

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 Douglas, State of Nebraska, which is more particularly described as:

Lots One (1) through Seventy (70), inclusive, Linden Place, a cluster subdivision, as surveyed, platted and recorded in Douglas 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 for a period of 25 years from the date of filing this Declaration, at which time this Declaration shall be automatically extended for successive periods of ten 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. 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 years from the date hereof.

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.

Committee fails to approve or disapprove such design and location within 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 the Committee. After January 1, 1990, or after 90 percent 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. 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 Lots within the Properties. No Lots shall be used except for residential purposes. 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 of one year or more,

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 2. 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 or satellite receiving dish shall hereafter be erected on or about any of the building sites or Lots within the Properties. No clotheslines or clothes hangers may be constructed or used unless completely concealed with enclosed patio areas. Any fence to be built on any of the Lots shall conform to a uniform style or design which shall be approved by the Declarant, to the end that all Lots within the Properties shall maintain a common theme.

Section 4. Livestock and Poultry Prohibited. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or be permitted to remain on any Lot except that a doghouse shall be permitted provided the construction plans and specifications and the location of the proposed structure have first been approved in writing by the Declarant or the Committee. Dog runs shall be placed at the rear of the building. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that no more than two dogs, cats or other household pets maintained within the dwellings may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 5. 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, 1990.

Section 6. 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 7. Trash Incinerators. 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, trash can, container or fuel tank shall be permitted to remain outside of any dwelling, except for pick-up purposes. During the period of construction, however, there may be occasions when it will be necessary to have temporary propane tanks until gas has been installed in the subdivision, and the temporary installation of these propane tanks is specifically allowed. 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 Properties.

Section 8. General Building Restrictions. All Lots within the Properties shall be used only for detached duplex residences, and not more than one duplex with attached garages shall be erected, altered, placed or permitted to remain on any one of said Lots. A dwelling on which construction has begun must be completed within one year from the date the foundation was dug for said dwelling. All telephone and electric power service from property line to the duplex shall be underground. In order to maintain a common scheme of appearance and design, each of the duplexes to be built upon the Lots shall be of substantially similar exterior design, using a combination of the two basic unit designs established by the Declarant in the initial duplexes to be constructed within the Properties. In addition, each duplex to be built within the Properties shall utilize the same basic color scheme as nearly as possible. All exposed foundations on each Lot shall be painted or otherwise covered to conform with the general appearance of the Properties.

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 11th day of December, 1984.

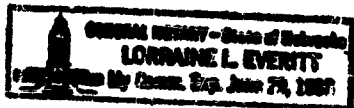
BENCHMARK HOMES, INC.
a Nebraska corporation

By [Signature]
President

ATTEST:

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 11th day of December, 1984 by John C. Czerwinski, President of Benchmark Homes, Inc., a Nebraska corporation, on behalf of the corporation.



Lorraine L. Everitt
Notary Public

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GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

AMENDED DECLARATION

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

WITNESSETH:

WHEREAS, Declarant is the same Declarant who filed that certain Declaration (the "Declaration") dated December 11, 1984 and filed on December 18, 1984 at Book 726, Page 419 of the Miscellaneous Records in the office of the Register of Deeds of Douglas County, Nebraska, with respect to that certain real property in Douglas County, Nebraska described as follows:

Lots One (1) through Seventy (70), inclusive, LINDEN PLACE, a cluster subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

WHEREAS, Declarant retained the right in said Declaration to amend the same in any manner for a period of five (5) years; and

WHEREAS, Declarant has determined to amend said Declaration with respect to the following described lots (herein referred to as the "Amended Lots"):

Lots One (1) through Fourteen (14), inclusive, and Lots Sixteen (16) through Forty Two (42), inclusive, Linden Place Replat, being a replatting of Lots One (1) through Five (5), inclusive, and Lots Forty Six (46) through Seventy (70), inclusive, Linden Place, a cluster subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

NOW, THEREFORE, Declarant hereby amends the Declaration in the following manner, such amendment to apply only with respect to the Amended Lots:

1. Article III, Section 2 of the Declaration is hereby amended by deleting the last sentence thereof relating to the building of fences.
2. Article III, Section 8 of the Declaration is hereby amended in its entirety to read as follows:

Section 8. 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 built-in or attached shall be erected, altered, placed or permitted to remain

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on any one of said Lots and no homes may be attached as duplexes by use of zero lot line and party wall. All telephone and electric power service from property line to the residence shall be underground. A dwelling on which construction has begun must be completed within one year from the date the foundation was dug for said dwelling. No dwelling shall exceed two and one-half (2 1/2) stories in height. All homes constructed on said Lots must have two-car built-in or attached 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 (25') feet. The above ground enclosed area of every shngle family dwelling, exclusive of open porches, open breeze-ways, basements and garages, shall not be less than one thousand one hundred (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, stone or other material approved by the Committee, and all other foundations shall be painted to harmonize with the exterior of the dwelling;

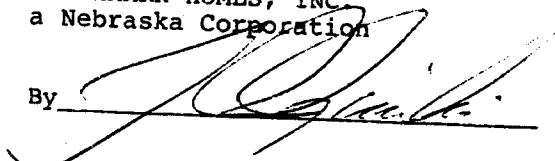
(b) All exposed foundations shall be bricked, brick-scored concrete block painted in brick colors to harmonize with the exterior of the home, concrete brick or painted, poured foundations with brick design. Foundations may also be finished with stucco provided the same shall harmonize with the architectural design of the dwelling.

3. In all other respects, the Declaration is hereby ratified and confirmed and shall remain in full force and effect. The amendments provided in this Amended Declaration shall apply to and affect only the Amended Lots and the Declaration shall not be affected with respect to the remaining lots comprising the Properties. Specifically, the Declaration shall apply to Lot Fifteen (15) of the Linden Place Replat described above.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Amended Declaration this 5 day of April, 1988.

BENCHMARK HOMES, INC
a Nebraska Corporation

By

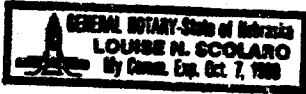


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STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 7 day of April, 1988, by JOHN C. CZERWINSKI, JR., the President of Benchmark Homes, Inc., a Nebraska corporation, on behalf of the corporation.



Louise N. Scolaro

Notary Public