

RECORDER'S COVER SHEET

Type of Document: Restrictive Covenants and Regulations for Timberview Plat 1, Pella, Marion County, Iowa

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When Recorded, Pella Timberview, LLC
Return to: 1615 SW Main Street, Suite 207, Ankeny, Iowa 50023

Mail Tax Notices to: N/A

Grantors/Grantees: N/A

Legal Description: Legal description referenced by Declaration on page 2

**RESTRICTIVE COVENANTS AND REGULATIONS FOR
TIMBERVIEW PLAT 1, PELLA, MARION COUNTY, IOWA**

WHEREAS, the undersigned, Pella Timberview, LLC, an Iowa limited liability company (the "Declarant") is the owner of Lots 1 through 36 (each, a "Lot" or collectively, the "Lots") and Outlots ___ (the "Outlot") contained in Timberview Plat 1, Pella, Marion County, Iowa (the "Subdivision"); and

WHEREAS, Lots 25 through 34 shall be developed as attached single-family residential lots (the "Townhome Lots"); and

WHEREAS, Lots 1 through 24 and lots 35 and 36 shall be developed as detached single-family residential lots (the "Detached Lots"); and

WHEREAS, all of the Lots will be developed and governed by and in accordance with these restrictive covenants and regulations (the "Declaration"); and

WHEREAS, for their own protection and for the benefit of subsequent owners of said Lots within said Subdivision, the said owner desires to restrict the use thereof in certain particulars;

NOW, THEREFORE, the parties hereto, in consideration of the covenants and agreements contained herein, by these presents, covenant, bargain and agree for themselves for their successors and assigns, as follows:

1. Definitions.

- a. "Association" shall mean and refer to The Timberview Owners Association, Inc., its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa.
- b. "Common Area" shall have the same meaning as set forth in the Bylaws of the Association.
- c. "Declaration" shall mean and refer to this Declaration of Restrictive Covenants and Regulations to which the Lots are subject, as the same may be amended from time to time.
- d. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including the Declarant, but excluding those persons or entities having such interest merely as security for the performance of an obligation. If a Lot is sold on contract, the Owner shall be deemed to be the contract buyer. In the event the contract buyer fails to comply with any of the terms of this Declaration, the contract seller shall comply with the terms of this Declaration. As between a contract seller and a contract buyer, there will be only one Owner per Lot.
- e. "Declarant" shall mean the entity set forth in the preamble above, and any entity which is under common control with Declarant or for which the owners of Declarant hold at least fifty-one percent (51%) of the ownership interest in said entity.

2. Residential Purpose. The Lots shall be known and described as residential lots and shall not be improved, used, or occupied for other than private single-family residential purposes.

3. Membership in Association. All Owners shall be members of the Association, in addition to also being members of the General Association. The Association shall be governed by Bylaws and other organizational documents that set forth the duties and obligations of such owners with respect to the ownership of Lots within the Subdivision, and the same are incorporated by reference herein.
4. General Construction Requirements. The residences to be constructed or to be permitted to remain on the Lots shall meet the following requirements:
 - a. One (1) story residences shall have a ground floor finished area of not less than one thousand five hundred fifty (1,550) square feet.
 - b. One and one-half (1½) story residences, two (2) story residences, and split-level residences shall have a total finished area on the ground floor and second floor or split-level of not less than one thousand eight hundred (1,800) square feet.
 - c. The computation of the total finished area shall not include porches, breezeways or garages.
 - d. No vinyl siding is permitted.
 - e. As part of completion of construction of the residential dwelling on any Lot, the front yard and side yards shall be sodded, and at least one (1) tree must be planted in the front yard.
 - f. The residential structure upon a Lot must be completed within twelve (12) months of the commencement date of the construction and construction must begin within one hundred eighty (180) days of the date on the deed from the Declarant. All excess dirt from the excavation shall be hauled from the Lot or used as a part of the final landscape plan. Any excess dirt, concrete, or other debris may not be placed on other land within the Subdivision. **IF CONSTRUCTION HAS NOT BEGUN ON A LOT WITHIN ONE HUNDRED EIGHTY (180) DAYS OF THE DATE ON THE DEED FROM THE DECLARANT, THEN THE OWNER OF RECORD, AT THE DECLARANT'S REQUEST, AGREES TO DEED THE PROPERTY BACK TO THE DECLARANT FOR NINETY PERCENT (90%) OF THE ORIGINAL PURCHASE PRICE WITH NO ADJUSTMENT FOR TAXES, CLOSING COSTS OR INTEREST AT THE TIME THE DEED IS CONVEYED TO THE DECLARANT. THE DECLARANT WILL PAY ONLY FOR DEED PREPARATION, RECORDING FEES, AND TRANSFER TAXES. ON ISSUANCE OF AN OCCUPANCY PERMIT FOR A RESIDENCE, THIS RIGHT TO REPURCHASE SHALL TERMINATE AS TO THAT LOT.**
5. No Right to Subdivide. No Lot shall be subdivided for the purpose of constructing more than one (1) residence per Lot; however, parts of Lots may be conveyed to adjoining owners for any other purpose.
6. Declarant Review of Plans. No building, fence, wall or other structure shall be commenced, erected, or maintained on any Lot, nor shall any exterior addition, change,

