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DON CLARK  
REGISTER OF DEEDS  
SAUNDERS CO. NEBR.

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BOOK 250 PAGE 250  
OF 627 INST# 342

*Don Clark*

**DECLARATION**  
**OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF**  
**SUTTON'S SECOND SUBDIVISION**

THESE DECLARATIONS, made on the date shown on the close of this instrument, by the signatories hereto who are described as Declarant,

**WITNESSETH:**

WHEREAS, Declarant, whether one or more, is the owner of certain property in Saunders County, Nebraska, more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

herein called Property, and,

WHEREAS, a part of Property will be platted into a residential subdivision to be known as Sutton's Second Subdivision, the legal description of which is as follows, to wit:

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Lots 1 and 2, inclusive, Sutton's Second Subdivision, being a part of the West Half of the Southeast Quarter of Section 32, Township 15 North, Range 7 East of the 6<sup>th</sup> P.M., Saunders County, Nebraska, and,

WHEREAS, Declarant desires to make all of Property, together with such portions thereto as may hereafter be platted, to be within the jurisdiction of these Declarations and subject to the covenants, conditions and restrictions hereinafter set forth, and,

WHEREAS, Declarant desires to provide for the preservation of the values and amenities of Property, for the maintenance of the residential character of Property and for the acquisition, construction and maintenance of the streets and easements of Property for the use and enjoyment of the residents of Property,

NOW, THEREFORE, Declarant hereby declares that all of Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purposes of enhancing and protecting the value, desirability, and attractiveness of owning Property, or any portion thereof, and for the enjoyment of the residents of Property. These restrictions, covenants, conditions, and easements shall run with all of the real estate in Property and shall be binding on all parties having any right, title or interest in Property, or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I.**  
**DEFINITIONS**

Section 1.01 "Association" shall mean and refer to the SUTTON SUBDIVISION ASSOCIATION, its successors and assigns, which at present is an unincorporated association of Owners of Lots in Property.

Section 1.02 "Owner" shall mean and refer to:

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HOWEVER, that the vote for such Lot shall be exercised as such persons or entities or both shall determine, but in no event shall more than one vote be cast with respect to any one Lot.

(b) CLASS B: Class B Members shall be Declarant, who shall be entitled to one more vote than the total votes of the Class A Members. Class B Membership shall terminate and be converted into Class A Membership upon either Declarant no longer having an ownership interest in Property or Declarant relinquishing Declarant's Class B Membership in Association.

Section 2.03. The Members shall hold annual meetings. Written notice of the annual meeting shall be delivered or mailed to each Member entitled to vote. At each annual meeting, the Members shall elect officers and transact such other business as shall be stated in the notice of the meeting.

Section 2.04. At all meetings of the Members, a quorum is present throughout any meeting of the Association if Members entitled to cast 60% of the total votes of the Association are present in person or by proxy unless these Declarations specifically require otherwise.

Section 2.05. The Members of the Association may adopt rules and regulations for the governance of the Association not inconsistent with the provisions of these Declarations.

Section 2.06. At any meeting of the Members, every Member may vote in person or by proxy appointed by an instrument in writing by such Member.

Section 2.07. Special meetings of the Members for any purpose may be called by the President of the Association or at the request in writing of at least four (4) Members entitled to vote. The request shall state the purpose of the meeting. Written notice of any special meeting, stating the purpose of the meeting, shall be delivered or mailed to each Member entitled to vote.

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Section 2.08. The officers of the Association shall be elected by the Members and shall consist of a President, Vice President, Secretary and Treasurer. Each officer shall be a Member of the Association. Any two or more offices may be held by the same person, except the office of President and Vice President and except the offices of President and Secretary. At the first annual meeting of the Members, the Members shall choose a President and a Vice President, Secretary and Treasurer. The Members may appoint other officers and agents, and delegate such authority as the Members may determine. Until such time as there is any other owner of Lots, other than Declarant, Declarant may hold all of the offices.

Section 2.09. The officers of the Association shall hold office for one year or until their successors are elected. Any officer elected by the Members may be removed at any time by the affirmative vote of the majority of all the Members. If any office becomes vacant, the Members shall elect a successor who shall hold office until the next annual meeting.

