

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
COUNTRY ESTATES WEST PLAT II**

THIS DECLARATION is made on the date set forth below by **Mueller Farms Partnership**, hereinafter referred to as **Declarant**;

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate in Madison County, Iowa located in **That part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Three (3), Township Seventy-six (76) North, Range Twenty-seven (27) West of the Fifth Principal Meridian, Madison County, Iowa, described as follows:**

Beginning southwest corner of said Section Three (3); thence on an assumed bearing of North 00°34'56" East along the westerly line of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section Three (3) a distance of 1113.86 feet to the southwest corner of Parcel H, recorded in Book 3, Page 104, Madison County Recorder's Office, Madison County, Iowa; thence South 89°33'19" East along the southerly line of said Parcel H 1091.07 feet to the westerly line of Country Estates West Subdivision, recorded in Book 2000, Page 1834, Madison County Recorder's Office, Madison County, Iowa; thence South 00°17'28" East along said westerly line 328.68 feet; thence South 47°37'22" West along said westerly line 121.23 feet; thence South 00°55'36" West along said westerly line 281.64 feet; thence South 00°53'46" West along said westerly line 421.28 feet to the southerly line of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section Three (3); thence North 89°33'01" West along said southerly line 1003.36 feet to the southwest corner of said Section Three (3) and the point of beginning.

Said tract contains 26.46 acres and is subject to a Madison County Highway Easement over the westerly and southerly 1.35 acres thereof.

NOW THEREFORE, Declarant hereby declares that all properties within the above-described real estate 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.

ARTICLE I - Definitions

Section 1.

"Association" shall refer to the Country Estates West Plat II Owners' Association, Inc., which shall be a Residential Real Estate Management Association, its successors and assigns.

Section 2.

"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.

Section 3.

_____ **"Properties"** shall mean and refer to that certain real property hereinbefore described and such additional real property which includes lots or plats as may hereafter become subject by covenants of record to assessment by the Association or hereinafter become Common Area.

Section 4.

"Lots" shall mean and refer to the numbered lots or plats as shown upon any Plats within the Property.

ARTICLE II - Property Rights and Maintenance

Section 1. Residences.

There shall be located on each Parcel sold a single-family residence of at least fifteen hundred (1500) square feet living area and no other use shall be allowed except single-family residency. No structure shall be erected on any Parcel except a single-family residential dwelling structure, a two- to four-car garage, and certain accessory buildings provided that accessory buildings, other than garages, may not be erected in excess of 1000 square feet of area. No construction shall start on any such dwelling until plans have been approved by the Declarant. No mobile homes or double-wide homes shall be erected or placed on any of the lots, plats or Parcels included in the real estate described above. No trailer, basement, tent, shack, garage, barn or other accessory building on the Parcel shall at anytime be used as a residence, temporarily or permanently; nor, shall any residence of a temporary character be permitted. The titleholder of each lot, tract or Parcel shall keep his lot or lots free of weeds and debris and shall not engage in any activity which is a nuisance.

Section 2.

There shall be the following setbacks for the construction of any residence or other buildings permitted by these covenants:

- a. 50 feet from the front line;
- b. 50 feet from the back line;
- c. 25 feet from each side line.

For Lots One (1) and Five (5) the front line shall be the South line of the properties; and, the North side of said Lots shall be the back line. On Lots Two (2), Three (3) and Four (4), the front line shall be to the West side and the back line shall be to the East side, with the side lines on the North and South areas of the Lots.

Section 3.

All wiring shall be underground.

Section 4.

No lot shall be subdivided except that an owner may sell a portion of his lot to an adjacent landowner for the purpose of increasing the size of the adjacent landowners' lot.

ARTICLE III - Membership And Voting Rights.

Section 1.

Every owner of a Parcel which is subject to assessment shall be a member of the Association. Membership is mandatory and shall be appurtenant to and may not be separated from ownership of any Parcel which is subject to assessment.

Section 2.

All owners shall be entitled to one vote in the Association for each Parcel. When more than one person holds an interest to any Parcel, all such persons shall be members. The vote for such Parcel shall be exercised as they determine; but, in no event, shall more than one vote be cast with respect to any Parcel. Such vote shall be one-fifty (1/5) of the total votes.

Section 3.

Notwithstanding any other provisions of this Declaration, the Declarant, their successors and assigns, shall be the sole voting membership of the Association until Declarant no longer owns any portion of the property, or until Declarant waives in writing this right to be the sole voting membership, whichever first occurs. While the sole voting member the Declarant, their successors and assigns, shall have the right to elect all Directors of the Association. Declarant shall waive in writing his right to be the sole voting membership when all lots have been sold.