or alteration be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same have been submitted to and approved in writing by the Declarant. The primary guidelines for approval are that the plans and specifications reflect harmony of external design and location in relation to surrounding structures and drainage patterns in accordance with the storm water management plan. Notwithstanding anything herein to the contrary, approval of any plans and specifications may be granted or withheld in the sole and absolute discretion of the Declarant. When: (a) Declarant no longer has any ownership interest in any portion of the Subdivision, including any Outlot, and (b) all Lots have been built upon, then the requirements imposed by this paragraph shall terminate.

7. General Use Restrictions. The following restrictions shall also constitute covenants with respect to Lots:
- a. There shall be no mobile homes placed or erected on any Lot.
 - b. No pre-erected dwelling shall be moved to any Lot.
 - c. All dwellings on Detached Lots must have, at a minimum, a double attached garage.
 - d. No more than twelve (12) inches of concrete block, poured concrete, or wood foundation shall be exposed on any building unless the exposed material is covered with brick, stone veneer, or siding.
 - e. Exposed foundations must be painted to blend with exterior wall finishes or be stone or brick material.
 - f. The Lots may have fences, the style of which shall be black wrought iron only.
 - g. All homes must be built by a recognized homebuilder, defined as a homebuilder who completes at least three (3) new homes per year.
 - h. All finished Lots and house grades shall conform to the Declarant's grading plan with the City of Pella, if any, which shall be obtained from the Declarant at the closing of the purchase of said Lots.
 - i. No above ground or non-permanent swimming pool shall be permitted on any Lot.
 - j. No building or structure of temporary character, and no trailer, basement, tent, shack, garage, or outbuilding shall be used at any time as a residential dwelling on any Lot, either temporarily or permanently. Tool sheds, utility buildings or playhouses may be placed on any Lot; however, the area of said auxiliary structures shall not exceed one hundred forty-four (144) total square feet and said auxiliary structures shall be constructed using materials that are the same or substantially similar in type and quality to those materials used to construct the primary dwelling.

