

3685D



Doc ID: 021865380011 Type: GEN
Kind: COVENANT
Recorded: 06/23/2010 at 11:49:58 AM
Fee Amt: \$59.00 Page 1 of 11
Johnson County Iowa
Kim Painter County Recorder
BK 4608 PG 471-481

Prepared by: Douglas D. Ruppert, 122 South Linn Street, Iowa City, IA 52240, (319) 338-9222
Return to: Douglas D. Ruppert, 122 South Linn Street, Iowa City, IA 52240

**PROTECTIVE COVENANTS AND RESTRICTIONS OF
CEDAR SPRINGS - PART TEN TO NORTH LIBERTY, IOWA**

KNOW ALL MEN BY THESE PRESENTS:

That CEDAR SPRINGS PARTNERS, L.L.C., an Iowa Limited Liability Company ("Cedar Springs"), being the owner of the following described real estate (said real estate hereinafter being variously referred to as "lot," "lots" or "subdivision"), to wit:

Lots 303 through 316, both inclusive, Cedar Springs - Part Ten, North Liberty, Iowa, according to the final plat thereof recorded in Book 55, at Page 29, Plat Records of Johnson County, Iowa,

in order to establish and maintain the residential character of said real estate as heretofore described, do hereby covenant and agree with persons who may hereafter own lots or any one of several of the lots, or any right, title or interest therein of any nature whatsoever regardless of the nature by which such ownership or interest was acquired, that the use and sale of the lots is subject to the following restrictive covenants, all of which are to be construed as restrictive covenants, running with the title to such lots and with each and every portion thereof, to wit:

A. GENERAL RESTRICTIONS.

1. Except as noted herein, all of said lots shall be known, described and used solely as residential lots and no structure shall be erected on any residential lot other than one zero lot line laterally attached duplex dwelling. No improvement or structure whatever, other than a first class zero lot line laterally attached duplex dwelling, garage, patio, or swimming pool may be erected, placed or maintained on any lot in such premises. No above ground swimming pools of any type shall be erected or installed on the above said lots, unless approved in writing by Cedar Springs or its representative or designee. A swimming pool shall be defined as any opening larger than 40 square feet of surface water. All swimming pools must be $\frac{3}{4}$ below the normal ground level when properly graded to drain.

2. No zero lot line laterally attached duplex dwelling shall exceed two and a half stories in height, unless otherwise approved by Cedar Springs, provided, however, that the restrictions of this and subsequent paragraphs shall not prohibit the erection or development of a public park, public school, or church on any of said lots.

3. Prior to any construction, two (2) sets of plans and specifications for the proposed structure shall be submitted to Cedar Springs or its designee for approval. In addition to plans and specifications for structure, the applicant shall submit a site plan or other material showing the location and type of fences, parking areas, plantings and landscaping, including trees and light posts in the front yard, and other relevant matters, including the location on the lot of all proposed improvements, the materials to be used and the exterior color scheme proposed. The application shall also set forth a time schedule for construction of improvements, and in no event will an application be approved when the proposed construction will take longer than twelve months. Cedar Springs or its designee shall approve or disapprove the application within a period of ten (10) business days after receipt of all of the above documents. Cedar Springs or its designee shall have the right to refuse approval of any application for any reason which Cedar Springs or its designee, in its sole discretion, may deem to be in the best interest of the subdivision. In the event any proposed construction is not commenced within one (1) year from the date said plans and specifications have been approved by Cedar Springs, said approval shall lapse and it shall be the responsibility of the lot owner to reapply for approval prior to the commencement of construction.

4. No outside antennas or towers, other than one satellite dish not to exceed 18 inches in diameter located so as not to be visible from the street, may be installed, nor sheds, pet runs, or other outbuildings or structures of any kind may be erected on any of the lots with the subdivision. No fences shall be erected on any lot without the prior written approval of Cedar Springs.

5. No activity shall be allowed which unduly interferes with the peaceful possession and residential use nor shall any unsightly accumulation of refuse be permitted on any lot within the subdivision.

6. No business other than a professional occupation operated solely by family members occupying the residence shall be conducted in any dwelling located in the subdivision. No noxious or offensive activity shall be carried on in the subdivision nor shall anything be done in the subdivision which may be or become an annoyance or nuisance to the neighborhood.

7. No outdoor pet facilities may be kept or maintained on any lot. Any pet making a disturbance on a regular basis which disturbs the tranquility and character of the neighborhood shall be considered a nuisance and be subject to removal pursuant to these restrictive covenants. No animals, livestock or poultry of any kind shall be kept, bred or maintained for sale or any commercial purposes. Any person owning or keeping a pet shall be responsible for and shall at all times clean up any waste or excrement from such pet. Said pet shall not be permitted to urinate or defecate on the lot of any other owner, and shall be on a leash when walked by the owner thereof.

