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Polk County Iowa  
JULIE M. HAGGERTY RECORDER  
File# 2011-00091493

BK **13884** PG **861-868**

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RETURN TO:

**DECLARATION OF COVENANTS, CONDITIONS,  
REGULATIONS, and RESTRICTIONS  
FOR MARINA COVE PLAT 2**

The undersigned Declarant, BRESSON CONSTRUCTION, INC., being the developer of the following described real estate ("The Real Estate"):

MARINA COVE PLAT 2, an Official Plat, City of Polk City, Polk County, Iowa,

Does establish and place the following residential covenants conditions and restrictions upon the Real Estate which shall be held, sold and conveyed subject to such restrictions, covenants, and conditions and which are for the purpose of protecting the value and desirability of the whole of the Real Estate. These covenants, conditions restrictions shall run with the Real Estate and be binding on all parties having any right, title, or interest in the Real Estate or any part thereof, and their heirs successors and assigns and shall inure the benefit of each Owner of the Real Estate.

**ARTICLE I**

**DEFINITIONS**

**"Declarant"** shall mean and refer to BRESSON CONSTRUCTION, INC., an Iowa corporation, its successors or assigns.

**"Developer"** shall mean and refer to BRESSON CONSTRUCTION, INC., an Iowa corporation; their successors, or assigns.

**"Lot"** shall mean and refer to any individual parcel of land shown upon the recorded plat of Marina Cove Plat 2, other than streets or outlots.

**"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of Marina Cove Plat 2, including contract sellers and purchasers.

**“Family”** shall mean one or more persons occupying a single dwelling unit provided that unless all members are related by blood, marriage or adoption, no such family shall contain over 6 persons. Uses of land or structure customarily incidental and subordinate to the single family home are permitted unless prohibited or otherwise regulated by these covenants.

**“Out Building”** shall mean an enclosed covered structure not directly attached to the residence to which it is appurtenant.

## ARTICLE II

### DESIGNATION OF USE

All Lots in Marina Cove Plat 2 shall be known and described as residential lots and shall not be developed with more than one single family dwelling on each, and shall not be improved, used or occupied for other than private residential purposes, as provided for in the zoning ordinance of the City of Polk City, Iowa.

## ARTICLE III

### BUILDING TYPE AND AREA

- A. No building or structure shall be constructed, altered, or maintained on any Lot other than as a single family home and such structures customarily incidental and subordinate to a single family home, unless prohibited or otherwise regulated by these covenants. Once a building permit is issued, the structure or project shall be completed within 1 year.
- B. All lots, shall have the following limitations:
  - 1) One story dwellings must have not less than 1400 square feet of finished floor area.
  - 2) One and one-half story dwellings must have not less than 1500 square feet of finished floor area. This shall include all split level and split entry dwellings.
  - 3) Two story dwellings must have not less than 1500 square feet of finished floor area, with a minimum of 750 feet finished on the main living area.
  - 4) All split level, raised ranch, or split foyer dwellings must have a minimum of 1500 square feet of finished area directly under the roof.
- C. All dwellings shall have at least a two car attached garage, and shall have a full basement (no slab on grade dwellings allowed).
- D. Not more than thirty inches of concrete block or poured concrete foundation shall be exposed on any building, excepting the rear of a walkout type residences.
- E. No factory manufactured, prefabricated, or modular housing shall be permitted unless it conforms with paragraphs A-D above, as applicable, and all other provisions of these covenants, additionally, the aforementioned

housing shall have a minimum roof pitch of 4 ' of rise for every 12' of roof, include one gable extending from the front elevation, a minimum of eight foot sidewalls per story, a minimum of 12 inch overhang on soffit and gable ends (all roof lines must have a minimum of 12" overhang and a full basement).

