

PROTECTIVE COVENANTS AND RESTRICTIONS

FOR

THE PROPOSED INDIAN HILLS ESTATES SUBDIVISION  
CASS COUNTY, NEBRASKA

THIS DECLARATION, made this 26<sup>TH</sup> day of ~~May~~ <sup>JUNE</sup>, 1990, by Richard R. Berner and Muriel A. Berner, husband and wife, being the Owners and the Developers of the following described real estate situated in Cass County, Nebraska:

South Half of the NE $\frac{1}{4}$  East of the Country Road, excepting therefrom Lots 20, 23 and 24 AND Lot 12 in the North Half of the SE $\frac{1}{4}$  East of the Country Road, excepting therefrom Sublot 3 of 12, Sublot 4 of 12 and Sublot 5 of 12, containing 99.75 Acres more or less, all in Section 21, Twp. 12 N, Rge. 11 East of the 6th P.M., excepting therefrom that part deeded to Lonnie Coonts and Mary Lennea Coonts, recorded in Book 127, Page 586 and excepting therefrom that part deeded to August C. Lempka, recorded in Book 147, Page 56, all in Cass County, Nebraska.

W I T N E S S E T H

WHEREAS, Declarant is the Owner of the real property described above and is desirous of subjecting the property described above to the restrictions, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of the property and for each owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any owners thereof.

NOW, THEREFORE, the Declarant hereby declares that the real property described herein above is, and shall be, held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations, easements, liens and charges hereinafter set forth.

I

The Declarant shall hereafter create a Building Committee which shall consist of the Declarant and those persons hereinafter appointed by him each of whom shall be owners of a parcel within the boundaries of the property herein described. The Building Committee shall have general authority for the enforcement of the Building and Use Restrictions herein set forth. Membership on the Committee shall be limited to not less than three, nor more than five members, under any circumstances.

COMPARED

Filed for Record 6-26-90 At 10:45 A.M.  
in Book 38 of Misc Page 516  
Register of Deeds, Cass Co., NE *Dorcas M. Moring*  
Doc # 451 \$45<sup>50</sup>

II

Any and all prior Protective Covenants or Restrictive Covenants, by whatever name or description, are hereby superseded by these Covenants, Restrictions and Easements.

III

The Restrictions and Covenants hereinafter set out are to run with the land and shall be binding upon all parties and all persons owning tracts of land in Indian Hills Estates, or claiming under them.

IV

If the Owners of such tracts or any of them, or their heirs or assigns, shall violate any of the Covenants hereinafter set out not waived by the Building Committee, it shall be lawful for any other person owning real property situated in such area to prosecute any proceedings at law or in equity against the person or persons violating any of such covenants, and either to prevent him from so doing or to recover damages for such violation, or both.

V

Invalidation of any of these Covenants by Judgment or Court Order shall in no wise effect any of the other provisions, which shall remain in full force and effect.

VI

These Covenants and Restrictions shall be applicable to all tracts of land within that area known as Indian Hills Estates whether one or more owners.

VII

Approval of Plans

- a. For the purpose of further insurance that the development of the lands remains as an area of high standards, the Building Committee reserves the power to control the buildings, structures, and other improvements placed on each tract as well as to make exceptions to these Reservations and Restrictions as the Building Committee, hereinafter designated, shall deem necessary and proper.
- b. Whether or not provision therefor is specifically stated in any conveyance of a tract made by the Building Committee, the owner or occupant of each and every tract, by acceptance of title thereto or by taking possession thereof, covenants

and agrees that no building, wall or other structure shall be placed upon such tract unless and until the plans and specifications therefor have been approved in writing by the Building Committee hereinafter provided. Each such building, wall or structure shall be placed on the premises only in accordance with the plans and specifications so approved. Refusal of approval of plans and specifications by such Building Committee may be based on any ground, including purely aesthetic ground which, in the sole and uncontrolled discretion of the Building Committee shall seem sufficient. No alteration in the exterior appearance of the buildings or structures shall be made without like approval. If no Building Committee exists or if the Building Committee shall fail to approve or disapprove the plans and specifications within thirty (30) days after written request thereof, then such approval shall not be required, provided that no building or other structure shall be erected which violates any of the Restrictive Covenants herein contained.

