

DECLARATION

THIS DECLARATION made on the date hereinafter set forth by BENCHMARK HOMES, INC., a Nebraska corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real estate hereinafter referred to as the "Properties" in the County of Sarpy, State of Nebraska, which is more particularly described as:

Lots One (1) to Seventy (70), inclusive, Southfork, a subdivision in Sarpy County, Nebraska, as surveyed, platted and recorded, being a Replatting of Part of Lot Forty-One (41) and all of Lots Forty-Two (42), Forty-Three (43) and Forty-Four (44), South Park, as surveyed, platted and recorded in Sarpy County, Nebraska,

and

WHEREAS, Declarant is desirous of providing easements, restrictions, covenants and conditions for the use of said premises for the purpose of protecting the value and desirability of said property.

NOW, THEREFORE, Declarant hereby declares that all of the Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the real property above described and shall be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof until January 1, 2011 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by written agreement of a two-thirds majority of the then owners of the lots it is agreed to change said covenants in whole or in part, said agreement to be executed and recorded in the manner provided by law for conveyance of real estate in the State of Nebraska.

ARTICLE I  
DEFINITIONS

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

ARTICLE II

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, shape, height, materials, exterior color scheme, and location of

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the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or by an architectural committee composed of three (3) or more representatives appointed by the Declarant ("Committee"). In the event the Declarant or its designated Committee 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. All owners shall submit plans and specifications to the Declarant or the Committee, in duplicate. When the same have been approved by the Declarant or the Committee, the approval shall be designated on the duplicate plans, one copy shall be returned to the owner and the other copy shall be retained by the Declarant or Committee. After January 1, 1985, or after Nine percent (9%) of the Lots comprising the Properties have been improved with residence buildings, whichever shall first occur, all privileges, rights, powers, and authority under this Article shall be exercised by and vested in a Committee to be selected by the owners of a majority of the Lots. If such a Committee has not been selected at that time or at any later time, the requirements of this Article shall not be applicable.

ARTICLE III

GENERAL RESTRICTIONS

Section 1. Awnings. No awnings or sun screens of any type shall be affixed to any building or structure within the Properties without the written consent of the Declarant or the Committee.

Section 2. Buildings or Uses Other than for Residential Purposes. No building or structure of any sort may ever be placed, erected or used for business, professional, trade or commercial purposes on any of the property within the Properties. Provided, however, this prohibition shall not apply:

(a) to any building or structure that is to be used exclusively by a public utility company in connection with the furnishing of public utility services to the Properties, or

(b) to any portion of a building used by Declarant, its licensees or assigns, for a manager's office or a sales office, or

(c) to any portion of a building leased for residential purposes for a term exceeding one year,

if written permission for such placement, erection or use under (a) or (b) above is first obtained from the Declarant or the Committee. Permission of the Committee is not required for exception (c) above.

Section 3. Fences, etc. No fence shall be erected or permitted to remain in front of the minimum building setback line applicable to any Lot on the Properties. No truck, trailer, boat, equipment or machinery or cars not in daily use shall ever be parked, located or otherwise maintained on any building site parking area or street in the Properties. No external television or radio antenna shall hereafter be erected on or about any of the building sites or property within the Properties provided, that, with the written approval of the Declarant or the Committee, one or more master television antenna towers may be erected for the benefit and use of all or of a part of the residents of the Properties. No clotheslines or clothes hangers may be constructed or used unless completely concealed with enclosed patio areas.

Section 4. Livestock and Poultry Prohibited. No animals, livestock or poultry of any kind shall be raised or kept on any building site in the Properties other than household pets, which shall be limited to two (2) per household. All pets shall be leashed when outside of the home and patio area. No such pet will be kept, bred or maintained for commercial purposes.

Section 5. Noxious Activity. No noxious or offensive activity shall occur on the Properties, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any vacant building site, nor shall anything ever be done which may be or become an annoyance or nuisance to the neighborhood.

Section 6. Billboards Prohibited. The construction, placing or maintenance of billboards, advertising boards or structures or "for sale" or "for rent" signs on any building site in the Properties is expressly prohibited except that "for sale" or "for rent" signs may be placed by others after first obtaining the written consent of the Declarant; provided, however, that the permission of Declarant shall not be required hereunder after January 1, 1985.

Section 7. Outbuildings Prohibited. No outbuilding or other attached structure appurtenant to a residence may be erected on any of the building sites hereby restricted without the consent in writing of the Declarant or the Committee.

Section 8. Temporary Structure. No trailer, basement, tent, shack, garage, barn, or other outbuilding shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. Provided, however, nothing contained herein shall restrict Declarant or its assigns from locating, constructing or moving a temporary real estate and/or construction office on any building site in the Properties to be used during the period of the construction and sale of the Properties. Declarant or its assigns may also erect and maintain model homes for sales purposes, and rental and lease purposes, and may operate such office or offices therein for so long as they deem necessary for the purposes of selling, renting or leasing the Properties.

Section 9. General Building Restrictions. All Lots within the Properties shall be used only for detached single family residences, and not more than one single family dwelling with garage attached shall be erected, altered, placed or permitted to remain on any one of said Lots and no homes may be attached as duplexes by use of zero lot line and party wall. No dwelling shall exceed two and one-half stories in height. All homes constructed on said Lots must have two-car garages. All homes must have a minimum building set-back from the closest part of the building to front lot line of at least twenty-five feet (25'). The ground floor enclosed area of every one-story single family dwelling, exclusive of open porches, open breezeways, basements and garages, shall be not less than 900 square feet. The above ground total finished living area of every multi-level single family dwelling shall be not less than 1,100 square feet. All exposed foundations of each improved lot shall be constructed to meet either one of the following requirements:

(a) the foundation facing the public or private street (front) shall be faced with brick, and all other foundations shall be painted to harmonize with the exterior of the dwelling;

(b) all exposed foundations shall be bricked, brick-scored concrete block painted in brick colors to harmonize with the exterior of the home, adobe or

concrete brick or painted, poured foundations with brick design. Foundations may also be finished with stucco provided the same shall harmonize with the architectural design of the dwelling.

ARTICLE IV

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, 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 Declarant or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 23 day of June, 1981.

BENCHMARK HOMES, INC.,  
a Nebraska corporation

By [Signature]

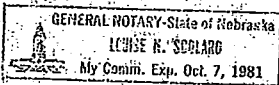
Attest:

[Signature]

STATE OF NEBRASKA )  
                              ) ss.  
COUNTY OF DOUGLAS )

On this 23 day of June, 1981, before me the undersigned, a Notary Public, duly commissioned and qualified for said County, personally came John C. Czerwinski, the President of Benchmark Homes, Inc., known to me to be the president and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and notarial seal the day and year last above written.



[Signature]  
Notary Public