

78 - 642

BOOK 502 PAGE 275

proceeding

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by DAMARK PROPERTIES, INC., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Douglas County, Nebraska, which is more particularly described as:

Eldorado, Lots 8-69 inclusive, 80-86 inclusive, and 95-119 inclusive, as surveyed, platted and recorded, being a part of the East One-Half (1/2) of the Southeast Quarter (SE-1/4) of Section Fourteen (14), Township Fifteen (15), Range Eleven (11) East of the 6th P.M., in Douglas County, Nebraska.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above 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 and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Eldorado Home Association, its successors and assigns.

Section 2. "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 sales, but excluding those having such interest merely as security for the performance of an obligation.

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JUDGE

[Signature]

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

Eldorado, Lots E-I inclusive, as surveyed, platted and recorded, in Douglas County, Nebraska.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Damark Properties, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B. membership, or

(b) On January 1, 1976.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be fifty dollars (\$50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots

and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments:

Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of seven percent (7%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

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, kind, shape, height, materials, and location of 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 Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, 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.

ARTICLE VI

USE RESTRICTIONS AND EASEMENTS

Section 1. All Lots covered by this declaration shall be known and described as residential lots, but may be used for any purpose as set forth in the use regulations of the zoning ordinance of the City of Omaha for first residents (R-1) district. Every home built on these lots shall have a garage with a capacity of not less than two cars.

Section 2. All buildings located on the lots covered by this declaration shall comply with the front, side, and rear yard requirements as specified in the zoning ordinance of the City of Omaha for fifth residents (R-5) district.

Section 3. No noxious or offensive trade or activity shall be carried on upon any lot covered by this declaration, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

Section 4. No house trailer, basement, tent, shack, barn, or other out building shall be built, erected or placed upon any lot covered by this declaration.

Section 5. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat or other recreational vehicle may be maintained, stored or kept on any of the lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said lots by other provisions contained herein.

Section 6. No animals of any kind (excepting ordinary house pets) shall be kept or maintained on any lot covered by this declaration.

Section 7. No fence or wall shall be permitted to extend beyond the minimum building set back line established herein in Section 2 above. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the above-mentioned minimum building set back line.

Section 8. Sidewalks four (4) feet in width shall be installed on each lot covered by this declaration, adjacent to each street abutting that lot in compliance with the ordinance of the City of Omaha pertaining to sidewalk construction.

Section 9. No outdoor antenna of any type and for any purpose shall be erected or placed on any lot covered by this declaration without the prior written approval of the architectural control board.

Section 10. No signs, except conventional temporary "For Sale" and similar temporary real estate signs shall be erected or placed on any lot or structure located thereon covered by this declaration.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association 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.

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the declarant without the consent of members within five (5) years of the date of this instrument provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Previous Covenants Superseded. This document supercedes and replaces restrictive covenants dated May 1, 1969, and filed for record in Book 478, pages 349-350, of the Miscellaneous Records in the office of the Register of Deeds, Douglas County, Nebraska.

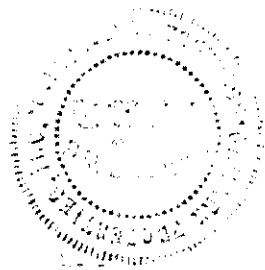
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunder set its hand and seal this 8th day of July, 1971.

DAMARK PROPERTIES, INC., Declarant

By: [Signature]
President

Attest:

winifred adams
Secretary



12
[Signature]

RECEIVED

1971 AUG 18 PM 1 32

CLERK OF DISTRICT COURT
COUNTY OF [illegible]
STATE OF NEW YORK

THE STATE OF NEW YORK
County of [illegible]
Entered in the office of the Clerk of the County of [illegible] for record in the office of the Clerk of the County of [illegible] in Book 502 of [illegible] Page 273

Register of Deeds

C. Harold Adams

By [Signature]
[illegible]
78-1427-1
[illegible]
[illegible]

COVENANTS, CONDITIONS AND RESTRICTIONS

ELDORADO III

THIS AMENDED DECLARATION is made on the date hereinafter set forth by N. P. DODGE COMPANY, hereinafter referred to as "Declarant", together with the undersigned owners of the following described real estate, to wit:

Lots 299-341, inclusive; All of Lots O, P, Q, R and S; and Lots AA--PT, inclusive; in Eldorado, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

WITNESSETH:

WHEREAS, a Declaration of Covenants, Conditions and Restrictions covering the above described real estate was recorded February 13, 1976 in Book 561 at Pages 325 to 333, inclusive, of the Miscellaneous Records in the Office of the Register of Deeds of Douglas County, Nebraska; and

WHEREAS, said Declaration provides for Amendment of the Declaration by instrument signed by the owners of ninety per cent (90%) or more of the lots; and

WHEREAS, the undersigned are the owners of more than ninety per cent (90%) of the lots subject to said Declaration, and it is the desire of the undersigned to effect certain amendments, releases, additions and clarifications to said Declaration;

NOW, THEREFORE, in consideration of the foregoing preambles the undersigned declare as follows:

A. That those portions of Lots O, P, Q, R and S in said subdivision which are being replatted as Lots 542-562, inclusive, and Outlots 1-31, inclusive, are hereby released from any and all Common Area provisions of the aforesaid Declaration, including but not limited to the definition of "Common Area" appearing in Article I thereof and all Owners' Easements of Enjoyment described in Article II thereof, and that said portions shall henceforth be known and described as "Lots" as defined in Section 6 of Article I in this Amended Declaration of Covenants, Conditions and Restrictions.

