

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2007-000107  
2007 MAR -2 P 4: 20

*Sharon J. Dowling*

REGISTER OF DEEDS

COUNTER *ab* S.E. *RA*  
VERIFY *ab* D.E. *RA*  
PROOF *P*  
FEES \$ *43.00*  
CHECK # *114718*  
HG. \_\_\_\_\_ CASH \_\_\_\_\_  
REFUND \_\_\_\_\_ CREDIT \_\_\_\_\_  
SHORT \_\_\_\_\_ NCR \_\_\_\_\_

**SECOND AMENDMENT TO AND FIRST RESTATEMENT OF DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR ORCHARD VALLEY, A SUBDIVISION IN  
SARPY COUNTY, NEBRASKA**

THIS SECOND AMENDMENT TO AND FIRST RESTATEMENT OF DECLARATION is made the date hereinafter set forth by Orchard Valley, Inc. ("Declarant").

**RECITALS**

A. On June 23, 2005, a document entitled Declaration of Covenants, Conditions, and Restrictions for Orchard Valley, a Subdivision in Sarpy County, Nebraska (hereinafter the "Declaration") for Lots One (1) through Thirty-six (36), inclusive, ORCHARD VALLEY, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, was recorded by Orchard Valley, Inc., Declarant, in the office of the Register of Deeds of Sarpy County, Nebraska as Miscellaneous Instrument No. 2005-20843.

B. On October 4, 2006, a document entitled First Amendment to the Declaration of Covenants, Conditions and Restrictions for Orchard Valley, a Subdivision in Sarpy County, Nebraska (hereinafter the "First Amendment") was recorded by Orchard Valley, Inc., Declarant in the office of the Register of Deeds of Sarpy County, Nebraska as Miscellaneous Instrument No. 2006-34296.

C. Article IV. Section B. of the Declaration provides that the covenants and restrictions of the Declaration may be amended by the Declarant for a period of five (5) years following June 21, 2005.

NOW, THEREFORE, Declarant hereby declares that the Declaration and First Amendment recorded in the office of the Register of Deeds of Sarpy County, Nebraska should be and hereby are amended and restated in the following manner:

1. By deleting therefrom Articles I, II, III and IV of the Declaration and First Amendment in their entirety and adding in their place and stead the following:

**ARTICLE I**  
**DEFINITIONS**

A. "Owner" shall mean and refer to the record owners, 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.

*MBS*  
*SEE*  
*DHK*

A

B. "Properties" shall mean and refer to all such properties that are subject to this Declaration and any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1 through 36, inclusive, of Orchard Valley, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of the Lots 1 through 36, inclusive, in Orchard Valley, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, as the same may be replatted from time to time.

D. "Declarant" shall mean and refer to Orchard Valley, Inc., its successors and assigns.

**ARTICLE II**

*Intentionally omitted.*

**ARTICLE III**

**RESTRICTIONS FOR RESIDENTIAL DWELLINGS**

A. Single Family Lots. Lots 1 through 36, inclusive, shall be subject to the following restrictions.

1.. The Lots shall be used only for residential purposes, and no lot shall contain more than one (1) single family unit.

2. All buildings on all lots shall comply with the set back requirements of the Zoning Code of the City of Bellevue as the same may be amended from time to time.

B. General Restrictions. All dwelling units described above shall comply with the following restrictions.

1. All dwellings shall, as a minimum, have attached, built in, or enclosed, side-by-side two car garages.

2. *Intentionally omitted.*

3. No fence shall be constructed, or permitted to be placed in front of the front building line of the main residence erected on each lot. No chain link fences shall be allowed unless covered with vinyl coating.

4. No dog run shall be constructed unless placed in the rear yard and the rear yard shall be shielded from view of neighboring lots by privacy fencing not less than 6 feet in height.

5. Except as provided by Section C of this Article, no structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any Lot, 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 precut dwelling shall be 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.

6. No trailer, recreational vehicle, motor home, tractor or unlicensed vehicle of any type shall be permitted to be placed or parked on any portion of the properties for more than four (4) continuous days, except, notwithstanding any provision in this Declaration, Declarant, its agents, successors and assigns, shall be allowed to operate and maintain model homes, sales office trailers, and construction trailers within the Orchard Valley subdivision, which right does not expire with the sale of the last build-able lot in the subdivision.

7. Public concrete sidewalks four (4) feet wide by four (4) inches thick shall be constructed by the then Owner of a Lot prior to the time of completion of a dwelling, or as soon as weather permits. Owners of corner lots shall construct sidewalks along each street side of the lot. Each dwelling unit shall have a paved driveway extending between the street and garage of not less than sixteen (16) feet in width; the driveway shall be of concrete or brick.

8. Orchard Valley, Inc. 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 building or neighboring buildings or Lots. Lot Owner shall indemnify and hold Orchard Valley, Inc., and its assigns, as Declarant, harmless for any action taken by Orchard Valley, Inc. pursuant to the provisions of this paragraph.

9. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, the 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 not yet been installed shall not be used for dumping of earth or any waste materials, and shall be maintained level and smooth enough for machine mowing. Nothing herein contained shall prohibit Declarant from utilizing lots within the properties for placement of usable building materials, equipment or earth for reasonable periods of time in anticipation of construction commencement on such properties.

10. Except for the purpose of controlling erosion on vacant Lots, no field crops shall

be grown upon any Lot at any time.

11. 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.

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

13. No advertising sign or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding twenty-four (24) inches by thirty-six (36) inches in size, shall be permitted and, provided further, that such restrictions as to sign shall not apply to signs erected by the Declarant, or his agents, in the development of Orchard Valley.

14. All driveways shall be constructed of concrete or brick.

15. No exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot, except, those 18 inches or less in diameter or diagonal measurement, which shall be screened from public view. 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.

C. Accessory Buildings. Only sheds which do not exceed ten (10') feet wide, twelve (12') feet deep, and eight (8') feet high may be erected on a Lot, so long as materials and colors are similar to those utilized for the construction of the single family residence of that same Lot. In all events, construction of such detached structure shall be completed within sixty (60) days of commencement. No shed shall be used as a dwelling at any time.

#### **ARTICLE IV** **GENERAL PROVISIONS**

A. 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.

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B. 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. At the end of such 25 year period, these Covenants shall automatically renew for ten (10) year intervals unless more than 50 percent of the then property owners vote to terminate this declaration. 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. 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.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 20th day of February 2007.

DECLARANT:  
ORCHARD VALLEY, INC.

By: [Signature]  
Melvin J. Sudbeck, Its President

STATE OF NEBRASKA     )  
  )  
COUNTY OF Douglas     )     ss.

On this 20th day of February 2007, before me the undersigned, a Notary Public in and for said County and State, personally came Melvin J. Sudbeck, President of Orchard Valley, Inc., and acknowledged that he executed the above as the willful act and deed of said corporation.

[Signature]  
Notary Public

