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KIM ANDERSON, RECORDER
HAMILTON COUNTY IOWA

Returned 11.15.17
To: _____

Prepared By and Return-To: Zachary S. Chizek, City Attorney, 805 Des Moines Street, Webster City, Iowa 50595; T. (515) 832-2885

**DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS
AND CONDITIONS FOR BREWER CREEK ESTATES FIFTH ADDITION IN
WEBSTER CITY, IOWA**

This Declaration of Restrictions and Protective Covenants and Conditions is made effective this 6th day of November, 2017 by the City of Webster City, Iowa, a municipal corporation, hereinafter referred to as the "Developer".

RECITALS

Developer, being the owner of the following described real estate:

Brewer Creek Estates Fifth Addition in Webster City, Iowa

does hereby establish and place restrictions, protective covenants and conditions upon all of said real estate, consecutively numbered Lots one (1) through seventeen (17) of Brewer Creek Estates Fifth Addition in Webster City, Iowa. These lots shall be held, sold and conveyed subject to the following restrictions, protective covenants and conditions, and which are for the purpose of protecting the value and desirability of said lots, and which shall run with the real estate and be binding on all parties having any right, title, or interest in the described real estate or any part thereof, their heirs, successors, assigns, grantees, executors, administrators and devisees and shall inure to the benefit of each owner thereof.

I. CONSTRUCTION REQUIREMENTS

- 1) All dwellings shall have an attached garage on a permanent foundation with exterior appearances and design to conform to the principal structure. A minimum of a two (2) car attached garage is required for lots of 9,000 square feet and greater. For lots less than 9,000 square feet, a minimum of a one (1) car attached garage is required. Each dwelling shall provide off-street parking for two cars, including space in the garage.

2) All driveways shall lead to a garage and shall be hard surfaced and shall be constructed with asphalt or concrete.

3) Dwelling Size Requirements:

For lots 10,000 square feet and greater, minimum floor area on ground level shall be not less than 1,500 square feet excluding the basement and required two (2) car (minimum) garage.

For lots less than 10,000 square feet, but greater than 9,000 square feet, minimum floor area on ground level shall be not less than 1,200 square feet excluding the basement and required two (2) car (minimum) garage.

For lots less than or equal to 9,000 square feet, minimum floor area on ground level shall be not less than 1,000 square feet excluding the basement and required one (1) car (minimum) garage.

4) No dwelling shall be moved onto any lot.

5) To promote the orderly development of this addition, the construction of the principal structure(s) for each platted lot shall begin within twelve (12) months after each lot is purchased, and construction, once started, shall be completed within eighteen (18) months after each lot is purchased. If construction is not started within twelve (12) months and/or construction is started but not completed within eighteen (18) months, the Developer maintains the option to purchase back the lot(s) with any and all improvements made, at the same price as originally purchased from the Developer and in accordance with the terms of the purchase agreement for the lot(s).

6) Modular homes shall be allowed, however, mobile or manufactured homes shall not be allowed. HUD-Manufactured Housing and Standards, as amended from time to time, will be used to define modular versus manufactured:

Modular homes are constructed to the same state, local or regional building codes as site-built homes. Manufactured homes are constructed according to a code administered by the U.S. Department of Housing and Urban Development (HUD Code). The HUD Code, unlike conventional building codes, requires manufactured homes to be constructed on a permanent chassis.

7) All accessory use type buildings (sheds, etc.) shall be constructed with exterior appearances and design to conform to the principal structure.

8) The exterior of the dwelling shall be in a style compatible with and complimentary to the neighborhood and the broader community.

9) Dwellings shall be designed with a minimum of two (2) different ridgelines. The dwelling shall not be a perfect rectangle or square. If steel roofing is used, it shall be dark,

dull/satin and non-reflective. Roofs shall not exceed forty (40) feet in length without a direction change of the ridgeline.

