funds and bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit, etc.
 - h. The employment of professionals and consultants to advise and assist the Association in performance of the duties and responsibilities of the Association.
 - i. General administration and management of the Association and the execution of all documents and the performance of such acts as may be necessary or appropriate to accomplish the administration or management of the Association.
 - j. The performance of such acts and execution of such instruments or documents as may be necessary or appropriate to accomplish the purposes of the Association.
 - k. The exercise of any and all rights assigned to the Association by the Declarant, including, but not limited to the architectural control of the improvements constructed in Crescent's Golden Hills Subdivision.
4. The Association has the mandatory duty to maintain and repair all common area entry areas, signs and other entry features to be constructed and installed by the Declarant.
5. The Association may fix, levy and charge the owner of each Lot with dues and assessments (hereinafter Dues and Assessment) under the following provisions of this Declaration. Except as otherwise specifically provided, the Dues and Assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the board.
6. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant.
7. The assessments and dues, together with interest, costs and reasonable attorney fees, shall be the personal obligation of the Owner of each Lot at the time when the Dues and Assessments first become due and payable. The Dues and Assessments, together with interest, costs and reasonable attorney fees shall also be charge and continuing lien upon the Lot in respect of which the Dues and Assessments are charged. The personal obligation for personal assessments shall not pass to the successor in title to the Owner at the time the Dues and Assessments become delinquent, unless such Dues and Assessments are expressly assumed by the successor, but all successors shall take titles subject to the lien for such Dues and Assessments, and should be bound to inquire of the Association as to the amount of any unpaid Assessments or Dues.

8. The Dues collected by the Association may be committed and expended to accomplish the purposes of the Association described herein and to perform the powers, duties and responsibilities of the Association described herein.

9. Unless excess dues have been authorized by the Members in accordance with paragraph 11 below, the aggregate dues which may become due and payable in any year shall not exceed the greater \$100 per Lot, or in the calendar year beginning January 1, 2007, 125% of the aggregate dues charged in the previous calendar year.

10. In addition to the Dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, reconstruction, repair, maintenance, improvement or replacement of any common facility including fixtures and personal property related thereto and related facilities. The aggregate assessments in each calendar year shall be limited in an amount to \$300 per Lot.

11. With the approval of 60% of the Members of the Association, the Board of Directors may establish Dues or Assessments in excess of the maximum otherwise established in this Declaration.

12. Assessments and Dues shall be fixed at a uniform rate as to all Lots, but Dues may be abated as to individual Lots as otherwise provided herein.

13. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Dues or Assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due and date and the amount of the next succeeding Dues, Assessment or installment thereof. The Dues and Assessments shall be and become a lien as of the date such amounts first become due and payable.

14. Any installment of Dues or Assessments which is not paid when due shall be delinquent. Delinquent Dues or Assessments shall bear interest from the due date at the rate of 10% per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot or Lots and pursue any other legal or equitable remedy available. The Association shall be entitled to recover as part of the action and shall be indemnified against the interest, cost and reasonable attorney fees incurred by the Association with respect to such action. No owner may waive or otherwise escape liability of the charge and lien provided for herein by non-use of any common areas or abandonment of the Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an Owner by payment of all sums due together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any right of the Association.

15. The lien of Dues and Assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement loan or purchase money loan. The sale or transfer of any Lot shall not affect or terminate the Dues and Assessment lien.

16. Notwithstanding the above requirements regarding the payment of assessments, Lots owned by Declarant shall not be subject to the payment of any assessments until they are sold.

ARTICLE III GENERAL PROVISIONS

1. This Declaration of Covenants, Conditions and Restrictions shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant or its successors and assigns and by any Lot Owner of any real estate subject to the Declaration, and their respective heirs, successors, and assigns for a term of 21 years from the date this Declaration is recorded and shall be renewable thereafter in the manner then allowed by Iowa law. This Declaration may be amended by an instrument signed by the Owners of not less than 100% of the Lots covered by this Declaration.

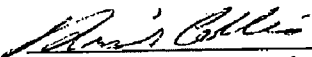
2. Except for the authority and power specifically granted to the Declarant, the Declarant or any Owner of a Lot or the Association, shall have the right to enforce by proceeding at law or in equity all reservations, restrictions, conditions and covenants now or hereafter imposed by the provisions of this Declaration, either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any Owner or by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. Notwithstanding anything to the contrary herein, whenever the approval or consent of the Declarant, or its designee, is required for any action, such approval or consent shall be in writing and shall be signed and dated by the Declarant or its designee. Any approval or consent not in writing required herein shall be unenforceable.

4. Validation of any covenant herein shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

5. Golden Hills, L.L.C. or its successors or assigns, may terminate its status as Declarant under this Declaration at any time by recording a notice of termination of status as Declarant. Upon such recording, the Association may appoint itself or another entity or individual to serve as Declarant and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

GOLDEN HILL'S, L.L.C.

By: 
Dennis Collins, Member