

FILED SARPY CO. NE.
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Lloyd J. Dowding
REGISTER OF DEEDS

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INFORMATION.**

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NEXT PAGE.**

LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS
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50105

RJR
Jonnie Sharples
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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF HILLVIEW SUBDIVISION IN SARPY COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereunder set forth, is made by Hillview Development, L.L.C., hereinafter referred to as the "Declarant."

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Sarpy County, Nebraska and described as follows:

Lots one (1) through sixty-five (65), inclusive, in HILLVIEW, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation of the values and amenities of the HILLVIEW subdivision, for the maintenance of the character and residential integrity of the HILLVIEW subdivision, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of the HILLVIEW subdivision.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part be subject to all and each of the following conditions and other terms:

ARTICLE I.

1. Lots one (1) through sixty-five (65), inclusive, in HILLVIEW shall be used exclusively for single-family residential purposes; except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a church, school, park or for other non-profit use.

2. No residence, building, fence (other than fences constructed by the Declarant), landscaping, wall, pathway, driveway, patio, patio cover enclosure, deck, rock garden, swimming pool, dog house, pool house, tennis court, flag pole, satellite receiving station or disc, solar heating or cooling, device, or other external improvement, above or below the ground (herein collectively referred to as "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading, excavation or tree removal for any Improvement be commenced, except for Improvements which have been approved by Declarant, its successors and assigns, as follows:

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A. An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall, include a description of type, quality, color and use of materials proposed for the exterior of such Improvement and proposed elevations of the Lot, including foundation and driveway and all proposed set backs. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall review such plans in relation to the type and exterior of Improvements constructed, or approved for construction and landscaping on neighboring Lots and in surrounding area, and any general scheme or plans formulated by Declarant with regard to views, retaining natural environmental area and character of the subdivision. In this regard, Declarant intends that the Lots shall form a quality residential community with Improvements constructed of high quality materials, including but not limited to homes and landscaping, with spectacular views and preservation of natural environmental areas to the extent possible. The decision to approve or refuse approval of a proposed Improvement, including but not limited to homes and landscaping, shall be exercised by Declarant to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

C. Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed approved by Declarant.

D. No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or any right to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any of Lots one (1) through sixty-five (65), inclusive, in HILLVIEW, other than one detached single-family dwelling, with an attached two- or three-car garage, which does not exceed two stories in height. Such dwellings on any Lot shall conform to the surrounding dwellings of similar regime and any general scheme or plans formulated by Declarant. All Improvements on any Lot shall Comply with all side yard and set back requirements of the Zoning Code of Sarpy County, Nebraska and any other applicable laws of any governing authority. At a minimum, all ranch style homes shall have 1,400 finished square feet on the main level; all two story style homes shall have at least 1,800 finished square feet, 1,000 of which shall be on the main level; and all story and one-half style homes

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shall have at least 1,800 finished square feet, 1,000 of which shall be on the main level. All minimums set in this paragraph shall be exclusive of garages, basements, breeze-ways, patios, etc.

4. Subject to the specific requirements set forth below, all foundations shall be constructed of poured concrete or concrete block. The exposed front foundation walls and any exposed foundation walls of all main residential structures facing any street must be constructed of or faced with clay-fired brick or stone or other material approved by Declarant. All corner lots with exposed foundation walls facing any side street in clay-fired brick or stone or other material approved by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt style shingles, slate, wood cedar shakes or wood shingles.

Fireplaces and flues: In the event that a wood-burning fireplace and/or flue is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. In the event that a pre-fabricated unit fireplace which is wood or gas burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay-fired brick or stone enclosure will be required. Provided however, if said pre-fabricated unit fireplace which is wood or gas burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front wall of the dwelling on a Lot, the protrusion for the fireplace and/or flue shall be finished with clay-fired brick or stone.

5. The Declarant has or may create a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with generally accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings. Silt fences shall be used to comply with this paragraph.

