

ENTERED FOR TAXATION  
 THIS 19 DAY OF Mar, 1996  
 AUDITORS FEE \$ 5.00  
*Joan Welch*  
 AUDITOR  
*Debbie Carlson*  
 DEPUTY AUDITOR

FOR PLAT SEE  
 TOWN PLAT BOOK 2  
 PAGE 270

FILED NO. 2534  
 BOOK 60 PAGE 770  
 96 MAR 19 AM 11:43  
 MICHELLE UTSLER  
 RECORDER  
 MADISON COUNTY, IOWA

Prepared By: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072  
 (515) 758-2267

REC \$ 20.00  
 AUD \$ 5.00  
 R.M.F. \$ 1.00

STATEMENT BY PROPRIETOR,  
 CONSENT TO PLAT, AND DEDICATION

COMPUTER   
 RECORDED   
 COMPARED

KNOW ALL PERSONS BY THESE PRESENTS:

Earlham Building Center, Inc., an Iowa corporation, being the owner in fee simple of the following described real estate, to-wit:

Lot 9 of Clearview Third Addition to the City of Earlham, Madison County, Iowa;

has caused a survey and subdivision of said real estate to be made, with lots marked, named and numbered as shown by a final subdivision plat thereof. Said final subdivision plat is the graphical representation of the subdivision of said Lot 9 of Clearview Third Addition to the City of Earlham, Madison County, Iowa. Said final subdivision plat will be recorded, and is designated and known as:

Clearview Estates Plat 1, an Official Plat in the City of Earlham, Madison County, Iowa.

The owner and proprietor of the plat, Earlham Building Center, Inc., an Iowa corporation, hereby acknowledges that the plat of said real estate is prepared with its free consent and in accordance with its desires.

The said owner and proprietor, Earlham Building Center, Inc., an Iowa corporation, hereby dedicates and conveys unto the City of Earlham, Iowa, and to the public, a perpetual easement and right-of-way under, over, on, through and across all lands within the plat that are designated for public utility easements for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining public utilities therein together with all necessary structures and appurtenances thereto, under, over, on, through, across and within said easement areas. The said owner and proprietor further dedicates to the City of Earlham, Iowa, and to the public, all lands within the plat that are designated for streets.

IN WITNESS WHEREOF, the said owner and proprietor has caused these presents to be executed this 19th day of March, 1996.

EARLHAM BUILDING CENTER, INC.  
 an Iowa corporation

By Gary A. Arnburg  
 Gary A. Arnburg, President

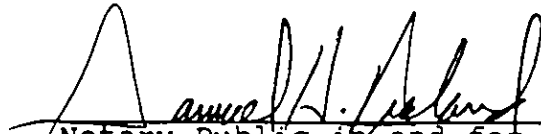
By Gary A. Arnburg  
 Gary A. Arnburg, Secretary

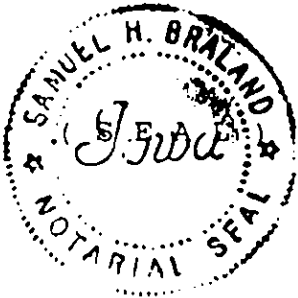
2

#2. Statement By Proprietor  
Consent To Plat, And Dedication.

STATE OF IOWA :  
                  : SS  
MADISON COUNTY :

On this 8<sup>th</sup> day of March, 1996, before me, the under-  
signed, a Notary Public in and for the State of Iowa, personally  
appeared Gary A. Arnburg to me personally known, who, being by me  
duly sworn, did say that he is the President and Secretary,  
respectively, of said corporation executing the within and fore-  
going instrument, that no seal has been procured by the said  
corporation; that said instrument was signed on behalf of said  
corporation by authority of its Board of Directors; and that the  
said Gary A. Arnburg as such officers acknowledged the execution  
of said instrument to be the voluntary act and deed of said  
corporation, by it and by him voluntarily executed.