- k. No recreational vehicle, camper, tent, boat, or truck rated larger than three quarters ($\frac{3}{4}$) of a ton shall be maintained or parked on a Lot or street within public view for a period of time exceeding forty-eight (48) consecutive hours or for more than thirty (30) total days in any calendar year.
- l. No rubbish containers shall be visible from the street except on pickup day and one (1) day before and one (1) day after pickup day. Construction waste containers shall be exempt from this provision; however, the builder or Lot owner shall be responsible for keeping the construction debris contained on the Lot and in the construction waste containers.
- m. No extension towers or antennas of any kind shall be constructed, modified, or permitted on any Lot except television or radio antennas of less than ten (10) feet are permitted on dwellings or garages. Satellite dishes or parabolic devices in excess of thirty-six (36) inches in diameter used to receive television or other signals from satellites shall not be permitted. The satellite dishes or parabolic devices shall be mounted on the rear elevation or the rear half of the side elevation only. In no event shall a satellite dish or parabolic device be mounted on the front elevation or the front half of a side elevation.
- n. No noxious or offensive activities or odors shall be permitted on or to escape from any Lot, nor shall anything be done on any Lot which is or may become an annoyance or nuisance, either temporarily or permanently.
- o. 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. Dogs must be tied, fenced (which includes electric or invisible fences), or kept in a dog run or on a leash at all times.
- p. All retaining walls shall be constructed of stone or masonry product.
- q. Roof materials should be slate, tile, cedar shakes, or composite shingles. Composite shingles shall be architectural grade, minimum thirty (30) year warranty. Shingle colors shall be compatible with and complimentary to the exterior materials and colors. White or white blend roof materials are not acceptable. Notwithstanding, alternative roofing materials may be used if prior approval of such use is granted by the Declarant.
- r. All outdoor light fixtures shall be designed, installed, and maintained to prevent light trespass beyond the boundaries of the Lot. "Full cutoff" outdoor light fixtures which emit no light at or above the horizontal plane of the fixture shall be utilized for all dusk to dawn light fixtures exceeding three hundred (300) lumens and for all manually switched or occupancy sensor switched fixtures exceeding one thousand (1,000) lumens. Christmas lighting or other temporary outdoor lighting shall be exempt from this provision, but shall remain in place no longer than eight (8) weeks annually.
- s. Each Lot owner shall keep the Lot free of weeds and debris and shall take all necessary steps to control erosion from the Lot. All Lot owners shall implement appropriate erosion control measures before, during, and after construction.

These measures may include silt fences, ground cover, and seeding over exposed areas.

- t. Once a dwelling is sold and occupied, signage shall be limited to (i) address signage, (ii) owner identification signs, (iii) "For Sale" signs, (iv) "Garage Sale" signs, (v) special event signs (such as birthdays, graduations, or anniversaries, hereafter "Event Signs") (vi) political signs, and (vii) other signs approved in writing by the Declarant. "For Sale" signs shall only be displayed while a dwelling is for sale and must be removed the day following the closing of the sale. "Garage Sale" and Event Signs shall only be displayed one (1) day before the sale or event and during the sale or event and must be removed by the day following the sale or event. Political signs shall only be displayed up to four (4) weeks prior to an election, the day of the election, and must be removed by the day following the election. Political signs not related to an election shall be displayed for a maximum of two (2) weeks. Other signs permitted by the Declarant shall be displayed for such times as authorized by the Declarant. All signs shall be limited to no more than thirty-nine (39) inches in width by twenty-four (24) inches in height and shall be professionally constructed. No hand painted signs will be allowed. Except for address and owner identification signs, no signs shall be erected on any building elevation, erected so that is visible through window or glass openings or, except for vehicles with professionally made business signage on the vehicles, attached to vehicles parked within the neighborhood.
- u. No motor vehicles shall be allowed on any Outlots. In the event of any damage to land, vegetation, or improvements on an Outlot that is traceable to a Lot, monetary damages shall be assessed against the Lot responsible for such damage and said damage shall be treated as an assessment for any and all applicable property owners associations to which the Lot is subject for the purpose of placing a lien against the responsible Lot.
- v. The topography of the Subdivision is such that surface water may flow from certain Lots onto other Lots. In regard to all matters concerning surface water, each Lot shall be subject to and benefitted 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 Lot owners shall have such rights and obligations with respect thereto as may be provided by such laws.
- w. Any construction or earth moving on any Lot shall be in compliance with all laws relating to storm water discharge permitting. The owner of any Lot shall be the solely responsible permittee for the Lot with respect to compliance with all terms, provisions, and requirements of any NPDES Storm Water Discharge Permit No. 2 and any storm water pollution prevention plan which includes the Lot. During the ownership of the Lot, the Lot owner shall protect, defend, indemnify, and hold the Declarant and the other owners of the Lots harmless from any and all damages, claims, liabilities, fines, penalties, cleanup costs, 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; and/or (2) any alleged violation of any NPDES or storm water discharge rule or regulation.

