

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF SUMMERWOOD
LOTS 1 THROUGH 124

THIS DECLARATION, made on the date hereinafter set forth by SUMMERWOOD JOINT VENTURE, a Joint Venture organized under and subject to the Uniform Partnership Act of Nebraska, hereinafter referred to as the "Declarant",

W I T N E S S E T H:

WHEREAS, the Declarant is the Owner of the following described real property:

Lots 1 through 124, Summerwood, a Subdivision in Douglas County, Nebraska, as surveyed, platted and recorded exclusive of Out Lots A, B and C in said Subdivision.

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.

PART A

RESTRICTIONS FOR THE SINGLE FAMILY RESIDENTIAL AREA

A-1. No building shall be created, altered, placed or permitted to remain on any lot other than one detached single-family dwelling, not to exceed two stories in height, nor containing finished living areas, exclusive of porches, breezeways, carports and garages of less than the following: A one-story dwelling house constructed on any of said residential lots shall have a ground floor area of not less than 1,050 square feet. A one and one-half story dwelling house or a two-story dwelling house shall have a ground floor area of not less than 1,000 square feet. Dwelling

houses constructed on a split entry ranch plan or split level plan shall have not less than 1,050 square feet on the main living floor level. That said areas are exclusive of porches or attached garages. Each house shall have a garage for not less than two automobiles.

A-2. No lot shall be used except for residential purposes. A Home Occupation(s) as defined in the Zoning Code, Omaha Municipal Code is (are) not permitted.

A-3. 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.

A-4. No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be erected upon, or used, on any lot at any time as a residence, either temporarily or permanently.

A-5. Dwellings shall not be moved from outside of Summerwood onto any lot unless the plans and specifications of the proposed dwelling and the location of the proposed dwelling have been first approved in writing by Declarant or any person, firm, corporation, partnership or entity designated in writing by the Declarant, which shall consider such plans and specifications with regard to type, quality and use of exterior materials, exterior design, location of improvements upon the building plot and proposed finished grades; provided that Declarant and its designee specifically reserve the right to deny permission to construct any type of structure or improvement which it determines will not conform to the master plan for development of the subdivision, or which do not maintain the harmony of external design and location in relation to the surrounding structures and topography as relates to the exterior attractive appearance and condition of the homes, common areas, streets, sidewalks, driveways and parking areas, including controls for the construction of foundations, the color of roofs and vents, and television antennas or reception discs. The approval or disapproval of the undersigned Declarant, or its designee as required in these covenants shall be in writing. Failure of Declarant or its designee to give either written approval or disapproval of a submitted plan within sixty (60) days after submission of said plan by mailing such written approval or disapproval to the last known address of the applicant for approval as shown on the submitted plan shall operate to release such building plot from the provisions of this paragraph.

A-6. No unused building material, junk or rubbish shall be left exposed on any lot. No repair of automobiles will be permitted outside of garages or on any lot at any time.

A-7. No boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, grading or excavating equipment or other heavy machinery or equipment, vehicle undergoing repair, van or aircraft shall be stored outside the garage or in any manner left exposed on any lot at any time.

A-8. Except for the purpose of controlling erosion on vacant lots, no field crops shall be grown upon any lot at any time. In addition, vacant lots shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing; no vegetation on vacant lots shall be allowed to reach more than a maximum height of six (6) inches.

A-9. No incinerator or trash burner shall be permitted on any lot unless the same is incorporated into the dwelling and not exposed to view from the outside of the dwelling. No garbage or trash can or container or fuel tank or antenna shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other lots in the subdivision. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except when in actual use unless completely screened from view from every street and from all other lots in the subdivision. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothes line shall be permitted outside of any dwelling at any time except one umbrella-type clothes line per lot. Any exterior air-conditioning condenser unit shall be placed in the rear or side yard.

A-10. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets maintained within the dwelling may be kept, provided they are not kept, bred or maintained for any commercial purpose. It is intended specifically to prohibit horses, ponies or other animals sheltered outside the main dwelling.

A-11. No out building shall be erected, altered, placed or permitted to remain on any lot, unless construction plans and specifications and the location of the proposed structure have been first approved in writing by Declarant, or any person, firm, corporation, partnership or entity designated in writing by the Declarant, as stipulated hereinafter.

A-12. No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate for-sale or for-rent signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent.

A-13. Exposed portions of the foundation on the front of each dwelling are to be covered with either siding or brick and exposed portions of the foundation on the sides and rear of each dwelling shall be either covered with brick or siding or shall be painted. Fireplace chimneys are to be covered with brick, stone or siding.

A-14. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

A-15. Public sidewalks shall be constructed of concrete four feet wide by four inches thick in front of each built-upon lot and along the street side of each built-upon corner lot. The sidewalks shall be placed five feet back of the street curb line and shall be constructed by the then owner of the lot prior to time of completion of the main structure and before occupancy or use thereof; provided, however, this provision shall be varied to the extent required to comply with any subsequent requirements of the City of Omaha.

A-16. The Declarant has created a water drainage plan by grading the property and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed nor any lot graded, in such a manner that in accordance with accepted engineering principles, it would interfere with such water drainage plan or cause damage to the building or neighboring building or lots.