6. No streamers, posters, banners, balloons, exterior illumination or other rallying devices will be allowed on any Lot in the promotion or sale of any Lot, residential structure or property unless approved in writing by the Declarant. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale". No business activities of any kind whatsoever shall be conducted on any Lot including home occupations, except home office usage; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Provided, however, the foregoing paragraph shall not apply to the business activities, sign and billboards or the construction and maintenance of buildings, including model homes, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots.

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7. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including but not limited to, odors, dust, glare, sound, lighting, smoke vibration and radiation. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

8. No outside radio, television, ham broadcasting, earth station, satellite dish or other electronic antenna or aerial shall be erected or placed on any structure or on any Lot, except, with the prior written approval of Declarant, one (1) satellite dish of 18" or less in diameter or diagonal measurement which is screened from view of any street or sidewalk will be permitted per Lot. The foregoing notwithstanding, any earth station, satellite dish or other electronic antenna or aerial specifically exempted from restriction by statute, regulation, binding order of a court or governmental agency shall be maintained in accordance with the strictest interpretation or condition for such use as may be permitted by such order.

9. No tree shall be removed nor any rock wall, constructed by Declarant, from any Lot by any person or entity without the prior written approval of the Declarant, its successors or assigns. No tree houses, tool sheds, doll houses, windmills or similar structures shall be permitted on any Lot.

10. No repair of any boats, automobiles, motorcycles, trucks, campers (trailers, van-type, auto-drawn or mounted), snowmobiles, recreational vehicles (RV), other self-propelled vehicles or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time, nor shall vehicles or similar chattels offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

11. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than two (2) consecutive days and no more than twenty (20) days combined within any calendar year. No motor vehicle may be parked or stored outside on any Lot except vehicles, which are not trucks, campers, mobile homes, camper trucks or similar chattels, driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers or other commercial vehicles shall be stored, parked, kept or maintained in any yards, driveways, or streets. However, this section does not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable ordinances of the Sarpy County, Nebraska, Nebraska.

12. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container or fuel tank shall be permitted to be stored outside of any dwelling unless, completely screened from view, except on a designated day each week for pickup purposes. No garden lawn or

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maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothes line or other outside facilities for drying or airing clothes shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards in an area no larger than eight (8') feet by ten (10') feet.

13. No fence shall be permitted unless approved of in writing by Declarant after submission of fencing plans. No fence shall be permitted to extend beyond the front line of a main residential structure. Unless other materials are specifically approved in writing by Declarant, fences shall only be composed of wrought iron, wood or P.V.C. No fences or walls shall exceed a height of six (6) feet. Any fences, hedges or mass planted shrubs installed by or at the direction of the Declarant shall not be subject to the provisions of this paragraph.

14. No swimming pool may extend more than one foot above ground Level.

15. 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 any adjacent property.

16. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot. No tree shall be removed from any Lot without prior written approval of the Declarant, its successors or assigns. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Declarant.

17. The entire Lot shall be sodded. No trees shall be planted in the dedicated street right-of-way located between the sidewalk and the Lot line. All yards shall be sodded and trees planted within one (1) year from the date that construction for the residence on the Lot was commenced. A public sidewalk shall be constructed of concrete four (4') feet wide by four (4") inches thick. The sidewalk shall be designed and constructed to meet up with any existing sidewalk on any abutting Lot and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof, provided however, this provision shall vary to comply with any requirements of the Sarpy County, Nebraska.

18. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

19. No stable, dog run, kennel or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog, provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns, as required by this

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Declaration. Dog houses and dog runs shall only be allowed at the rear of the residence, attached to or immediately adjacent to the residence and hidden from view by P.V.C. fencing. No animals, livestock, agricultural-type animals, fowl or poultry of any kind, including, pot-bellied pigs, shall be raised, bred or kept on any Lot. No excessive barking of any dog, or other excessive noise of any kind from any animal, shall be permitted on any Lot. Any dog or other animal that barks or makes other noise outside the home of any Lot at any time shall wear electronic collars to prevent such barking or other noise.

20. Prior to placement on any Lot, the location of any exterior air conditioning condenser unit shall be first approved by the Declarant according to the requirements set forth in Article I, paragraph 2, and shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation shall be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees shall be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

21. No Residence shall be constructed on a Lot unless the entire Lot as originally platted is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plat.

