

THIS DECLARATION, made on this date hereinafter set forth by ALBERT F. MARTIN, hereinafter referred to as "DECLARANT".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the Township of Garner, County of Pottawattamie, State of Iowa, which is more particularly described as:

A part of the NE 1/4 NE 1/4; SE 1/4 NE 1/4; NE 1/4 SE 1/4; the E 1/2 NW 1/4 NE 1/4 of Section 27, a part of the SW 1/4 NW 1/4, and the NW 1/4 SW 1/4 of Section 26, all in Township 75, Range 43, Pottawattamie County, Iowa, the tract being more particularly described as follows:

Commencing at the Northeast corner of Section 27, Township 75, Range 43, Pottawattamie County, Iowa, thence South 00° 48' 43" East, 2268.00 feet, to the point of beginning; thence South 00° 48' 43" East, 293.63 feet; thence South 28° 01' 20" East, 212.85 feet; thence South, 111.14 feet; thence South 67° 19' 53" West, 101.80 feet; to the Easterly right-of-way line of a road at which point the tangent bears South 22° 40' 07" East; thence Southerly along said right-of-way on a 4° 51' 36" curve to the right 449.73 feet; thence South 00° 48' 43" East 598.75 feet to the northerly right-of-way of U.S. Highway 6; thence South 89° 07' 41" West, 660 feet; thence along the westerly right-of-way of a road North 00° 48' 43" West, 598.81 feet; thence Northwesterly along a 5° 08' 53" curve to the left, 424.55 feet, (at which point tangent bears North 22° 40' 07" West); thence South 67° 19' 53" West, 194.74 feet; thence West, 208.51 feet; thence North 40° 10' 24" West, 469.43 feet; thence North 46° 48' 43" West, 800.73 feet; thence North 00° 57' 17" West, 737.87 feet; thence South 89° 02' 15" West, 696.80 feet; thence North 00° 05' 35" West, 1311.41 feet to the North line of said Section 27; thence along the North line of said Section 27, North 88° 15' 16" East, 694.01 feet; thence South 24° 01' 15" East, 255.84 feet; thence East, 54.11 feet; thence South 22° 28' 03" East, 121.83 feet; thence Southeasterly along a 3° 50' 53" curve to the right, 316.88 feet; thence South 10° 16' 28" East, 29.43 feet; thence East, 200.00 feet; thence South 07° 00' 36" East, 191.41 feet; thence South 00° 30' 40" East 195.02 feet; thence South 05° 03' 38" West 221.30 feet; thence South 07° 27' 09" East, 135.23 feet; thence South 20° 20' 25" East, 170.71 feet; thence South 40° 20' 31" East, 193.56 feet; thence South 40° 21' 48" East 128.59 feet; thence South 78° 45' 00" East, 176.79 feet; thence North 89° 11' 17" East, 224.06 feet; thence South 00° 48' 43" East 380.00 feet; thence North 89° 11' 17" East, 150.0 feet to point of beginning.

and which has been platted as EDGEWOOD FIRST SUBDIVISION, Pottawattamie County, Iowa, which plat appears of record in Book 1479, Page 185 of the records in the Office of the County Recorder of Pottawattamie County, Iowa; and

WHEREAS, Declarant will convey the lots of said Subdivision or portions thereof, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth

NOW, THEREFORE, Declarant hereby declares that all of the properties described 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 the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on 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. "Association" shall mean and refer to EDGEWOOD HOME OWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to Lots 1 through 42 of Edgewood First Subdivision, Pottawattamie County, Iowa, and such additional lots thereof as hereafter may be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property within the Properties owned by the Association or heretofore platted or hereafter dedicated by the Owner thereof as roads or streets for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record

owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Albert F. Martin, his successors and assigns, if such successors or assigns should acquire ownership at any one period of time of more than one undeveloped lot from the Declarant either by gift, devise or inheritance or for the purpose of development.

Section 8. "Developer" or "Developers" shall mean the same as "Declarant" or "Declarants".

ARTICLE II.

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

ARTICLE III. VOTING RIGHTS

The Association shall have two classes of voting membership:

CLASS A. Class A Members shall be all those Owners as defined in Article II with the exception of a Declarant. Class A Members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any lot, all such persons shall be Members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 6. Quorum for any action authorized under Sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 4 and the required quorum at any such subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. Date of Commencement of annual assessments:
Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the first lot by Declarant, Albert F. Martin. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors. The Association shall upon demand at any time furnish a Certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of nonpayment of assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of nine percent (9%) per annum, and the

