

**DECLARATION OF RESIDENTIAL COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
ALYVIA PLAT 1**

THIS DECLARATION, is made this 13 day of July, 2020.

WHEREAS, Declarant and is the owner of certain real property in the plat known as Alyvia Plat 1, located in Waukee, Dallas County, Iowa, more particularly described as:

Lots 2 – 13, inclusive, and Lots 4A, 5A and 6A all in Alyvia Plat 1, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa (together with Lot 1 referred to herein as the “Plat”).

WHEREAS, Brian J. Helgens and Angela R. Helgens (“Helegens”) are the owners of certain real property in the plat known as Alyvia Plat 1, located in Waukee, Dallas County, Iowa, more particularly described as:

Lot 1 in Alyvia Plat 1, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.

WHEREAS, Declarant and Helgens are desirous of establishing covenants, restrictions, easements, conditions, uses, limitations and obligations on the above-described property.

NOW, THEREFORE, Declarant and Helgens hereby publish and declare that the above property shall be held, sold and conveyed subject to the following terms and conditions, all of which are for the purpose of protecting the value and desirability of the property and all of which shall run with the land and shall be a burden and a benefit to the land and all parties acquiring or owning any right, title or interest in any part of the property, their heirs, successors, assigns, grantees, executors, administrators and devisees:

1. **Definitions.** For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided.

- A. Alyvia Plat 1 - shall mean and refer to the real property located in the residential subdivision described above.
- B. Declarant - shall mean Silo 9 Plat 1, LLC, its successors and assigns.
- C. Lot - shall mean and refer to any individual parcel of land which is described above as shown upon the recorded plat of Alyvia Plat 1.
- D. Building Plot - shall mean and refer to one or more platted Lots, or one platted Lot and portion or portions of adjacent platted Lots, in Alyvia Plat 1.
- E. Owner - shall mean and refer to the record owner, other than Declarant, whether one or more person or entities, of legal or equitable title to any Lot or Building Plot which is a part of Alyvia Plat 1.
- F. Outbuilding - shall mean outbuilding/accessory structures not directly attached to the residence to which it is appurtenant.
- G. Single-Family Dwelling or Dwelling - shall mean a building containing one or more habitable rooms which are occupied or which are intended or designed to be occupied exclusively by one family with facilities for living, sleeping and eating.

2. **Designation of Use.** All Lots shall not be developed with more than one Single-Family Dwelling and attached garage on each Lot, and shall not be improved, used, or occupied for other than private residential purposes, and those uses provided for in the zoning ordinance of Waukee, Iowa provided such use is approved in writing by Declarant. Commercial use, business use and rental use all require advance written approval, which may be withheld in the discretion of Declarant or Lot Owner. No Lot shall be further subdivided, partitioned or in any way developed so that more than one single-family residential use is made of any one lot.

3. **Building Requirements.**

- A. No building or structure shall be constructed, altered or maintained on any Building Plot other than a detached Single-Family Dwelling with an attached private garage, except Accessory Structures permitted under Section 21.
- B. No structure of any kind shall be moved onto any Lot in the Plat.
- C. The exterior of any residence, garage or outbuilding located on any Lot shall be finished in an earth tone conservative color design that will blend well with the abutting subdivisions.
- D. No Dwelling shall be erected which does not have toilet, bath and kitchen sink connected to a lawful sewage disposal facility of a type approved by Declarant.

- E. All exposed concrete, concrete block or tile foundations on the front of the dwelling shall be covered with brick or stone veneer or the equivalent or be painted.
- F. Siding shall be cementitious type (e.g., HardiePlank), brick or stone. Front elevation to be at least 20% covered by brick or stone, exclusive of glass, doors and any other openings. Minimum roof pitch 5:12. Minimum roof eave 8". Declarant may approve a front elevation design incorporating less than 20% brick or stone if Declarant determines reduction is appropriate based on the architectural style.
- G. On Lots 8, 9 and 10, when a dwelling is constructed, two (2) Declarant approved trees with a minimum 2" caliper 2' vertically from the ground must be planted within thirty (30) feet of the east Lot line. The two trees are in addition to any landscaping requirements imposed by the City of Waukee.
- H. All single-family homes shall contain a minimum square footage of living space exclusive of attached garages, breezeways, porches, and finished basement areas as follows:
 - i. One-story dwellings must have a finished floor area of at least one thousand six hundred fifty (1,650) square feet above grade.
 - ii. One and one-half story dwellings must have a combined finished floor area of at least two thousand three hundred (2,300) square feet above grade.
 - iii. Two-story dwellings must have a combined finished floor area of at least two thousand four hundred (2,400) square feet above grade.

4. **Building Approval.** In order to preserve the general design for the development of the whole of Alyvia Plat 1 as a fine residential area of Waukee, Iowa, no structure or improvement of any kind, or any addition thereto, shall be erected upon any Building Plot in Alyvia Plat 1 unless the plan, design, building materials and location thereof shall have been first approved by the Declarant or such person or persons or corporate entity designated by it for this purpose. Approval of a plan shall not be unreasonably withheld.

All buildings, structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.