22. No structure of a temporary character, carport, detached garage, trailer, basement, tent, outbuilding, shed or shack or other similar structure shall be erected upon or used on any Lot at any time, either temporarily or permanently, unless approved of in writing by the Declarant. For the purposes of this paragraph, it is Declarant's intent that small, unobtrusive outbuildings may be allowed, with Declarant's prior written approval, for outdoor recreational use, i.e. pool houses, however, Declarant retains the sole and absolute power to approve or deny any request to construct the same. No structure or dwelling shall be moved from outside HILLVIEW to any Lot or modular home constructed on any Lot without the written approval of Declarant.

23. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

24. Declarant does hereby reserve unto itself the right to require the installation of siltation fences or erosion control devices and measures in such location, configurations and designs as it may determine appropriate in its sole and absolute discretion.

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ARTICLE II. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Alltel, or any other electric or telephone utility which has been granted the power to provide electric and/or telephone services within the Lots and any company which has been granted a franchise to provide a cable television system within the Lots, the Sarpy County, Nebraska, Peoples Natural Gas, and Sanitary and Improvement District No. 234 of Sarpy County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots, an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior lots that are adjacent to presently platted and recorded Lots, and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded. No permanent buildings, trees, retaining walls or loose rocks shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

2. A perpetual easement is further reserved for Sarpy County, Nebraska; and Peoples Natural Gas, their successors and assigns and any other entity appointed by and contracting with Sanitary and Improvement District No. 234 of Sarpy County, Nebraska to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities, and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but some may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

3. A perpetual easement is further reserved in favor of the Declarant and the Association, its successors and assigns to create, install, repair, reconstruct, paint, maintain, and renew a fence, standards and related accessories located on, over and upon the rear most ten (10) foot wide strip of land abutting the rear boundary lines of all Lots on the perimeter of the HILLVIEW subdivision.

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4. Alltel and any other provider of telephone service may impose an installation charge.

5. Other easements are provided for in the final plat of HILLVIEW and any other plats relating to the HILLVIEW subdivision which are or will be filed in the Office of the Register of Deeds of Sarpy County, Nebraska.

ARTICLE III. GENERAL PROVISIONS.

1. Except for the authority and powers specifically granted to the Declarant, unless specifically assigned by the Declarant to the Association, the Declarant, the Association or any owner of a Lot named herein shall have the right to enforce, by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant, 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.

2. Declarant may at its discretion add a second phase to this Declaration.

3. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of this Declaration. Thereafter the covenants, restrictions and other provisions of this Declaration shall automatically renew for successive ten (10) year periods unless terminated or amended by the owners of not less than seventy-five (75%) percent of said Lots, which termination or amendment shall thereupon become binding upon all Lots. For a period of ten (10) years following the date hereof, Developer, its successors or assigns, shall have the sole, absolute and exclusive right to amend, modify or supplement all of any portion of these Protective Covenants from time to time by executing and recording one or more duly acknowledged Amendments to Protective Covenants in the Office of the Register of Deeds of Sarpy County, Nebraska. Thereafter, this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

4. The Declarant, or its successor or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, or at such time of Declarant no longer owning any lots subject to this Declaration, the rights of the Declarant shall automatically transfer to the Association and the Association may exercise such rights or appoint another entity, association or individual to serve as Declarant, and the Association or such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

5. Invalidation of any one or more provisions of this Declaration by judgment or court order shall in no way effect any of the other provisions hereof, which shall remain in full force and effect.

2003-50105 I

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 13 day of August 2003.

HILLVIEW DEVELOPMENT, L.L.C., "Declarant"

By: *Joanne Sharples*
Joanne Sharples, Member

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS) ss.

The foregoing instrument was acknowledged before me this 13 day of August ²⁰⁰³~~2002~~, by Joanne Sharples, Declarant, Member of Hillview Development, L.L.C.

NE DL EXP 3-11-08

Linda A. Lape
Notary Public