B. That the following covenants, conditions, restrictions and easements as herein expressed shall apply in amendment of and in addition to the covenants, conditions, restrictions and easements contained in said Declaration to the extent and only to the extent that the same are inconsistent therewith. For clarification purposes, all Articles of the Declaration are re-stated herein, including those portions not amended.

PREAMBLE

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Eldorado III Home Association, its successors and assigns.

Section 2. "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, but excluding those having such interest merely as security for the performance of an obligation (mortgagees).

Section 3. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners and shall include the properties whereupon the vehicular drives are situated, as well as the open space. The Common Area to be owned by the Association is described as follows:

Lots O, P, Q, R and S except those portions thereof being replatted as Lots 542-562, inclusive, and Outlots 1-31, inclusive; and Lots AA-PP, inclusive, in Eldorado, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Section 6. "Lot" shall mean and refer to any numbered plot of land shown on the recorded plat of the Properties; provided, however, that none of Outlots 1-31, inclusive, shall be considered for membership or building purposes or any purposes whatsoever hereunder to be independent plots of land.

Section 7. "Declarant" shall mean and refer to N. P. Dodge Company, its successors and assigns, if such successors or assigns should at any time acquire all the remaining right, title and interest of N. P. Dodge Company in and to the "Properties" as defined herein.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to otherwise impose reasonable limitations on the use thereof;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations.

(c) The right of the Association, in accordance with its Articles of Incorporation and By-laws, to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said Common Area and facilities, provided that the rights of any mortgagee shall be subordinate to the rights of the Owners.

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument approved by two-thirds (2/3) of each class of members present and voting at a meeting duly called for that purpose and agreeing to such dedication or transfer has been recorded, and unless written notice of the time and purpose of a meeting called for that purpose is sent to every member at least sixty (60) days prior to any such meeting.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On June 30, 1981.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in collection of the same, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of Properties, services, and facilities devoted to

this purpose and related to the use and enjoyment of the common Properties and of the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance on the Common Area and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Fifty Dollars (\$50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of both classes of members who are voting in person or by proxy at a meeting duly called for this purpose. For purposes of this section, capital improvements shall be defined as recreation-oriented facilities (swimming pool, tennis courts, club house and similar related facilities). The term capital improvements shall not be construed to include bicycle paths, benches, trees, shrubs and similar landscaping amenities.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, provided that the rate set for the Lots owned by the Declarant shall be fixed at one-third (1/3) the assessment rate for the other

Lots. These assessments may be collected on a monthly, quarterly, semi-annual or annual basis as designated by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments:
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area from the Declarant to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

(b) All Common Areas as defined in Article I, Section 5 hereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, structure, or other improvement of any type or description (other than landscaping) shall be constructed, 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, kind, shape, height, materials, and location of 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 Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. The Board, or its designated committee, shall have the right to disapprove any such plans or specifications which are not suitable or desirable in the Board or committee's opinion for aesthetic or other reasons, and in passing upon such plans and specifications, the Board or committee shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property, and if it is in accordance with all of the provisions of this Declaration.

Section 3. The Board or committee may disapprove if the plans and specifications submitted are incomplete, or in the event the Board or committee deems the plans, specifications or detail or any part thereof to be contrary to the spirit or intent of these conditions and restrictions. The decisions of the Board or its said committee shall be final.

Section 4. Neither the undersigned nor any architect or agent of the undersigned nor any member of the Board or its said committee by virtue of his membership thereon, or discharge of his duties required thereby, shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans or specifications. No building or improvements of any kind constructed or placed upon any of said lots thereafter shall be moved without the prior written approval of the Board or its said committee. In the event said Board, 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. Neither the members of the Board or its said committee shall be entitled to any compensation for services performed pursuant to this covenant.

ARTICLE VI

USE RESTRICTIONS

Section 1. The use of the Common Area shall be subject to the restrictions set forth in Article II, Section 1, and to those restrictions hereinafter set forth.

Section 2. No owner shall place any structure whatsoever upon the Common Area nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Area to all Members.

Section 3. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

Section 4. The Properties are hereby restricted to residential dwellings for residential use and structures and uses related to the convenience and enjoyment of such residential use, including but not limited to park and recreational facilities, such as tennis courts and swimming pools.

Section 5. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Household pets within the Properties and Common Area will be subject to regulation, restriction, exclusion and special assessment as may be determined by the Association from time to time. Included within such regulations, but not by way of limitation thereof, shall be a prohibition against dogs, cats, and other household animals being allowed to run at large within the Properties and Common Area, and a requirement that same at all times be on a leash or other immediate control of their owner. It shall be the duty of the

Association to keep the common property free from litter and feces caused by and left by pets. The owners of any pets known to be at large shall be properly assessed by the Association for the cleanup expenses incurred.

Section 6. 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 for not more than two dogs shall be permitted provided the construction plans and specifications and the location of the proposed structure have first been approved in writing by the Board or its said Committee.