II. LANDSCAPING AND YARD REQUIREMENTS

- 1) Property owner(s) shall not make any changes to the grade levels of the lots without the written approval of the Developer. This is especially important on the rear lot line where drainage must be maintained.
- 2) All disturbed ground from a construction activity shall be sodded, covered with plants or mulched with appropriate landscape materials upon completion. The construction of any improvements on a lot must be engineered in a manner that will ensure that there will be proper drainage, which will not be detrimental to adjoining lots or properties.
- 3) Property owner(s) shall plant and/or maintain a minimum of two (2) trees on each lot. No box elder, Siberian (Chinese) elm, American elm, native cottonwood, columnar poplar or other such noxious tree shall be planted on any lot unless they are presently existing on said lot. Such trees shall be planted and/or maintained so as to not obstruct or cause damage to any easements or above or underground utilities. Property owner(s) shall be responsible for damage caused to said easements or utilities as a result of such trees.
- 4) Fences shall be of wood, PVC or comparable material or vinyl coated chain link fence. No other materials used for fences shall be allowed, including but not limited to, standard, non-coated chain link, pallet or scrap lumber. Fences must abide by the height restrictions in the current City Zoning Ordinance.
- 5) Non-permanent, movable recreational equipment, including but not limited to, children's play equipment, small pools, trampolines, skateboard ramps, portable basketball hoops, goals, and nets, shall be stored out of view of the street or public right-of-way as much as reasonably feasible when not in use. Permanent recreational equipment, including but not limited to, playground equipment, large pools, hot tubs, swing sets and jungle gyms shall be installed in the rear yard only.

III. GENERAL RESTRICTIONS

- 1) No outdoor storage or parking of trailers, motor homes, recreational vehicles, boats, semi-tractor trailers or abandoned vehicles or parts thereof shall be allowed. All machinery, equipment, snow blowers, lawn mowers, woodpiles or storage areas shall be kept inside an attached garage or allowable storage shed and concealed from the neighboring property and streets.
- 2) All parking of motor vehicles on the lot shall be located on a hard surface, constructed with asphalt or concrete.

- 3) No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except for dogs and cats or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose.
- 4) Trash and recycling dumpsters and receptacles shall be out of public view on all days other than trash/recycling collection days and the day immediately preceding trash/recycling collection.
- 5) Satellite dishes shall not be placed on the front of the roof, front of the dwelling or garage, or in the front yard.
- 6) Exterior towers or antennas, including but not limited to, customary television or radio antennas, shall be permitted so long as they are attached directly to either the dwelling or the garage. However, these towers and antennas shall not exceed five (5) feet in height and shall not be placed on the front of the roof or front of the dwelling and/or garage.
- 7) Dwelling and accessory building exteriors including, but not limited to doors, windows, garage doors, gutters and window boxes shall be maintained in good condition (i.e. no peeling, cracked paint, or rotted wood). The exterior shall also be kept free from visible discoloration, mold or mildew.

IV. GENERAL PROVISIONS

- 1) The Developer, any Owner or any other person with legal standing may enforce this Declaration of Restrictions and Protective Covenants and Conditions. Person seeking to enforce this Declaration and its restrictions, protective covenants and conditions shall be entitled to bring an action at law or in equity and to obtain injunctive relief, specific performance and/or damages including, but not limited to, reasonable attorney fees to the prevailing party. This Declaration of Restrictions and Protective Covenants and Conditions shall be construed in accordance with the laws of the State of Iowa.
- 2) This Declaration of Restrictions and Protective Covenants and Conditions may be amended from time to time with the approval of the lot owners. Said approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the then owners of the developed lots. Developed lots means a lot in which construction of a dwelling has been completed upon. The owner of each lot (or the joint owners of a single lot in the aggregate) shall be entitled to cast one vote on account of each developed lot owned. Provided, however, until twenty-four (24) months following the date on which the Developer records this Declaration of Restrictions and Protective Covenants and Conditions, the Developer may make amendments or modifications without the consent of any other owners or any other parties. Such amendments or modifications shall be effective only after all the owners are provided with a copy of the amendment or modification by ordinary mail and the amendments or modifications have been filed with the Hamilton County Recorder.
- 3) This Declaration of Restrictions and Protective Covenants and Conditions shall run with the real estate and be binding on all parties having any right, title, or interest in the