8. No burning of refuse shall be permitted outside of each residence, except that burning of leaves will be permitted as or if allowed by ordinance of the City of North Liberty from time to time.

9. No campers, boats, trailers, trucks, or other motor vehicles, or other recreational vehicles, shall be maintained, parked or kept more than 48 hours for any purpose on any lots or roadways within the subdivision, except within the enclosed garage. Further, no trucks, trailers, or commercial vehicles rated larger than ¾ ton pickup shall be maintained or parked overnight for any purpose in the subdivision, except that the builder/developer shall be able to maintain or park such vehicles until such time as the subdivision is completed. No inoperable, dismantled, or wrecked motor vehicles, trailers, automobiles, or any other vehicles, or machinery or parts

thereof, including scrap metals or other scrap materials shall be permitted to be upon or remain upon any lot or roadway within the subdivision. No personal property shall be stored or left upon a lot except within the garage located upon the lot. Garage doors shall be kept closed except during times of access to the garage.

10. No plants or seed, or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a lot in the subdivision.

11. There shall be no more than one name plate on each residence. A name plate shall be no more than 200 square inches in area and contain the name of the occupant or the name and address of the residence. It may be located at the door of the residence or the wall adjacent to the door.

12. No above ground communication, electric or television lines or cable shall be permitted to be placed anywhere in the subdivision other than within the residences. It is intended that all such necessary and approved conduits and cables will be constructed, placed and maintained underground.

13. Cedar Springs reserves the right to enter into agreements with the owner of any residence (without the consent of the owners of other residences within the subdivision), to deviate from any or all of the Covenants, provided there are practical difficulties or particular hardships evidenced by the owner of any residence desiring such deviation, and any such deviation (which shall be confirmed in a written agreement) shall not constitute a waiver of the particular Covenant involved or any other Covenant as to the remaining property in the subdivision.

14. No mobile home, modular home, premanufactured, or log cabin home shall be constructed or located on any lot.

15. No owner of a lot may lease the residence on a permanent basis or for a temporary lease of greater than one (1) year to any person or entity. Each residence shall be used and occupied only for single family or two family dwelling purposes and other common living arrangements, but in no event shall living arrangements exceed two persons per bedroom unit.

16. Any modification, remodeling, extension or expansion, including screen porches, decks, and storage facilities must have the approval of Cedar Springs, its successor or assignee. The changes, additions, alterations or modifications must be approved by Cedar Springs and must reasonably conform to the nature, character, style and structure of the units in the subdivision.

17. Each individual lot owner in the subdivision shall be entitled to reasonably landscape its lot in conformity with the general parklike landscaping of the subdivision. Cedar Springs, its successor or assignee, shall have the right to review and approve or disapprove any landscaping which would materially affect the appearance and maintenance of the lawns within the subdivision. In the event an owner fails to properly maintain any landscaping situated upon the lot, Cedar Springs shall have the right to enter upon the lot to remedy the situation and to thereafter assess the lot owner for any and all expenses incurred by Cedar Springs in rectifying the situation. Any such assessment shall be assessed and paid as set forth in Section C hereafter.

18. There shall be no driveway access onto Cedar Springs Drive for Lots 308 and 309, Cedar Springs - Part Ten.

19. Parking is prohibited on Cedar Springs Drive.

20. Sump pump collection systems shall be provided if basements are installed in dwellings built within the subdivision.

B. ZERO LOT LINE PROTECTIVE COVENANTS AND RESTRICTIONS.

1. The wall dividing the two laterally joined dwelling units shall be a party wall and the owner of each dwelling unit shall have the right to use said wall jointly with the owner of the other dwelling unit as provided for by Iowa law.

2. All common aspects, including but not limited to utilities, water, sanitary sewer, easements, driveway, shall be party utilities and easements and each owner of a dwelling unit shall have the right to use such common aspects, up to the point of their division, jointly with each owner of the adjoining dwelling.

3. Should the common wall or any common aspects, including but not limited to utilities, water, sanitary sewer, storm sewer, easements or driveway, be destroyed or damaged or require maintenance or repair for any reason, the owner of each dwelling unit shall be jointly and severally liable with the owner of the other dwelling unit for the costs reasonably necessary for replacement, maintenance and/or repair, except as may otherwise be set forth herein, provided that any sum received from joint insurance coverage shall first be applied to such replacements, maintenance and repairs. It is especially understood, however, that if replacement, maintenance and/or repairs are required because of the sole negligence of one of the owners of a dwelling unit or said owner's family or invitees, the cost thereof shall be at such owner's sole expense.