5. **Proximity and Access to Street.** No Dwelling or other structure shall be located closer than 35 feet to any right-of-way line.

6. **Garages and Vehicle Storage.** No less than a three-car attached or built-in basement garage will be permitted. No recreational vehicle, motor home, boat, snowmobile, motorcycle, truck rated larger than ¾ ton, or trailer may be parked or stored upon any Lot unless the same is located within the garage, outbuilding or driveway.

7. **Driveways.** No Dwelling or structure shall be constructed, altered or maintained on any Building Plot unless it has a driveway to the improved premises constructed of material approved by Declarant.

8. **Temporary Structures or Equipment.** No building or structure of a temporary character, trailer or outbuilding shall be used at any time as a residential Dwelling on any Building Plot, either temporarily or permanently.

9. **Swimming Pools.** No above-ground swimming pools shall be permitted on any Lot; only in-ground swimming pools may be constructed on any Lot.

10. **Fences.** Fences shall not be constructed forward of the Dwelling's back building line, and shall not obstruct any drainage easement, or landscape buffer easement. Unless otherwise specified, all fences shall be no more than six (6) feet in height, and shall be constructed of wrought iron or aluminum, with all surfaces covered with a black neoprene paint, epoxy or other similar coating. No wood fencing material, solid privacy fencing, or chain-link fencing is allowed.

11. **Signs.** No sign of any kind or description shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except street markers, traffic signs and other signs displayed by Waukee or by other governmental units, and except signs which have been approved by Declarant or its authorized agent not exceeding 144 square inches in area upon which there shall only be exhibited the street number or name, or both, of the resident. In the event that any sign, other than those described above, shall be placed or exposed to view on any of the Lots restricted hereby, the officers or agents of the Declarant are hereby given the right to enter upon those Lots and remove said signs. Real estate signs by the Declarant will be permitted until such development is completed. Signs not exceeding 1,296 square inches in size, to show property for sale, shall be permitted. Declarant may erect signs anywhere in Alyvia Plat 1 while it continues to own any Lot.

12. **Trash Receptacles.** No Trash receptacles or garbage cans shall be permitted to be placed outside a residence, garage, or trash or garbage receptacle enclosure that is fully incorporated with the exterior design of the residence, except as necessary for regular collection.

13. **Utilities.** All utility connection facilities and services shall be underground. No individual water supply system shall be permitted on any Building Plot.

14. **Towers, Antennae and Satellite Receivers.**

A. No exterior towers or antennae of any kind shall be constructed, modified or permitted on the ground of any Lot or on any Dwelling or garage. All antennae shall be concealed within the attic space of the Dwelling or garage.

B. Direct broadcast signal parabolic antennae (satellite receivers) shall be no larger than twenty-four (24) inches in diameter and concealed from street view by being incorporated into building roof design or installed on ground post and properly screened by shrubs or bushes.

- C. No light poles shall be used or placed upon any Lot which extend more than ten (10) feet above grade. 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 other property Owner. (No light shall leave the Lot to which they are installed.)
- D. As to each of the above, in no instance shall the tower, antennae or pole be located closer than twenty (20) feet from any property line.

15. **Sodding/Seeding.** When a Dwelling is constructed on a Lot, the areas not landscaped will be fully sodded or seeded within one (1) month of completion of construction unless winter conditions prohibit the installation. All lots are to be sodded or seeded to the front and sides and to at least 50' back of newly constructed residences.

16. **Nuisances.** No noxious or offensive sounds, activities or odors shall be permitted on or to escape from any Building Plot, nor shall anything be done thereon which is, or may become, an annoyance or a nuisance, either temporarily or permanently.

17. **Livestock and Poultry Prohibited.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot thereby restricted, except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. Owners are responsible to clean-up after pets and to assure that their pets do not disturb the peaceful enjoyment of the neighborhood by other Owners in Alyvia Plat 1. **Provided however, up to fifteen (15) chickens, but no roosters, may be kept on Lot 7 for so long as Brenda Currier owns Lot 7.**

18. **Easements.** Easements for installation and maintenance of utilities, access, and surface water drainage facilities are reserved as shown on the recorded plat of Alyvia Plat 1. The Owner of a Building Plot shall, at its own expense, keep and preserve that portion of the easement within its property in good repair and condition at all times, and shall neither erect nor permit erection of any building, structure or fences of any kind, nor permit any growth of any kind within said easement which might interfere in any way with the use and maintenance of the utility services and drainage areas located within the easements. See Section 24 for provisions specific to the access easement.

19. **Vegetation and Landscaping Appearance, Maintenance and Weed Control Construction Clean Up, Maintenance and Destruction of Property.**

- A. The Owner and/or person in possession of each Lot, whether vacant or improved, shall keep the same well maintained, groomed and mowed, free of uncut weeds, rubbish, garbage and debris. Damaged or dead trees and shrubbery shall be trimmed out or removed. If the Owner, within ten (10) days after receipt of written notice by certified mail from the Declarant, fails to mow or cut such vegetation, trim or remove such damaged trees or shrubbery, and/or remove such debris, the Declarant and other Owners may seek any remedy recognized at law or equity.

