

58-161

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS OF BARRINGTON PLACE
A SUBDIVISION IN SARPY COUNTY, NEBRASKA

THIS DECLARATION, made on the date hereinafter set forth, is made by Barrington Place Limited Partnership, 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 1 through 52, inclusive, in Barrington Place, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.
DEFINITIONS

A. "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.

B. "Properties" shall mean and refer to all such properties that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1

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through 52, inclusive, in Barrington Place, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map of the Properties, including lots and outlots.

D. "Declarant" shall mean and refer to BARRINGTON PLACE LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

E. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

ARTICLE II.
ARCHITECTURAL CONTROL

1. No dwelling, fence, other than fences constructed by Declarant, wall, driveway, patio, patio enclosure, deck, out building or dog house, swimming pool or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee, or its permission by implied approval procured in the manner set forth below. No television, radio antenna, or wind power equipment shall be allowed.

2. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction, size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Similar designs, forms, plans, styles or motifs will be considered repetitive if they are not separated by at least three adjacent lots regardless of orientation. Superficial, cosmetic or minor architectural detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves

the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the properties.

3. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, grading surface drainage and sidewalks.
2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.
3. An architectural review fee of fifty dollars (\$50.00) per improvement plan per lot will be charged. Said fee is subject to adjustment or waiver if so determined by the Architectural Control Committee. Additional review fees will be required for resubmissions for the same lot or alterations or additions to previously reviewed submittals. If construction has commenced on any lot without Architectural Control Committee approval, the review fee will be one hundred dollars (\$100.00). The applicant's name, address and telephone number shall appear on each set of plans submitted to the Architectural Control Committee. If applicant wishes that his plans be returned via the mail, he shall include with his submittal an additional two dollars (\$2.00) for postage and handling.
4. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing.

Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents and the fee required above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate to release such Lot from the foregoing provision.

ARTICLE III.
RESTRICTIONS AND COVENANTS

1. All lots shall be used exclusively for single-family residential purposes, except for such lots or parts thereof, as may hereafter be conveyed or dedicated for use as a church, school, park or other non-profit recreational purpose as may be approved, in writing, by Declarant, or its successors or assigns.
2. No single-family residence shall be created, altered, placed or permitted to remain on any lot other than one detached single-family dwelling, and said dwelling shall conform to the following requirements:

<u>TYPE OF DWELLING</u>	<u>MINIMUM AREA</u>	<u>LOCATION OF AREA</u>
A. One-story ranch house with attached garage	1,500 sq. ft.	On the main floor, exclusive of garage area (garage must be approximately at the same level as main floor)
B. One-story house with basement garage	1,600 sq. ft.	On the main floor
C. One and one-half story and two-story houses	2,300 sq. ft. 1,300 sq. ft.	Total area above the basement level Minimum area on main floor
D. Split entry (bi-level house)	1,600 sq. ft.	On the main floor
E. Tri-level (split level) house	2,000 sq. ft.	Total area above grade

Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story if it is one hundred percent (100%) above grade on one side, and essentially below grade on the other three (3) sides. All dwellings shall have attached, enclosed, side-by-side, two (2) car garages which must contain a minimum area of four hundred (400) square feet.

3. All buildings shall be located at least thirty-five (35) feet from the front Lot line, at least ten (10) feet from the side Lot lines and at least forty (40) feet from the rear Lot line. For purposes of this restriction, eaves, open patios and steps shall not be considered part of the building.

4. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, is to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the rear of every dwelling shall be covered with clay-fired brick, siding or shall be painted.

5. In the event that a fireplace is constructed as a part of a dwelling on any Lot, except a corner Lot, and said fireplace and/or the enclosure for the fireplace flue, is constructed in such a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the fireplace and/or the enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling, the enclosure of the fireplace and flue may be constructed of, or finished with, the same material as is the dwelling at the point from which the fireplace and/or the flue protrudes.