4. No owner of a dwelling unit shall in any way alter or change the common wall, interior decorations excepted, or any of the pipes, conduits, ducts, insulation or special components located therein without the written consent of the owner of the other dwelling unit.

5. Each owner of a dwelling unit shall be solely responsible for repairing and/or replacing the roof covering such dwelling unit. Each owner shall further be solely responsible for all replacement, maintenance and repairs of the interior and exterior of his or her dwelling unit, except as otherwise provided herein, and shall keep the exterior of his or her dwelling unit in good condition at all times. The following provisions shall govern exterior replacements, maintenance and repairs.

a. The owner of a dwelling unit may repair and replace exterior components of such dwelling unit with components similar to pre-existing components and of the same design and color, and may paint the exterior of such dwelling unit with paint of the existing color or colors, but such owner may not, either in the course of ordinary replacement, maintenance, repair and remodeling, or in restoration after damage or destruction, use different siding, roofing or other exterior components, or a different color scheme, unless the owner of the adjoining dwelling unit gives a written consent to do so.

b. In the event of any dispute arising between the owners of adjoining dwelling units concerning a change of siding, roofing materials, color scheme, or any other exterior components, each party shall choose one arbitrator and such arbitrators shall choose a third arbitrator, and the decision of the majority of all arbitrators shall be

final and conclusive of the question involved and binding on all parties. The arbitrators' decision shall be based on whether the proposed siding, roofing material, color scheme or other changes are in harmony with the design of the adjoining dwelling unit. If either party refuses or fails to appoint an arbitrator within ten (10) days of a written request to do so by the other party, such arbitrator may be appointed by any Judge of the District Court for Johnson County. Arbitration shall be in accordance with the rules of the American Arbitration Association and the costs thereof shall be shared equally by the parties.

6. The owner of each lot upon which a dwelling unit is located shall keep such lot free of weeds and debris and shall keep the lawn mowed and in good presentable condition.

7. If the common wall is damaged or destroyed by fire or other casualty or by physical deterioration, the owner of either dwelling unit may restore it and shall have an easement over the adjoining dwelling unit reasonably necessary for such restoration, and the owner of the adjoining dwelling unit shall contribute to the cost of restoration on an equal basis, without prejudice, however, to the right of any such owner to call for a larger contribution from the other owner under any rules of law regarding liability for negligent or willful acts or omissions.

8. If any existing portion of a dwelling unit or driveway encroaches upon an adjoining lot, or if any such encroachment shall hereafter arise because of settling or shifting of the building or other unintentional cause, there shall be deemed to be an easement in favor of the owner of the encroaching dwelling unit to the extent of such encroachment so long as the same shall exist.

9. Each owner of a dwelling unit agrees to indemnify and hold harmless the owner of the adjoining living unit from any mechanic's liens arising from work done or material supplied for repairs, replacements or improvements solely to their own dwelling unit or property.

10. In the event a dispute arises concerning any provision of these covenants and restrictions, each party shall choose one arbitrator and such arbitrators shall choose a third arbitrator, and the decision of the majority of all the arbitrators shall be final and conclusive of the questions presented and binding on all parties. If either party refuses or fails to appoint an arbitrator within ten (10) days of a written request to do so from

the other party, such arbitrator may be appointed by any Judge of the Iowa District Court for Johnson County. Arbitration shall be in accordance with the rules of the American Arbitration Association and the cost thereof shall be shared equally by the parties.

C. CEDAR SPRINGS HOMEOWNERS ASSOCIATION, INC.

1. Ownership of a lot, lots or a parcel established by a subdivision or zero lot line split of a lot in Cedar Springs - Part Ten shall automatically invoke membership in a non-profit owners' corporation under Chapter 504, Code of Iowa, named Cedar Springs Homeowners Association, Inc. (the "Association") which holds title to Outlot "B," Cedar Springs - Part One, and which will hold title to Outlot "A," Cedar Springs - Part Five, Outlot "A," Cedar Springs - Part Six, Outlot "C," Cedar Springs - Part Nine, and other common property in phases of Cedar Springs Additions. Ownership shall be subject to the applicable terms of the Articles of Incorporation and/or Bylaws of the corporation, including provision as therein made for assessments against all of such lots/parcels and owners for the purposes of landscaping and maintaining the common areas of the Cedar Springs Additions, and for the purpose of establishing and supporting nature trails and landscaping buffers within the Cedar Springs Additions, which assessments shall constitute liens against the lots enforceable as other liens. Lots owned by Cedar Springs shall not be subject to assessment or lien for expenses of the Association.

D. MISCELLANEOUS.

1. Duration. Each of the Covenants shall continue and be binding for an initial period of twenty-one (21) years from the date of these Protective Covenants and Restrictions.

