

19

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR DAY ACRES SUBDIVISION

1416

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

Preliminary Statement

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

A tract of land being part of the NW 1/4 of the NW 1/4 of  
Section 19, Township 17 North, Range 9 East of the Sixth  
P.M., located North of Military Avenue, Dodge County,  
Nebraska, more particularly described as follows:  
Beginning at the NW corner of said Section 19; thence  
N89°53'34"E (Assumed Bearing) along the North line of the  
NW 1/4 of said Section 19, 1350.02 feet; thence  
S00°02'25"E, 1079.06 feet to the North right of way line  
of Military Avenue; thence N86°03'50"W along said North  
right of way line, 1353.97 feet to the West line of the  
NW 1/4 of said Section 19; thence N00°00'00"W along said  
West line, 983.59 feet to the point of beginning and  
containing 31.97 acres, more or less;

as per the Plat of Day Acres Subdivision recorded in Plat Book  
247, Page 927, of the Register of Deeds, Dodge County,  
Nebraska.

Such property is hereinafter referred to collectively as 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 each and  
all of the Lots shall be held, sold and conveyed subject to the  
following restrictions, covenants, conditions and easements, all of  
which are for the purpose of enhancing and protecting the value,  
desirability and attractiveness of the Lots. These restrictions,  
covenants, conditions and easements 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 as and shall  
be subject to all and each of the following conditions and other  
terms:

Fee Bk ✓ \$ 47.50  
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Compre ✓ ✓ ✓  
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96 JUN 20 PM 2:31  
Carol Williams  
REGISTER OF DEEDS  
DODGE COUNTY, NE

ARTICLE I  
RESTRICTIONS AND COVENANTS

1417

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter 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, ("discs"), flag pole, solar heating or cooling device, tool shed, wind mill or other external 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 Improvements which have been approved by Declarants as follows:

(i) An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Don Peterson & Associates Real Estate Co. (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) Don Peterson & Associates Real Estate Co. 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 Don Peterson & Associates Real Estate Co. In this regard, Don Peterson & Associates Real Estate Co. intends that the Lots shall be developed residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Don Peterson & Associates Real Estate Co. to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Don Peterson & Associates Real Estate Co. 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, Don Peterson & Associates Real Estate Co. 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 Don Peterson & Associates Real Estate Co.

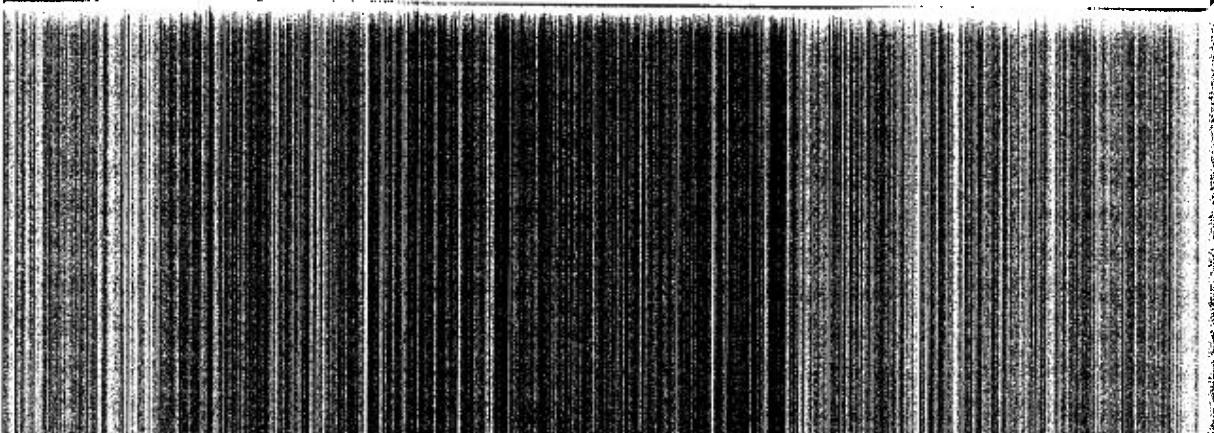
(iv) No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Don Peterson & Associates Real Estate Co. or to control, direct or influence the act of Don Peterson & Associates Real Estate Co. with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Don Peterson & Associates Real Estate Co. by virtue of the authority granted to Don Peterson & Associates Real Estate Co. in this Section, or as a result of any act or failure to act by Don Peterson & Associates Real Estate Co. with respect to any proposed Improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached 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 homes 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 blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding. Unless other comparable materials are specifically approved by Don Peterson & Associates Real Estate Co. 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 facia. 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.

Setbacks: 7 ft from side lot line for ranch 25 ft  
9 ft for 1 1/2 + 2 story from lot line



6. No advertising signs, billboard, 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 any 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 ordinances 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 Don Peterson & Associates Real Estate Co. All fences installed within the Subdivision by or on behalf of Lot owners must be white vinyl, of the same kind, type, style and color as erected on the exterior of the Subdivision as per Article III hereof, and shall be a maximum of six (6) feet in height and a minimum of four (4) feet in height and shall be approved by Don Peterson & Associates Real Estate Co. prior to installation. Said fences shall be erected and constructed as per the attached specifications and picture, which specifications and picture are attached hereto and made a part hereof. 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 Don Peterson & Associates Real Estate Co., 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 so 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 Don Peterson & Associates Real Estate Co. 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 specifications 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 issue license.

#### ARTICLE II Service Lines

All utility service lines from each lot line to a dwelling or other improvement shall be underground.

#### ARTICLE III Exterior Vinyl Fence

Don Peterson & Associates Real Estate Co. will, at its own expense, erect a vinyl security and privacy fence along the west property line abutting Luther Road and along the south property line abutting Military Avenue. Following construction of said fence, all further expenses associated with said fence shall be the sole responsibility of the abutting Lot owner and said Lot owner must maintain the fence, shall not be allowed to alter the same and shall not be allowed to remove the same.

ARTICLE IV  
General Provisions

1. 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 imposed by the provisions of this 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.

2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than seventy five percent (75%) of the Lots covered by this Declaration.

3. Invalidation 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.

4. These restrictions shall not apply to improvements made to land dedicated to the public for streets, walks, or park purposes and to continued present agricultural use.

IN WITNESS WHEREOF, the Declarants have caused these presents to be executed this 21 day of July, 1996.

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

By W. K. Peterson  
President

STATE OF NEBRASKA      )  
                            ) ss  
COUNTY OF DODGE      )

The foregoing instrument was acknowledged before me this  
21 day of July, 1996, by W. K. Peterson,  
President of Don Peterson & Associates Real Estate Co., a Nebraska  
Corporation, on behalf of Don Peterson & Associates Real Estate Co.

Notary Public