Section 7. No house trailer, basement, tent, shack, barn, or other out-building shall be built, erected or placed upon any Lot covered by this declaration, other than such dog house as may be approved under Section 6 of this Article.

Section 8. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat, motorhome, truck (except pick-up truck), or other recreational vehicle may be maintained, stored or kept on any of the Lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said Lots by other provisions contained herein. No grading 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.

Section 9. No repair of automobiles will be permitted outside of garages on any Lot at any time; nor will any vehicle 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.

Section 10. No outdoor antenna of any type and for any purpose shall be erected or placed on any Lot covered by this declaration without the prior written approval of the architectural control committee.

Section 11. No signs, except conventional temporary "For Sale" and similar temporary real estate signs shall be erected or placed on any Lot or structure located thereon covered by this declaration.

Section 12. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road, or portion of the Common Area, nor on any of the Lots covered by this declaration unless placed in a suitable container discreetly concealed so as to not be visible from other Lots, Common Areas or streets.

Section 13. No incinerator or trash burner shall be permitted on any Lot. 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.

Section 14. 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.

Section 15. Automobile parking; will be subject to regulations and restriction by the Association

Section 16. The structures and the grounds of each Lot shall be maintained in a neat and attractive manner. Upon the owner's failure to do so, the Board of Directors of the Association, or its designated architectural control committee may, at its option, after giving the owner thirty (30) days written notice sent to his last known address, have the grass, weeds, and vegetation cut when, and as often as, the same is necessary in its judgment, and have dead trees, shrubs, and plants removed from any lot.

Section 17. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance, the said Board or its designated committee may, at its option, after giving the owner six month's written notice sent to his last known address, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 18. The cost of such maintenance referred to in Sections 12 and 13 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the periodic maintenance, assessment or charge to which such Lot is subject under Article IV hereof.

Section 19. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for a builder of said buildings, upon receipt of prior written permission from the Association to maintain during the period of construction and sale of said buildings upon such portion of the premises as such builder may choose, such facilities as may be reasonably required, convenient or incidental to the construction and sale of, including but without limitation, a business office, a storage area, construction yards, signs, model units and sales office.

Section 20. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

Section 21. Public sidewalks shall be constructed four feet wide by four inches thick on the dedicated street side of each Lot which abuts a dedicated street, whether solely in an appurtenant Outlot or other Lot or partly in the Outlot and partly in the Lot to which it is appurtenant. 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.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter.

Section 2. Severability. Invalidity 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.

Section 3. Notices. Any notice required to be sent to any member or Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Construction Easement. If any portion of an exterior wall of a residence is situated within five (5) feet of any adjoining lot line, a valid easement shall and does exist, three (3) feet in width along the adjoining Lot and adjacent to the said lot line, which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of the residence that is situated within five (5) feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of this easement.

Section 5. Maintenance Easement. If any portion of a residence encroaches upon the Common Area or upon the easement of any adjoining Lot established under the provisions of Section 4 above, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 6. Roof Overhang Easement. If any portion of the roof or eaves of a residence shall encroach upon the Common Area or upon any adjoining Lot, there shall exist in the air above the ground within three (3) feet of the lot line to which the encroaching residence abuts, an easement for the purposes of construction and maintenance of the said encroaching portion of the roof or

eaves, provided however, that no roof overhang of any description shall encroach on any adjoining property by an amount greater than three (3) feet, and further provided that this easement shall not extend to or include any easement, license or right upon the surface or subsurface of said adjoining property.

Section 7. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date of recording of this declaration, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots, provided that Declarant may, within five (5) years of the date of this instrument, amend this Declaration without the consent of Class A members, subject to the provisions of Section 9 of this Article. Any amendment must be recorded.

Section 8. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the Declarant without the consent of members within five (5) years of the date of this instrument provided that the Federal Housing Administration and Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

Section 9. FFA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned owners of Lots in Eldorado, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, do hereby signify their approval of and consent to the foregoing Amended Declaration of Covenants, Conditions and Restrictions by executing or causing this instrument to be executed on the dates indicated hereinafter.

Lots Owned

299-305, inclusive; 307-334, inclusive;
339-347, inclusive; 358-457, inclusive;
459-463, inclusive; 465-532, inclusive;
534-541, inclusive

No.

225

N. P. DODGE COMPANY
Declarant

By N. P. Dodge
President

Attest: R. A. Whelan
Secretary

O, P, Q, R and S

ELDERADO III HOME ASSOCIATION

By R. A. Whelan
President

Attest: James L. ...
Secretary

348, 349, 350, 351, 354,
355 and 357

7

THORNTON CONSTRUCTION CO.

