

13621-2003

11

STATE OF ILLINOIS		SS
WHITESIDE COUNTY		
Filed in the Recorder's Office of said County		
SEP 26 2003		
On		
at	9:30	O'clock
		A. M.
By	<i>David M. Young</i>	Recorder
	<i>Carol J. Gady</i>	Deputy

RESTRICTIVE COVENANTS AND CONDITIONS AFFECTING AND  
APPLYING TO THE LOTS AND LANDS OF THE CITY OF ROCK FALLS, ILLINOIS  
LOCATED WITHIN ROCK FALLS INDUSTRIAL PARK SUBDIVISIONS:

- Subdivision #2: Detention Pond, PIN No. 11-34-251-003;
- Subdivision #2: Lots 16 and 19 PIN No. 11-34-251-004;
- Subdivision #3: Part of Lot 1, PIN No. 11-34-277-007;
- Subdivision #5: Lots 4 and 9 PIN No. 11-34-276-015;
- Subdivision #6: Lots 1 and 2 PIN No. 11-35-101-005; and
- Subdivision #7: Lots 12 through 16, PIN No. 11-35-152-007

*Drafted by  
and*

Return to: James L. Reese  
Ward, Murray, Pace & Johnson, P.C.  
202 East Fifth Street  
P.O. Box 400  
Sterling, IL 61081-0400

32

**ROCK FALLS INDUSTRIAL PARK**  
**Restrictive Covenants**

The City of Rock Falls, Illinois, a Municipal Corporation, acting by and through its City Council (referred to herein as "City Council") being duly vested with authority to acquire, own, develop and sell real estate for industrial or commercial purposes, does hereby adopt the following as covenants, conditions and restrictions to be applicable to, binding upon and to be a covenant to run with the land and be binding upon all successors in interest to any of the lots, lands, tenements and hereditaments of the real property of the City of Rock Falls to which these covenants, conditions and restrictions are made applicable. Said covenants, conditions and restrictions are adopted for the purpose of establishment and maintenance of character and quality of usage of the lots and lands described herein.

**I. Land described.**

The following is the description of the lots and lands to which the covenants, conditions and restrictions set forth herein are appended and to which the covenants, conditions and restrictions are made applicable:

Rock Falls Industrial Park Subdivision #2 Detention Pond, Lots and 19;  
Rock Falls, Industrial Park Subdivision #3 Part of Lot 1; Rock Falls Industrial  
Park Subdivision #5 Lots 4 and 9; and Rock Falls Industrial Park Subdivision #6  
Lots 1 and 2; and, Rock Falls Industrial Park Subdivision #7 Lots 12 through 16.

Said lots and lands are generally referred to herein as "Park" and said reference, being singular, shall apply to each lot or parcel of real estate which may be subsequently separated or partitioned from all of that real estate described within this paragraph, and use of the word "Park" shall refer to each separate lot or parcel which may be subsequently set apart from or conveyed to a separate grantee.

**II. Use**

**A. Approved Uses.** Subject to applicable zoning restrictions and to specific prohibited uses as set forth in sub-paragraph D below, uses which are approved for the "Park" include:

1. manufacturing and assembly.
2. warehouse, office and distribution.
3. research, R&D production and research-related data processing.
4. office, headquarters, training facilities, support services, call centers and wholesalers.

5. retail and service uses that serve the convenience needs of other park occupants and that are compatible with the park master plan

**B. Prohibited Uses.** No use of the "Park" shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise, vibration or other pollution, nor shall any use be permitted which is hazardous by reason of excessive danger of fire or explosion, which may be injurious to any property or persons on or about the "Park" line, and any dust, smoke or other airborne pollutants visible outside of a building shall be considered offensive. Any noise shall be considered offensive if audible at the lot line adjacent to residential areas at levels greater than permitted by the Occupational Safety and Health Administration for persons working in industrial positions without ear protective devices.

Uses that are prohibited include the following.

1. Parking lots or equipment storage (as a principal use).
2. In-patient medical facilities including hospitals, nursing or convalescent homes, rehabilitation centers and halfway houses.
3. Flea markets; pawn shops; junkyards and auto wrecking yards; antique stores; bait shops; used clothing and furniture shops; secondhand stores; personal property rental establishments whose primary business is a short term rental of personal property.
4. Bowling alleys; pool halls; drive-in theaters; suntan centers (as a principal use).
5. Retail business not related to or supporting of businesses in the Industrial Park.
6. Containment or raising of live stock or farm animals.
7. Residential dwellings.
8. Individual warehouse units which are constructed as a part of a group of such individual units and which are intended to be individually leased or rented to users other than the owner or operator of the storage units. Such units are sometimes referred to as "mini warehouse facilities."

