

DECLARATION OF
COVENANTS AND RESTRICTIONS

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This declaration, made this 18th day of September, 1973,
by EQUESTRIAN HILLS LIMITED, a Nebraska limited partnership, herein-
after called "Trustee", Heath Barclay, hereinafter called "Barclay"
and Gerald D. Comstock, hereinafter called "Comstock",

W I T N E S S E T H

Whereas, Trustee is the owner of the real property
legally described as:

Lots 6 through 12, inclusive, and Lots 14
through 42, inclusive, in Equestrian Hills,
a subdivision in Saunders and Cass County,
Nebraska, as surveyed, platted and recorded.

Whereas, Barclay is the owner of the real property
legally described as:

Lot 5 in Equestrian Hills, a subdivision
in Saunders and Cass County, Nebraska, as
surveyed, platted and recorded.

Whereas, Comstock is the owner of the real property
legally described as:

Lot 13 in Equestrian Hills, a subdivision
in Saunders and Cass County, Nebraska, as
surveyed, platted and recorded.

Whereas, Trustee Barclay and Comstock desire to provide
for the preservation of the values and amenities in said community;
and to this end, desire to subject the real property described above
to the covenants, restrictions and easements hereinafter set forth,
each and all of which is and are for the benefit of said property
and each owner thereof;

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NOW THEREFORE, Trustee, Barclay and Comstock declare that the real property described above shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- a. "The Properties" shall mean and refer to all such properties as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.
- b. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties.
- c. "Main Dwelling" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupance as a residence by a single family.
- d. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Dwelling situated upon The Properties, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located partially in Cass County and partially in Saunders County, State of Nebraska and is more particularly described on Exhibit A which is attached hereto and made a part hereof, all of which real property shall hereinafter be referred to as "The Properties".

Section 2. The trustee or its legally appointed representative will retain the right of way at any time or from time to time through December 31, 2000, to subject additional real property owned by it in Saunders and Cass County, Nebraska, and comprised of one or more subdivisions or units suitable for individual private residential purposes, hereafter called "Lot" or "Lots", and any other Owners will have the right at any time or from time to time but only upon the receipt of an express written Acceptance executed by Trustee or its legal appointed representative, also to subject additional real property owned by them in Saunders and Cass County, Nebraska, and comprised of one or more Lots, to this Declaration by executing and recording with the Register of Deeds of Saunders County, and Cass County, Nebraska, an express written Supplementary Declaration describing such property and extending to each of such Lots all of the conditions and other terms set out in this Declaration with only such complementary additions and modifications as may be appropriate, convenient, or necessary for accommodation of the different character of such property

but not inconsistent with the private residential character of the single-family residence property.

ARTICLE III

GENERAL PROVISIONS

Section 1. The Properties shall be used only for single family residence property, schools or churches.

Section 2. Except for such Lot or Lots or part thereof as may from time to time be occupied or used for educational, recreational, religious, or other nonprofit public purposes to the extent permitted by applicable zoning regulations and this Declaration, no single-family residence Lot, hereinafter will be occupied or used for other than single-family residential purposes; and no Lot will be occupied or used for such residential purposes; and no Lot will be occupied for such residential purposes at a density greater than one single-family residence for each Lot or for each part thereof of an area not less than Forty Three Thousand Five Hundred and Sixty (43,560) square feet.

Section 3. The structure or associated structures comprising a single-family residence as described in Section 2 above shall consist of a detached dwelling designed to accommodate a single person or one family group together with household servant or servants of not more than two and one-half stories in height which shall be constructed in compliance with the following restrictions:

a. The ground floor area of every one-story dwelling exclusive of open porches, open breezeways, basements and garages, shall be not less than One Thousand Two Hundred (1,200) square feet of finished floor space on the main living area.

b. The ground floor enclosed area of every two-story or one and one-half story dwelling exclusive of open porches, open breezeways, basements and garages, shall be not less than Nine Hundred (900) square feet and the first floor and other floors combined shall be not less than One Thousand Five Hundred (1,500) square feet of finished floor area.

c. The ground floor enclosed area of every split-level type of dwelling with the garage built under the dwelling, shall have combined ground floor area including the floor area above the garage, exclusive of open porches, open breezeways, basements and garages, of not less than Nine Hundred (900) square feet and the ground floor area and other floors combined shall be not less than One Thousand Five Hundred (1,500) square feet of finished floor area.