2. Running with the Land. The Covenants shall run with the land and bind owners, their successors, grantees and assigns, and all other parties claiming by, through or under them.

3. Remedies for Violation of Covenants. Cedar Springs, their successors or assigns, Cedar Springs Homeowner's Association, Inc. and each owner or owners of any of the residences from time to time shall have the right jointly and separately, to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to

enforce the observance of, the Covenants in addition to the right to bring an ordinary legal action for damages. In no event shall the failure of any owner to enforce any of the Covenants as to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation. The prevailing party in any such action shall be entitled to recover its costs, expenses and reasonable attorneys' fees from the other party.

4. Modification. The record owners in fee simple of the residences in the subdivision may revoke, modify, amend or supplement in whole or in part any or all of the Covenants and conditions contained in this Declaration and may release the Real Estate from the Covenants, but only at the following time and in the following manner:

a. Any such change or changes may be made effective at any time from the date of recording of this Declaration if the record owners in fee simple of sixty-six percent (66%) of the lots in the subdivision consent to such change in writing.

b. Any such consents shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting owners and recorded in the Office of the Recorder of Johnson County, Iowa. A recordable certificate by an accredited abstractor, title guaranty company doing business in Johnson County, Iowa, or a Johnson County attorney, as to the record ownership of the Real Estate shall be deemed conclusive evidence with regard to compliance with the provisions of this section.

c. Cedar Springs reserves the right to amend these Covenants any number of times on or before December 31, 2014, without the consent of the owners of any of the lots in the subdivision.

5. Subordination. All Covenants, liens and other provisions set forth herein shall be subject to and subordinate to all mortgages or deed of trust in the nature of a mortgage now or hereafter executed, encumbering any of the Real Estate; and none of the Covenants, liens or other provisions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust in the nature of a mortgage. However, if any such property is acquired in lieu of foreclosure or sold under the foreclosure of any mortgage or under the provisions of any deed of trust in the nature of a mortgage, or any judicial sale, any purchaser at such sale, his, her or its grantees, heirs, personal representatives, successor or assigns shall hold any and all

property so purchased or acquired subject to all of the Covenants, liens or other provisions of these Protective Covenants and Restrictions.

6. Invalidation. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any Covenant or provision contained herein, such holding shall not impair, invalidate or otherwise affect the remainder of these Protective Covenants and Restrictions which shall run in full force and effect.

7. Notice. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any owner at his or her last known address, shall be sufficient prior notice to such owner wherever notices are required in these Protective Covenants and Restrictions.

8. NPDES/CSR Permits. The Owner of any lot assumes, by acceptance of a Deed for the lot, Cedar Springs' obligations with respect to such lot for: (i) soil erosion control on such lot from and after the delivery of the Deed; and (ii) installation of sidewalks or trails as required by the City of North Liberty, if not already installed by the Cedar Springs. Such Owner shall cooperate with Cedar Springs in obtaining a transfer of any soil erosion control NPDES, CSR or other governmental permit with respect to soil erosion, wetland and other environmental laws, to such Owner or the cancellation or other termination of the permit currently in the name of Cedar Springs or its affiliate, and the reissuance of a permit in the name of such Owner. At any time required by Cedar Springs, any party accepting a Deed for any lot or part thereof shall execute the appropriate documentation required by the Iowa Department of Natural Resources, the City of North Liberty, Iowa, or other governmental body to release Cedar Springs from responsibility of executing a soil erosion plan (including monitoring and record keeping) as it applies to the lot for the period of time after the delivery of a Deed for such lot, and to release Cedar Springs from any other obligation for environmental matters for the period of time after delivery of a Deed. Any party that accepts a Deed for any lot or part thereof who fails to cooperate with Cedar Springs, fails to execute documentation to relieve Cedar Springs from responsibility for soil erosion or fails to comply with the lawful requirements for control of soil erosion shall be obligated to hold Cedar Springs harmless from all liability, costs and expense, including reasonable attorney fees, arising from such failure by such party.

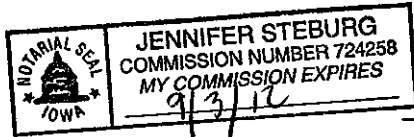
Dated this 16th day of June, 2010.

CEDAR SPRINGS PARTNERS, L.L.C.

By: Michael T. Evans
Michael T. Evans, General Manager

STATE OF IOWA)
) ss:
COUNTY OF JOHNSON)

This instrument was acknowledged before me on this 16th day of June, 2010,
by Michael T. Evans, as General Manager of Cedar Springs Partners, L.L.C.



Jennifer Steburg
Notary Public in and for the State of Iowa