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Fee Amt: \$42.00 Page 1 of 8  
Revenue Tax: \$0.00  
Instr# 200700044284  
Linn County Iowa  
JOAN MCCALPANT RECORDER

BK **6598** pg **225-232**

Prepared by ~~and~~ **Restitutions:**

Gregory J. Seyfer of Bradley & Riley PC, PO Box 2804, Cedar Rapids, IA 52406-2804 (319) 363-0101

(Place above this line for recording purposes)

RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

That DYER-SATTLER PARTNERSHIP, being the owner of the following described real estate, to wit:

LOTS 1, 2, 3, 4 AND PARTS OF LOTS 5 AND 17, COTTAGE HILL THIRD ADDITION IN THE CITY OF CEDAR RAPIDS, LINN COUNTY, IOWA,

and, COTTAGE LAND, L.L.C., ("Cottage Land"), being the owner of the following described real estate, to wit:

LOTS 6 TO 16, BOTH INCLUSIVE, AND PARTS OF LOTS 5 AND 17, COTTAGE HILL THIRD ADDITION IN THE CITY OF CEDAR RAPIDS, LINN 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. 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 detached single family

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dwelling. All building plans, site locations and landscaping plans must have the approval of Cottage Land or its representative or designee prior to the commencement of construction. No improvement or structure whatever, other than a first class dwelling house, 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. A swimming pool shall be defined as any opening larger than 30 square feet of surface water. In ground pools are permitted, subject to pre-construction approval by Cottage Land of the location and design.

2. No single family dwelling shall exceed two and a half stories in height, 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. No dwelling shall be erected or maintained on said lots having less than 1,800 square feet of floor space in the case of a one story dwelling, nor less than 2,200 square feet in the cases of more than one story, exclusive of breezeway, garage, basement, attic and porches; but a greater square footage area may be specifically provided for in a Deed of Conveyance or other instrument.

4. No dwelling shall have less than a full enclosed two-car attached garage.

5. There is no time limit when construction must begin, but after commencement of construction, all interior and exterior construction and lot grading and landscaping shall be completed within one (1) year of the date of commencement. No dwelling shall be occupied during construction.

6. No dwelling shall be erected on any lot nearer than seven (7) feet to any side lot line.

7. No lot shall be subdivided into smaller lots, except a part of a lot may be added to an adjoining tract for additional building and yard area. The further subdivision of any lots described herein, or any portion thereof, shall not grant the right to erect or maintain any dwelling on an area of less than 6,250 square feet. A subdivision of any lot described herein, from the originally platted, shall not grant to the owners any right to violate any of the restrictions contained in any of these covenants.

8. No out building, garage, shed, tent, trailer, or temporary building of any kind shall be erected, constructed, permitted or maintained prior to commencement of the erection of the residence as is permitted hereby, and no out building, garage, shed, tent, trailer, basement or temporary building shall be used for permanent or temporary residence purposes; provided, however, that this paragraph shall not be deemed or construed to prevent the use of a temporary construction shed during the period of actual construction of any structure on such property, nor the use of adequate sanitary toilet facilities for workers which shall be provided during such construction.

9. No fence or other structure of any kind or character shall be erected or maintained upon that part of any said lots lying between the street line and the building set back lines upon any of the said lots or other structure of any kind or nature, including, but not limited to, metal or wood sheds, barns, garages, walls, fences, swimming pools, tennis courts and greenhouses, shall be erected or maintained upon any part of any lots unless the design, location and construction are approved in writing by Cottage Land or its representative or designee.

10. Both the titleholders, whether legal or equitable, and owner in possession of each of said lots, whether vacant or improved, shall keep such lot or lots free of weeds and debris.

11. No animals nor poultry of any kind shall be kept on any part of said lots, except house pets. No outdoor pet facilities are permitted on any lot unless the design, location and construction are approved in writing by Cottage Land or its representative or designee. 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.

