

File

COMPARED

Pottawattamie County, IA 2007-019446
Recorder John Sciortino
Book-Page: 2007-019446
File Time: 12/12/2007 @ 09:12:42 AM
Rec-\$25.00 Aud-\$0.00 RMA-\$1.00 ECM-\$1.00
Current Transfer Tax Paid: \$0.00



R Fee 25.00
A Fee _____
T Tax _____

Prepared by : Jack E. Ruesch, 25 Main Place, Suite 200, Council Bluffs, IA 51502
Return to: Jack E. Ruesch, 25 Main Place, Suite 200, Council Bluffs, IA 51502

**SECOND AMENDMENT TO DECLARATION OF RESTRICTIONS AND COVENANTS
FOR FOX RUN LANDING**

This Second Amendment is made this 5th day of December, 2007, by Western Iowa Land Development, L.L.C, the successor to Golf, L.L.C, as the Developer of Fox Run Landing, a subdivision in Council Bluffs, Pottawattamie County, Iowa.

The Developer, by virtue of the power reserved to it in Article VII Paragraph 6 of the Declaration dated October 12, 2000, and recorded on October 16, 2000 in Book 101 at Page 17717 of the records of the Pottawattamie County Recorder, makes the following amendments:

- A) A prior amendment to the Declaration ("the First Amendment") was made on October 20, 2006 and recorded on November 20, 2006 in Book 107 at Page 08499 of the records of the Pottawattamie County Recorder. Paragraph A of the First Amendment provided that all the provisions of the First Amendment would apply to not only Lots located in Fox Run Landing, but also Lots in The Seven at Fox Run Landing, a separate subdivision located in Council Bluffs, Pottawattamie County, Iowa. The First Amendment is hereby amended to provide that the terms of the First Amendment are only applicable to Lots located in Fox Run Landing.

- B) Paragraph C of the First Amendment amended Article VI, Paragraph 7 of the Declaration to impose an obligation on the Association to "maintain the lakes located within Fox Run Landing subdivision and The Seven at Fox Run Landing subdivision, even though such lakes are not owned by the association." The Amendment further authorized the Association to enter into agreements to obtain contribution from the owner of Fox Run Golf Course for lake maintenance. The Paragraph C of the First Amendment was improvidently adopted and is hereby revoked.
- C) Article VI, Paragraph 7 of the Declaration is amended by adding the following thereto:
- 1) The Association may, but shall not have a mandatory duty to, maintain or contribute to the maintenance of the lakes located adjacent to the Subdivision. Maintenance shall include, but not be limited to, shoreline stabilization, dredging, the payment of expenses for the operation and maintenance of wells and pumps to supply water to the lakes and such other activities which the Association may, in its sole discretion, determine to conduct or contribute to.
- D) Article VI, Paragraph 4(b) of the Declaration is amended by adding the following thereto:
- 1) The assessment levied by the association may also be used for purposes of lake maintenance as provided in Article VI, Paragraph 7 of the Declaration, as amended by Paragraph C of the Second Amendment to the Declaration.
- E) On April 4, 2006, the Developer signed a Consent to allow the owners of lots in The Seven At Fox Run Landing to become members of the Fox Run Landing Homeowners Association. The Consent is incorporated into the Declaration of Restrictions and Covenants for The Seven and Fox Run Landing which is dated April 3, 2006, and which was recorded on May 2, 2006, in Book 106, Page 20865 of the records of the Pottawattamie County Recorder. The Consent by Developer was improvidently granted and contrary to the Articles of Incorporation and ByLaws of Fox Run Landing Homeowners Association, Inc. The Consent is hereby rescinded. The members of Fox Run Landing Homeowners Association will continue to consist of only the owners of lots in Fox Run Landing. Any dues purportedly paid by owners of lots in The Seven At Fox Run Landing will be refunded after the adoption of this Second Amendment.

F) Article III is amended by adding the following additional paragraphs:

21 - Mailboxes. All mailboxes initially installed in the subdivision shall be either black or verde green and shall be a cast aluminum mailbox and post combination.

22 - Minimum Dwelling Size.

- a. Residences constructed shall have the following minimum square footage:
 1. Villa/Patio homes shall have a minimum finished living area of 1500 sq feet. These homes are to be constructed on Lots 66-76, Lots 89-92, Lots 1-9 Replat One and Lots 1-5 Replat Two.
 2. Residences to be constructed on Lots 1-13 shall have a minimum finished living area of 1450 sq feet; residences constructed on Lots 14-26 shall have a minimum finished living area of 1500 sq feet; residences constructed on all other lots, except those constructed on the Villa/Patio Lots described above, shall have a minimum finished living area of 1650 sq feet.
 3. One and half story residences shall have a minimum finished living area of 1100 sq feet on the main floor and a minimum finished living area above grade square footage of 1750 sq feet.
 4. Two story residences shall have a minimum finished living area of 1000 sq feet on the main floor and a minimum finished living area above grade square footage of 2000 sq feet.
 5. Bi-level, split level and split-entry residences shall have a minimum of 1750 sq feet of finished living area and a minimum finished area of 1250 sq feet on the first floor.

b. The phrase "finished living area" as used in this section shall include all space on the first and second floor of the residence enclosed and finished for all-year occupancy computed on outside measurement of the residence. The term shall not include any basement, garage, porch or attic, finished or unfinished. "Basement" means a lower level that is more than 50% below grade. No structure erected on any lot shall be more than two stories in height, unless consented to in writing by the declarant or its designee. The declarant or its designee, shall have the right to reduce the floor area requirements set forth above, provided the total reduction for any one residence may not exceed 20% of such minimum floor area and further provided that every residence must have a minimum of 1200 sq feet of finished living area.

G) The following shall be added to the end of paragraph 19(g):

"provided however, if consent is obtained from the owner of the lake, Lot Owners abutting a sea wall may install a dock having a maximum size of 80 inches wide and 10 feet long. Docks shall be made of fiberglass composite (such as currently manufactured by EZ Dock) and shall be similar in appearance to those docks installed at the time of adoption of this Declaration"

Western Iowa Land Development, LLC

By:


Robert P. McCarthy, Manager

STATE OF IOWA)
)ss.
COUNTY OF POTTAWATTAMIE)

On this 5th day of December, 2007, before me, a Notary Public in and for the said State, personally appeared Robert P. McCarthy, to me personally known, who being by me duly sworn did say that that person is Manager of said limited liability company, that no seal has been procured by the said limited liability company and that said instrument was signed on behalf of the said limited liability company by authority of its managers and the said Robert P. McCarthy acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Mary J. Hughes

Notary Public in and for said State.

