

DECLARATION OF RESTRICTIONS FOR

ELEY ACRES V

PREAMBLE

WHEREAS, THE CITY OF OTSEGO, a municipal corporation of the State of Michigan (the ACity@), is the owner of the following described land, to-wit:

CITY OF OTSEGO, ALLEGAN COUNTY, MICHIGAN

THE ELEY ACRES V PLAT,

and as owner desires to impose certain protective restrictions on that plat for the purpose of insuring the use of the entire plat for single family residential purposes only, and for the purpose of preserving and improving the attractive features of that plat, and securing to each lot owner the full benefit and enjoyment of the owner-s respective premises.

THEREFORE, the City, hereby imposes the following protective restrictions upon the use of any and all lots in that plat, which shall be binding upon the City, and upon any person who hereafter holds an interest in and to the above-described premises or any parcel thereof.

These covenants are to run with the land and shall be binding on all parties and all persons claiming thereunder until the year 2021 A.D. at which time the covenants shall be

automatically extended for successive periods of ten (10) years unless by vote of a majority of the then owners of the lots it is agreed to change the covenants in whole or in part. Such changes shall only be made in writing, signed by said majority and recorded in the office of the Register of Deeds for Allegan, County, Michigan.

If the parties hereto, or any of them, or their heirs or assigns, or any persons holding through them, shall violate or attempt to violate any of the covenants contained herein, it shall be lawful for any other person or persons owning any real property situated in said development or subdivision or the City of Otsego, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of said covenants, and either prevent him or them from so doing or recover damages or other relief for such violation.

Invalidation of any part or parts hereof in any way shall not affect any of the other provisions contained herein.

The covenant and restrictions are as follows:

A. All lots shall be used for dwelling purposes only. No building shall be erected or used on any building plot other than a single-family dwelling not to exceed two and one-half (2 ½) stories in height. Each dwelling shall have an attached or detached double stall garage, or larger. All garages shall be built in conformity with the architecture and materials of the dwelling.

B. A Family shall mean one (1) or more persons occupying a dwelling unit as a single non-profit housekeeping unit. More than six (6) persons (exclusive of domestic servants), who are not related by blood, marriage or adoption, shall not be considered to constitute a family.

C. The words **building plot** as used herein shall mean any group of contiguous lots or fractions thereof treated as a unit for building purposes. A **building plot** shall consist of not less than one (1) full lot. Not more than one (1) dwelling shall be erected on any building plot.

D. No building or structure shall be erected on any building plot facing any street nearer than thirty (30) feet from the street right-of-way. No building or structure shall be built nearer than eight (8) feet from the sideline of any building plot and shall have side yards totaling fifteen (15) feet. Provided that the sideline restriction shall be increased to *thirty (30)* feet on the street side of corner building plots. In addition, there shall be a rear yard of at least twenty-five (25) feet.

E. No one-story dwelling shall be erected or maintained on any building plot with less than fourteen hundred (1,400) square feet of livable floor space on the ground area above the basement, nor shall any two-story building be erected with less than eight hundred (800) square feet of livable floor space on the ground floor area above the basement. Any multi-level dwelling shall have at least fifteen hundred eighty-four (1,584) square feet of livable space. Breezeways and garages shall not be included in measuring livable floor space.

F. No building or structure shall be moved onto a plot. Provided that **pre-fabricated housing**, consisting of pre-constructed structural building components, which when combined on-site with other building materials, results in a building or structure which meets all of the requirements under these restrictions shall be permitted. All residential structures must conform to the State of Michigan Construction Codes. Single and double-wide mobile homes will not be permitted.

G. No building shall be erected, placed or altered on any building plot in this subdivision until the building plans, specifications, including electrical, plumbing and sanitary systems, and plot plans showing the location of such building and systems shall have been approved in writing as to conformity and harmony with the existing external design of the structures of the subdivision, and as to the adequacy of the electrical, plumbing and sanitary systems proposed, and as to location of the building and the systems with respect to topography and finish ground elevation, by the City, or by a representative designated by the City. In the event that the City, or its designated representative, fails to approve or disapprove such design and location within forty-five (45) days after such plans and specifications have been submitted, and if no suit to enjoin erection of such building or the making of such alterations has been commenced within said period, such approval will not be required and this covenant will be deemed to have been fully complied with. Failure or inactivity of the City shall not release or relieve the parties hereto or the persons claiming under them from any other restrictions or provisions herein contained.

H. All dwellings shall be completed within fifteen (15) months from the starting date, and no dwelling shall be lived in until completed.

I. All sanitary systems and water systems shall be connected to City systems.

J. Nothing shall be done upon the premises which shall be or may become an annoyance or nuisance to the neighbors or neighborhood.

K. No animals, livestock, snakes, bees, or other creatures shall be permitted to be kept on said premises, except dogs and cats which are kept as family pets.

L. Except for political elections signs allowed by law, no sign or billboard shall be erected or maintained on said premises except for temporary use to advertise the sale of a

building plot or dwelling.

M. No earth, sand or gravel shall be removed from any lot except as necessitated by authorized building thereon, and any such material removed shall belong to and be at the disposal of the City.

N. All dwellings and garages hereon shall be constructed of either wood, brick or stone or a combination thereof.

O. All dwellings shall have a full basement.

P. A dwelling may be occupied by persons other than the owner for not more than twenty-four (24) consecutive months in any five (5) year period, beginning on the date that persons other than the owner first occupy the dwelling, so long as no provision of these restrictions is violated as a result of such occupation. In all other cases, dwellings shall be owner occupied.

Q. No business, merchandising or manufacturing shall be carried on on any of the lots. Provided that an owner may conduct a ~~A~~home occupation@ which is either a day care or any other occupation in which: (1) the owner is the only person involved in such occupation; (2) the owner does not use any portion of his or her dwelling for purposes other than necessary office space; and (3) no in-person customer or client service occurs at the dwelling. As used in this paragraph, ~~A~~day care@ shall mean a dwelling where not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours per day. *This home occupation must adhere to the requirements as set forth in the City of Otsego Zoning Ordinance.*

R. No fence or hedge of any kind shall be erected or maintained upon any interior plot between the front setback line of any building erected upon such plot and the front property line

of said plot. Where corner lots are concerned, no fence or hedge of any kind shall be erected or maintained between the front or side street setback lines of any building erected on such plot and the front or side street property lines.

The above Building Restrictions were duly adopted by resolution of the City Commission of the City of Otsego at a regular meeting on the 19th day of November, 2001.

CITY OF OTSEGO

By: _____
Joel M. Thompson, Mayor

By: _____
Paula A. Baker, City Clerk

CERTIFICATE

I, Paula A. Baker, the duly appointed clerk of the City of Otsego, Michigan do hereby certify the foregoing is a true copy of Declaration of Restrictions for Eley Acres V, adopted by the Otsego City Commission at a regular meeting held Monday, November 19, 2001.

Dated: November 20, 2001

Paula A. Baker, City Clerk

Drafted by and return to:
Paula A. Baker
City Clerk
City of Otsego
117 E. Orleans St.
Otsego, MI 49078