ARTICLE IV - Covenants For Maintenance Assessments

Section 1. Notice And Quorum For Any Action to Enforce the Provisions of Article II.

Written notice of any meeting called for the purpose of taking any action to enforce the provisions of Article II shall be sent to all Members entitled to vote not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members entitled to vote or of proxies entitled to vote shall constitute a quorum. At Such time as the Declarant no longer controls the Board of Directors of the Association, a quorum shall consist of a majority of the then parcelholders

ARTICLE V - Architectural Control

No alteration of surface drainage shall be made until the plans and specifications showing the nature, kind, shape, height, material and location of the same have been submitted to and approved in writing as to the topography by the Board of Directors of the Association. In the event said Board of Directors fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. This Article shall not apply to construction, improvements or alterations made by the Declarant.

ARTICLE VI - Easements

(a) Each Parcel is burdened with an easement for surface drainage for the benefit of all other Parcels and the Road Area.

(b) Each Parcel is burdened with easements for public utilities and sidewalks, if the latter is required by Madison County.

ARTICLE VII - Use Restrictions

Section 1. Subjection of the Property to Certain Provisions.

The ownership, use, occupation and enjoyment of each Parcel and the Road Area shall be subject to the provisions of the By-Laws and Articles of Incorporation of the Association, and this Declaration, all of which provisions irrespective of where set forth or classified, shall have equal status and shall be enforceable and binding as a covenant, condition, restriction or requirement running with the land and shall be binding on or enforceable against each and all Parcels and the Owners thereof and their respective assigns, lessees, tenants, occupants and successors in interest.

Section 2. Use of Properties.

The use of the Properties shall be in accordance with and subject to the following provisions:

(a) A Parcel shall be used or occupied for single family dwelling purposes only.

(b) A Parcel may be rented or leased by the Owner or his lessee provided the entire Parcel is rented, and the period of rental is at least one month unless some other period is established in the rules, regulations or By-Laws of the Association. No lease shall relieve the Owner as against the Association and other owners from any responsibility or liability.

(c) No livestock or other animals of any kind shall be raised, bred, or kept in any Parcel or in any Road Area, except an Owners shall be permitted to keep cats, dogs or other usual household pets, subject to rules and regulations adopted by the Association. Two (2) horses shall be allowed in any one lot; but, in the event horses are kept by the owner of a parcel, the owner of such parcel shall have the duty to build and maintain sufficient fence to restrain said horses from running at large.

(d) No activity shall be allowed which unduly interferes with the peaceful possession and use of the Parcels by the Owner nor shall any fire hazard or unsightly accumulation of refuse be allowed.

(e) Nothing shall be done or kept in any Parcel which will increase the rate of insurance for other parcel owners without the prior written consent of the Board of Directors of the Association. No Owner shall permit anything to be done or kept in his Parcel which will result in the cancellation of insurance on any Parcel or would be in violation of any law, or which may be or become a nuisance or annoyance to the other Owners.

(f) All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance modification or repair of property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(g) The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Parcels and such rules shall be observed and obeyed by the Owners, their guests, lessees, assigns and licensees.

Section 3. No Waiver.

Failure of the Association or any Owner to enforce any covenant, condition or restriction, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

ARTICLE VIII - General Provisions

Section 1. **Enforcement.**

The Association, or any Owner, shall have the right to enforce, by any proceeding 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 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 for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than eighty percent (80%) of the Parcel Owners, but no amendment shall alter any rights of the Declarant or impose any additional obligations upon the Declarant without the consent of the Declarant. Any amendment must be recorded. During such time as the Declarant is the sole voting member of the Association, this Declaration may be amended by Declarant.

ARTICLE IX - By-Laws

Attached hereto and incorporated herein by this reference are the By-Laws of Country West Estates Plat II Homeowners' Association.

Dated this ____ day of _____, 2002.

MUELLER FARMS PARTNERSHIP

By _____

Marvin D. Cox

By _____

Robert M. Casper

DECLARANT

STATE OF IOWA :

:SS

COUNTY OF MADISON :

On this ____ day of _____, 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Marvin D. Cox, to me known to me personally known, who being by me duly sworn, did say that the person is one of the partners of Mueller Farms Partnership, a Partnership, and that the instrument was signed on behalf of the partnership by authority of the partners; and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Notary Public in and for the State of Iowa