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d. All dwellings shall have attached or detached enclosed garages of not less than Four Hundred and Fifty (450) square feet and such garages must be capable of accommodating at least two standard size automobiles. All garages must be constructed to conform to the general appearance, composition and design of the main dwelling.

e. The roof of all dwellings or any other structure shall be covered by shake, wooden shingle or tile roofing materials, and no roof shall be covered with asphalt composition material. The chimney of all dwellings shall be faced with brick, stone or other suitable material.

f. No dwelling, garage, or building shall be built, altered, constructed or maintained, on any Lot unless same shall conform to the restrictions and covenants of this Declaration and unless the Owner thereof shall have obtained the express written approval for such construction from the Trustee or its legally designated representative. Any construction shall conform to the general appearance, exterior color or colors, harmony or external design and location in relation to surroundings and topography and other relevant architectural factors, location within Lot boundary lines, quality of construction,

size, and suitability for residential purposes of such single-family residence.

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g. Provided the provisions of Article III Section 1 (f) above are met, two (2) external buildings will be allowed for the purpose of a playhouse or a small stable. The maximum stable size will be two (2) stories, matching the motif and design of the single family unit and will not be larger than One Thousand (1000) square feet.

h. No exterior air conditioning equipment, antenna, ditch, fence, flag pole, pool, tennis court, wall, or other structure or associated structures and no trees or other substantial landscaping in any location within public view will be altered, built, constructed, erected, installed, planted or otherwise maintained or undertaken on any Lot unless same shall conform to the restrictions and covenants of the Declaration and unless the Owner thereof shall have obtained express written approval from the Trustee or its legally designated representative as to general appearance, composition, design, exterior color or colors, and suitability for residential purposes.

i. All setbacks, sideyards and rear yard requirements shall conform to applicable laws and ordinances.

Section 4. After commencement thereof, all approved or permitted construction on any Lot will be as diligently as practicable prosecuted to completion and no approved or

permitted construction will be maintained on any Lot in uncompleted or unfinished conditions for more than eighteen (18) months after such approval is obtained.

ARTICLE IV

COMMON SCHEME RESTRICTIONS

Section 1. The following restrictions are imposed upon The Properties for the benefit of each other Lot and may be enforced by an Owner or by the Trustee.

a. No garbage, refuse, rubbish or cuttings shall be deposited on any Street or Road and not on any Lot unless placed in a suitable container. Any such container must be stored or maintained in an enclosed structure or the garage so as not to be in public view. No exterior burner or incinerator for garbage, trash or other refuse shall be maintained on any Lot.

b. No building material of any kind or character shall be placed upon any Lot except in connection with construction approved per Article III of this Declaration. As soon as building materials are placed on any Lot in such connection, construction shall be promptly commenced and diligently prosecuted. Upon completion of the construction, debris must be removed from the area.

c. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the residents of the adjacent property

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d. No driveway will be constructed or maintained in any way that will cause erosion or water damage to formal constructive roadways throughout the Equestrian Hills subdivision.

e. Except during approved or permitted construction pursuant to Article III of this Declaration, no used or previously erected or temporary house, structure, house trailer or non-permanent outbuilding shall ever be placed, erected or allowed to remain on any Lot within the Properties for more than seven (7) days within any calendar year.

f. With the exception of one chattel, whether it be a boat or a camper or a trailer which may be left unenclosed, all other such chattels must be maintained in an enclosed structure.

g. No automobile, motor cycle, truck or other vehicle shall be repaired, dismantled, or stored on any Lot except in an enclosed structure.

h. No advertising sign or other poster shall be maintained on any Lot except that a sign belonging to a Declarant as Owner advertising his Lot for sale may be maintained provided that said sign is not larger than four (4) square feet.

i. No animals, livestock, birds or poultry other than domesticated non-commercial pets in no more than reasonable quantity will be bred, kept or otherwise maintained on any lot except that each family shall be

allowed to keep three horses per family or one horse per member of the family whichever number is greater.

j. No excess or unused building material or materials will be kept, stored or otherwise maintained on any Lot in a location within public view, other than for use or uses connected and terminating with approved or permitted construction; and no junk, rubbish, waste material, or other refuse will be abandoned, stored, or otherwise maintained on any Lot.

k. The Owner of each Lot shall keep said Lot or Lots free from weeds and debris.

