

(14)

DCIE

FILED

BOOK **2005** PAGE **4306**

2005 JUN 28 AM 10:14

Carol Stevens
DODGE COUNTY
REGISTER OF DEEDS
COMPARATIVE INDEX FEE \$ 51.00

**DECLARATION OF COVENANTS
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR DAY ACRES EAST SECOND ADDITION**

**Recorded on all lots of
Day Acres East Second Addition,
to wit:**

**Block 3, Lots 12-15
Block 6, Lots 10-20
Block 7, Lots 1-7**

**DECLARATION OF COVENANTS
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR DAY ACRES EAST SECOND ADDITION**

This declaration made on the date hereinafter set forth is made by Don Peterson & Associates Real Estate Co.

I. Preliminary Statement

The Declarants are the owners of certain real estate located within Dodge County, Nebraska described as follows:

Lots 12, 13, 14, and 15 in Block 3, Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 in Block 6, and Lots 1, 2, 3, 4, 5, 6, and 7 in Block 7, all in Day Acres East Second Addition to the City of Fremont, Dodge County, Nebraska,

said real estate duly platted of record in Dodge County.

Such property is hereinafter referred to collectively as "Day Acres East Second Addition", the "addition", or the "lots" and individually as each "lot".

The Declarants desire to provide for the preservation of the values and amenities of such community and for the maintenance of the character and residential integrity of the Lots.

NOW, THEREFORE, the Declarants hereby declare that the Addition each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Addition and the Lots. These restrictions, covenants and conditions, shall run with such real estate and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot and the Addition shall be subject to all and each of the following conditions and terms as set forth herein.

II. Homeowner's Association/Architecture Committee

1. Each lot owner, upon obtaining title or equitable ownership interest to a lot within the Addition, shall thereby become a member of the **Day Acres East Homeowners Association**, a Nebraska Non-Profit Corporation, and shall be obligated to abide by its rules and regulations, and shall pay dues or other fees as prescribed by such Association (hereafter **Day Acres East Homeowners Association**, or Homeowners Association, or Association). Said Homeowners Association encompasses all those Lots in Day Acres East Addition, Day Acres East First Addition and Day Acres East Second Addition, and any later additions to the Association for which covenants, including the present covenants, have been filed of record making such Lots members of said Homeowners Association. Unpaid Association dues and charges shall become a lien against the property as provided in the Association Bylaws. Each lot shall have one vote to be cast by the owner of said lot on all matters calling for a vote of the members of the Association.

2. Complete plans and specifications for all Structures and Improvements must be approved by an Architecture Committee pursuant to the various provisions set forth in these Declarations (hereafter referred to as the "Architecture Committee"). Don Peterson & Associates, Inc., a/k/a Don Peterson & Associates Real Estate Co. (hereafter referred to as "Don Peterson & Associates"), shall constitute the Architecture Committee for the first 5 years from the date of the adoption of these Declarations or until such time as Don Peterson & Associates appoints the Day Acres East Homeowner's Association to serve as the Architecture Committee, whichever occurs first. After 5 years or appointment by Don Peterson & Associates, the Board of Directors of the Association, or an Architecture Committee appointed by said Board, shall thereafter compose the Architecture Committee.

III. Restrictions, Covenants and Conditions

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereinafter be conveyed or dedicated by Declarants, or their successors or assigns, for use as a church, school or park, or for other non-profit use.
2. For a period of twenty years after the filing of this Declaration, no residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, dog house, tree house, antenna, satellite receiving stations, ("Dish"), flag pole, solar heating improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for such Improvements which have been approved by Declarants as follows:
 - (i) An owner desiring to erect an Improvements shall deliver two sets of construction plans and plot plans to the Architecture Committee (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify Don Peterson & Associates Real Estate Co. of the Owner's mailing address.
 - (ii) The Architecture Committee shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by the Architecture Committee. In this regard, it is the intent of these Covenants that the Lots shall be developed as a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Architecture Committee to promote development of the Lots and to protect the values, character and residential quality of all Lots. If the Architecture Committee determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, the Architecture Committee may refuse approval of the proposed Improvement.
 - (iii) Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans.

Such notice shall be mailed, if at all, within thirty days after the date of submission of the plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by the Architecture Committee.