Association may bring an action at law against the Owner personally, obligated to pay the same, or foreclose the lien against the property and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. In lieu of foreclosing such lien, the Association by its proper officer may cause to be served upon such lot Owner a notice of forfeiture notifying him that unless said assessment with nine percent (9%) interest, costs of serving the notice, and Thirty Five Dollars (\$35.00) attorney fees are paid within thirty (30) days of the completed service of said notice, the title to said lot shall pass to the Association. If the terms and conditions of said notice are not performed within said thirty (30) days, the party serving said notice or the Association may file for record in the office of the County Recorder, a copy of the notice aforesaid with proofs of service attached or endorsed thereon, and when so filed and recorded, the said record shall be constructive notice to all parties of the passing of title to said lot to the Association. Proceedings hereunder except as to the payment of attorney fees shall be the same as those provided for the forfeiture of real estate contracts in Chapter 656, 1971 Code of Iowa, and any amendments thereof. Any lot acquired by the Association by either of the methods set out shall be sold within a reasonable time at public or private sale, and any surplus remaining after the payment of all assessments, interest, costs, and attorney fees shall be paid over to the former Owner of said lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 9. Subordination of the lien to mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any lot shall not affect the assessment lien. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

- (4) To help insure the neighborhood that nothing shall be done on any lot which would impair the attractiveness of any other lot.

ARTICLE VII.

USE RESTRICTIONS

Section 1. No subdivision of platted lots. No lot as shown on the plat of the subdivision shall be subdivided.

Section 2. Structures permitted. All lots in the subdivision shall be known and described as residential building sites. No structure shall be erected, altered, placed or permitted to remain on any building site other than one detached single-family dwelling not to exceed two and one-half (2½) stories in height, a private garage for not more than three (3) cars, guest house, servants' quarters and other outbuildings incidental to residential use of the premises.

Section 3. Location of Structures. No building shall be located any closer than 25 feet from the front property line. Corner lots shall be deemed to have two front property lines. Side and rear lot set back shall not be less than 15 feet.

Section 4. Businesses, trades and signs. No obnoxious or offensive trade shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No business signs shall be permitted.

Section 5. Trees. No trees on any lot, road or street right-of-way, or Common Area shall be cut down without the written permission of the Board of Directors of the Association.

Section 6. Prohibited Uses. No trailer, basement, tent, shack, garage, barn or other out building other than guest houses and servants' quarters erected on a lot covered by these covenants shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. The keeping of a mobile home either with or without wheels, on any parcel of property covered by these covenants is pro-

The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

ARTICLE IX.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure by the Association 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.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot, subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty-five (25) years period by an instrument signed by not less than ninety percent (90%) of the lot Owners, and thereafter by an instrument signed by not less than seventy five percent (75%) of the lot Owners. Any amendment must be properly recorded.

Section 4. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post-paid, to the last known address

COMPARED

Edgewood

No 74 continued

AMENDED AND SUBSTITUTED
RESTRICTIVE COVENANTS

WHEREAS, the undersigned are owners of lots within Edgewood First Subdivision, Pottawattamie County, Iowa, which plat appears of record in Book 1479, Page 185 of the Records in the Office of the County Recorder of Pottawattamie County, Iowa, and

WHEREAS, there are Protective Covenants, Conditions and Restrictions concerning the use of the real estate executed on September 27, 1972, and filed of record in the Office of the Pottawattamie County Recorder on September 28, 1972 in Record Book 72, Page 14561, and

WHEREAS, the undersigned, being owners of the lots within said Edgewood First Subdivision, desire to amend the Protective Covenants, Conditions and Restrictions in certain respects;

NOW, THEREFORE, the parties hereto, in consideration of the covenants and agreements of each other and for their own protection and for the protection of subsequent owners of lots within the said Subdivision, by these presents, covenant, bargain and agree, and for their successors and assigns, that the Declaration of Protective Covenants, Conditions and Restrictions, dated September 27, 1972, filed September 28, 1972, in Record Book 72, Page 14561, be and the same is hereby amended and that the following shall constitute the Amended and Substituted RESTRICTIVE COVENANTS affecting all lots within Edgewood First Subdivision, Pottawattamie County, Iowa:

1. No Subdivision of Platted Lots. No lot shall be subdivided.

COMPARED

-2-

No 74 continued

2. Structures Permitted. All lots in the subdivision shall be known and described as residential building sites. No structure shall be erected, altered, placed or for any reason permitted to remain on any building site other than one detached single-family dwelling not to exceed two and one-half stories in height, a private garage for not more than three cars, guest house, servants' quarters and other outbuildings incidental to residential use of the premises.

3. Location of Structures. No building shall be located any closer than 25 feet from the front property line. Corner lots shall be deemed to have two front property lines. No building shall be located any closer than 15 feet from the side or rear property line.

4. Businesses, Trades, and Signs. No obnoxious or offensive trade shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

5. Trees. Live trees larger than 6 inches in diameter may be cut down only for the purpose of erecting or maintaining those structures which are permitted by paragraph 3 of these covenants.

6. Prohibited Uses. No trailer, basement, tent, shack, garage, barn or other outbuilding other than guest houses and servants' quarters erected on a lot covered by these covenants shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. The keeping of a mobile home, either with or without wheels, on any parcel of property covered by these covenants is prohibited.

COMPARED

-3-

no 74 continued

7. Size of Dwelling. No main residential structure shall be permitted on any lot covered by these covenants, the habitable floor area of which, exclusive of basements, porches, breezeways, and garages is less than 1,200 square feet.