**C. Hazardous Materials.** No Hazardous Materials of any kind shall be permanently stored in or disposed of in the "Park". As used herein, Hazardous Materials shall mean:

1. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and rules or regulations promulgated thereunder;
2. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and rules and regulations promulgated thereunder, but excluding oil, petroleum products and their by-products.
3. Any substance which is regulated by any federal, state or local governmental authority or that is the subject of any law, rule or regulation.

**D. Plan Approval.** Prior to the commencement of construction, addition or reconstruction of any improvement to the "Park" (including buildings, auxiliary buildings, signs, walls, fences, outside lighting, landscaping, driveways and parking areas), the Owner thereof must submit to the Rock Falls Industrial Development Commission ("Commission") for its written approval two sets of complete plans and specifications for the proposed construction, alteration or reconstruction. All plans and specifications submitted shall be prepared by a qualified, registered architect or contractor who shall certify in writing that he/she has and will prepare the plans in accordance with all zoning, building, health and safety ordinances, codes and laws and in accordance with all applicable easements and setbacks pertaining to the "Park". The plans and specifications shall require all contractors and subcontractors on the proposed project to acknowledge receipt of and agree to abide by these conditions. The plans and specifications shall include such detail as the Commission shall require to show the size, shape, floor plans, section details, square footage, height (including elevation drawings of all exterior walls), site plan, foundation plan, roof plans, all grading and landscaping plans, any proposed changes to be made in the elevation or surface conditions of the "Park", all exterior improvements, and building materials. The Commission shall make its determination on approval of the plans and specifications, lot grading and landscaping plans, based upon the suitability and durability of the proposed construction, the quality of the building materials and overall construction, the harmony of external design and the effect and appearance of such proposed project as viewed from the streets and neighboring properties. The Commission shall have 30 days from submission of plans and specifications to render either a written approval or written rejection thereof stating specifically the basis of objections. A rejection may also contain suggestions for changes to the plans and specifications, etc. which would make such project acceptable. If the Commission gives no response within 30 days of receipt of the plans and specification as submitted shall be deemed to be approved. The Commission need not respond until a complete set of plans and specifications is submitted and need not review submissions from anyone but an Owner of a lot or other person or entity with a valid interest in a lot.

compliance with zoning, building, health or safety codes or ordinances or any other restrictions on the construction or property, other than the restrictive covenants contained herein.

Construction of a project approved by the Commission in accordance with this paragraph shall be in accordance with the plans and specifications approved by the Commission.

**III. Construction Site Standards.** Construction and the conduct thereof shall comply with all governmental requirements as to health and safety. In addition, building and site plans the Owner shall address, at a minimum, erosion control, parking for construction workmen, office trailers in the "Park", materials storage location of telephones and vending machines, security, design, location and disposal of sewage during construction, cleaning and policing of the construction site and protection of streets, street right-of-ways and property adjoining the building site. These may be addressed in plan notes or letter form. No temporary building, job trailers or the like shall be permitted in the "Park" except those incident to construction while an approved building is being constructed therein and shall be removed within 30 days following the issuance of a permanent certificate of occupancy by the City of Rock Falls. When the construction of the project is begun, work therein shall be prosecuted diligently and continuously, as determined by the Commission and City Building Code time frames, until full completion. Any building shall be substantially completed prior to occupancy of any part thereof, and landscaping shall be fully completed within 30 days following initial occupancy, weather permitting or as determined by the Commission.

**IV. Lot Coverage and Setback Requirements.** In all cases, buildings shall be set back a minimum of 30 feet from street right-of-ways. Sideyard setbacks and rear setbacks will be a minimum of 25 feet, complying with ordinance. Within these setback areas, nothing is permitted except walks, turf and landscaping unless such exception is specifically approved by the Commission, but provided that the Commission may vary established setbacks in special circumstances.

**V. Utility Easements.** Anyone making use of the utility easements as set forth on the plat of the "Park" shall be responsible for restoration of all landscaping disturbed by such work. No improvements, other than walks, turf and landscaping shall be made within an easement area.

**VI. Parking.** All parking areas and service drives shall be paved or a bituminous surface. No use shall be made of the lot or building constructed therein which requires or is reasonably expected to require and attract parking in excess of the parking facilities of such lot. Parking will not be permitted on streets or in the "Park" except in paved parking areas designed for parking. Owners shall enforce all fire lane and other "no parking" restrictions on paved areas within their lots as required by the applicable fire safety authorities.

**VII. Landscaping.** Retention of Commission - installed landscaping in the "Park", if any, is considered desirable and no such landscaping shall be removed or damaged except that laying within the actual location of improvements (buildings, driveways and parking

**VII. Landscaping.** Retention of Commission – installed landscaping in the “Park”, if any, is considered desirable and no such landscaping shall be removed or damaged except that laying within the actual location of improvements (buildings, driveways and parking areas) unless such removal is consented to by the Commission. Purposed removal of any Commission installed landscaping shall be identified in the plans and specifications submitted to the Commission for its approval pursuant to Paragraph II.

