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**DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS FOR HEMINGWAY PLAT 1, WAUKEE, IOWA**

**Preparer Information:**

Jerry P. Alt  
Finley, Alt, Smith, Scharnberg  
Craig, Hilmes & Gaffney, P.C.  
699 Walnut Street  
1900 Hub Tower  
Des Moines, Iowa 50309

HEMINGWAY PLAT 1

**REFERENCE MADE**  
Book 2006 Page 1197

**Return Document To:**

Jerry P. Alt  
Finley, Alt, Smith, Scharnberg  
Craig, Hilmes & Gaffney, P.C.  
699 Walnut Street  
1900 Hub Tower  
Des Moines, Iowa 50309

**Grantors:**

Boardwalk Development Company No. II, L.L.C.

**Grantees:**

**Legal Description:** Lots 1 through 117 in HEMINGWAY PLAT 1, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.

**DECLARATION OF RESIDENTIAL COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
HEMINGWAY Plat 1, Waukee, Iowa**

THIS DECLARATION, made this 17 day of May, 2006.

WHEREAS, Declarant is the owner of certain real property known as HEMINGWAY Plat 1, located in Waukee, Dallas County, Iowa, more particularly described as:

Lots 1 through 117 in HEMINGWAY Plat 1, an Official Plat now included in and forming a part of the City of Waukee, Dallas County, Iowa

WHEREAS, Declarant is desirous of establishing covenants, restrictions, easements, conditions, uses, limitations and obligations on the above-referenced property.

NOW, THEREFORE, Declarant hereby publishes and declares that the above property shall be held, sold and conveyed subject to the following terms and conditions, 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 the land and all parties acquiring or owning any right, title or interest in any part of the property, their heirs, successors, assigns, grantees, executors, administrators and devisees:

**I. DEFINITIONS:**

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided.

- A. HEMINGWAY Plat 1 - shall mean and refer to the real property located in the residential subdivision described above.
- B. Declarant - shall mean "Boardwalk Development Company No. II, LLC, and its successor and assigns.
- C. Lot - shall mean and refer to any individual parcel of land which is described above as shown upon the recorded plat of HEMINGWAY Plat 1.
- D. Building Plot - shall mean and refer to one or more platted lots, or one platted lot and portion or portions of adjacent platted lots, in HEMINGWAY Plat 1.
- E. Owner - shall mean and refer to the record owner, whether one or more person or entities, legal or equitable title to any lot or building plot which is a part of HEMINGWAY Plat 1.
- F. Outbuilding - shall mean an enclosed covered structure directly attached to the residence to which it is appurtenant.

## II. DESIGNATION OF USE

All lots in HEMINGWAY Plat 1 shall be known and described as residential lots and shall not be developed with more than one single family dwelling each, which may include servants quarters, and shall not be improved, used or occupied for other than private residential purposes. No full time or part time business activity may be conducted on any lot or in any building or structure constructed or maintained on any lot in HEMINGWAY Plat 1, except model homes during the construction period.

## III. BUILDING TYPES

A. No building or structure shall be constructed, altered or maintained on any building plot other than a detached single family dwelling with a private garage, except as permitted under Section XXI. herein.

B. No structure of any kind, including any mobile home or manufactured home, shall be moved onto any lot in this tract.

C. No dwelling shall be erected which does not have toilet, bath and kitchen sink connected to the sewage disposal facility to this tract.

## IV. BUILDING AREA

No dwelling shall be constructed or permitted to remain upon any lot in this subdivision unless it meets the following ground floor area requirements:

A. One story dwellings must have a main floor finished area of not less than 900 square feet.

B. Split-foyer dwellings must have a main floor finished areas of not less than 875 square feet.

C. All multi-level dwellings, including, but not limited to, one and one-half story dwellings, two-story dwellings and dwellings having more than two stories, must have finished areas of not less than 1,150 square feet. No finished square footage in the basement area shall be considered in meeting the 1,150 square foot requirement of this subsection.

In the computation of ground floor area, the same shall not include any porches, breezeways, or attached or built-in garages.