  
\_\_\_\_\_  
Notary Public in and for the  
State of Iowa.



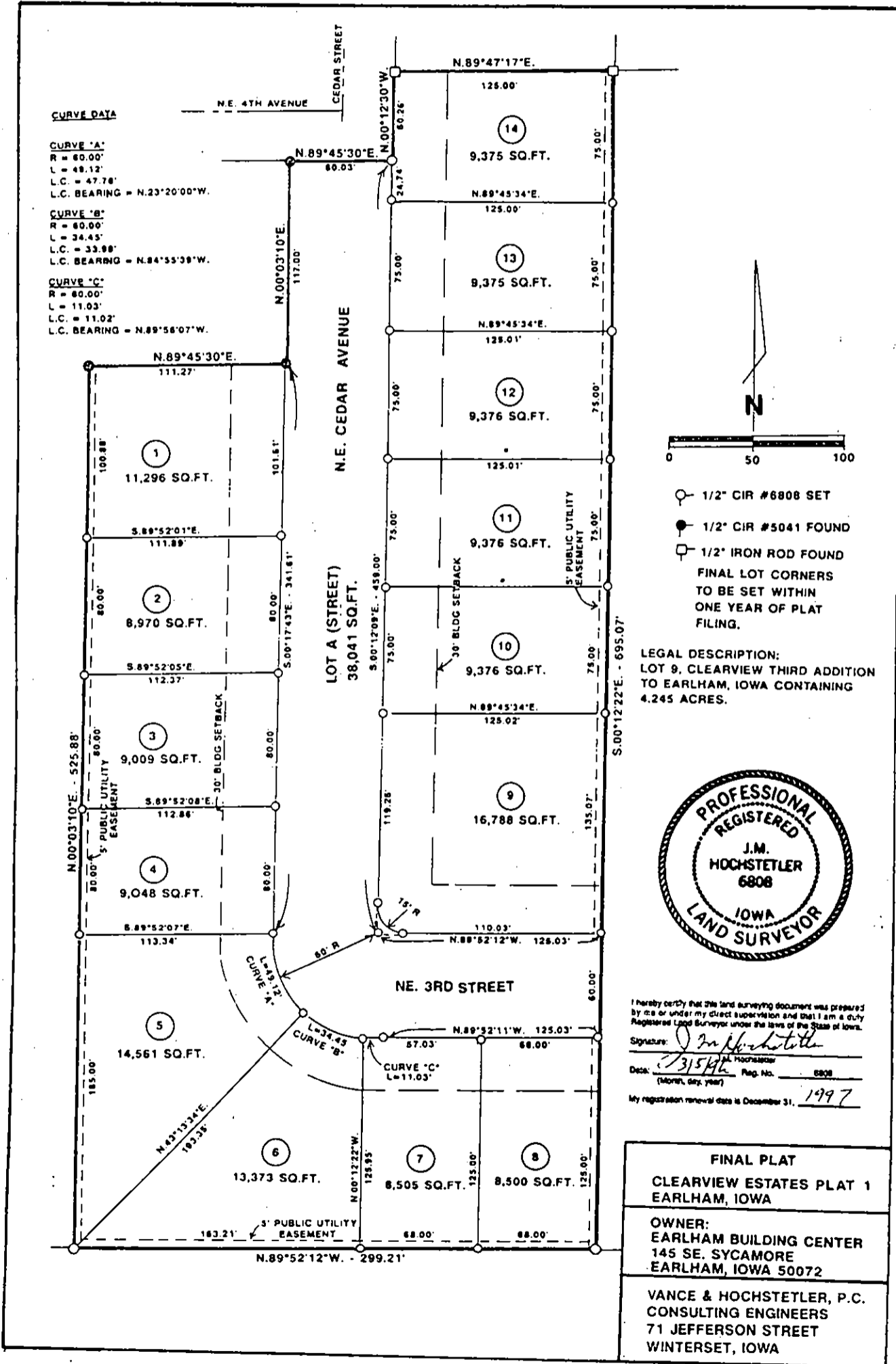
For Dedication, Resolution BOOK 2 PAGE 270  
& Certificates - See  
Deed Record 60-770