Once installed, the landscaping shall be maintained in good condition and regularly mowed.

**VIII. Required Development.** The Owner shall commence the construction of improvements in the “Park” in accordance with approved plans from the Commission. If the construction is not timely commenced, or once commenced, not diligently pursued to completion, the Owner shall nonetheless be required to install acceptable landscaping in the entire “Park”. Such landscaping shall comply with the requirements of Paragraph VII and shall include, at a minimum, the seeding of the entire ground surface of the “Park”. If the Owner fails to either install or maintain the landscaping, the Commission, shall have the right, privilege and license (but not the obligation) to do so, and all amounts expended by the Commission, together with a surcharge of twelve (12) percent per annum of cost for overhead plus all legal fees incurred by the Commission in enforcing this provision shall be, upon written demand of the Commission, immediately due and payable by the Owner. If not paid by the Owner within thirty (30) days of demand, the charges shall bear interest at the rate of 12% per annum and shall be collectible for all lawful means. The charges, together with interest thereon, shall also constitute a lien against the “Park” on or for which the work was performed.

**IX. Option to Repurchase.** If an Owner fails to commence construction of improvements in the “Park” within one year of its purchase of a lot from the Commission or, after commencement of construction, fails to diligently pursue the construction to completion, so that the development is completed in substantial accordance with plans and specifications approved by the Commission on or before the first anniversary date of the Owner’s purchase of the lot from the Commission, then the Commission shall have the option to repurchase the lot for the same price paid by the owner to the Commission. This option shall be exercised by the Commission within ninety (90) days of the event giving rise to such option by written notice to said Owner or its successors in interest. If the option is not so timely exercised, it shall expire and be of no further force or effect. The notice shall specify a closing date between thirty (30) days and sixty (60) days of the date of the notice. The lot shall be conveyed by general warranty deed, free and clear of all tenancies, liens or encumbrances.

This Instrument shall put all parties on notice of this Option to Repurchase and no separate agreement need be executed by an Owner (or its successors in interest) in order to validate the Commission’s option hereunder.

Freestanding signs may not be erected in any street right-of-way. All proposed signs are subject to the approval of the Commission pursuant to Paragraph III.

Signs can be painted directly on the exterior walls of a building with approval of the Commission. No window signs, banners or "For Sale" or "For Rent" signs may be erected unless specifically approved by the Commission. No portable flashing or exposed tubular type signs shall be permitted.

**XI. Lighting.** All lighting shall be directed away from adjacent properties and shall be positioned to eliminate glare on streets and driveways. No permanent neon lights, intermittent or flashing lights shall be allowed. Only shaded light sources shall be used to illuminate signs, facades, buildings, parking and loading areas.

**XII. Screening.** Stand fans, air conditioning units, cooling towers, elevator penthouses, vents and all other structures or equipment which rise above the roof line shall be architecturally compatible or effectively shielded from ground view by architecturally sound methods which will be shown on the plans and specifications submitted to the Commission pursuant to Paragraph III.

Any ground equipment located outside of a building shall not be located between a building and any street and where possible, shall not be visible from any street. All such equipment shall be screened or shielded from view in an architecturally harmonious manner.

No permanent storage of any articles, goods or materials shall be permitted outside any building, unless fencing or other screening completely surrounds the material so that the material cannot be viewed from off the lot.

**XIII. Maintenance.** The owner of the lot shall have a duty and responsibility to:

1. Keep the premises, structures, improvements, parking lot, appurtenances and landscaping so that all conform with these restrictive covenants and in a maintained, safe, clean and attractive condition at all times.
2. Comply in all respects with governmental, health, fire and police requirements.
3. Remove promptly any rubbish of any character whatsoever that may accumulate on a lot. Trash or rubbish must be placed in appropriate containers as defined by the Commission. Trash or rubbish must not be placed or stored between any building and the edge of any abutting street

appropriate containers as defined by the Commission. Trash or rubbish must not be placed or stored between any building and the edge of any abutting street

4. Maintain all required landscaping and shall specifically (i) keep grass cut to not over 6 inches in height (ii) remove all dead or diseased trees and shrubbery (iii) perform such additional planting, seeding, sodding and grading work as necessary to prevent soil erosion, and (iv) keep any native grass planting free from intrusive woody plants.