## V. APPEARANCE OF STRUCTURES

All dwellings, outbuildings and structures shall compliment and harmonize with terrain and surrounding dwellings, and not contrast with them. The use of natural materials is encouraged, i.e., stained wood, stone, brick and earth-toned shingles. Building structures and trim are to be visually muted conservative, soft, natural or earth tone colors selected to compliment and harmonize the other dwellings in Hemingway. Building structures and trim shall not be bright, flamboyant, iridescent, brilliant or bold colors.

**VI. PROXIMITY AND ACCESS TO STREET**

No dwelling or other structure shall be located closer than 30 feet to any right-of-way line.

**VII. GARAGES**

Homes may be built without a double attached garage but only with written permission from the Declarant prior to the building permit being issued.

**VIII. DRIVEWAYS**

No building or structure shall be constructed, altered or maintained on any building plot unless it has a driveway from a street running to the improved premises. All driveways shall be constructed of concrete.

**IX. TEMPORARY STRUCTURES OR EQUIPMENT**

No building or structure of a temporary character and no trailer, basement, tent, shack, garage or outbuilding shall be used at any time as residential dwelling on any building plot either temporarily or permanently. All recreational vehicles, including boats shall be parked or stored in a garage.

**X. SWIMMING POOLS.**

No above-ground swimming pools shall be permitted on any lot; only in-ground swimming pools may be constructed on any lot.

**XI. SIGNS**

No sign of any kind or description shall be placed, exposed to view or permitted to remain on any lot or any street adjacent thereto, except street markers, traffic signs or other signs displayed by the City of Waukee or by other governmental units, except signs which have been approved by Declarant or its authorized agent not exceeding 144 square inches in area upon which there shall only be exhibited the street number or name, or both of the resident. In the event that any sign, other than those described above, shall be placed or exposed to view on any of the lots restricted hereby, the officers or agents of the Declarant are hereby given the right to enter upon those lots and removed said signs. Real estate signs by the Declarant will be permitted until such development is completed. Signs not exceeding six square feet in size, to show property for sale, shall be permitted. Signs shall comply with all the sign ordinances of the City of Waukee, Iowa.

**XII. TRASH RECEPTACLES**

No trash receptacles or garbage cans shall be permitted to be placed outside a residence or garage except as necessary for regular collection.

### **XIII. UTILITIES**

All utility connection facilities and services shall be underground. No individual water supply system shall be permitted on any building lot.

### **XIV. TOWERS, ANTENNAE AND SATELLITE RECEIVERS**

A. No exterior towers or antennae of any kind shall be constructed, modified or permitted on the ground of any building or on any dwelling or garage. All antennae shall be concealed within the attic space of the dwelling or garage.

B. Direct broadcast signal parabolic antennae (satellite receivers) shall be no larger than eighteen (18) inches in diameter and concealed from view to the extent possible.

### **XV. LANDSCAPE CONTROL AND CONSTRUCTION**

A. Any trees removed from the lot must be replaced by similar trees except where trees are dead or dying or in the direct way of home location, driveway, etc.

B. After construction, the entire lot must be sodded with cultured quality sod where reasonable. It is the responsibility of the Declarant to make the determination of reasonable areas.

### **XVI. NUISANCES**

No noxious or offensive sounds, activities or odors shall be permitted on or to escape from any building plot, nor shall anything be done thereon which is, or may become, an annoyance or a nuisance, either temporarily or permanently.

### **XVII. LIVESTOCK AND POULTRY PROHIBITED**

No animals, livestock or poultry or any kind shall be raised, bred or kept on any lot thereby restricted, 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. In no event, however, shall more than two dogs or cats be maintained on any one building plot at any one time. All such pets must be kept in the residence. No outside pet facilities are allowed.

### **XVIII. EASEMENTS**

Easements for installation and maintenance of utilities, and surface water drainage facilities, are reserved as shown on the recorded plat of HEMINGWAY Plat 1. The owner or occupant of a building plot shall, at his own expense, keep and preserve that portion of the easement within his property in good repair and condition at all times, and shall neither erect nor permit erection of any building, structure or fences of any kind, nor permit any growth of any kind within said easement which might interfere in any way with the use and maintenance of the utility services and drainage areas located within the easements.