96 MAR 19 9 AM, 11:43

MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

VANCE & HOCHSTETLER, P.C. CONSULTING ENGINEERS, WINTERSSET, IOWA (515)462-3995

CHARLES T. VANCE, 110 WEST GREEN ST., WINTERSSET, IOWA 50273  
JAMES M. HOCHSTETLER, 110 WEST GREEN ST., WINTERSSET, IOWA 50273



4

PEER, NELSON & BRALAND

ATTORNEYS AT LAW  
115 E. FIRST STREET  
P. O. BOX 370

EARLHAM, IOWA 50072

DEAN R. NELSON  
SAMUEL M. BRALAND  
H. CLAUDE PEER  
(1910-1994)

TELEPHONE: (515) 750-2267  
TELEPHONE: (515) 993-4874  
FACSIMILE: (515) 750-2268

March 5, 1996

City Council  
City of Earlham, Iowa  
140 S. Chestnut Avenue  
Earlham, IA 50072

Dear Council Members:

I have examined the abstract of title to the following described real estate being platted, to-wit:

Lot 9 of Clearview Third Addition to the City  
of Earlham, Madison County, Iowa;

from the date of government entry to the 25th day of January, 1996, at 8:00 A.M., as last continued by Madison County Abstract Co. I find good and merchantable title in fee simple to said real estate to be in the proprietor of the plat:

Earlham Building Center, Inc.

The land being platted is a subdivision of Lot 9 of Clearview Third Addition to the City of Earlham, Madison County, Iowa. The plat is to be known as Clearview Estates Plat 1, an Official Plat in the City of Earlham, Madison County, Iowa.

Title to the real estate being platted is subject to the following:

1. Mortgages. There are no mortgages of record against said real estate.
2. Liens. There are no liens against said real estate.
3. Taxes. All real estate taxes against said property are paid in full.
4. Special Assessments. No special assessments have been levied against said real estate.
5. Zoning. The real estate is subject to the zoning and subdivision ordinances of the City of Earlham, Iowa, which regulate and restrict the use of said real estate as well as any construction thereon.

#2. Preliminary Title Opinion.

6. Zoning. The real estate is subject to the zoning ordinance of Madison County, Iowa.

This opinion is subject to the following matters which are not revealed by an abstract of title:

A. Mechanic's Liens. Within the last ninety (90) days someone may have completed a repair or improvement on the real estate, or provided materials for such repairs or improvements. If that person has not received payment for such labor or materials, that person will have a lien against the property.

B. Parties in Possession. This opinion is subject to the rights of any parties in possession of the property or any portion of the property that are not revealed by the abstract.

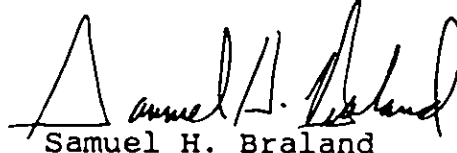
C. Survey Matters. This opinion is subject to any discrepancy in boundary lines, encroachments, or other matters that might be revealed by a survey of the real estate.

D. Bankruptcy. If bankruptcy proceedings affecting the real estate have been commenced in any county other than the county in which the property is located, the abstracter will not have searched such proceedings.

E. Environmental Caution. An abstract of title will not disclose the existence of hazardous wastes, underground storage tanks, drainage wells and other environmentally regulated activities. Federal, state and local legislation may, in the event there are environmental and/or public health violations, permit injunctive relief and require clean up such as removal and remedial actions. The costs of such clean up may be a lien against the property and a personal liability to the owner thereof.

