

FILED

DECLARATION

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OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

CHARLOTTE L. PETERSEN  
WASHINGTON COUNTY, CLERK  
BLAIR, NEBR

THIS DECLARATION, made on the date hereinafter set forth by JANIS ELVERS, SARALEE RYAN, JARALD ELVERS and CHARLES ELVERS, hereinafter referred to as "Declarants":

WITNESSETH:

WHEREAS, Declarants are the owners of the following described real property:

Tax Lot Ninety-two (92) lying in the Northwest Quarter (NW1/4) of Section Three (3), Township Eighteen (18) North, Range Eleven (11), East of the 6<sup>th</sup> P.M., Washington County, Nebraska (hereinafter referred to as "Lots").

WHEREAS, Declarants will convey the said real estate, subject to certain protective covenants, restrictions, reservations, easements, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarants hereby declare that all of the real estate above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Lots. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Living Units" shall mean and refer to any building situated upon The Properties designated and intended for the use and occupancy as a residence by a single family.

Section 2. "Lot" shall mean and refer to any parcel of land, whether all or a portion of any platted lot shown upon any recorded map or plat of the above-referenced real estate, upon which a Living Unit may be built, or is proposed to be built.

Section 3. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to all or any part, parcel or portion of a platted Lot which

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General   
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STATE OF NEBRASKA COUNTY OF WASHINGTON)SS  
ENTERED IN NUMERICAL INDEX AND FILED FOR RECORD  
THIS 4th DAY OF December A.D. 2000  
AT 12:54 O'CLOCK P M AND RECORDED IN BOOK  
327 AT PAGE 2-10  
COUNTY CLERK Charlotte L. Petersen  
DEPUTY Karen MacLaren

is a part of the real estate, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Supplemental Declaration" shall mean and refer to any written instrument filed under the provisions of Article II hereof which shall subject additional real estate to this Declaration.

## ARTICLE II

### PROPERTY SUBJECT TO DECLARATION

All of the Lots shall be held, transferred, sold, conveyed and occupied subject hereto. The Association shall have the right at any time subsequent to the filing of this Declaration, to add, annex and subject additional contiguous land in Washington County, Nebraska, to this Declaration by filing in the Office of the Register of Deeds of Washington County, a written instrument duly executed and acknowledged by the Association and the fee simple owner of such additional land, to the effect that such additional land is being subjected hereto. The annexation of additional land to be subject hereto shall require written instruments signed by a majority of the membership in the Association. Any real property thereby subjected to this Declaration shall, after said filing, be subject hereto and the owners thereof shall be subject to all the same duties, liabilities and rights hereunder as though said additional property had been originally a part of the real estate described in Article I hereof on the date of the filing of this Declaration.

## ARTICLE III

### COMMON SCHEME RESTRICTIONS

The following restrictions are imposed as a "common scheme" upon Lots for the benefit of each other Lot, and may be enforced by any Owner of a Lot.

- (a) No Lot shall be used except for residential purposes, except such Lots, or portions thereof, as may be hereinafter conveyed or dedicated by the Declarants for public, church, educational, charitable, or non-profit recreational areas.
- (b) With the exception of accessory buildings, no building shall be created, altered, placed, or permitted to remain on any residential building plot other than the one (1) single-family dwelling referred to above, and said dwelling shall conform to the following requirements:
  - (1) A one-story house (Ranch) with attached garage shall contain a minimum of 1,500 square feet of living area on the main floor, exclusive of garage area. The garage must be approximately at the same level as the main floor.