- x. At least twenty-five percent (25%) of the front façade of any residence on the Lot must be constructed of stone.
8. Walls in Common. The following shall apply to all residential structures built upon a Townhome Lot:
- a. Each wall which is built as a part of the original construction of the dwelling and/or garages upon the Townhome Lots and placed on the dividing lines between the Townhome Lots shall constitute a wall in common as provided in Iowa Code chapter 563, and, to the extent not inconsistent with the provisions of this Declaration and the rights of the Association, the general rules of law regarding walls in common and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
 - b. The costs of reasonable repair and maintenance of a wall in common shall be shared by the Owners who make use of the wall in proportion to such use.
 - c. If a wall in common is destroyed or damaged by fire or other casualty, any Lot owner who has used the wall may restore it, and if the other Lot owner thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Lot owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
 - d. Notwithstanding any other provision of this Section, a Lot owner who by his or her negligent or willful act causes the wall in common to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
 - e. The right of any Lot owner to contribution from any other Lot owner under this Section shall be appurtenant to the Townhome Lot and shall pass to such Lot owner's successors in title.
9. Additional Land. The Declarant, from time to time, shall have the right, at any time before it has conveyed all of the land then subject hereto, to render other land subject and subservient to this Declaration in all respects, if such land is contiguous, adjoining or adjacent to land or some point thereof then subject to this instrument by executing and delivering to the Declarant and recording a supplement to this Declaration, stating a description of the land to be added to that land subject and subservient to this Declaration, a statement that Declarant or an entity at least 50% controlled by Declarant is the owner in fee simple of such land; or, in lieu thereof, all other persons, firms or corporations having an interest in such land to be added, may join in such supplement, and a statement of any additional restrictions or burdens to which the land to be added shall be subjected, if any, and a statement of any restrictions, burdens or provisions of this Declaration which shall in whole or in part not be applicable as to such land to be added or shall be applicable in modified form, if any.
10. Covenants Running with Land; Duration. All of these restrictions shall be deemed to be covenants running with the land and shall endure and be binding upon all parties hereto,

their successors and assigns, for a period of twenty-one (21) years from the date of the recording of this Declaration, unless claims to continue any interest in the covenants are filed as provided by law. The provisions of this instrument and any amendments hereto may be extended for an additional period beyond the initial twenty-one (21) year period by filing a verified claim in the office of the Recorder of Marion County, Iowa, within the initial twenty-one (21) year period.

11. Enforcement of Declaration. All provisions of this Declaration shall be capable of being specifically enforced by the Association. In the event, in the opinion of the Declarant or applicable Association, as the case may be, it shall be necessary to secure the services of an attorney to enforce the provisions of this Declaration, then all reasonable fees of such attorney, and all other costs in connection with the enforcement of this Declaration, including, but not limited to, the costs of any contemplated or actual legal proceedings in such connection, shall become a lien against the real property which is the subject of proceedings. If such costs and attorney's fees are not paid within ten (10) days from the date of written notice thereof by the Association to the owner of the Lot in question, said fee and costs shall thereupon constitute a lien against the Lot in question.
12. Partial Invalidity. Invalidation of any of this Declaration by judgment or court order shall in no way affect the validity of any of the other provisions, but they shall remain in full force and effect.
13. Declarant Rights. So long as Declarant has any ownership interest in any Lot or Outlot, this instrument may be amended upon the recording of a written instrument executed by the Declarant. Once Declarant no longer has any ownership interest in any Lot or Outlot, this instrument may be amended upon the recording of a written instrument approved by owners of at least seventy-five percent (75%) of the Lots within the Subdivision. Any amendment to this instrument must be filed for record in the office of the Recorder of Marion County, Iowa. For the purposes of this Paragraph 10, each Lot shall be deemed to have one (1) owner, and each said owner shall be entitled to one (1) vote for each Lot owned.
14. Restriction on Rental. No Lot and no portion of any structure upon any Lot shall be leased or rented to any person unless previously approved in writing by the Board of Directors of the Association.
15. Rule-Making Authority. The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Lots, and such rules shall be observed and obeyed by the Owners, their guest, lessees, assigns and licensees, and any such duly adopted rule or regulation shall be deemed incorporated into this Declaration by this reference.

[End of Declaration; Signature Page Follows]

DECLARANT: Pella Timberview, LLC

By

Bradly Stoksebary, Manager

STATE OF IOWA, _____ COUNTY, SS:

This record was acknowledged before me on this ____ day of _____, 2023,
by Bradly Stokesbary as Manager of Pella Timberview, LLC.

Notary Public in and for the State of Iowa
My commission expires _____