#### VIII

##### Setback Lines

No building or any part thereof, including garages and porches, shall be erected on any tract closer than 40 feet to the front road line, or closer than 20 feet to either side boundary line, or closer than 10 feet to the rear boundary line (provided, however, that in the case of corner tracts that set back from the side street shall not be less than 20 feet). Notwithstanding anything to the contrary herein the Building Committee shall have the right to permit reasonable modifications of the setback requirements where, in the discretion of the Building Committee, strict enforcement of these setback provisions would work a hardship.

#### IX

##### Residential Buildings.

- a. No tract or tract of land embraced within the boundaries of said Indian Hills Estates shall be used for other than single-family residential purposes. There shall not exist or be permitted any more than one residential type building on any

tract of land. No trailer, tent, shack, temporary building, or guest house shall be erected on any of the tracts in Indian Hills Estates without approval in writing from the Building Committee.

- b. No one-story buildings shall be constructed on the tracts with a fully enclosed first floor area of less than 1,200 square feet, exclusive of carport, garage, and open porches. No two-story or higher buildings shall be constructed with a fully enclosed first floor area of less than 1,200 square feet.

X

Walls.

No wall of any height shall be constructed on any tract until after the height, type, design and approximate location therefor shall have been approved in writing by the Building Committee. The heights or elevations of any wall shall be measured from the existing elevations of the property at or along the applicable points or lines. Any question as to such heights may be completely determined by the Building Committee.

XI

Nuisances.

No cattle, swine, goats, poultry or fowl shall be kept on any tract. No signs or other advertising shall be displayed on any lot unless the size, form and number of same are first approved in writing by the Building Committee. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. In the event that any owner of any property in the subdivision shall fail or refuse to keep such premises free from weeds, underbrush or refuse piles or other unsightly growths or objects, the Building Committee may enter upon such lands and remove the same at the expense of the owner and such entry shall not be deemed a trespass; and, in the event of such removal, a lien shall arise and be created in favor of the Building Committee and against such tract for the full amount chargeable to such tract and such amount shall be due and payable within 30 days after the owner is billed therefor.

## XII

Tracts.

- a. Subdivision. None of the tracts shall at any time be divided except that remaining land held by the Owners/Developers.
- b. Size. No tract shall be less than one (1) acre, more or less, as much as practicable, considering land, area, and plot terrain and configuration.
- c. The land encompassed within the proposed Tax Lots, Sublot 7 of Lot 12 may remain in its present condition to prevent erosion.

## XIII

Remedies for Violations - Invalidations.

For a violation or a breach of any of these Reservations and Restrictions by any person claiming by, through or under the Developer, or by virtue of any judicial proceedings, the Developer, and the tract owners, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach or any of them. The failure promptly to enforce any of the Reservations and Restrictions shall not bar their enforcement. The invalidation of any one or more of the Reservations and Restrictions by any Court of competent jurisdiction in no wise shall effect any of the other Reservations and Restrictions, but they shall remain in full force and effect.

## XIV

Residence Restriction.

No tract shall have placed thereon, for habitation purposes, a trailer, tent, shack or temporary building or mobile home irrespective of the fact that it may meet the square footage requirement in Paragraph 9. Outbuildings shall not exceed two times the size of the dwelling. The type of building and location shall be approved by the Building Committee.

## XV

Commercial Vehicles.

No trucks and no commercial type vehicles shall be stored or parked on any residential tract except while parked in a closed garage or parked on the residential road in the area except while engaged in transporting

to or from a residence in Indian Hills Estates.

XVI

Vehicle Repair or Maintenance.

No vehicle of any type or description, including all recreational vehicles or boats may be disassembled, remodeled, repaired, maintained or stored upon the tract or any portion of the road. All such type of activity shall be done in an enclosed structure located on the owner's property.

XVII

Utility Easements and Lines.

The Developer intends to reserve easements on the boundary lines of the parcels to be subdivided within the boundaries of the property hereby affected for the installation and maintenance of public and private utility facilities. Such easements shall be approximately ten feet in width and shall affect each of the parcels as the same is surveyed and conveyed. All claims for damages, if any, arising out of the construction, maintenance and repair of utilities or on account of temporary or other inconvenience caused thereby against the Developer, or any utility company or municipality, or any of its agents or servants are hereby waived by the Owners. Developer does further reserve the right to change, lay out a new or discontinue any road or way shown on the plan of development not necessary for ingress or egress to and from the premises, subject to the approval of the Village of Louisville, if required.