Respectfully submitted,

PEER, NELSON, & BRALAND



Samuel H. Braland

shb:sc

Prepared By: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072  
(515) 758-2267

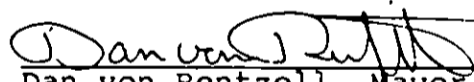
CERTIFICATION

STATE OF IOWA :  
                  : SS  
MADISON COUNTY :

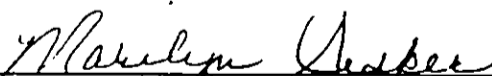
We, Mairlyn Sesker, the City Clerk of Earlham, Iowa, and Dan von Rentzell, the Mayor of the City of Earlham, Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of said Municipality showing proceedings of the City Council with respect to Resolution No. 96-3, RESOLUTION APPROVING FINAL PLAT OF CLEARVIEW ESTATES PLAT 1, AN OFFICIAL PLAT IN THE CITY OF EARLHAM, MADISON COUNTY, IOWA; that said Resolution was passed and approved by the City Council of the City of Earlham, Iowa, at a regular meeting thereof on the 11th day of March, 1996; that said meeting and all action on said Resolution was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the City Council pursuant to the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four (24) hours prior to the commencement of the meeting as required by said law.

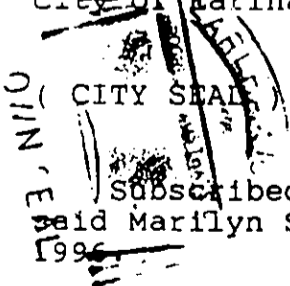
Dated this 11th day of March, 1996.

WITNESS our hands and the sale of said Municipality hereto affixed this 11th day of March, 1996.

  
\_\_\_\_\_  
Dan von Rentzell, Mayor  
City of Earlham, Iowa.

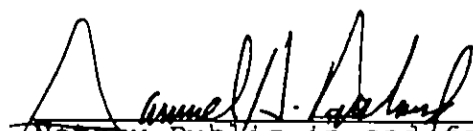
ATTEST:

  
\_\_\_\_\_  
Marilyn Sesker, City Clerk  
City of Earlham, Iowa.



Subscribed and sworn to before me and in my presence by the said Marilyn Sesker and Dan von Rentzell this 11th day of March, 1996.



  
\_\_\_\_\_  
Notary Public in and for the  
State of Iowa.

Prepared By: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072  
(515) 758-2267

RESOLUTION NO. 96-3

RESOLUTION APPROVING FINAL PLAT OF CLEARVIEW ESTATES PLAT 1,  
AN OFFICIAL PLAT IN THE CITY OF EARLHAM, MADISON COUNTY, IOWA.

The City Council of Earlham, Iowa, met in regular session, in the Council Chambers, City Hall, Earlham, Iowa, at 7:30 o'clock P.M., on March 11, 1996. There were present Mayor Dan von Rentzell, in the chair, and the following named Council Members:

Dennis Fenster, Jeff Beisner, Truman Payne,

Vicky Boyle, Randy Lillie

Absent None.

Council Member Fenster introduced the following Resolution entitled "RESOLUTION APPROVING FINAL PLAT OF CLEARVIEW ESTATES PLAT 1, AN OFFICIAL PLAT IN THE CITY OF EARLHAM, MADISON COUNTY, IOWA" and moved that the same be adopted. Council Member Beisner seconded the motion to adopt. The Council discussed the Resolution. Thereupon the roll was called and the vote was,

Ayes: Fenster, Beisner, Payne,

Boyle, Lillie

Nays: None

Whereupon the Mayor declared the following Resolution duly adopted: "RESOLUTION APPROVING FINAL PLAT OF CLEARVIEW ESTATES PLAT 1, AN OFFICIAL PLAT IN THE CITY OF EARLHAM, MADISON COUNTY, IOWA".

WHEREAS, there has been submitted to the City Council of the City of Earlham, Iowa, a final plat of real estate hereafter described and designated as:

Clearview Estates Plat 1, an Official Plat in the City of Earlham, Madison County, Iowa.