12. No dwelling or building shall have an antenna, tower or other similar structure standing more than five (5) feet in height above the highest point of the dwelling to which it is fastened. Nor shall any tv antenna, tower satellite dish or tower of any kind be constructed on said lots unless approved in writing by Cottage Land or its representative or designee. A single satellite dish twenty-four inches or less in diameter will be allowed provided it is not visible from the street.

13. The outside appearance of all structures to be used as dwellings shall be compatible in appearance with all other structures located in the subdivision. All exterior siding must be of wood, stucco, brick or stone masonry material. Any vinyl or metal siding shall be used only on approved traditional designed homes, and only after obtaining the express written consent of Cottage Land or its representative or designee, except vinyl or steel siding is permitted on the rear end of a structure so long as it is compatible with materials used on the front façade.

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

15. No commercial vehicles, construction or like equipment or mobile or stationary trailers or habitable motor vehicle or boats shall be kept on or stored on any part of the lots or the adjacent streets except within an enclosed garage or other suitable enclosure except that commercial vehicles, construction or like equipment or mobile or stationary trailers or habitable motor vehicle or boats may be allowed on a temporary 24-hour basis for the sole purpose of loading and unloading said vehicles. No trucks larger than three-fourths (3/4) ton pick-up truck shall be maintained, parked or kept overnight for any purpose in said Addition. Off season recreational vehicles must be stored out of sight of other lots and off the roadways.

16. No inoperable, dismantled, or wrecked motor vehicles, trailers, or machinery or parts thereof, including scrap metal or other scrap materials shall be permitted to be upon or remain upon any of the lots or streets. No mechanical work on any vehicles, trailers, machinery or equipment shall be permitted upon any of the property within this addition.

17. No obnoxious or offensive trade shall be carried on any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to any owner or owners.

18. No improvements, structures or fences shall be constructed within any drainage easement as shown on the final plat. The owner(s) of each respective lot shall maintain the drainage easement area located within the boundary of the lot.

19. The Developers, as hereinafter defined, hereby reserve the right to enter into agreements with the owner of any lot or lots (without the consent of owners of other lots or adjoining or adjacent property) to deviate from any or all of the covenants set forth herein, provided there are practical difficulties or particular hardships evidenced by the owner desiring such deviation, and any such deviation (which shall be manifested by an agreement in writing) shall not constitute a waiver of the particular covenant involved or any other covenant as to the remaining property in Cottage Hill Third Addition.

B. COTTAGE HILL/COTTAGE LAND HOMEOWNERS ASSOCIATION, INC.

1. Ownership of a lot or lots in Cottage Hill Third Addition shall automatically invoke membership in a non-profit owners' corporation under Chapter 504, Code of Iowa, named Cottage Hill/Cottage Ridge Homeowners Association, Inc., which shall maintain the detention ponds and detention basin system located in drainage easements shown on the Final Plats for Cottage Hill Third Addition, Cottage Hill Second Addition, Cottage Ridge First Addition and Cottage Ridge Second Addition and on other property in adjacent subdivisions and shall maintain trails and other property, including easements, owned by the Association for common use. 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 and owners for the purpose of landscaping and maintaining the detention ponds, detention basin system, trails and other property and easements owned by the Association for common use.

2. Each owner of a lot or lots in Cottage Hill Third Addition is deemed to covenant by acceptance of such owner's deed or real estate contract for such lot or lots, whether or not it shall be so expressed in the deed or real estate contract, to pay assessments for landscaping and maintenance of the detention ponds, detention basin system, trails and other property and easements owned by the Association for common use. Expenses to be covered by the assessments shall include, but are not limited to, real estate taxes, special assessments, insurance premiums, repair and upkeep expenses associated with the grounds, equipment, and any additional expenses required to keep the detention ponds, detention basin system and easements and trails in good condition. Lots owned by Cottage Land, L.L.C. and/or Jim Sattler,

Inc. and their successors and assigns (the "Developers") and Cottage Ridge, L.L.C. shall not be subject to assessment or lien for expenses of the Association.