- (2) One and one-half and two-story houses shall contain a minimum of 2,000 square feet in total area above the basement level, exclusive of garage area. For the purpose of these Restrictions, two-story height shall, when the basement wall is exposed above finished grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure of the same side(s). Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breeze-ways, courtyards, patios, decks, basements, garages, or carports. The basement will not be considered a story even if it is 100% above grade on one or more sides and essentially below grade on the other sides.
  - (3) All dwelling units shall have attached, enclosed, side-by-side garages which must be capable of accommodating at least two (2) standard-size automobiles per living unit.
  - (4) All dwelling units and structures shall be of new construction.
  - (5) No dwelling may be built of material other than wood, stone (except veneer), stucco, brick or a combination thereof.
- (c) Storage sheds, barns, carports, detached garages, and other buildings (collectively referred to herein as "accessory buildings") shall be located no closer to roads than the front foundation line of the dwelling. All structures of this type shall be of neat construction and of such a character as to enhance the value of the property. Storage sheds, barns, and detached garages on any Lot shall not exceed a cumulative total of 2,400 square feet in size and shall be constructed of wood, colored metal, or similar material.
- (d) When improvements are erected on any Lot in this Subdivision, the Owner shall at the same time construct and connect said improvements to an adequate sewage disposal facility which shall consist of a minimum of a 1,000 gallon septic tank, and connect same in compliance with regulations and specifications of the Nebraska State Health Department of Washington County, Nebraska, which are in effect at the date of recording of this Declaration.
- (e) All materials used in construction of any building on any Lot shall be new. Used antique brick or stone is permitted for decorative purposes. Frame construction shall be with wall studs, joists, and rafter at sixteen inches (16") on center. Roof trusses may also be used with a maximum spacing of twenty-four inches (24") on center unless other provisions regarding frame construction and roof trusses have been adopted and incorporated into the universal Building Code and any other additional applicable building code set by an appropriate governing body of Washington County, Nebraska or any other applicable political subdivision having jurisdiction in regard thereto. In such

case, the provisions of such applicable building code regarding framing and roof trusses shall be deemed acceptable and in compliance with these covenants. Construction other than conventional wood framing may also be employed with complete detailed building plans by a licensed building contractor or architect. Roof overhangs shall be a minimum of twelve inches (12") at gable ends, and sixteen inches (16") at all other locations, except where to do so would detract from the appearance, such as bay windows, or affect the function of a dwelling.

(f) No fences shall be erected in front of the main residential structure, except decorative fences no more than forty-two inches (42") in height, constructed of brick, stone, PVC or wood. Side and rear fences shall be maintained in such a manner as to not be unsightly to the neighboring properties.

(g) No structure of a temporary character, basement, tent, shack, barn or other out building shall be used as a residence, temporarily or permanently. No structure or dwelling previously occupied as a residence elsewhere shall be moved from outside of the subdivision onto any of said Lots. This prohibition specifically includes mobile homes and double-wide mobile homes.

(h) No manufactured homes shall be allowed to be placed on any lots in Elvers Acres. For purposes of this section, "manufactured homes" shall mean:

- (1) A factory-built structure which is to be used as a place of human habitation, which is not constructed or equipped with permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, et seq., promulgated by the United States Department of Housing and Urban Development;
- (2) Any factory-built structure constructed on a non-removable chassis; or
- (3) Any factory-built structure that does not meet the inspections required by the Uniform Building Code (UBC) or its equivalent, normally shown by the application of a State or inspection agency labor of approval.

(i) No mobile homes shall be allowed to be placed on any lots in Elvers Acres. For purposes of this section, "mobile home" shall mean: a year-round, transportable structure which is a single family dwelling unit suitable for permanent residence (more than thirty (30) days living quarters), more than eight feet (8') wide and forty feet (40') in length, designated and built to be towed on its own chassis and designed to be used as a single

family dwelling with or without a permanent foundation when connected to the required utilities.

(j) No flat or mansard roof shall be permitted on any dwelling. All dwellings shall have a roof composition of not less than 235 pound shingles of asphalt, fiberglass, woodshakes, or cedar wood shingles. Each house shall have a minimum roof pitch on the main structure of 5/12.

(k) During construction, the builder and Owner will use reasonable measures to deter rain from washing mud into the streets. Reasonable measures include, as a minimum, using bales of hay or straw to stop such flow.

(l) Animals kept on any Lot, will be as allowed by Washington County, Nebraska regulations. Dogs shall not be allowed to run at large. Dog owners have the responsibility to make sure to control noise so as not to disturb their neighbors.

(m) All Lots shall be kept free of rubbish, debris, merchandise, and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of any waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where dwellings have not yet been constructed, shall be allowed to reach more than a height of twelve inches (12"). No material other than earth, sand, rock, or gravel shall be used as fill on any Lot.

(n) No Lot as originally platted or replatted shall be used as a building plot if it has to be reduced below its original platted size; provided that parts of two or more platted Lots may be combined into one building plot if the plot is at least as wide and as large in area as the largest of said Lots as originally platted.

(o) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood.

(p) No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be erected upon, or used, on any Lot any time as a residence, either temporarily or permanently.