XVIII

Utilities.

- a. Each tract owner shall be responsible for the cost of obtaining electrical, telephone and other available utilities from the utility company from which such services are available. The Declarant states that water service is not presently available from the local Rural Water District; and, that each lot owner shall be required to install and maintain, at his own expense, a water well to supply potable water to the owner's premises. The Declarant shall not be responsible for any expense in regard to water availability on any parcel.
- b. The Developer shall have no responsibility for any costs or maintenance, repair, alteration, upgrading or snow removal for

the roadway or any utility after all tracts in Indian Hills Estates have been initially sold.

## XIX

Sewers.

In the event governmental authority should require the installation of sanitary sewers and appurtenances in part or in all of the subdivision, the purchasers or owners of the tracts in the subdivision shall pay their proportionate share of the cost and expense of installing the sewer system.

## XX

Roadway.

- a. The Developer shall have surveyed and installed a nonhardsurfaced roadway into the development so as to service all tracts therein. The road will be rocked initially and at necessary intervals to insure safe travel over the same. The Purchasers or Owners of the tracts in the area shall pay their proportionate share of the cost and expense of maintenance, repair, upgrading or snow removal on the roadway. This proportionate share will be computed by the total number of tracts served into the total cost of such roadway. Payment shall be to the Developer or the Committee. All Purchasers or Owners shall have equal access for ingress and egress over and through said roadway for use usually associated with development.
- b. Each tract owner, upon receiving title to a tract, shall pay an initial assessment fee of One Hundred Dollars (\$100.00) to the Developer or Committee to be placed into a road maintenance fund and used for the purposes set forth above.

## XXI

Exteriors and Roofs.

All structures shall be painted with paint unless constructed of ornamental masonry, brick or logs.

## XXII

Construction Period.

All residences shall be completed and be capable of being habitable within one year from the date construction on the residence is begun.

XXIII

Whenever the undersigned or its successors or assigns incur any expense in the enforcement of any provision of this instrument, it or they, respectively, shall have a lien against the tract or tracts affected thereby from the time of filing an account in writing thereof in the Office of the Register of Deeds of the County in like manner as a mechanic's or materialmen's lien as provided by law.

XXIV

In addition to the provision of this instrument, each owner and occupant of any of said tracts shall observe and obey all valid provisions of the Louisville Zoning Regulations and of all other ordinances, laws and regulations applicable thereto.

XXV

The Covenants, Conditions and Restrictions set forth in this instrument may be amended, in whole or in part, at any time by written agreement among the then Owners of a majority in number of said tracts executed and recorded in the manner provided by law; and such Covenants, Conditions and Restrictions as thus set forth or amended shall run with the land and shall be binding upon all persons for a period of twenty (20) years from the date hereof.

XXVI

If any person shall violate or attempt to violate any of the provisions of this instrument, any person or persons owning or occupying any of the property in Indian Hills Estates, shall have the right to commence or prosecute any proper proceedings at law or in equity, against the person or persons violating or attempting to violate any such provision, either to enjoin him or them from so doing or to recover damages for such violation. Nothing contained in this instrument shall in any wise be construed as imposing any liability or obligation for its enforcement upon the undersigned or its successors or assigns.

XXVII

Each of the provisions of this instrument is several and separable. Invalidation of any such provision or provisions by a Judgment, Decree or Order of any Court or otherwise, shall in no wise affect the validity of any of the other provisions.



XXVIII

Government Limitations.

Any conveyance of such property is made subject to all restrictions and limitations imposed by governmental authority.

IN WITNESS WHEREOF, each party whose signature is set forth below declares themselves to have a legal interest in some of the real estate in Indian Hills Estates.

Richard R. Berner  
Richard R. Berner

Muriel A. Berner  
Muriel A. Berner

STATE OF NEBRASKA )  
                                  ) ss  
COUNTY OF CASS     )

The foregoing instrument was acknowledged before me on June 26<sup>th</sup>, 1990, by Richard R. Berner and Muriel A. Berner.

Herbert J. Elworth  
NOTARY PUBLIC