- F. No Lot shall be subdivided in two or more parcels.
- G. In the computation of finished floor area the same shall not include porches, breezeways, attached or built-in garages, or finished basement areas.
- H. All structures built in the plat shall blend in with the terrain rather than contrast with it.
- I. The use of natural materials is encouraged, i.e. stained wood, stone, brick as well as soft earth tone colors. No house shall be painted in bright colors (for example and not by limitation), orange purple, mint green, bright blue or other colors that cannot be characterized as earth tone.
- J. No fences may be built forward of the centering line of the house built on a Building Plat or Lot, Rear yard fencing is discouraged, there shall be no fencing or other obstructions on any conservancy district easement or drainage easement. All fences shall be of black chain link, stained wood, or vinyl and shall be not more than six feet in height. Fences shall be either natural in color, stained or painted in soft earth tone colors so as to blend in with the terrain.
- K. No satellite dish or parabolic device used to receive television signals from satellites shall be locate upon any Lot unless it meets with the following requirements:
  - 1) It shall not be mounted on a trailer or other temporary or portable device, but shall be permanently installed pursuant to this Declaration;
  - 2) If at all possible it shall be located so that that no part of the dish is in front of the home it serves;
  - 3) It shall not exceed two feet in diameter;
  - 4) It shall be gray or black in color, or the extent technically feasible, be painted to match the color of the home it serves;
  - 5) It shall be appropriately landscaped and screened with shrubs and bushes or appropriate fencing.
- L. No light poles shall be used or placed upon any Lot which extend more than 10 feet above grade, except for those used to light tennis courts, All light poles shall be of residential design. All pole lights shall be positioned and directed so as not to constitute a nuisance to any adjoining property owner.
- M. No exterior towers or antennas of any kind shall be constructed or permitted on the ground of any Building Plat. Reasonable television or radio antennas are permitted on the residential dwelling or garage.

- N. All utility connection facilities and services shall be underground. No individual water supply system or individual sewage disposal system shall be permitted on any Building Plat.
- O. One (1) storage shed measuring no more than 12 feet by 12 feet with no more than 9 foot sidewalls may be allowed provided that it be of the same material as the dwelling unit. Said storage shed must be located on the rear 1/3 of the lot, and placed on a suitable concrete slab; no wood or steel floors are allowed.
- P. No trash receptacles or garbage cans shall be permitted to be placed outside of a building or structure or any Lot unless hidden by and attractive screen or landscaping of suitable height and shall not be located closer than 20 feet to any Lot line.
- Q. No permanent above ground pools shall be allowed on any lot.
- R. No commercial or home occupation signs are permitted. All signs shall comply with applicable City ordinances.

#### ARTICLE IV

##### REVIEW OF BUILDING AND SITE PLANS

No structure shall be erected upon any Lot until site plans and building plans have been first submitted to the Developer for its approval thereof and for its approval of the exterior materials and colors thereof to be used on the structure to be erected, which approval shall be for aesthetic purpose only by the Developer, or its successor, until the last Lot has been developed. If the Developer or its successor should fail to approve or disapprove such plans in writing thirty (30) days after their submission, such plans shall be deemed to be approved. The site plan shall show the house, garage, shed, fencing, light poles, tennis court, swimming pool, pet enclosures, driveways and any other feature to be developed upon the Lot.

#### ARTICLE V

##### LIVESTOCK AND POULTRY PROHIBITED

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot hereby restricted except that dogs or cats or other common 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 Lot at any one time. Dogs shall be kept in strict accord with the applicable leash ordinances of the City of Polk City, Iowa. No pet enclosures shall be located upon any Lot.

## ARTICLE VI

### EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of Marina Cove Plat 2. The owner or occupant of a Building Plat shall, at his/her expense, maintain, keep, and preserve that portion of the easement within the Building Plat at all times in good repair and condition and shall neither erect or permit erection of any building or structure of any kind nor permit any growth of any kind within the easement which might interfere in any way with the use and maintenance of any of the easements. The as built grade of overland flowage easements may not be altered without approval from the City of Polk City.

## ARTICLE VII

### SETBACKS

No building shall be erected on any lot nearer than the building setback lines as shown on the recorded plat, unless approved by the City of Polk City, Iowa.

## ARTICLE VIII

### LANDSCAPING AND CARE

When dwellings are constructed, all lots are to be fully sodded from front Lot line to a point 15 feet back of the dwelling, except where the topography or tree cover does not make same practical. The balance of the Lot shall be either sodded or seeded, all builder shall plant at least one (1) deciduous tree in the front yard of the Lot. The owners of such Lots are responsible at all times for the maintenance of the trees and the maintenance and repair of any stone wall which may exist on such Lot Owner's property or which may be located to such property Owner's Lot. At no time either before or after the Construction of a dwelling shall any living tree be removed from the Lot without the express consent of the Developer.

## ARTICLE IX

### SIDEWALKS

Upon the sale by the Developer of the Lot, subject to this declaration, such Owner shall construct a sidewalk on such Lot to the specifications and requirements of zoning ordinances of the City of Polk City, Iowa.

## ARTICLE X

### DRIVEWAYS

No building or structure shall be constructed, altered or maintained on any Lot unless it has a driveway running from a street to the dwelling, which must be of sufficient area to park at least two cars entirely off the street. All driveways shall be constructed of concrete.