WHEREAS, Earlham Building Center, Inc., an Iowa corporation, is the owner of the platted real estate; and

WHEREAS, said subdivision plat conforms to the standards and conditions established by the City, and conforms to Chapter 354 of the 1995 Code of Iowa, and Chapter 175 of the City of Earlham Code of Ordinances, with respect to the platting of said real estate; and

WHEREAS, the Earlham Planning & Zoning Commission has recommended Council approval of said plat; and

8  
Page Two

WHEREAS, it is the opinion of the City Council of the City of Earlham, Iowa, that said plat should be approved; and

WHEREAS, Lot A of said plat has been dedicated by the proprietor as a street, and the dedication thereof should be approved; however, the improvement of said Lot A as a street is not complete and title thereto will not be accepted at this time; and

WHEREAS, public utility easements as shown on the plat have been dedicated to the City and to the public, and the dedication thereof should be approved and accepted; and

WHEREAS, the proprietor has submitted to the City easements for permanent storm sewer, surface water flowage, and temporary ingress/egress and turn around purposes; and

WHEREAS, the proprietor has submitted to the City a Declaration of Covenants, Conditions and Restrictions for Clearview Estates Plat 1 to be recorded with the final plat therefor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EARLHAM, IOWA:

That the final subdivision plat of the following described real estate, to-wit:

Lot 9 of Clearview Third Addition to the City of Earlham, Madison County, Iowa;

designated and known as:

Clearview Estates Plat 1, an Official Plat in the City of Earlham, Madison County, Iowa,

be and the same is hereby accepted and approved, and the Mayor and City Clerk of the City of Earlham, Iowa, be and they are hereby authorized and directed to certify this Resolution which shall be recorded with the plat.

That the dedication of Lot A of said plat as a street be and the same is hereby approved; that the improvement of said lot as a street is not complete and cannot be presently accepted, and title thereto is not accepted at this time, and the street shall be the sole responsibility of the proprietor until such time as said public improvement is accepted. For public safety reasons, pursuant to Section 354.19, Code of Iowa, said Lot A is not open for public access.

That the dedication of the public utility easements as shown on the plat be and the same are hereby approved and accepted.

That the City of Earlham does hereby accept the Declaration of Covenants, Conditions and Restrictions for Clearview Estates Plat 1.

That the City of Earlham is not at this time accepting public improvements within the plat and the same shall remain the responsibility of the proprietor until they are accepted.




Page Three


That the City of Earlham, Iowa, does hereby approve and accept the following easements on and across a portion of Lot 10 of Clearview Third Addition to the City of Earlham, Madison County, Iowa which lies adjacent to and east of Clearview Estates Plat 1:

- 1. Permanent Storm Sewer Easement;
- 2. Permanent Surface Water Flowage Easement; and
- 3. Temporary Ingress/Egress Easement and Turn Around Easement.

PASSED AND APPROVED, this 11th day of March, 1996.

  
 \_\_\_\_\_  
 Dan von Rentzell, Mayor  
 City of Earlham, Iowa.

ATTEST:

  
 \_\_\_\_\_  
 Marilyn Sesker, City Clerk  
 City of Earlham, Iowa.



CERTIFICATE OF TREASURER OF MADISON COUNTY, IOWA

STATE OF IOWA :  
                  : SS  
MADISON COUNTY :

I, Becky McDonald, Treasurer of Madison County, Iowa, having examined the records of my office, in accordance with the provisions of Section 354.11(5) of the Code of Iowa, certify that as of the date set forth below the real estate legally described as follows, to-wit:

Lot 9 of Clearview Third Addition to the City of Earlham, Madison County, Iowa;

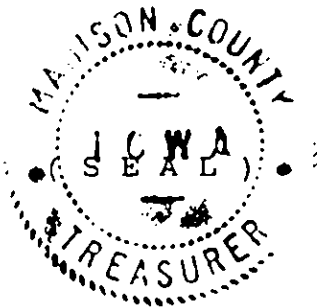
is free from certified taxes and certified special assessments.