Notwithstanding the foregoing, when any fireplace is constructed as a part of a dwelling on any corner Lot, and said fireplace and/or the enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the dwelling, or is exposed above the roof, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone.

6. No exterior or radio antenna of any sort shall be permitted.

7. No fences may be built forward of the front line of the main residential structure and, under no circumstances, closer to any adjoining street than the closest point on the residence. Fences shall be constructed only of wood, brick or stone and are subject to the approval of the Declarant. Wire or chain-link fences shall not be permitted.
8. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said real estate, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots. All dwellings shall be roofed with wood shakes or wood shingles. The parts of all pre-fabricated metal furnace flues that protrude from the roof of a dwelling must be painted and no furnace flue may protrude more than five (5) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof.
9. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Papillion and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.
10. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the buildings or neighboring buildings or Lots.
11. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any lot except that a dog house constructed so as to house one (1) dog shall be permitted provided the construction plans and specifications and the location of the proposed structure have been first approved in writing by Declarant, or its assigns. Dog runs and dog houses shall be placed at the rear of the building and concealed from public view.

12. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside any dwelling. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No permanent clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units shall be placed in the rear yard.

13. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles shall be permitted outside of any garage at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned in the neighborhood. No unused building material, junk or rubbish shall be left exposed on any lot except during actual building operations and then in as inconspicuous a manner as possible.

14. 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 the real estate other than in an enclosed structure, for more than twenty (20) days within a calendar year. No grading or excavation equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets at any time. However, this restriction should not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their 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 zoning ordinances of the City of Papillion, Nebraska.

15. All Lots shall be kept free of rubbish, debris, merchandise and building material: however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have been installed adjoining the Lots shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine moving. No vegetation on vacant lots, where capital improvements have been installed adjoining the Lot, shall be allowed to reach more than a maximum height of eight (8) inches.

16. No noxious 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. Further, home occupations, as defined in the Zoning Code of the Municipal Code of the City of Papillion, Nebraska, shall not be permitted to take place within any of the residential dwellings.

17. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

18. Vegetable gardens and rock gardens shall be permitted only if maintained in the rear yard of any Lot, behind the dwelling on said Lot.

19. 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.

20. No advertising signs, except one sign per lot consisting of not more than six (6) square feet advertising a lot as "For Sale", billboard, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, 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 residence thereof. Further, no retail business activities of any kind whatsoever shall be conducted in any building or any portion of the property. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale period of the property.

21. No lot as initially platted shall be used as a building plot if it has been reduced below its original platted width or depth. However, parts of two or more platted lots may be combined into one (1) building plot if a plot is at least as wide as the minimum setback line, and as large in area as the largest of such lots as originally platted.

22. Any 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 property.

23. Three (3) trees, each not less than three (3) inches in diameter, shall be planted in the front yard of each residence, to be located between the front of the dwelling and the front Lot line. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. The

trees referred to above shall be one of the following varieties:

- Greenspire Linden
- Marshall Seedless Ash
- Skyline Honeylocust
- Emerald Ash

The trees shall be planted within one (1) year from the date the foundation for the residence on the Lot was completed.

ARTICLE IV.
EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to the Northwestern Bell Telephone Company and to the Omaha Public Power District, and any company which has been granted a franchise to provide a cable television system in the area, their successors and assigns, to erect, operate, maintain, repair and renew cables, conduits, and other instrumentalities, and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone, telegraph and message service including signals provided by a cable television system under a five (5) foot strip of land adjoining the front and side boundary lines of such lots, such licenses being granted for the use and benefit of all present and future owners of such lots: provided, however, that such easement is granted upon the specific condition that if both such utility companies fail to construct wires or conduits along any of the lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within sixty (60) days after their removal, then this easement shall automatically terminate and become void as to such unused or abandoned easementways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights herein granted.

2. All telephone, cable television, and electric power service lines from property line to dwelling shall be underground.

ARTICLE V.
GENERAL PROVISIONS

1. The Declarant or any owner of a lot named herein shall have the