Section 2.10. The President shall be the chief executive officer of the Association, preside at all meetings of the Members, and carry out all orders and resolutions of the Members. The President shall execute contracts on behalf of the Association, except when such authority is expressly delegated by the Members to some other officer or agent of the Association.

Section 2.11. The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and shall perform such other duties as the Members may prescribe.

Section 2.12. The Secretary shall attend all meetings of the Members, and shall record all votes and the minutes of all proceedings on books belonging to the Association. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Members, and shall perform such other duties as the Members or the President may prescribe.

Section 2.13. The Treasurer shall have the custody of the Association funds, keep accurate accounts of receipts and disbursements on books belonging to the Association and deposit all monies in the name of the Association in such depositories as may be designated by

may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be fifty (50%) percent of all votes of each class of Membership. Any such subsequent meetings shall be held within 60 days following the preceding meeting. Written notice as to all other meetings of the Association shall be sent as above noted at least 10 days prior to the meeting to each member at their respective addresses as appears on the books of the Association.

Section 3.06. Annual assessments shall be uniform in amount as to all Lots, may be payable annually or in installments, and shall have a due date or dates. Special assessments may be uniform in amount as to all Lots or may be assessed against those Lots receiving the benefit of the capital improvement, may be payable annually or in installments, and shall have a due date or dates which may be more than one year from the date of assessment. Assessments payable in installments may accrue interest as specified by the Association.

Section 3.07. Written notice of an assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether or not the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot shall be binding upon the Association as of the date of its issuance by the Association.

Section 3.08. Any assessment not paid within thirty (30) days after the date due shall be delinquent and said assessment shall bear interest from the due date at the rate of fourteen (14%) percent per annum. Any assessment payable in installments shall be paid within thirty (30) days after the installment due date. Any assessment payable in installments not paid within thirty (30) days after the installment due date shall cause an acceleration of the full amount of the assessment and said assessment shall be due and payable in full and said assessment shall bear interest from said installment due date at the rate of fourteen (14%) percent per annum. The Association may bring any action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot assessed. No Owner may waive or escape liability for the assessment provided herein by non-use or abandonment of Owner's Lot or conveyance of Lot or by renunciation of Membership in the Association.

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Section 3.09. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, and the holder of any first mortgage on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. An officer of the Association may release the lien of any delinquent assessment on any Lot as to which the first mortgage thereon is in default, if such officer determines that such lien has no further value to the Association.

Section 3.10. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period not to exceed 60 days for any infraction of the published rules and regulations of the Association by any such Owner, or members of such Owner's family, or guests or tenants of such Owner.

#### ARTICLE IV. ARCHITECTURAL CONTROL

Section 4.01. Declarant shall have the exclusive right to establish grades and slopes for all Lots within Property and to fix the grade at which any buildings shall be constructed upon any Lot, in conformity with the general plan for the development of Property. Plans for any buildings or other improvements to be placed or constructed upon any Lot within Property shall be submitted to the Declarant and shall show the design, size, and exterior material for the building or improvement and the plot plan for the Lot, including the proposed landscape plan. One set of plans shall be left on permanent file with the Declarant. Construction of the building or improvement shall not be commenced unless written approval of the plans has been secured from the Declarant and shown of record. Written approval or disapproval of the plans shall be given by the Declarant within 30 days after receipt thereof. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. Declarant shall have the exclusive right to disapprove the plans, if in

Section 5.09. All buildings within Property shall be constructed in conformity with the requirements of the applicable building codes of the City of Wahoo, Nebraska.

**ARTICLE VI. GENERAL RESTRICTIONS AND OTHER PROVISIONS**

Section 6.01. Every Owner shall have full rights of ownership and full use and enjoyment of Owner's Lot, subject to the following restrictions:

- (a) No livestock, or poultry of any kind, which shall include, but not be limited to cattle, swine, sheep, goats, horses, or fowl, shall be raised or kept on any Lot in Property, except in accordance with the requirements of the City of Wahoo Zoning Regulations, in effect as of the date hereof, and as from time to time hereafter amended. In addition, household pets, and household pets kept, bred, or maintained for commercial purposes shall also be subject to the requirements of the City of Wahoo Zoning Regulations, in effect as of the date hereof, and as from time to time hereafter amended.
- (b) No noxious, offensive, or illegal activity shall be carried on upon Property, nor shall any trash, ashes, or other refuse be thrown, placed, or dumped upon any Lot, nor shall anything ever be done which may be or become an annoyance or nuisance to the residents of Property.
- (c) No trailer, recreational vehicle, tent, shack, barn, or other outbuildings shall be constructed or placed upon a Lot to be used for human habitation, either temporarily or permanently, except a tent may be used for a limited time for recreational purposes.
- (d) All garbage, refuse containers, and/or incinerators or trash burners, or other unsightly objects, shall be housed or shielded from public view by a building, enclosure, or decorative fence. Outside storage of materials, supplies, garden, lawn, or maintenance equipment of any kind whatsoever shall be prohibited, except when in actual use.
- (e) Any damaged or destroyed single family residence or other building on a Lot shall be promptly reconstructed or removed in a timely manner, but no later than within one year of the date of occurrence.
- (f) All improvements, including fences, and hedges, on all Lots in Property shall, at all times, be kept in good condition and repair, the state of repair to be determined by Declarant, their successors or assigns.
- (g) The driveway access for any Lot shall be only to the adjacent dedicated street in Property. There shall be no driveway access to adjacent County Road L.
- (h) There shall be no exterior lighting, except for decorative lighting on improvements located on each Lot, unless said exterior lighting is first approved by Declarant, and shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.
- (i) All exterior colors for buildings located upon Lots shall be approved by Declarant.
- (j) No firearms or guns of any type or nature whatsoever shall be fired or discharged upon, over, or across any Lot in Property.
- (k) All rubbish, trash and garbage shall be promptly removed from any Lot.
- (l) Any exterior air-conditioning condensing unit shall be placed in the rear yard or in any side yard so as not to be visible from public view from the street.

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- (a) If the proceeds of insurance are not sufficient, the additional sum necessary to complete the restoration shall be a common expense.
- (b) Any restoration shall be substantially similar to the original construction of the property damaged, subject to any modification required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible.
- (c) The Association may elect not to repair insubstantial damage to the property.

Section 8.05. Each Class A Member of the Association by the acceptance of a deed by which the interest requisite for membership in the Association is required, shall be deemed to covenant to maintain fire and extended coverage insurance on the improvements thereon, in an amount equal to the full insurable value thereof. Any proceeds of such insurance shall be applied, to the extent required by the discretion of the Association, to the repair and reconstruction of such improvements. The Association, may, but shall not be required to, maintain such insurance and add the cost thereof to the annual assessments against the Lot. Each Class A Member of the Association shall provide proof of such insurance to the Association Board of Directors if so requested.

**ARTICLE IX.**  
**ACCESS**

Section 9.01. The Declarant, Association, its officers, employees and agents, and contractors and repairmen designated by the Association, shall have the right to go on any Lot for the purpose of performing construction, reconstruction, surveying, maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Declarant and Association is hereby granted a specific easement for such purposes.