Dated this 5th day of March, 1996.

Becky McDonald  
Becky McDonald  
Madison County Treasurer

Subscribed and sworn to before me and in my presence by the said Becky McDonald this 5th day of March, 1996.

Samuel H. Chalano  
Notary Public in and for the  
State of Iowa.



## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

CLEARVIEW ESTATES PLAT 1  
 an Official Plat in the City of Earlham,  
 Madison County, Iowa.

THIS DECLARATION is made this 8<sup>th</sup> day of March, 1996, by Earlham Building Center, Inc., an Iowa corporation, hereinafter called the "Declarant".

WHEREAS, Declarant is the owner of real estate situated in the City of Earlham, Madison County, Iowa, which is legally described as follows, to-wit:

Lot 9 of Clearview Third Addition to the City of Earlham, Madison County, Iowa;

WHEREAS, said real estate has been subdivided and platted and the final subdivision plat thereof is known as Clearview Estates Plat 1, an Official Plat in the City of Earlham, Madison County, Iowa, (hereinafter called the "Property"), and Declarant is the proprietor of said plat.

NOW, THEREFORE, Declarant hereby publishes and declares that the lots located within the Property shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, uses, limitations, and obligations, all of which are for the purpose of protecting the value and desirability of the Property and all of which shall run with the land and shall be a burden and a benefit to and shall be binding upon the Declarant, its successors and assigns, and all parties acquiring or owning any right, title or interest in any part of the Property, and their heirs, successors, assigns, grantees, personal representatives, and devisees:

ARTICLE I  
 DEFINITIONS

1. "Declarant" shall mean Earlham Building Center, Inc., an Iowa corporation, who has made and executed this Declaration, and its successors and assigns.

2. "Lot Owner" shall mean each person or entity who is a record owner of a fee or undivided fee interest in any lot located within the Property; provided, however, that in the event of the recording of a contract for the sale of a lot, the contract purchaser shall be deemed the lot owner; and provided further that in the event a fee interest of record is held merely for the security of the performance of an obligation, then the obligor in possession shall be deemed the lot owner.

3. "Property" shall mean the real estate above described constituting the subdivision known as Clearview Estates Plat 1, an Official Plat in the City of Earlham, Madison County, Iowa.

4. "Lot" shall mean those numerically designated lots shown on the final plat of Clearview Estates Plat 1.

12

#2. Declaration Of Covenants, Conditions  
And Restrictions.

ARTICLE II  
COVENANTS AND RESTRICTIONS ON USE OF LOTS

In order to preserve the natural setting and beauty of the subdivision and to establish and preserve a harmonious and aesthetically pleasing design for the subdivision and to protect and promote the value of the Property, the lots and any and all improvements located therein, or thereon, shall be subject to the following covenants and restrictions. The Declarant for each lot owned within the Property hereby covenants, and each lot owner by acceptance of a deed or contract to any lot whether or not it shall be expressed in such deed or contract, is deemed to covenant and agree to the following restrictions, covenants and conditions which shall be applicable to each lot within the Property:

1. Prohibited Structures. A factory-built (modular) home and/or a mobile home (manufactured home) as defined in the Code of Iowa or in the City of Earlham Code of Ordinances, or as otherwise defined or known, is prohibited everywhere on the Property and shall not be placed or erected on any lot therein.

2. Permitted Structures. Only the following structures may be erected, placed, or are permitted on any lot in the Property:

- (a) One single-family private dwelling house for use only as a private residence; and
- (b) Accessory structures such as garages and appropriate outbuildings.