- (iv) No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by the Architecture Committee or to control, direct or influence the act of the Architecture Committee with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon the Architecture Committee by virtue of the authority granted to Don Peterson & Associates and/or the Architecture Committee, or as a result of any act or failure to act by Don Peterson & Associates or the Architecture Committee, with respect to any proposed Improvement.
 - (v) It is the intent of these Declarations that such structures and improvements as mentioned in Paragraph 2 above, such as flag poles and satellite dishes and so forth, are acceptable Improvements, but such Improvements are only to be constructed or installed after submission to and approval by the Architecture Committee as set forth above so that the Architecture Committee shall take into account the specifics of each proposed Improvement and insure that they are compatible with the general nature of the addition and the adjoining lots to any particular Improvement.
- 3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one single-family dwelling which does not exceed two and one half stories in height.
 - 4. The only buildings which may be erected on said property shall be single-family dwellings, single floor ranch or raised ranch inclusive of attached garages and other reasonable appurtenances attached thereto of at least 1,200 square feet of living space exclusive of basement, garage, and other areas appurtenant to the principal building, or in the event of a multi-level building at least 750 square feet of living space on the main level of the building exclusive of basement, garage, other levels, and other areas appurtenant to the principal building, and that the property shall be used only for residential purposes. Mobile homes and home substantially constructed off site shall not be allowed and residence in homes less than 90% completed shall not be allowed. No modular or prefabricated homes shall be allowed to be placed, built or created on any Lot.
 - 5. All driveways must be constructed of concrete, brick, paving stone or laid stone. All foundations shall be constructed of concrete, concrete block, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding. Unless other comparable materials are specifically approved by the Architecture Committee, the roof of all improvements shall be covered with composition shingles - minimum of 245 pounds or wood shingles. Each residential home shall be constructed with a minimum of 25% of the front of the home constructed of brick or brick fascia. The side and rear foundations of each residential home shall be painted or constructed of a face with brick or simulated brick, stone, stucco or other approved material.

6. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for the purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboard or the construction and maintenance of buildings, if any, by Don Peterson & Associates Real Estate Co., its agents or assigns, during the construction and sale of the Lots.
7. No exterior television, radio antenna, satellite viewing stations (discs) of any sort shall be permitted on any Lot excepting only that a satellite dish no larger than 18" may be attached to the home.
8. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of twenty four (24) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building materials, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible
9. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors, or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section 9 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinance of the City of Fremont.
10. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time except one retractable clothes line per Lot.
11. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.
12. No fence shall be permitted to extend beyond the front line of a main residential structure unless written approval is first obtained from the Architecture Committee. All fences installed with the addition by or on behalf of Lot owners must be approved by the Architecture Committee prior to installation. No hedges or mass planted shrubs shall be

permitted more than ten (10) feet in front of the front building line. NO fences or walls shall exceed a height of six (6) feet. All produce or vegetable gardens shall be maintained only in rear yards.

13. No swimming pool shall be permitted which extends more than one foot above ground level.
14. Construction of any Improvement shall be completed within one year from the date the foundation was commenced for such dwelling. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the contour of the Lot.
15. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick on the street side of each built upon Lot, whether or not the Lot is a corner Lot or a double faced Lot. Such construction shall be at the Lot owner's expense. The sidewalk shall be placed in accordance with city directions and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary as needed to comply with the requirements of the City of Fremont.
16. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.
17. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except that a dog house constructed for one (1) dog shall be permitted; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by the Architecture Committee, or its assigns, if required by this Declaration. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view.
18. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards to as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.
19. No structure of a temporary character, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structure or dwelling shall be moved from outside of the property to any Lot unless the written approval of the Architecture Committee is first obtained. Storage buildings constructed out of wood shall be painted the same color as the home and shall be built to meet City of Fremont code specification and residential requirements.

20. All waste property or debris resulting from construction or improvements shall be removed from the site and delivered to a waste disposal site holding an appropriate government license.
21. All utility service lines from each lot line to a dwelling or other improvement shall be underground.
22. Except for the authority and powers specifically granted to any Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter improved by the provisions of the Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by any Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
23. The covenants and restrictions of this Declaration and Covenants shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, and at the end of said twenty (20) years shall continue in full force and effect unless repealed or otherwise amended by sixty percent (60%) of the Lots covered by this Declaration and Covenants. During the initial twenty (20) years, this Declaration and these Covenants may be amended by an instrument signed and filed of record by the owners of not less than sixty six and two thirds percent (66 2/3%) of the Lots covered by this Declaration and these Covenants; whereas, after the twentieth year, this Declaration and these Covenants may be amended by an instrument signed and filed of record by the owners of not less than sixty percent (60%) of the Lots covered by this Declaration and these Covenants.
24. Invalidity of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.
25. These restrictions shall not apply to improvements made to the land dedicated to the public for streets, walks, or park purposes and to continued present agricultural use.

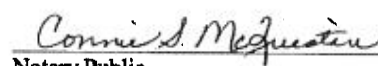
IN WITNESS WHEREOF, the Declarants, being all of the owners of the affected real estate, have caused these presents to be executed this 27 day of June, 2005.

DON PETERSON & ASSOCIATES REAL
ESTATE CO., a Nebraska Corporation

By: 
Larry M. Shepard, President

STATE OF NEBRASKA)
)
COUNTY OF DODGE)

The foregoing instrument was acknowledged before me on June 27, 2005 by Larry M. Shepard, President of Don Peterson & Associates Real Estate Co., known to me personally or who has produced satisfactory evidence of identification to me.


Notary Public