- B. Vegetation in conservancy easements, flowage easements, creek channels, drainage ways and/or timbered areas shall not become overgrown with weeds, but may be planted in ground-cover species appropriate to the topography and land form. Water flowage ways will not be altered so as to direct water flows on to an adjoining Lot in a location significantly different from that in existence when the Plat was originally recorded.
- C. Construction Clean Up, Maintenance and Destruction of Property. Lot Owners and their contractors shall keep construction sites clean. Daily clean-up of trash and debris is required. Lot Owners and their contractors shall also keep the streets free of debris and mud. The installation by the Lot Owner or builder of silt fences or equivalent erosion control is required on downhill property line(s) in addition to any other locations required by the IDNR or City. Lot Owners are responsible for their contractors and subcontractors.
- D. Any construction or earth moving on any Lot(s) (whether greater than, equal to, or less than one acre in size) shall be in compliance with all statutes, rules and ordinances relating to storm water and erosion control compliance and permitting. Owners understand and agree that they are the sole responsible permittees for their respective Lot(s) with respect to compliance with all terms, provisions and requirements of the NPDES Storm Water Discharge Permit No. 2, the storm water pollution prevention plan which includes the Lot(s) and any and all applicable storm water and erosion control statutes, rules and ordinances.
- E. Each Owner shall protect, defend, indemnify and hold the Declarant and other Owners harmless from any and all damages, claims, liabilities, fines, penalties, cleanup costs and attorney and consultant fees caused by, or in any manner related to: 1) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from their Lot(s); and 2) any alleged violation of any NPDES, storm water and erosion control statute, rule or ordinance, after the date of sale of the Lot(s) by the Declarant.
- F. In the event any residence or other structure constructed on a Lot is damaged, either in whole or in part, by fire or other casualty, the Owner of said residence or other structure shall rebuild or remodel within one hundred eighty (180) days from date of damage or destruction to comply with this Declaration; or in the alternative, if the residence or other structure is not to be rebuilt, the Owner shall remove all remaining portions of the damaged structure, including the foundation and all debris, from the Lot within thirty (30) days of damage or destruction and shall restore the Lot to its natural condition existing prior to the construction of the residence or other structure, including stabilizing the Lot by fully seeding or sodding the Lot.
- G. If a site is found to be in an unacceptable condition, the Lot Owner will be notified by phone and/or letter of violations. Lot Owners will have three (3) days to respond before the work is performed by others and the cost thereof assessed to the Lot Owner. Such cost shall be immediately due upon demand and shall bear interest at the

rate of twelve per cent (12%) per annum until paid in full. Such cost, and the accrued unpaid interest thereon, shall become a lien upon said Lot upon the filing of an affidavit in the office of the Recorder for Dallas County, Iowa, setting forth the notice, the failure of the Lot Owner to cure such default, the work performed by or on behalf of the person other than the Lot Owner and the cost thereof.

20. **Enforcement.** If any party shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, it shall be lawful for the Declarant and any Owner to proceed in law or in equity against the person or persons violating or attempting to violate such covenants, conditions or restrictions, and to either prevent him or them from doing so or recover damages for such violations. The prevailing party to any action brought to enforce these covenants shall be entitled to reasonable attorney fees and costs.

21. **Accessory Structures.** Any outbuilding structure shall be properly screened by shrubbery. Swimming pools, or other accessory structure or improvements, shall be in the rear yard, not be constructed forward of the Dwelling's back building line and subject to City of Waukee ordinances. Roofs shall be pitched and covered with similar roofing to the principal Dwelling. Siding shall be the same as the principle Dwelling.

22. **Modification of Restrictions.** The covenants, restrictions and provisions in this Declaration shall be deemed covenants running with the land, and shall remain in full force and effect for twenty-one (21) years after the date of recording, and may be renewed as provided by applicable statutes. After Declarant no longer owns any Lot in Alyvia Plat 1, this Declaration may be amended or cancelled by a written agreement signed or approved by at least fifty percent (50%) of the Owners. For so long as Declarant owns any Lot, Declarant, without the further consent of any Owner or any other party, shall have the absolute right to amend this Declaration. Any amendment by the Owners or Declarant shall become effective after it is recorded in the office of the Recorder of Dallas County, Iowa.

23. **Surface Water.** The topography of Alyvia Plat 1 is such that surface water may flow from certain Building Plots onto other Building Plots. In regard to all matters concerning surface water, each Building Plot shall be subject to such easements as may exist for the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time and all Owners shall have such rights and obligations with respect thereto as may be provided by such law.

24. **Severability.** Invalidation of any of these covenants, conditions or restrictions by judgment or court shall in no way affect any of the other covenants, conditions or restrictions contained herein which shall remain in full force and effect.

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IN WITNESS HEREOF, the undersigned being the Declarant herein, has hereunto set its hand as of the day and year first above written.

DECLARANT:
Silo 9 Plat 1, LLC,

By: 
Jacob Ried, Manager

STATE OF IOWA)
 ss.
COUNTY OF POLK)

This record was acknowledged before me on July 13, 2020, by Jacob Ried as Manager of Silo 9 Plat 1, LLC,



NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