described real estate or any part thereof, their heirs, successors, assigns, grantees, executors, administrators and devisees and shall inure to the benefit of each owner thereof for a term of twenty (20) years from the recording of this Declaration, on which date this Declaration of Restrictions and Protective Covenants and Conditions shall terminate and end and thereafter be of no further legal or equitable effect; provided, however, that this Declaration of Restrictions and Protective Covenants and Conditions shall automatically be extended for one additional period of twenty (20) years, unless on or before the end of the initial period, the owners of not less than fifty percent (50%) of the lots, by written instrument duly recorded, declare a termination of same.

- 4) In the event that any one or more of the foregoing restrictions, protective covenants or conditions 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 restrictions, protective covenants or conditions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- 5) Wherever there is a conflict between this Declaration of Restrictions and Protective Covenants and Conditions and the zoning ordinances of the City of Webster City, the more restrictive provision shall be binding.
- 6) Each lot owner by acceptance of a deed thereto, its successors or assigns, agrees to defend, indemnify, protect and save harmless the City of Webster City, Iowa, including any of its officers, employees, or agents, from and against any and all liability, losses, damage, injury, costs, settlements, judgments, awards, claims, or expenses or other things whatsoever, including attorney's fees or disbursements, arising out of, or in connection with, any acts of negligence, causes, omissions, faults, misconduct, claims, damages, suits or other actions developed, brought or asserted by any person, firm, corporation, entity or estate, or to any property of any person, firm, corporation, entity or estate, against said City by reason of, in connection with, related to or growing out of, directly or indirectly, the duties and responsibilities which are imposed upon the owners, its successors and assigns, with respect to the obligations under this Declaration of Restrictions and Protective Covenants and Conditions or with respect to their acts and duties as Developer of said Brewer Creek Estates Fifth Addition.

IN WITNESS WHEREOF, the City of Webster City, Iowa, a municipal corporation, Developer, has caused this instrument to be executed on the 6th day of November, 2017.

[Signature pages follow.]

CITY OF WEBSTER CITY, IOWA

By: John Hawkins
John Hawkins, Mayor

Attest: Karyl Bonjour
Karyl Bonjour, City Clerk



RESOLUTION NO. 2017 - 156

**ESTABLISHING AND APPROVING THE DECLARATION OF
RESTRICTIONS AND PROTECTIVE COVENANTS AND CONDITIONS
FOR BREWER CREEK ESTATES FIFTH ADDITION
IN WEBSTER CITY, IOWA.**

WHEREAS, the City of Webster City, Iowa, is the Owner and Developer of the Brewer Creek Estates Fifth Addition in Webster City, Iowa; and

WHEREAS, It is the desire of the City Council of the City of Webster City, Iowa to establish and approve the Declaration of Restrictions and Protective Covenants and Conditions for Brewer Creek Estates Fifth Addition in Webster City, Iowa.

NOW THEREFORE BE IT RESOLVED by the City Council of Webster City, Iowa, as follows:

1. The Mayor and City Clerk are hereby authorized and directed to execute the aforementioned Declaration of Restrictions and Protective Covenants and Conditions for Brewer Creek Estates Fifth Addition in Webster City, Iowa.

2. That said Declaration of Restrictions and Protective Covenants and Conditions for Brewer Creek Estates Fifth Addition in Webster City, Iowa, be filed with the Hamilton County Recorder.

Passed and adopted this 6th day of November, 2017.

