

MICHELLE UTSLER, COUNTY RECORDER  
MADISON IOWA

COMPUTED	✓
RECORDED	✓
CERTIFIED	✓

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 ✓ Return To: Jerrold B. Oliver P.O. Box 230 Winterset, IA 50273 515/462-3731

**AMENDED AND SUBSTITUTED  
 DECLARATION OF COVENANTS, CONDITIONS  
 AND RESTRICTIONS,  
 FOR  
 PARCELS "F" AND "H" OF PARCEL "D"  
 LOCATED IN THE NORTHWEST QUARTER (1/4)  
 OF THE NORTHWEST QUARTER (1/4) OF  
 SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTY-SEVEN (77)  
 NORTH, RANGE TWENTY-EIGHT WEST OF THE 5<sup>TH</sup> P.M.,  
 MADISON COUNTY, IOWA**

**AND**

**PARCELS "G" AND "I"  
 LOCATED IN THE SOUTHWEST QUARTER (1/4)  
 OF THE SOUTHWEST QUARTER (1/4) OF  
 SECTION TWENTY-SIX (26) NORTH,  
 TOWNSHIP SEVENTY-SEVEN (77) NORTH,  
 RANGE TWENTY-EIGHT (28) WEST OF THE 5<sup>TH</sup> P.M.,  
 MADISON COUNTY, IOWA**

**THIS DECLARATION** is made on the date set forth below by **Cyrus B. McDonald and M. Jean McDonald**, husband and wife, hereinafter referred to as **Declarants**;

**WHEREAS, Declarants** are the owners of certain real estate in Madison County, Iowa described as follows:

Parcel "F" located in Parcel "D" in the Northwest Quarter (¼) of the Northwest Quarter (35) of Section Thirty-five (35), Township Seventy-seven (77) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, as shown in the Plat of Survey recorded in Book 2006, Page 922 of the Recorder's Office of Madison County, Iowa

Parcel "G" located in Parcel "D" in the Southwest Quarter (¼) of the Southwest Quarter (¼) of Section Twenty-six (26), Township Seventy-seven (77) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, as shown in the Plat of Survey recorded in Book 2006, Page 921 of the Recorder's Office of Madison County, Iowa

Parcel "H" located in Parcel "D" in the Northwest Quarter (¼) of the Northwest Quarter (¼) of Section Thirty-five (35), Township Seventy-seven (77) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, as shown in the Plat of Survey recorded in Book 2006, Page 1020 of the Recorder's Office of Madison County, Iowa

Parcel "I" located in Parcel "D" in the Southwest Quarter (¼) of the Southwest Quarter (¼) of Section Twenty-six (26), Township Seventy-seven (77) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, as shown in the Plat of Survey recorded in Book 2006, Page 1019 of the Recorder's Office of Madison County, Iowa

**NOW THEREFORE**, Declarants hereby declare that all properties described above shall be held, sold and conveyed subject to the following easements, conditions, covenants and restrictions which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any parcel which is a part of the property, except that a vendee in possession under a recorded contract of sale of any parcel shall be considered the owner rather than the contract seller being the owner. Those having an interest merely as security for the performance of an obligation shall not be considered an owner.

1) All Parcels shall be used in a manner consistent with the Madison County Zoning Ordinance. No structure shall be erected on any Parcel except single-family residential dwelling structures, a one to three car garage, an accessory building and one "run-in" horse shed. Any

accessory building erected on any parcel shall be of the same type of architecture as the residential dwelling erected on said Parcel. No tin sheds or pole buildings shall be permitted. The house to be constructed on any parcel shall have the following minimum square feet requirements:

- a. One floor dwelling - 1500 square feet of living area above ground.
- b. Two story residential structure - 1800 square feet above ground.

The accessory building to be constructed on any building parcel shall not exceed 1200 square feet. The "run-in" horse shed shall not exceed 400 square feet.

No mobile homes or manufactured homes as defined by the Code of Iowa or earth homes shall be erected or placed on any of said Parcels except that a berm home may be permitted. Motor homes, camper trailers, boats, motorcycles and other recreational vehicles shall not be stored on the premises unless the same are stored in a garage as permitted by these covenants.

- 2) No Parcel shall be further subdivided, except that a Parcel may be divided and sold to or with adjoining Parcel to increase their size.
- 3) No trailer, basement, tent, shack, garage, barn or other accessory building in the tract shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.
- 4) No building shall be erected on any building Parcel unless the design and location is in harmony with the existing structures and locations in the tract and does not violate any of these protective covenants.
- 5) The titleholder of each Parcel, vacant or improved, shall keep his Parcel or Parcels free of weeds and debris, and shall not engage in any activity which is a nuisance.
- 6) These covenants are to run with the land and shall be binding upon all parties their heirs, successors, and assigns. This Declaration may be renewed, modified or revoked by the owners of three of the four Parcels described above.
- 7) If any party shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, it shall be lawful for any owner of any Parcel or Parcel in the subdivision to institute proceedings in law or in equity against the person or persons violating or attempting to violate any such covenants, conditions or restrictions, and to prevent or enjoin him or them from so doing or recover damages for such violation.
- 8) Invalidity of any one of these covenants by judgment or court order shall not affect any of the other provisions which shall remain in full force and effect.

9) If any Parcel owner decides to erect a fence upon his Parcel, the total cost of installation of such fence shall be borne by said Parcel owner as well as the cost of all future maintenance of the fence. No adjoining Parcel owner shall be required to participate in the cost of the erection or maintenance of any fence. Any fence erected shall be the sole property of the Parcel owner and can be removed by such Parcel owner at his discretion. Nothing in this paragraph shall be deemed to preclude a fencing agreement between adjoining Parcel owners for erection and maintenance of a common fence; however, for any such common fence agreement to be enforceable upon future Parcel owners, such fencing agreement must be in writing and filed for record in the Madison County Recorder's office in order to apprise prospective purchasers of their obligations with respect to such fencing.


10) No animals shall be kept or maintained on any of the Parcels except ordinary household pets and horses not to exceed two in number.

11) No building or structure, no any addition or alteration hereof, shall be constructed, altered or maintained on any parcel until detailed plans, specifications, proposals and site plans have been furnished in writing and approved in writing by Cyrus B. McDonald and M. Jean McDonald or the survivor of them, or any person who may inherit such parcels from Cyrus B. McDonald and/or M. Jean McDonald. This provision shall terminate at the time Cyrus B. McDonald and/or M. Jean McDonald or their successors who acquire title by inheritance sell the last parcel covered by this Declaration owned by Cyrus B. McDonald or M. Jean McDonald or their successors who acquire title by inheritance.

12) This Amended and Substituted Declaration of Covenants, Conditions and Restrictions amends the previous Declaration of Covenants, Conditions and Restriction filed in Book 2006, Page 4276 of the Recorder's Office of Madison County, Iowa, and is substitution of such Declaration filed in said Book and Page.

Dated this 20 day of November, 2006.

DECLARANTS:

  
Cyrus B. McDonald

  
M. Jean McDonald

STATE OF IOWA, COUNTY OF MADISON

This instrument was acknowledged before me on this 20 day of November, 2006  
by Cyrus B. McDonald and M. Jean McDonald.

Tasha A. White

Notary Public in and for said State of Iowa