- 3. Assessments shall be pro rated on the basis of the number of lots owned.
- 4. From the date of the recording of these Restrictive Covenants through January 1, 2008, the owners of each lot shall pay an annual assessment of \$150.00. Thereafter the Association shall set the annual assessment based upon the annualized expenses. All assessments shall be made payable to the Association, which shall provide each owner with a copy of the accounting showing all assessment receipts and disbursement of the assessment funds.
- 5. The assessments for each lot shall be equal and assessments shall not be based upon the size of any lot within the Addition. No owner of any lot may exempt himself or herself from liability or assessment by waiver of the use or enjoyment of the common operation and maintenance of the detention ponds, detention basin system, or other property owned by the Association for common use. The assessments shall be due as and when billed by the Association. Any assessments not paid within five days after the due date shall be deemed to be in default and shall bear interest from the due date at the rate of 1.5% per annum; however, if that interest rate is in excess of the highest legal rate permissible under Iowa law, the interest rate shall be reduced to the highest legal rate permissible under Iowa law.
- 6. If the owner of any lot fails or refuses to pay any assessment when due, the assessment shall constitute a lien on the lot against which the assessment has not been paid and shall be a personal liability of the owners of that lot. The lien shall be established and perfected by the owner of any lot who is not in default by filing a Notice of Lien signed by such lot owner and recorded in the office of the Recorder of Linn County, Iowa. A copy of the Notice of Lien shall be mailed by certified mail, return receipt requested by the owner that signed the Notice of Lien to those owners who are in default. The lien may be enforced in the same manner as a mechanic's lien is enforced under the Iowa Code with all expenses of collection, including reasonable attorneys fees and court costs being charged to the owners named in the Notice of Lien. Such lien shall remain a lien on the respective lot until paid in full and shall be released by an affidavit filed in the office of the Recorder of Linn County, Iowa by the owner or his or her successor in interest, who files the Notice of Lien. No owner or owners of any lot may waive or otherwise escape liability for assessments provided that these Restrictive Covenants by nonuse or abandonment of his or her lot.
- 7. Notwithstanding any other provisions of these Restrictive Covenants, assessment liens provided in these Restrictive Covenants shall be subject to and subordinate to the lien of any first mortgage or first deed of trust encumbering the lot within the Addition. A sale or transfer of any lot within the Addition shall not affect the assessment lien. However, a sale or transfer of a lot pursuant to a mortgage foreclosure or any proceedings in lieu of such foreclosure shall extinguish an assessment lien for all assessments that become due prior to such sale or transfer of the lot. No sale or transfer of a lot shall relieve such lot from liability for any assessments thereafter becoming due or from the lien of such assessments.

8. Upon closing of each transaction whereby a lot is purchased from the Developers, there shall be due and payable from the owner to the Developers an initial working capital contribution of Two Hundred Fifty Dollars (\$250.00) in order that there shall be immediately available working capital funds to apply to the initial interim or annual or any other current expense budget. Upon such closing, the owner of the lot shall thereafter become liable for and pay the balance of all assessments previously made as the same accrue. It is understood that the Developers shall not be liable for the working capital contribution herein mentioned.

C. DURATION. These Restrictive Covenants are to run with the land and shall be binding on all parties and on all persons claiming under them until January 1, 2028, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended in whole or in part as hereinafter provided.

D. REMEDIES FOR VIOLATION OF COVENANTS. If the owner of such lots, or any of them, or their heirs or assigns shall violate any of the covenants, conditions, restrictions, reservations and servitudes herein set out, it shall be lawful for any other person benefited by these Restrictive Covenants, to prosecute any proceedings at Law or in Equity against the person or persons violating any such covenants, and either to prevent him or her from so doing, or to recover damages for such violation, or both, including recovery for reasonable attorney fees for the Plaintiff's attorney, and cost of said proceedings. The failure to promptly enforce any of the covenants, conditions, restrictions, reservations and servitudes shall not bar their enforcement.