If, in the opinion of the Commission, anyone who fails in any given responsibility set forth in this paragraph, then the Commission may give such Owner notice of failure and such Owner must, within 10 days of receipt of such notice, undertake the work required to restore said Owner's site to a safe, clean, attractive and lawful condition complying with these covenants. Should any such Owner fail to timely fulfill this duty and responsibility after such notice, then the Commission shall have the right, license and power, but not the obligation, to perform such area maintenance. The Owner of a lot shall be liable for the cost of any such work, and shall reimburse the Commission for all reasonable expenses, including attorney fees, incurred in collecting such costs. In addition, each owner of a lot subject to this paragraph hereby consents to and gives and grants to the Commission and to the City a lien upon such lot to serve as collateral for the repayment of the costs and expenses owed, which lien may be perfected by the filing by the Commission in the Recorder's Office of Whiteside County, Illinois of a Notice of Claim for Lien setting forth the amount owed, the lot to which the lien applies, the name and last known address of the owner of said lot, and the general nature of the work performed giving rise to the claim.

**XIV. Utilities.** All electric, telephone and other utility lines in or servicing the "Park" must be underground. It is the responsibility of the Owner or occupant of the lot to make arrangements with the suppliers of electrical, water, sewer and other utility appurtenances which are required to be above ground, shall be located where possible at the front of the building.

**XV. Violations.** If any person, firm, corporation or other entity owning or holding any interest in any lot, land or part of the subdivisions to which these restrictive covenants apply shall violate any of the covenants or restrictions set forth herein, then in order to redress such violations, the Commission shall have the following powers and authority, all of which shall be cumulative and not exclusive:

1. To file and maintain in the name of the City of Rock Falls an action at law for the recovery of damages from the person or persons violating these covenants, and including in such recovery all costs and expenses incurred in such action, including reasonable attorney fees.

these covenants and restrictions. For this purpose, each owner of any lot, land or portion of the subdivisions to which these restrictive covenants and conditions apply does hereby acknowledge and agree that a remedy at law may be inadequate to secure redress and remedy arising from violation of these covenants, and does further acknowledge and agree that damages may be inadequate to properly compensate the Commission or the City of Rock Falls for damage arising from violation of these covenants and restrictions. Each such owner of any lot, land or portion of the subdivisions does therefore acknowledge and agree that a court of competent jurisdiction shall have full authority to enter mandatory or prohibitory injunctions, preliminary or permanent, and restraining orders in accord with and pursuant to this provision.

**XVI. Minor Variances; Waiver.** Where a building or other improvement has been or is about to be erected in the "Park" in such a manner as to constitute a minor violation of, or variance from the covenants or restrictions herein set forth, the Commission shall have the right to waive or release the variance or minor violation.

**XVII. Severability.** Invalidity of any one or more of the provisions of these covenants and restrictions shall not affect the validity or enforceability of any of the other provisions, hereof, which shall remain in full force and effect.

**XVIII. Additional Restrictions.** The owner shall not, without the prior written consent of the Commission, impose any additional covenants or restrictions in the "Park" or any part thereof, but the Commission may include in any contract or deed hereinafter made and covering all or any portion of said "Part" any additional covenants or restrictions applicable to the "Park" which are not consistent with and which do not lower the standards of the covenants set forth herein.

**XIX. Further Subdivision Prohibited.** No lot which has been designated as a building lot on the original plat of subdivision of any subdivision to which these covenants and restrictions apply shall be further subdivided by any future owner thereof except with the express written consent of the Commission.

**XX. Titles.** The addition of titles to the various paragraphs in this instrument are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change, or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not titled.

**XXI.** The property owner must comply with all city ordinances and covenants.

**XXII. Duration and Amendment.** Each of the conditions, covenants, restrictions and reservations set forth above shall continue and be binding for a period of twenty-five (25) years from the date hereof. The conditions, covenants, restrictions and reservations shall

**XXII. Duration and Amendment.** Each of the conditions, covenants, restrictions and reservations set forth above shall continue and be binding for a period of twenty-five (25) years from the date hereof. The conditions, covenants, restrictions and reservations shall automatically be continued thereafter for successive periods of twenty (20) years each. Provided, however, that said conditions, covenants, restrictions and reservations set forth above may be amended or altered in accordance with the following:

1. So long as any of the lots or lands within the subdivision to which these conditions, covenants, restrictions and reservations are applicable are owned by the City of Rock Falls, then said conditions, covenants, restrictions and reservations may be amended by adoption by the City Council of the City of Rock Falls, by two-thirds (2/3) majority vote, of an ordinance amending the same.
2. At the time when the City of Rock Falls no longer owns any of the lots or lands within the subdivision to which these conditions, covenants, restrictions and reservations apply, said conditions, covenants, restrictions and reservations may be amended or altered by execution of a written instrument containing said amendment or alteration and executed by the owners of seventy-five percent (75%) in number of the lots within the subdivision.
3. Any amendment or alteration in the these covenants shall be effective only from the time a duly adopted and executed original thereof shall have been recorded in the Office of the Recorder of Whiteside County, Illinois.

**City of Rock Falls, Illinois**  
**Industrial Development Commission**

By \_\_\_\_\_  
Title

Attest: \_\_\_\_\_  
Secretary

