

Doc ID: 005112450003 Type: GEN  
Recorded: 09/07/2005 at 03:07:06 PM  
Fee Amt: \$17.00 Page 1 of 3  
Dubuque County Iowa  
Kathy Flynn Thurlow Recorder  
File 2005-00003189

Prepared By: Jennifer A. Clemens-Conlon - #060013606, 2080 Southpark Court, Dubuque, IA 52003 (563) 582-2926

**DECLARATION OF RESTRICTIVE COVENANTS**  
**Westbrook Subdivision**  
**(Commerce Park)**

The undersigned, being the owners of the following described real property:

Lot 1 through 10, inclusive, of Block 3, Lots B, C, D, E, F, of Westbrook Subdivision, Dubuque County, Iowa;

hereby make the following declarations as to limitations, restrictions and uses to Lot 1 through 10, inclusive, of Block 3, Lots B, C, D, E, F, of Westbrook Subdivision, Dubuque County, Iowa; hereby specifying that said declarations shall constitute covenants to run with all said lots, as provided by law, and shall be binding upon the heirs, successors and assigns of all parties and all persons claiming under them and for the benefit and limitation upon all future owners of Lot 1 through 10, inclusive, of Block 3, Lots B, C, D, E, F, of Westbrook Subdivision, Dubuque County, Iowa;

The following provisions are set forth to guide the initial development and provide a format of the ongoing management of the commercial park located in Westbrook Subdivision. It is the objective of these provisions to set forth minimum standards and restrictions to create a business center that emphasizes the general appearance and aesthetics of the center.

1. **GENERAL REQUIREMENTS.** No building, fence, wall or other structure shall be commenced or erected upon any Lot, nor shall any exterior addition to or change or alteration therein be made, nor shall any landscaping be performed, nor shall any filling, grading or excavation be commenced until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing by Callahan Construction, Inc. and the City of Dubuque, Iowa as to harmony of external design and location in relation to surrounding structures and topography.
2. Exterior storage is prohibited on lots fronting Scippel Road. On all other lots storage shall be limited to raw or finished goods and equipment and shall occur only on the rear or side yards. Front yard storage is prohibited. All exterior storage shall be screened to eliminate the visual impact of the items stored by obscuring them from view outside the premises. Screening materials shall be similar in color to the building, shall be 100%

\$17.00  
Callahan Const.

opaque, and shall be at least six feet (6') in height but no more than fifteen feet (15') in height.

3. There shall be no underground storage tanks. Outdoor storage restrictions and screening requirements shall occur in accordance with the Agreement between the City of Dubuque, Iowa and Callahan Construction, Inc., filed on the 1st day of July, 2004, as Instrument No. 11716-04 of the records of Dubuque County, Iowa, which is herein incorporated by this reference. The Agreement is binding upon owners of the real property to which these Restrictive Covenants apply.
4. It shall be the responsibility of the Owner to maintain and repair public sidewalk surfaces to the Owner's lot and to keep the same free and clear of ice, snow, defects or nuisances. Sidewalks will be constructed to City of Dubuque standards, state standards and all other regulations of applicable governing bodies.
5. The Owner of any lot, vacant or improved, shall maintain the lot at all times in clean, safe, orderly and sanitary condition. Plant material and lawn areas shall be continually maintained in a manner consistent with the growing requirements and characteristics of each planted species.
6. Invalidation of any one of or a portion of the provisions of this Declaration by court judgment or order shall neither affect nor invalidate any other provision, and the same shall remain in full force and effect.
7. Any firm, person, corporation or other entity which shall succeed to title of any lot through foreclosure of a mortgage or other security instrument or through other legal proceedings shall succeed to the rights, duties and liabilities of the previous Owner as herein provided.
8. The covenants and restrictions of this Declaration shall run with the land and bind the same and shall inure to the benefit of, and be enforceable by, the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 21 years from the date this Declaration is recorded. Any interested party may (prior to the expiration of these covenants) file a verified claim pursuant to Iowa Code Section 614.24 to extend these covenants for an additional 21 years.
9. In the event any Owner fails or neglects to perform its rights, duties and obligations in accordance with the intents, purposes and provisions of this Declaration, any owner may take such further action as may be necessary, from time to time, to ensure that the objects and purposes of this Declaration are being fulfilled.
10. The City of Dubuque zoning requirements for a CS District are to be strictly followed.
11. The City Development Board has approved the voluntary annexation of certain land to the City of Dubuque, Iowa, which land includes the property described herein and which

decision has been filed with the Dubuque County Recorder on February 24, 2005, as Instrument No. 2005-00002561. The City of Asbury has appealed the decision to the Iowa District Court in and for Dubuque County, Case No. CVCV 94478. The appeal is pending. In the event the appeal is not successful and the City Development Board decision approving annexation of the above-described property to the City of Dubuque is not set aside, no further action on behalf of the property owner is required regarding this issue. In the event the City Development Board decision is set aside, voided, reversed or other action taken resulting in the annexation to the City of Dubuque being vacated and the property being returned to Dubuque County jurisdiction, then Owner of any lot shall cooperate in signing any and all documentation sought by the developer, Joel M. Callahan of Callahan Construction, Inc. to assist in the annexation to the City of Dubuque, Iowa, of the property subject to these Restrictive Covenants.

IN WITNESS WHEREOF, the foregoing instrument has been executed this 1<sup>ST</sup> day of MARCH, 2005.

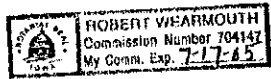
CALLAHAN CONSTRUCTION, INC.

By: Joel M. Callahan  
Joel M. Callahan, President

By: Joel M. Callahan  
Joel M. Callahan, Secretary

STATE OF IOWA            )  
                                  )  
DUBUQUE COUNTY        )        ss.

On this 1<sup>ST</sup> day of MARCH, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Joel M. Callahan, to me personally known, who being by me duly sworn, did say that he is the President and Secretary of said corporation; 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 Joel M. Callahan 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.



Robert Wearmouth  
Notary Public in and for said State