A-17. No building, fence, wall, driveway, patio, patio enclosure, rock garden, swimming pool, dog house, tree house, flag pole or other external improvement above or below the surface of the ground shall be erected, placed, altered or permitted to remain on any building plot, nor shall any grading, excavation or tree removal be commenced, until the construction plans and specifications, a site grading plan and a plot plan showing the location of the structure or improvement have been approved in writing by Declarant, or any person, firm, corporation, partnership or entity designated in writing by the Declarant, which shall consider such plans and specifications with regard to type, quality and use of exterior materials, exterior design, location of improvements upon the building plot, and proposed finished grade and under the standard set forth in

Paragraph 5 hereof; provided that Declarant and its designee specifically reserve the right to deny permission to construct any type of structure or improvement which it determines will not conform to the master plan for development of the subdivision. The approval or disapproval of the undersigned Declarant, or its designee as required in these covenants shall be in writing. Failure of Declarant or its designee to give either written approval or disapproval of a submitted plan within thirty (30) days after submission of said plan by mailing such written approval or disapproval to the last known address of the applicant for approval as shown on the submitted plan shall operate to release such building plot from the provisions of this paragraph. Part of the purpose of which is to enhance and protect the value, desirability and attractiveness of said property.

PART B

EASEMENTS AND LICENSES

B-1. A perpetual license and easement is hereby reserved in favor of and granted to the Northwestern Bell Telephone Company and to Omaha Public Power District, their successors, and assigns, to erect and 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 and telegraph and message service under a 5-foot strip of land adjoining the rear and side boundary lines of said lots, and license being granted for the use and benefit of all present and future owners of said lots; provided, however, that said lot line easement is granted upon the specific condition that if both said utility companies fail to construct wires or conduits along any of the said 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 side lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, 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.

B-2. All telephone and electric power service lines from property line to dwelling shall be underground.

B-3. Summerwood Joint Venture, Sanitary and Improvement District No. 321 of Douglas County, Nebraska, and their assigns and successors will have an easement, together with rights of egress, ingress, and other access

thereto for the purpose of constructing, installing, maintaining, planting or renewing shrubs, trees, or other decorative or landscaping vegetation in, over and upon a strip abutting the northerly side boundary line of Lot 1 and abutting the southerly side boundary line of Lot 124, and abutting the westerly side boundary line of both lots of 20 feet in width for the purpose of having a subdivision sign and, further, for additional purposes of prohibiting any use thereof inconsistent with the use of this area for sign identification purposes.

PART C

GENERAL PROVISIONS

C-1. For the purposes of these restrictions, two-story height as hereinbefore mentioned in Part A-1 shall, when the basement wall is exposed, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s).

C-2. The Declarant or its assigns or any owner of a lot named herein shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant 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.

C-3. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm, corporation, partnership or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than ninety percent (90%) of the lots covered by this Declaration.

C-4. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

C-5. The covenants, easement conditions and other terms set out in this Declaration of Covenants, Conditions and Restrictions of Summerwood Lots 1 through 124, shall be subject to the following enforcement:

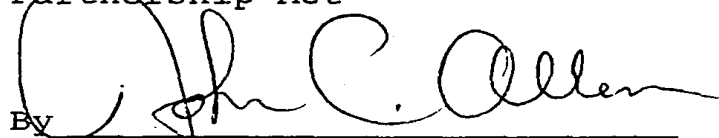
- a. Summerwood Joint Venture, Sanitary and Improvement District No. 321 of Douglas County, Nebraska, and every contract purchaser or owner of any lot herein described will be entitled at any time or from time to time to institute any equitable or legal proceeding appropriate, convenient or necessary for enforcement as to any of the lots described herein and to fix a reasonable charge for such action as a lien upon and charge against said lot in favor of Summerwood Joint Venture or Sanitary and Improvement District No. 321 or their successors or assigns.
- b. Every grantee, assign thereof or successor thereto will be entitled at any time or from time to time to institute any equitable or legal proceeding appropriate, convenient, or necessary for enforcement of any easement granted to such grantee.

C-6. Summer Joint Venture or Sanitary and Improvement District No. 321 of Douglas County, Nebraska, or their successor or assigns 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; and they will have the right at any time or from time to time to extend, modify, or terminate all or any part or parts of this Declaration other than the easements granted to other grantees. Any grantee, assign thereof, or successor thereto will have the right by an express written Termination to terminate any easement granted to such grantee.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 7th day of October, 1983.

DECLARANT:

SUMMERWOOD JOINT VENTURE,
A Joint Venture under
the Nebraska Uniform
Partnership Act

By 

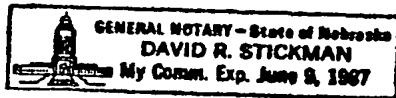
John C. Allen
President of Allen Young
Land Co., A Nebraska
Corporation and Joint
Venture General Partner

By Richard G. Eckstrom
Richard G. Eckstrom
Vice President of
OMCO, Inc., A Nebraska
Corporation and A Joint
Venture General Partner

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this 7TH day of October, 1983, before me, a Notary Public qualified in and for said County, personally came the above-named John C. Allen, President of Allen Young Land Co., who is personally known to me to be the identical person whose name is affixed to the above instrument, and who acknowledged that the execution of said instrument was its voluntary act and deed.

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

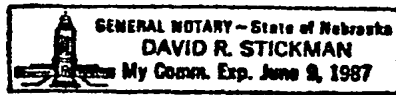


David R. Stickman
Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this 7th day of October, 1983, before me, a Notary Public qualified in and for said County, personally came the above-named Richard G. Eckstrom, Vice President of OMCO, Inc. who is personally known to me to be the identical person whose name is affixed to the above instrument, and who acknowledged that the execution of said instrument was its voluntary act and deed.

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



David R. Stickman
Notary Public

RECEIVED
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C. HAROLD OSTLER
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

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