3. Building Requirements.

- (a) Single-Story Residences. Single-story residences must have a ground floor finished area of not less than 1,300 square feet.
- (b) One and One-Half Story Residences. One and one-half story residences must have 1,000 square feet of finished area on the ground floor. The total finished area of the ground floor and the second floor must be not less than 1,400 square feet.
- (c) Two-Story Residences. Two-story residences must have 700 square feet of finished area on the ground floor, and the total finished area of the ground floor and the second floor must be not less than 1,400 square feet.
- (d) Split-Level Residences and Split-Entry Residences. Split-Level and Split-Entry residences must have 1,200 square feet of finished area on the level or levels directly under the roof, and a total finished floor area of not less than 1,800 square feet.
- (e) Exclusions. Garages, breezeways, porches, terraces, decks and patios shall not be deemed included in the finished area, irrespective of whether or not there may be living areas located above such non-living areas.
- (f) Garages. All dwellings must have at a minimum a double attached garage containing a minimum of 400 square feet.

#3. Declaration Of Covenants, Conditions  
And Restrictions.

ARTICLE III  
EXEMPT PROPERTY

Lot A (Street) within the Property shall not be subject to this Declaration of Covenants, Conditions and Restrictions.

ARTICLE IV  
ENFORCEMENT AND INTERPRETATION

Any lot owner, lessee, agent or representative of a lot owner shall have the right and power to enforce the restrictions, covenants, and conditions contained herein, and to institute and prosecute any proceeding at law or in equity against any person or persons violating or threatening to violate any such restrictions, covenants, and conditions, and to recover any damages suffered from any violation thereof.

The waiver of any violation or failure to enforce any such covenant, condition or restriction shall not in any event operate as a waiver, impairment or abrogation of any covenant, restriction or condition, or the right to enforce the same in the event of any future or other breach of the same or any other covenant, restriction or condition by the same or any other person.

In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which will better effect the intent of the subdivision. The provisions herein shall be liberally interpreted, and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance, building codes, or other regulations which are less restrictive.

The effective date of this Declaration shall be the date of its filing of record. This Declaration shall be construed under and in accordance with the laws of the State of Iowa.

If any covenant, condition or restriction or any portion thereof, is declared invalid or void, no other covenant, condition or restriction shall be affected thereby.

ARTICLE V  
DURATION OF DECLARATION; AMENDMENTS

This Declaration and the covenants, conditions and restrictions contained herein shall run with the land above described, and be binding upon all persons as provided herein for a period of 20 years from the date of its filing for record, after which time this Declaration and the covenants, conditions and restrictions shall be automatically extended for successive periods of 10 years unless rescinded, in whole or in part, within 60 days after expiration of the initial or succeeding term by an instrument signed by not less than a majority of lot owners. This Declaration may be amended at any time by an instrument signed by not less than a majority of lot owners. For rescission and amendment purposes, a lot owner is entitled to one vote for each whole lot owned, but any whole lot under joint ownership shall be considered to have one lot owner and the joint owners shall determine who among themselves will cast the vote for that lot.

14

#4. Declaration Of Covenants, Conditions  
And Restrictions.

EARLHAM BUILDING CENTER, INC.

By *Gary A. Arnburg*  
Gary A. Arnburg, President  
By *Gary A. Arnburg*  
Gary A. Arnburg, Secretary

STATE OF IOWA :  
                  : SS  
MADISON COUNTY :

On this 8<sup>th</sup> day of March, 1996, before me, the under-  
signed, a Notary Public in and for the State of Iowa, personally  
appeared Gary A. Arnburg to me personally known, who, being by me  
duly sworn, did say that he is the President and Secretary,  
respectively, of said corporation executing the within and fore-  
going instrument, that no seal has been procured by the said  
corporation; that said instrument was signed on behalf of said  
corporation by authority of its Board of Directors; and that the  
said Gary A. Arnburg as such officers acknowledged the execution  
of said instrument to be the voluntary act and deed of said  
corporation, by it and by him voluntarily executed.

*Arnold H. Nelson*  
Notary Public in and for the  
State of Iowa.