**ARTICLE X**  
**RESERVED RIGHTS OF DECLARANT**

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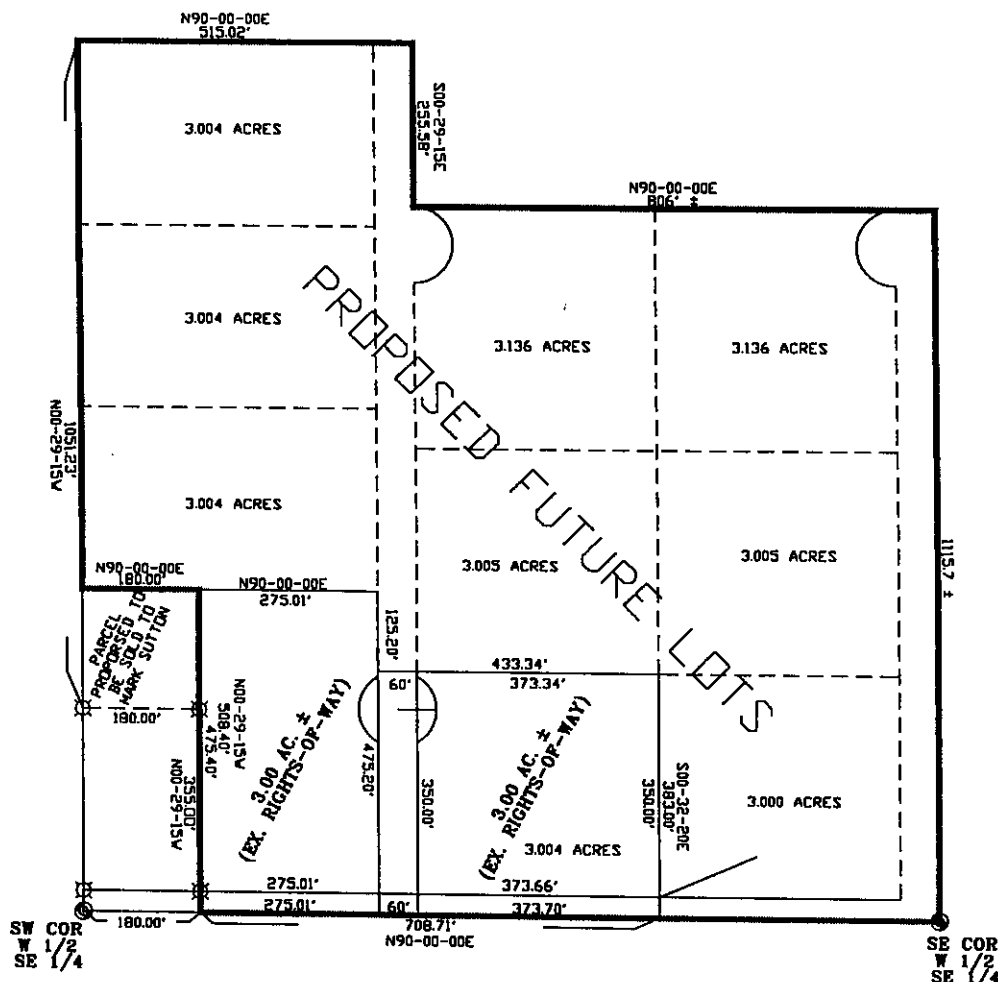
Section 10.01. Nothing contained herein shall limit the Declarant's right to:

- (a) Further subdivide adjacent property owned by Declarant into a residential subdivision;
- (b) Grant licenses and reserve rights of way easements over any portion of Property;
- (c) Complete excavation, grading and construction of improvements to and on any portion of property owned by Declarant;
- (d) Alter its excavation, grading and construction plans and designs;
- (e) Construct such additional improvements as Declarant deems advisable.

Section 10.02. Declarant may add any real estate or facilities to Property at anytime on such terms as Declarant, in Declarant's sole and absolute discretion, deems advisable, without the consent of the members of the Association.

**ARTICLE XI.**

Section 12.01. In the event a Member fails to maintain a Lot according to these covenants or according to maintenance standards adopted by Declarant, the Declarant, through its agents, may, but shall not be required to, enter upon the Lot and take such action as is necessary to place the Lot in conformity with these covenants and applicable standards adopted by Declarant. Prior to entering a Lot to perform such maintenance, Declarant shall provide the member with written notice, which shall specify the required action and time in which it must be completed. If a member fails to comply and the Declarant performs such action, the Declarant may access the cost thereof against the Lot. When shown of record, such assessment shall be a lien upon the Lot and shall bear interest on per annum basis until paid at the rate of fourteen (14%) per cent per annum.



**LEGAL DESCRIPTION FOR COVENANTS ON SUTTON'S SECOND SUBDIVISION AND FUTURE DEVELOPMENT:**

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 15 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SAUNDERS COUNTY, NEBRASKA, DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 32; THENCE S90-00-00W, ON THE SOUTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER, A DISTANCE OF 708.71 FEET TO A POINT 180.00 FEET EAST OF THE SOUTHWEST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER; THENCE N00-29-15W, ON A LINE PARALLEL TO THE WEST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER, A DISTANCE OF 508.40 FEET; THENCE S90-00-00W, A DISTANCE OF 180.00 FEET TO A POINT ON THE WEST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE N00-29-15W, ON THE WEST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER, A DISTANCE OF 1051.23 FEET MORE OR LESS; THENCE N90-00-00E, A DISTANCE OF 515.02 FEET; THENCE S00-29-15E, A DISTANCE OF 255.58 FEET; THENCE N90-00-00E, A DISTANCE OF 806.00 FEET MORE OR LESS, TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE SOUTHERLY, ON THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER TO THE POINT OF BEGINNING.