### **XIX. WEED CONTROL**

The owner or person in possession on each lot, whether vacant or improved, shall keep the same free of weeds and debris and keep all lawns mowed, and failing this, agree that after written notice, given by certified mail, from Declarant, or in the event that it be dissolved, then by any property owner owning property within 500 feet of such lot, those weeds shall be cut, the lawn mowed and such debris shall be removed within ten (10) days, failing which Declarant, or the property owner giving such notice, as the case may be, may enter upon the property to cut or cause to be removed such debris, and shall have a right of action against the owner of such lot for collection of the cost thereof, which shall be a lien against such lot until paid.

### **XX. ENFORCEMENT**

If any party shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, it shall be lawful for any owner owning any building plot in HEMINGWAY Plat 1 entitled to the protection provided herein to prosecute proceeding in law or in equity against the person or persons violating or attempting to violate such covenants, conditions or restrictions, and to either prevent him or them from doing so or recover damages for such violations.

### **XXI. ACCESSORY STRUCTURES**

Any trash receptacle, tool shed or other out structure of like nature shall be properly screened by privacy fence and/or shrubbery. Swimming pools, tennis courts, tool sheds or other accessory structure or improvements shall not extend farther than the front line of the residence extended to the side lot lines and shall not be located within 20 feet of any side or rear lot line, subject to the City of Waukee ordinances.

### **XXII. MODIFICATION OF RESTRICTIONS**

The covenants, restrictions and provisions of this instrument shall be deemed covenants running with the land and shall remain in full force and effect until December, 2021, at which time said covenants, restrictions and provisions are amended, modified, changed or canceled, in whole or in part, by written agreement signed by the owner or owners of more than fifty (50) percent of the lots hereby restricted, and recorded in the office of the Recorder of Dallas County, Iowa at least one (1) year prior to the original expiration date or to a subsequent expiration date, whichever is applicable. However, Declarant has the right to amend said covenants, restrictions and provisions including square footage requirements at any time during which Declarant has an ownership interest in any lot in HEMINGWAY Plat 1.

### **XXIII. SURFACE WATER**

The topography of HEMINGWAY Plat 1 is such that surface water may flow from certain building plots on to other building plots. In regard to all matters concerning surface water, each building plot shall be subject to such easements as may exist for the flowage water under the law of the State of Iowa, as may be in effect from time to time; and all owners shall have such rights and obligations with respect thereto as may be provided by such law.

**XXIV. SEVERABILITY**

Invalidation of any of these covenants, conditions or restrictions by judgment or court shall not in any way affect any of the other covenants, conditions or restrictions contained herein which shall remain in full force and effect.

**XXV. FENCES**

In the event any owner of any lot desires to erect a fence on the lot so owned, the owner shall submit to the Declarant a proposal outlining the location and materials to be used in the erection of the fence. The Declarant shall have, in its sole discretion, the right to approve or disapprove of the fence and the owner shall not erect the fence if approval is not granted by the Declarant.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has hereunto set its hand as of the day and year first above written.

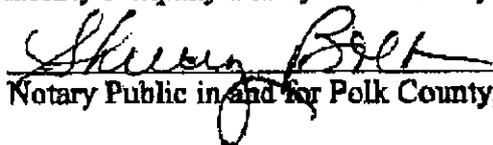
BOARDWALK DEVELOPMENT COMPANY NO. II, LLC

  
By: Stephen R. Grubb, President

STATE OF IOWA )  
                  )ss:  
COUNTY OF POLK )

On this 17 day of May, 2006, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Stephen R. Grubb to me personally known, who being by me duly sworn, did say that the person is the president of Stephen R. Grubb Construction, Inc., member of said Boardwalk Development Company No. II, L.L.C., and that no seal has been procured by the said limited liability company and that said instrument was signed on behalf of said limited liability company by authority of its managers and said Stephen R. Grubb acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company and by it voluntarily executed.



  
Notary Public in and for Polk County, Iowa