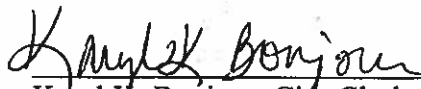
CITY OF WEBSTER CITY, IOWA



ATTEST:



John Hawkins, Mayor



Karyl K. Bonjour, City Clerk



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KIM ANDERSON, RECORDER
HAMILTON COUNTY IOWA

Returned 5-14-19
To: City of WC

Prepared By and Return To: Zachary S. Dizek, City Attorney, 805 Des Moines Street, Webster City, Iowa 50595; T. (515) 832-2885

AMENDMENT TO DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS AND CONDITIONS FOR BREWER CREEK ESTATES FIFTH ADDITION IN WEBSTER CITY, IOWA

This Amendment to Declaration of Restrictions and Protective Covenants and Conditions is made effective this 14th day of May, 2019 by the City of Webster City, Iowa, a municipal corporation, hereinafter referred to as the "Developer".

RECITALS

WHEREAS, the city of Webster City, Iowa, a municipal corporation, has previously developed the following described real estate:

Brewer Creek Estates Fifth Addition in Webster City, Iowa

WHEREAS, as part of said development, Developer established and placed restrictions, protective covenants and conditions upon all of said real estate, consecutively numbered Lots one (1) through seventeen (17) of Brewer Creek Estates Fifth Addition in Webster City, Iowa.

WHEREAS, Developer, pursuant to Paragraph IV(2) of the previously recorded Declaration of Restrictions and Protective Covenants and Conditions, recorded on November 14, 2017, in the records of the Office of the Hamilton County Recorder, Webster City, Iowa, does hereby desire to exercise their right as provided in said subsection to amend and/or modify the Declaration of Restrictions and Protective Covenants and Conditions.

NOW THEREFORE BE IT RESOLVED that pursuant to Paragraph IV(2) of the previously recorded Declaration of Restrictions and Protective Covenants and Conditions, recorded on November 14, 2017, in the records of the Office of the Hamilton County Recorder, Webster City, Iowa, that Developer herein amends parts of the Declaration of Restrictions and Protective Covenants and Conditions recorded on November 14, 2017, in the records of the Office of the Hamilton County Recorder, Webster City, Iowa, as follows:

1. That Paragraph I(3) of said Declaration of Restrictions and Protective Covenants and Conditions is hereby amended and shall read as follows:

Dwelling Size Requirements:

For lots 10,000 square feet and greater, minimum floor area shall be not less than 1,500 square feet excluding the basement and required two (2) car (minimum) garage.

For lots less than 10,000 square feet, but greater than 9,000 square feet, minimum floor area shall be not less than 1,200 square feet excluding the basement and required two (2) car (minimum) garage.

For lots less than or equal to 9,000 square feet, minimum floor area shall be not less than 1,000 square feet excluding the basement and required one (1) car (minimum) garage.

2. That Paragraph IV(2) of said Declaration of Restrictions and Protective Covenants and Conditions is hereby amended and shall read as follows:

This Declaration of Restrictions and Protective Covenants and Conditions may be amended from time to time with the approval of the lot owners. Said approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the then owners of the developed lots. Developed lots means a lot in which construction of a dwelling has been completed upon. The owner of each lot (or the joint owners of a single lot in the aggregate) shall be entitled to cast one vote on account of each developed lot owned. Provided, however, until sixty (60) months following the date on which the Developer recorded the Declaration of Restrictions and Protective Covenants and Conditions, of which said date was November 14, 2017, the Developer shall be the only party who shall be able to make amendments or modifications and shall be able to do so without the consent of any other owners or any other parties. Such amendments or modifications shall be effective only after all the owners are provided with a copy of the amendment or modification by ordinary mail and the amendments or modifications have been filed with the Hamilton County Recorder.

BE IT FURTHER RESOLVED that all remaining parts of the previously recorded Declaration of Restrictions and Protective Covenants and Conditions, recorded on November 14, 2017, in the records of the Office of the Hamilton County Recorder, Webster City, Iowa, shall remain unchanged and shall remain in full force in effect.

IN WITNESS WHEREOF, the City of Webster City, Iowa, a municipal corporation, Developer, has caused this instrument to be executed on the 6th day of May, 2019.

CITY OF WEBSTER CITY, IOWA

By: John Hawkins
John Hawkins, Mayor

Attest: Karyl K. Bonjour
Karyl Bonjour, City Clerk