The invalidation of any one of these covenants by judgment or court order shall in no way affect any of the provisions which shall remain in full force and effect.

E. MODIFICATION. The record owners in fee simple of the single-family residences in the Addition may revoke, modify, amend or supplement in whole or in part any or all of the Restrictive Covenants and conditions contained in this Declaration and may release the Real Estate from the Restrictive Covenants, but only at the following time and in the following manner:

1. 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 all of the lots in the Addition consent.
2. 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 Linn County, Iowa. A recordable certificate by an accredited abstractor, title guaranty company doing business in Linn County, Iowa, or a Linn 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.

F. SUBORDINATION. All covenants, liens and other provisions set forth in this Declaration 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, successors or assigns shall hold any and all property so purchased or acquired subject to all of the covenants, liens or other provisions of this Declaration.

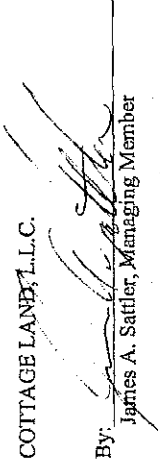
G. **INVALIDATION.** The invalidation of any one of these covenants by judgment or court order shall in no way affect any of the provisions which shall remain in full force and effect.

H. **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 Restrictive Covenants.

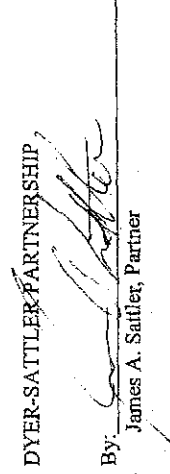
I. **SPRING VALLEY COURT, N.E. (PRIVATE).** Spring Valley Court N.E., shown on the final plat as Private, is hereby established as a private street easement for use and access by the owners of Lots 6, 7, 8 and 9. The owners of Lots 7 and 8 shall each be responsible for one-half of all costs of construction, maintenance, repair and snow removal. In the event the owners of either Lot 6 and/or Lot 9 establish a driveway on to Spring Valley Court, N.E., they shall pay to Cottage Land, L.L.C. their pro-rata share of the cost of construction and share equally in all costs of maintenance, repair and snow removal. Waste pickup for the owners of Lots 7 and 8 shall be at the intersection of Spring Valley Court, N.E. and Spring Valley Place, N.E.

Signed this 21<sup>st</sup> day of January, 2007.

COTTAGE LAND, L.L.C.

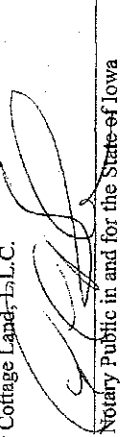
By:   
James A. Sattler, Managing Member

DYER-SATTLER PARTNERSHIP

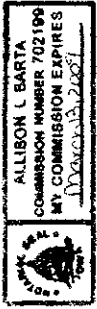
By:   
James A. Sattler, Partner

STATE OF IOWA )  
 ) SS:  
COUNTY OF LINN )

This instrument was acknowledged before me on January 2<sup>nd</sup>, 2007, by  
JAMES A. SATTTLER, as Managing Member of Cottage Land, L.L.C.

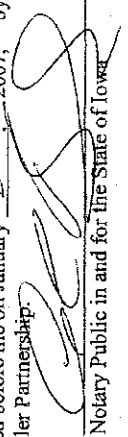


Notary Public in and for the State of Iowa



STATE OF IOWA )  
 ) SS:  
COUNTY OF LINN )

This instrument was acknowledged before me on January 2<sup>nd</sup>, 2007, by  
JAMES A. SATTTLER, as a Partner of Dyer-Sattler Partnership.



Notary Public in and for the State of Iowa