By L. A. Thornton
President

Attest: James L. ...
Secretary

335, 336, 337 and 338

4

THE OMAHA NATIONAL BANK

By Arnold ...
Vice President

By John ...
2nd Vice President

82-687/etc

BOOK 561 PAGE 325

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth,
by DAMARK PROPERTIES, INC., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property,
more particularly described as:

Eldorado, Lots 299-541 inclusive, Lots O, P,
Q, R and S, and Lots AA-PP inclusive, in a
subdivision as surveyed, platted and recorded
in Douglas County, Nebraska, and

WHEREAS, Declarant desires to create thereon a residential
community with permanent parks, playgrounds, open spaces, and other
common facilities for the benefit of the said community; and

WHEREAS, Declarant desires to provide for the preservation
of the values and amenities in said community and for the main-
tenance of said parks, playgrounds, open spaces and other common
facilities; and to this end, desires to subject the aforesaid real
property to the covenants, restrictions, easements, charges and
liens hereinafter set forth, each and all of which is and are for
the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient
preservation of the values and amenities in said community, to
create an agency to which should be delegated and assigned the
powers of maintaining and administering the community properties
and facilities and administering and enforcing the covenants and
restrictions and collecting and disbursing the assessments and
charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the
State of Nebraska a nonprofit corporation, known as the Eldorado
III Home Association, for the purpose of exercising the functions
aforesaid;

NOW, THEREFORE, Declarant hereby declares that all of the
properties described above shall be held, transferred, sold, con-
veyed and occupied subject to the following covenants, easements,
restrictions, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Eldorado
III Home Association, its successors and assigns.

Section 2. "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, but excluding those
having such interest merely as security for the performance of
an obligation (mortgagees).

SCHMID, FORD, MOONEY, FREDERICK & CALOIALE
ATTORNEYS AT LAW

Section 3. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners, and shall include the properties whereupon the private, non-dedicated Cul-de-Sac roads are situated, as well as the common park areas separating the individual lot clusters. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Lots O, P, Q, R and S, and Lots AA-PP inclusive, in Eldorado, a subdivision as surveyed, platted and recorded, in Douglas County, Nebraska.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 7. "Declarant" shall mean and refer to Damark Properties, Inc., its successors and assigns, if such successors or assigns should at any time acquire all the remaining right, title and interest of Damark Properties, Inc. in and to the "Properties" as defined herein.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to otherwise impose reasonable limitations on the use thereof;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association, in accordance with its Articles of Incorporation and By-laws, to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said Common Properties, provided that the rights of any mortgagee shall be subordinate to the rights of the Owners.

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument approved by two-thirds (2/3) of each class of members present and voting at a meeting duly called for that purpose and agreeing to such dedication or transfer has been recorded, and unless written notice of the time and purpose of a meeting called for that purpose is sent to every member at least sixty (60) days prior to any such meeting.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On June 30, 1981.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in collection of the same, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of Properties, services, and facilities devoted to.

this purpose and related to the use and enjoyment of the common Properties and of the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance on the common area and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be ~~fifty~~ fifty dollars (\$ 50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of both classes of members who are voting in person or by proxy at a meeting duly called for this purpose. For purposes of this section, capital improvements shall be defined as recreation-oriented facilities (swimming pool, tennis courts, club house and similar related facilities). The term capital improvements shall not be construed to include bicycle paths, benches, trees, shrubs and similar landscaping amenities.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, provided that the rate set for the Lots owned by the Declarant shall be fixed at one-third (1/3) the assessment rate for the other

Lots. These assessments may be collected on a monthly, quarterly, semi-annual or annual basis as designated by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments.

Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area from the Declarant to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) All Common Areas as defined in Article I, Section 5 hereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, structure, or other improvement of any type or description shall be constructed, 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, kind, shape, height, materials, and location of 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 Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. In the event said Board of Directors, or its designated architectural control committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article shall be deemed to have been fully satisfied.

Section 3. A majority vote of the Board of Directors or its designated committee is required for approval or disapproval of proposed improvements.

Section 4. The said Board or its designated committee shall maintain written records of all applications submitted to it and of all actions taken by it.

ARTICLE VI

USE RESTRICTIONS AND EASEMENTS

Section 1. The Properties described herein have been platted as a Cluster Housing development under and in accordance with the regulations pertaining thereto of the Omaha Municipal Code.

Section 2. All Lots covered by this declaration shall be known and described as residential lots, but may be used for any purpose as set forth in the use regulations of the zoning ordinance of the City of Omaha for first residence (R-1) district. Every dwelling unit constructed on these Lots shall have a garage with a capacity of not less than two cars. In addition, each lot shall have sufficient driveway space, excluding that covered by garages, to accommodate two full sized automobiles entirely within the boundaries of said lot.

Section 3. All buildings, appurtenances thereto and improvements located on the Lots covered by this declaration shall comply with the front, side, and rear yard requirements as specified in the zoning ordinance of the Omaha Municipal Code for Cluster Housing.

Section 4. No noxious or offensive trade or activity shall be carried on upon any Lot covered by this declaration, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

Section 5. No house trailer, basement, tent, shack, barn, or other out-building shall be built, erected or placed upon any Lot covered by this declaration.

Section 6. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat, motorhome, truck or other recreational vehicle may be maintained, stored or kept on any of the Lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said Lots by other provisions contained herein.

Section 7. No animals of any kind (excepting ordinary house pets) shall be kept or maintained on any Lot covered by this declaration.

Section 8. Fences and walls not exceeding six (6) feet in height shall be permitted on the Lots covered by this declaration, provided that the same shall not be constructed closer than ten (10) feet to any publicly dedicated street, and subject to the provisions of Article V hereof.