ARTICLE VI

EASEMENTS FOR PUBLIC UTILITIES

Section 1. A perpetual license and easement is hereby reserved in favor of and granted to various public utility services, their successors and assigns, over and upon and below a five (5) foot strip of land adjoining the rear and side boundary lines of each Lot to locate, erect, construct, maintain and use or for the erection, construction, maintenance and use of drains, sanitary and storm sewers, gas and water mains and lines, electric and telephone lines, television antenna lines and other utilities, and give or grant easements on rights of way therefore over and upon any part of the land hereby restricted without the consent of the then record Owner or Owners of said land. No trees, shrubbery, structures, buildings, fences, pavements or similar improvements shall be grown, built or maintained within the area of a utility easement or right of way which may damage or interfere with their use.

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Section 2. A perpetual easement is hereby granted to the Omaha Public Power District to construct, operate, maintain, repair and remove underground wiring for the carrying and transmission of electric current for lights, heat and power and for all telephone and telegraph message purposes on, above, under or across a strip of land ten feet (10') in width being five feet (5') on each side of and parallel to those facilities as constructed from the service entrance of the main residential structure to the side, rear or front lot line of said lot. No permanent buildings, trees, fences, pavements, retaining walls, loose rock walls on similar improvements shall be grown, built or maintained within the area of the utility easement or right of way which may damage or interfere with their use.

ARTICLE VII

WALKWAY AND BRIDLE PATH EASEMENT

Section 1. A perpetual license and easement is hereby granted to all Owners of record of Lots described on Exhibit "A", their families, tenants or contract purchasers who reside on The Properties, to walk, run, crawl, trot or ride with or without a horse upon a five (5) foot strip of land adjoining the rear and side boundary lines of each Lot without the consent of the then record Owner or Owners of said land. No trees, shrubbery, structures, buildings, fences, pavements or similar improvements shall be grown, built or maintained within the five (5) foot area of the right of way and no such improvement shall be maintained within the area of the right of way which may damage or interfere with the above use.

ARTICLE VIII

DURATION

Section 1. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Trustee, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns from the date this Declaration is recorded through December 31, 2000, after which time said covenants shall be automatically extended for a successive period of ten (10) years unless an instrument terminating these covenants and restrictions signed by the then Owners of two-thirds of the Lots has been recorded prior to the commencement of any ten-year period.

ARTICLE IX

AMENDMENTS

Section 1. These covenants and restrictions may be amended during the first twenty years from the date of the recordation of this Declaration, by an instrument signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be properly recorded.

ARTICLE X

ENFORCEMENT

Section 1. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to

enforce any lien created by these covenants; and failure by the Trustee or any Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter. However, nothing herein contained in this Declaration shall in any way be construed as imposing upon the Trustee or Owner any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein.

ARTICLE XI

SEVERABILITY

Section 1. Invalidation of any one 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.

ARTICLE XII

ASSIGNMENT

Section 1. The rights, powers and responsibilities of the Trustee as outlined and contained in this Declaration may be assigned and delegated by the Trustee to an Architectural Control Committee of three or more representatives appointed by the Trustee.

Section 2. If the Trustee assigns and delegates its duties under this Declaration to an Architectural Committee, then the Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within The Properties conform to and harmonize with existing surroundings and structures pursuant to this Declaration.

Section 3. The Trustee or the Architectural Control Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Trustee or the Architectural Control Committee fails to take any action within thirty (30) days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with.

Section 4. A majority vote of the Architectural Control Committee is required for approval or disapproval of proposed improvements.

Section 5. The Architectural Control Committee shall maintain written records of all applications submitted to it and of all actions it may have taken.

Section 6. The Trustee or the Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within The Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

ARTICLE XIII

MODIFICATION

Section 1. The Trustee or its assignee, the Architectural Control Committee, shall have the right by an express written permit for the purpose of avoiding undue hardship to waive partly or wholly the application to any Lot of any covenant or easement granted to it.

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EXHIBIT "A"

Lots 5 through 42, inclusive, in Equestrian Hills, a subdivision in Saunders and Cass County, Nebraska, as surveyed, platted and recorded.

STATE OF NEBRASKA } SS
 SAUNDERS COUNTY }

Entered in numerical index and filed for record in the register of deeds office of said county on the 2 day of Feb 1973 at 9 o'clock and 48 minutes A M. and recorded in book 9 of MISCL Page 75

By Paul Stumma
 Register of Deeds
 Deputy

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Nebraska City

No.	51
Num.	2
Pat.	
Rec.	PK
Ind.	
Com.	