8. Restrictions on Fences and Plantings. Fences, walls and plantings may be constructed on property lines, but shall be subject to the utility easements.

9. Utility Easements. The side and rear 10 feet of each lot shall be reserved for utility and drainage facilities.

10. Construction. Construction of any residence shall be completed within one year from the date said construction is begun. Excess dirt from excavation shall be hauled away or used only as a part of a graded landscape plan. All construction operations shall be confined to the lot on which construction is in progress.

11. Erosion and Drainage Control. The owner of each lot shall take all steps necessary to control erosion on his lot or lots. Excavation and filling shall be done in such a manner that natural drainage is not altered to the detriment of adjacent properties.

12. Weeds and Debris. The titleholder of each lot, vacant or improved, shall keep his lot or lots free from unsightly weeds and debris.

13. Off-street Parking. Each lot owner shall provide off-street parking in an amount adequate for individual needs. As a general rule, no vehicle shall be routinely parked on any streets or roads.

COMPARED

-4-

No 74 continued 14. Sewage Disposal. Each residence shall have an individual home sewage disposal system installed by the lot owner at his own cost.

Said sewage disposal system shall be constructed and maintained solely within the confines of said lot; shall be of the proper design, size, construction, capacity, depth, elevation and location as needed to provide a satisfactory system for the treatment of household waste; and shall be constructed, operated, and maintained by the lot owner in accordance with all applicable laws and regulations of the governmental authority having jurisdiction.

15. Road Right-of-Way and Maintenance of Roads.

There is attached hereto a plat of some of the lots within the subdivision which discloses a 50-foot access road on the west side of unplatted land noted on the survey as "Martin leased property." This 50-foot right-of-way is located on land owned by Six Ridge Farms, Inc. Six Ridge Farms, Inc. has granted a license to the owners of the lots within the subdivision to use this access right-of-way as a private road. Said license shall continue until that time when Six Ridge Farms, Inc. designates a permanent access road into the Edgewood First Subdivision. It is the expressed intent of the parties that said access road remain a private road and that said license serve solely as a grant of permission to use said access road.

All other roads within the subdivision have been graded and dedicated to the public for public use. The County, however, is not now maintaining the roads.

No 74 continued

All roads within the subdivision, including the private road, when in use, shall be maintained at the expense of the owners of all lots within the subdivision.

There are now 39 lots within the subdivision. The owner or owners of each lot shall pay 1/39th of the reasonable cost of the materials and labor necessary to maintain the roads. The decision of the majority of the lot owners as to what maintenance expenses are necessary shall be binding on all of the lot owners. Maintenance shall include such things as grading, graveling, snow removal, and ditch maintenance, similar to road maintenance services generally furnished by the County.

However, maintenance shall not include construction of hard-surfaced roads.

In the event that the majority of fee title home owners and Six Ridge Farms, Inc., or its successors in interest, vote to construct hard-surfaced roads, sewers, and/or water lines, any assessment levied against a lot for the cost of said improvements shall be paid by the owner of said lot in equal yearly installments over a 10 year period of time.

This covenant shall terminate when the land within the subdivision becomes a part of a duly incorporated municipality of the State of Iowa, or until the Board of Supervisors of Pottawattamie County agrees to maintain the roads as County roads.

16. Covenants Continuing. Except as hereinbefore provided, these covenants shall be deemed to be covenants running with the land and shall endure and be binding upon the parties hereto, their successors or assigns, until January 1, 2000, at which time the said covenants shall be automatically extended for successive periods of ten years unless by vote of the majority of the then owners of the lots it is agreed to change the said covenants in whole or in part. Provided, further, however, that the covenant concerning maintenance of the streets

COMPARED

No 74 continued

-6-

shall terminate when the land within Edgewood First Subdivision becomes a part of a duly incorporated municipality of the State of Iowa, or until the Board of Supervisors of Pottawattamie County, Iowa, agrees to repair and maintain the streets and remove the snow.

17. Violation of Covenants. That in case of any violation of said covenants, any person then owning a lot in said subdivision is authorized to resort to an action at law or equity for relief, either by injunction or in damages against the person so violating said covenants.

18. Invalidation. That invalidation of any of these covenants by judgment or Court Order shall in no way affect any of the other provisions, which shall remain in full force and effect.

All other provisions of the original Declaration of Protective Covenants, Conditions and Restrictions are deleted in their entirety.

Dated this 27th day of May, 1975.

SIX RIDGE FARMS, INC.

By Carroll Fales
Carroll Fales, President

By Terrance A. Hogan
Terrance A. Hogan, Asst. Secy.

Signed:- Randall Trively
Charles Trively
Verle Trively
Norman Crane
Harold James McEvoy
Carole J. Trively, wife of
Randall Trively
Wava Trively, wife of Charles
Trively
Wilma M. Trively, wife of Verle Trively
Janet B. Crane, wife of Norman Crane
Delores Se Donna McEvoy, wife of Harold
James McEvoy

all duly acknowledged.