Section 9. No outdoor antenna of any type and for any purpose shall be erected or placed on any Lot covered by this declaration without the prior written approval of the architectural control committee.

Section 10. No signs, except conventional temporary "For Sale" and similar temporary real estate signs shall be erected or placed on any Lot or structure located thereon covered by this declaration.

Section 11. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road, or portion of the Common Area, nor on any of the Lots covered by this declaration unless placed in a suitable container discretely concealed so as to not be visible from other Lots, Common Areas or streets.

Section 12. The structures and the grounds of each Lot shall be maintained in a neat and attractive manner. Upon the owner's failure so to do, the Board of Directors of the Association, or its designated architectural control committee may, at its option, after giving the owner thirty (30) days written notice sent to his last known address, have the grass, weeds, and vegetation cut when, and as often as, the same is necessary in its judgment, and have dead trees, shrubs and plants removed from any Lot.

Section 13. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance, the said Board or its designated committee may, at its option, after giving the owner six month's written notice sent to his last known address, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 14. The cost of such maintenance referred to in Sections 12 and 13 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the periodic maintenance, assessment or charge to which such Lot is subject under Article IV hereof.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association 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.

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

Section 3. Notices. Any notice required to be sent to any member or Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Construction Easement. If any portion of an exterior wall of a residence is situated within three (3) feet of any adjoining lot line, a valid easement shall and does exist, three (3) feet in width along the adjoining Lot and adjacent to the said lot line, which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of the residence that is situated within three (3) feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of this easement.

Section 5. Maintenance Easement. If any portion of a residence encroaches upon the common properties or upon the easement of any adjoining Lot established under the provisions of Section 4 above, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 6. Roof Overhang Easement. If any portion of the roof or eaves of a residence shall encroach upon the Common Properties or any adjoining Lot, there shall exist in the air above the ground within three (3) feet of the lot line to which the encroaching residence abuts, an easement for the purposes of construction and maintenance of the said encroaching portion of the roof or eaves, provided however, that no roof overhang of any description shall encroach on any adjoining property by an amount greater than three (3) feet, and further provided that this easement shall not extend to or include any easement, license or right upon the surface or subsurface of said adjoining property.

Section 7. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date of recording of this declaration, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots, provided that Declarant may, within five (5) years of the date of this instrument, amend this Declaration without the consent of Class A members, subject to the provisions of Section 9 of this Article. Any amendment must be recorded.

Section 8. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the Declarant without the consent of members within five (5) years of the date of this instrument provided that the Federal Housing Administration and Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

Section 9. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

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7. Public concrete sidewalks four (4) feet wide by four (4) inches thick shall be constructed by the then owner on all sides of all streets, said sidewalks shall be completed at time of completion of the main residential structure and shall be located four (4) feet back of curbline.

8. No trailer house, camping trailer, travel trailer, boat trailer, or any type of trailer, or boat will be permitted to remain in public view in any yard of any dwelling for any longer than thirty (30) days in any year.

9. Without the consent of Damark Properties, Inc., a Nebraska corporation, its successors and assigns, no house and/or garage shall be moved to any lot in this subdivision.

10. No animals, live stock or poultry of any kind shall be raised, bred or kept on any property in this subdivision, except dogs and cats, and other household pets which may be kept solely as pets for the occupants and not bred or maintained for commercial purposes.

11. No trees, shrubs, hedges or flowers shall be planted or maintained in such proximity of streets or sidewalks as will interfere with the proper use and maintenance thereof or will obstruct the view of the side streets from traffic approaching the intersection.

12. No signs, except conventional, temporary "For Sale" and similar temporary real estate signs and conventional, temporary political posters, shall be erected or placed on any structure or on any lot.

13. No outside radio, ham broadcasting, or other electronic antenna or aerial shall be erected or placed on any structure or on any lot.

14. No noxious nor offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the other owners or occupants of lots.

15. No fill dirt may be removed from the subdivision without the written approval of the developer.

16. The covenants and restrictions herein contained shall run with the land and shall be binding upon all persons for a period of twenty-five (25) years from date hereof. Each of the covenants herein contained is several and separate from the other covenants and the invalidity of any covenant shall not affect the validity of any other provision of this instrument.

17. The provisions hereof shall bind and inure to the benefit of the undersigned, its successors, their heirs and assigns, and to their grantees, both immediate and remote, and their heirs, devisees and personal representatives. The enforcement hereof shall be by proceedings at law or in equity against any person or persons violating, or attempting to violate any of said covenants, to restrain said violation or recover damages.

18. Nothing herein contained shall in any way be construed as imposing upon the undersigned or Damark Properties, Inc. any liability, obligation, or requirement to enforce this instrument or any of its provisions.

IN WITNESS WHEREOF, Declarant has executed this Declaration at Omaha, Douglas County, Nebraska

Attest:

DAMARK PROPERTIES, INC.

By Winifred Adams
Winifred Adams
Secretary

By Charles A. Rasmussen
Charles A. Rasmussen
President

On this first day of May, 1969 before me, a Notary Public in and for said County, personally came Charles A. Rasmussen, President of Damark Properties, Inc., a Corporation, to me personally known and acknowledged the execution thereof to be his voluntary act and deed, and the voluntary act and deed of said Corporation

My commission expires August 14, 1972.