(q) No unused building material, junk or rubbish shall be left exposed on any Lot except during actual building operations. No repair of automobiles will be permitted outside of garages on any Lot at any time.

- 7
- (r) No automobile, boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, grading or excavation equipment or other heavy machinery or equipment, vehicle undergoing repair, or aircraft shall be stored outside the garage or other accessory building or in any manner left exposed on any Lot at any time.
- (s) No incinerator or trash burner shall be permitted on any Lot unless the same is incorporated into the Living Unit and not exposed to view from the outside of the Living Unit. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any Living Unit unless completely screened from view from every street and from all other Lots in the addition. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any Living Unit except when in actual use unless screened from view from every street and from all other Lots in the addition. Any exterior air-conditioning condenser unit shall be placed in the rear or side yard.
- (t) No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any Lot except that real estate for-sale or for-rent signs of a size no greater than 4.5 square feet shall be permitted temporarily in the yards of Living Units which are being offered for sale or rent.
- (u) The setbacks for the Property to be developed for the Living Units shall be the greater of the requirements as adopted by Washington County or the following and no buildings shall be erected, located or permitted to remain:
- i Nearer than fifty feet (50') to the front lot line.
  - ii Nearer than fifty feet (50') to the rear lot line.
  - iii Nearer than twenty-five feet (25') to the side lines of any lot.
- (v) A Living Unit on which construction has begun must be completed within twelve (12) months from the date the foundation was dug for said Living Unit.
- (w) All septic systems and water wells shall be placed no nearer than fifty feet (50') from the front, side or rear lot lines of any Lot.

#### ARTICLE IV

##### GENERAL PROVISIONS

Section 1. Duration. The covenants and restriction of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Owner of any land subject to this Declaration, his/her respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date this Declaration is recorded.

Section 2. Amendments. The covenants and restrictions of this Declaration may be amended by the Declarants, or any person, firm corporation, partnership, or entity designated in writing by the Declarants, in any manner it shall determine in its full and absolute discretion, until such times as the Declarants have conveyed fee simple title to twenty (20) of the Lots. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than two-thirds (2/3) of the Lots covered by this Declaration.

Section 3. Notices. Any notice required to be sent to any Owner or Mortgagees under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by any Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provision, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarants have caused these presents to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

Janis Elvers 11/9/00  
JANIS ELVERS, Declarant

Saralee Ryan 11/9/00  
SARALEE RYAN, Declarant

Jarald Elvers 11/9/00  
JARALD ELVERS, Declarant

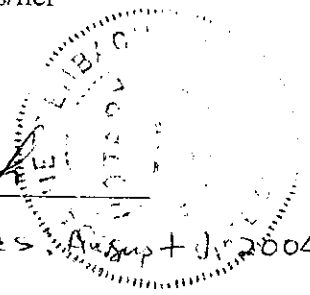
Charles Elvers 11/11/00  
CHARLES ELVERS, Declarant

STATE OF <sup>Wisconsin</sup> NEBRASKA )  
 ) :ss:  
COUNTY OF Waukesha )

On this 28 day of October, 2000, before me, the undersigned a Notary Public, duly commissioned and qualified for in said county, personally came JARAD L. ELVERS, to me known to be the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

[Signature]  
Notary Public  
commission expires Aug + Dec 2004



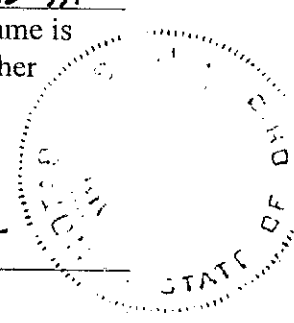
STATE OF <sup>OHIO</sup> NEBRASKA )  
 ) :ss:  
COUNTY OF WOOD )

On this 1 day of NOVEMBER, 2000, before me, the undersigned a Notary Public, duly commissioned and qualified for in said county, personally came CHARLES H. ELVERS, to me known to be the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

[Signature]  
Notary Public

RICHARD R. JONES  
Notary Public, State of Ohio  
My Commission Expires Dec. 5, 2003



STATE OF NEBRASKA )  
 ) :ss:  
COUNTY OF DOUGLAS )

On this 9 day of NOVEMBER, 2000, before me, the undersigned a Notary Public, duly commissioned and qualified for in said county, personally came [Signature], to me known to be the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

[Signature]  
Notary Public