## ARTICLE XI

### WEED CONTROL / EROSION CONTROL

The Owner and/or person in possession of each Lot, whether vacant or improved shall comply with the Iowa Clean Water Act, maintain erosion control keeping soil from eroding into streets, public drains, or other Lots, and shall keep the Lot free of rubbish, weeds, and debris, and failing this, agrees that after receipt of written notice given by certified mail by the Developer, or by any property Owner, owning property within 700 feet of such Lot, to cure erosion issues, cut such weeds and remove such debris within ten (10) days, and failing to do so, the Developer, or property owner giving such notice, as the case may be may enter upon the property to cure erosion issues, cut or cause to be cut such weeds, or to remove or cause to be removed such rubbish and/or debris and the Developer, or property Owner shall have a right of action against the Owner of such Lot for collection of the costs thereof, including attorney fees.

## ARTICLE XII

### TEMPORARY STRUCTURES OR EQUIPMENT

No building or structure a temporary character and no trailer or mobile home, basement, tent, shack, garage, barn or out building shall be used at any time as a residential dwelling on any Lot either temporarily or permanently, nor shall any residence of a temporary character be permitted. No structure shall be moved onto any building plot for a permanent or temporary residence.

## ARTICLE XIII

### RECREATIONAL EQUIPMENT

No recreational vehicle, motor home, boat, snowmobile, motorcycle or trailer may be parked or stored upon any Lot for more than thirty (30) days during any calendar year, unless the same is located within a garage.

## ARTICLE XIV

### COMMERCIAL ACTIVITY PROHIBITED

No home, occupation, business, nor any commercial activity shall be conducted on any Lot, except as permitted by the Polk City Zoning Ordinance.

## ARTICLE XV

### AMENDMENTS TO COVENANTS

As long as Declarant owns any Lot, Declarant shall have the ability to amend these Covenants. After that time, these Covenants may be amended from time to time by the affirmative vote of not less than two-thirds of the Owners of property to which these Covenants apply. The Owner or Owners of such Lot(s) shall be entitled to cast only one vote on account of each Lot owned.

## ARTICLE XVI

### PERIOD OF THE COVENANTS

All of the foregoing Covenants, Conditions and Restrictions shall continue and remain in full force and effect at all times as to the Real Property described above and as to the Owners of any such Lot, regardless of how title was acquired, until 12/31/2031 on which date these Covenants, Conditions and Restrictions shall automatically be extended for successive periods of ten (10) years, unless on or before the end of an extension period, the Owners of not less than seventy five percent (75%) of the Lots shall, by written instrument duly recorded, declare a termination of these Covenants, Conditions and Restrictions.

## ARTICLE XVII

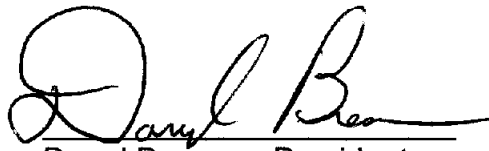
### ENFORCEABILITY AND WAIVER

- A. In the event that any one or more of the foregoing Covenants, Conditions and Restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the Covenants, Conditions and Restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- B. All property subject hereto shall also be subject to any and all rights and privileges of the City of Polk City, Iowa and/or Polk County, Iowa acquired or hereafter acquired by the City or County by dedication, conveyance, filing, or recording of plats or covenants as authorized by law. Wherever there is a conflict

as between these Covenants and/or the zoning ordinances or law of Ankeny, Polk County or Iowa that which is most restrictive shall be binding.

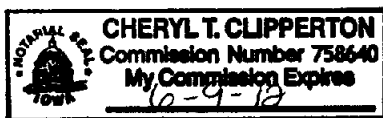
- C. These covenants shall be deemed to run with the land to which they apply and the Owner of any Lot to which these covenants and restrictions apply may bring an action in any court of competent jurisdiction to enforce these covenants and enjoin their violation or to recover damages for the breach thereof or for any other remedy or combination of remedies recognized at law or in equity and may also recover attorney fees and costs from the violating party.
- D. No delay or admission on the part of any Owner of land to which these Covenants, Conditions and Restrictions apply and exercising any rights, power or remedy herein allowed in the event of any breach of the Covenants, Conditions and Restrictions contained herein, shall be construed as a waiver thereof or acquiescence therein.

Bresson Construction, Inc.

  
Darryl Bresson, President

STATE OF IOWA, COUNTY OF POLK ) ss.

On this 9<sup>th</sup> day of June, 2011, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Darryl Bresson to me personally known, who, being by me duly sworn, did say that he is the President of said corporation; that no seal has been procured by the corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said President as such officer, 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 State of Iowa