Notary Public

4 Notary Public, State of Nebraska, My Commission Expires August 14, 1972. 26 25

PROTECTIVE COVENANTS

The undersigned, Damark Properties, Inc., as owner of all of the land covered by the preliminary plat of "Eldorado", a proposed subdivision in Douglas County, Nebraska, does hereby covenant, declare, and publish for the benefit of the City of Omaha, a Municipal Corporation, Father Flanagan's Boys' Home, and all other persons now or hereafter owning real property adjacent to Eldorado; that the real property described as follows, to wit:

That property designated on the plat for zoning, marked Exhibit A, attached hereto, and by this reference made a part hereof, as "R-7", more particularly described as Lots 5 and 6, Eldorado, as surveyed, platted and recorded, Douglas County, Nebraska, said property being hereinafter referred to as the "R-7" property,

and the real property described as follows, to wit:

That property referred to on said plat for zoning as "R-9", more particularly described as Lots 1, 2, 3, 4 and 7, Eldorado, as surveyed, platted and recorded, Douglas County, Nebraska,

and the real property described as follows, to wit:

All of the Eldorado Subdivision, more particularly described as: Lots A and B and One(1) through 55, inclusive, Eldorado as surveyed, platted and recorded, Douglas County, Nebraska,

shall be owned, used, conveyed, and held under and subject to the following covenants, conditions, and restrictions, to wit:

1. The real property referred to on said plat for zoning as "R-7" shall be limited in use to the construction and maintenance of not more than 180 town house type apartment units or multiple dwelling apartment type units and no building erected on said real property shall exceed two and one-half (2½) stories in height.
2. No structure which shall be erected, placed, or permitted to remain on the real property referred to on said plat for zoning as "R-9", shall exceed two and one-half (2½) stories in height.
3. No lot in Eldorado shall be used for any of the following purposes, to wit:

- (a) The sale of alcoholic beverages, including beer, by the drink or for consumption on the premises where such beverages are sold.

- (b) The operation of any amusement or entertainment facility, whether or not operated as part of another business, including but not in limitation of the foregoing, a pool or billiard hall or game, a bowling alley, coin-operated amusement games and amusement park or other games.
- (c) A drive-in type eating or drinking facility or ice cream or soft drink stand where customers are served in their automobiles or where customers make purchases through a service window.
- (d) A coin-operated or self-service automobile washing facility.

4. There shall be no gasoline service station on any lot in Eldorado located within five hundred (500) feet of Dodge Street lying to the South of Eldorado.

5. These Restrictive Covenants shall run with the land, and each person, firm, or corporation taking title to the above described property or any part thereof agrees to be bound by said Restrictive Covenants, the same as if written in the instrument under which said person, firm, or corporation acquires title to said real property or any thereof. These covenants may be altered, amended, or modified by an instrument in writing executed by the owner or owners of the land above described and by Father Flanagan's Boys' Home and by the City of Omaha, Nebraska, a Municipal Corporation, which instrument shall be recorded in the manner provided by law.

6. Each of the Restrictive Covenants herein contained is severable and separate. Invalidity of any one of these covenants by judgment or court order shall in no way affect the validity and enforceability of any of the other covenants or restrictions herein contained.

IN WITNESS WHEREOF, DANARK PROPERTIES, INC., being the owner of all of said real property has executed these Restrictive Covenants this 5th day of April, 1949.

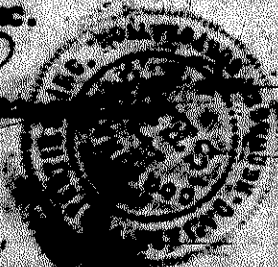
DANARK PROPERTIES, INC.

ATTEST:

Winifred Adams
Secretary

Charles A. [Signature]
President

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.

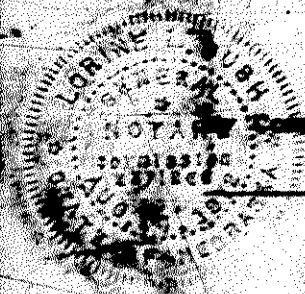


On this 5th day of April, 1949, before me, a Notary Public duly commissioned and qualified in and for said County and State, personally came Charles A. [Signature], President of Danark Properties, Inc., a Nebraska Corporation, who is personally known to me to be

the identical person whose name is affixed to the above and foregoing Protective Covenants, and he acknowledged the execution of said instrument to be his voluntary act and deed and the voluntary act and deed of said Demark Properties, Inc.

WITNESS my hand and official seal in said County and State, the date last above written.

Lorine L. Bush
Notary Public



Commission expires:
August 14, 1972

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth, by DAMARK PROPERTIES, INC., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property, more particularly described as:

Eldorado, Lots 299-541 inclusive, Lots O, P, Q, R and S, and Lots AA-PP inclusive, in a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, and

WHEREAS, Declarant desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities; and to this end, desires to subject the aforesaid real property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of Nebraska a nonprofit corporation, known as the Eldorado III Home Association, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, transferred, sold, conveyed and occupied subject to the following covenants, easements, restrictions, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Eldorado III Home Association, its successors and assigns.

Section 2. "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, but excluding those having such interest merely as security for the performance of an obligation (mortgagees).

Section 3. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners, and shall include the properties whereupon the private, non-dedicated Cul-de-Sac roads are situated, as well as the common park areas separating the individual lot clusters. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Lots O, P, Q, R and S, and Lots AA-PP inclusive, in Eldorado, a subdivision as surveyed, platted and recorded, in Douglas County, Nebraska.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 7. "Declarant" shall mean and refer to Damark Properties, Inc., its successors and assigns, if such successors or assigns should at any time acquire all the remaining right, title and interest of Damark Properties, Inc. in and to the "Properties" as defined herein.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to otherwise impose reasonable limitations on the use thereof;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association, in accordance with its Articles of Incorporation and By-laws, to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said Common Properties, provided that the rights of any mortgagee shall be subordinate to the rights of the Owners.

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument approved by two-thirds (2/3) of each class of members present and voting at a meeting duly called for that purpose and agreeing to such dedication or transfer has been recorded, and unless written notice of the time and purpose of a meeting called for that purpose is sent to every member at least sixty (60) days prior to any such meeting.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) On June 30, 1981.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in collection of the same, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of Properties, services, and facilities devoted to.

this purpose and related to the use and enjoyment of the common Properties and of the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance on the common area and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be fifty dollars (\$ 50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of both classes of members who are voting in person or by proxy at a meeting duly called for this purpose. For purposes of this section, capital improvements shall be defined as recreation-oriented facilities (swimming pool, tennis courts, club house and similar related facilities). The term capital improvements shall not be construed to include bicycle paths, benches, trees, shrubs and similar landscaping amenities.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, provided that the rate set for the Lots owned by the Declarant shall be fixed at one-third (1/3) the assessment rate for the other

Lots. These assessments may be collected on a monthly, quarterly, semi-annual or annual basis as designated by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments:
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area from the Declarant to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

(b) All Common Areas as defined in Article I, Section 5 hereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, structure, or other improvement of any type or description shall be constructed, 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, kind, shape, height, materials, and location of 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 Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. In the event said Board of Directors, or its designated architectural control committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article shall be deemed to have been fully satisfied.

Section 3. A majority vote of the Board of Directors or its designated committee is required for approval or disapproval of proposed improvements.

Section 4. The said Board or its designated committee shall maintain written records of all applications submitted to it and of all actions taken by it.

ARTICLE VI

USE RESTRICTIONS AND EASEMENTS

Section 1. The Properties described herein have been platted as a Cluster Housing development under and in accordance with the regulations pertaining thereto of the Omaha Municipal Code.

Section 2. All Lots covered by this declaration shall be known and described as residential lots, but may be used for any purpose as set forth in the use regulations of the zoning ordinance of the City of Omaha for first residence (R-1) district. Every dwelling unit constructed on these Lots shall have a garage with a capacity of not less than two cars. In addition, each lot shall have sufficient driveway space, excluding that covered by garages, to accommodate two full sized automobiles entirely within the boundaries of said lot.

Section 3. All buildings, appurtenances thereto and improvements located on the Lots covered by this declaration shall comply with the front, side, and rear yard requirements as specified in the zoning ordinance of the Omaha Municipal Code for Cluster Housing.

Section 4. No noxious or offensive trade or activity shall be carried on upon any Lot covered by this declaration, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

Section 5. No house trailer, basement, tent, shack, barn, or other out-building shall be built, erected or placed upon any Lot covered by this declaration.

Section 6. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat, motorhome, truck or other recreational vehicle may be maintained, stored or kept on any of the Lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said Lots by other provisions contained herein.

Section 7. No animals of any kind (excepting ordinary house pets) shall be kept or maintained on any Lot covered by this declaration.

Section 8. Fences and walls not exceeding six (6) feet in height shall be permitted on the Lots covered by this declaration, provided that the same shall not be constructed closer than ten (10) feet to any publicly dedicated street, and subject to the provisions of Article V hereof.

Section 9. No outdoor antenna of any type and for any purpose shall be erected or placed on any Lot covered by this declaration without the prior written approval of the architectural control committee.

Section 10. No signs, except conventional temporary "For Sale" and similar temporary real estate signs shall be erected or placed on any Lot or structure located thereon covered by this declaration.

Section 11. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road, or portion of the Common Area, nor on any of the Lots covered by this declaration unless placed in a suitable container discretely concealed so as to not be visible from other Lots, Common Areas or streets.

Section 12. The structures and the grounds of each Lot shall be maintained in a neat and attractive manner. Upon the owner's failure so to do, the Board of Directors of the Association, or its designated architectural control committee may, at its option, after giving the owner thirty (30) days written notice sent to his last known address, have the grass, weeds, and vegetation cut when, and as often as, the same is necessary in its judgment, and have dead trees, shrubs and plants removed from any Lot.

Section 13. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance, the said Board or its designated committee may, at its option, after giving the owner six month's written notice sent to his last known address, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 14. The cost of such maintenance referred to in Sections 12 and 13 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the periodic maintenance, assessment or charge to which such Lot is subject under Article IV hereof.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association 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.

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

Section 3. Notices. Any notice required to be sent to any member or Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Construction Easement. If any portion of an exterior wall of a residence is situated within three (3) feet of any adjoining lot line, a valid easement shall and does exist, three (3) feet in width along the adjoining Lot and adjacent to the said lot line, which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of the residence that is situated within three (3) feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of this easement.

Section 5. Maintenance Easement. If any portion of a residence encroaches upon the common properties or upon the easement of any adjoining Lot established under the provisions of Section 4 above, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 6. Roof Overhang Easement. If any portion of the roof or eaves of a residence shall encroach upon the Common Properties or any adjoining Lot, there shall exist in the air above the ground within three (3) feet of the lot line to which the encroaching residence abuts, an easement for the purposes of construction and maintenance of the said encroaching portion of the roof or eaves, provided however, that no roof overhang of any description shall encroach on any adjoining property by an amount greater than three (3) feet, and further provided that this easement shall not extend to or include any easement, license or right upon the surface or subsurface of said adjoining property.

Section 7. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date of recording of this declaration, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots, provided that Declarant may, within five (5) years of the date of this instrument, amend this Declaration without the consent of Class A members, subject to the provisions of Section 9 of this Article. Any amendment must be recorded.

Section 8. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the Declarant without the consent of members within five (5) years of the date of this instrument provided that the Federal Housing Administration and Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

Section 9. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

BOOK

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 19th day of DECEMBER, 1974⁵

DAMARK PROPERTIES, INC., Declarant

Attest:

By:

President

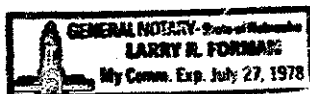
Secretary



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said county, personally came C. A. Rasmussen, President of Damark Properties, Inc., a corporation, and Winifred Adams, Secretary of Damark Properties, Inc., known to me to be the President and Secretary and identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on December 19
1978⁵



Notary Public

3
ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA
13 DAY OF July 1976 AT 2:32 P.M. C. HAROLD OSTLER, REGISTER OF DEEDS

COVENANTS, CONDITIONS AND RESTRICTIONS
ELDORADO III

THIS AMENDED DECLARATION is made on the date hereinafter set forth by N. P. DODGE COMPANY, hereinafter referred to as "Declarant", together with the undersigned owners of the following described real estate, to wit:

Lots 299-541, inclusive; All of Lots O, P, Q, R and S; and Lots AA--PP, inclusive, in Eldorado, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

WITNESSETH:

WHEREAS, a Declaration of Covenants, Conditions and Restrictions covering the above described real estate was recorded February 13, 1976 in Book 561 at Pages 325 to 333, inclusive, of the Miscellaneous Records in the Office of the Register of Deeds of Douglas County, Nebraska; and

WHEREAS, said Declaration provides for Amendment of the Declaration by instrument signed by the owners of ninety per cent (90%) or more of the lots; and

WHEREAS, the undersigned are the owners of more than ninety per cent (90%) of the lots subject to said Declaration, and it is the desire of the undersigned to effect certain amendments, releases, additions and clarifications to said Declaration;

NOW, THEREFORE, in consideration of the foregoing preambles the undersigned declare as follows:

A. That those portions of Lots O, P, Q, R and S in said subdivision which are being replatted as Lots 542-562, inclusive, and Outlots 1-31, inclusive, are hereby released from any and all Common Area provisions of the aforesaid Declaration, including but not limited to the definition of "Common Area" appearing in Article I thereof and all Owners' Easements of Enjoyment described in Article II thereof, and that said portions shall henceforth be known and described as "Lots" as defined in Section 6 of Article I in this Amended Declaration of Covenants, Conditions and Restrictions.

B. That the following covenants, conditions, restrictions and easements as herein expressed shall apply in amendment of and in addition to the covenants, conditions, restrictions and easements contained in said Declaration to the extent and only to the extent that the same are inconsistent therewith. For clarification purposes, all Articles of the Declaration are re-stated herein, including those portions not amended.

PREAMBLE

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Eldorado III Home Association, its successors and assigns.

Section 2. "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, but excluding those having such interest merely as security for the performance of an obligation (mortgagees).

Section 3. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners and shall include the properties whereupon the vehicular drives are situated, as well as the open space. The Common Area to be owned by the Association is described as follows:

Lots O, P, Q, R and S except those portions thereof being replatted as Lots 542-562, inclusive, and Outlots 1-31, inclusive; and Lots AA-FF, inclusive, in Eldorado, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Section 6. "Lot" shall mean and refer to any numbered plot of land shown on the recorded plat of the Properties; provided, however, that none of Outlots 1-31, inclusive, shall be considered for membership or building purposes or any purposes whatsoever hereunder to be independent plots of land.

Section 7. "Declarant" shall mean and refer to N. P. Dodge Company, its successors and assigns, if such successors or assigns should at any time acquire all the remaining right, title and interest of N. P. Dodge Company in and to the "Properties" as defined herein.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to otherwise impose reasonable limitations on the use thereof;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations.

(c) The right of the Association, in accordance with its Articles of Incorporation and By-laws, to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said Common Area and facilities, provided that the rights of any mortgagee shall be subordinate to the rights of the Owners.

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument approved by two-thirds (2/3) of each class of members present and voting at a meeting duly called for that purpose and agreeing to such dedication or transfer has been recorded, and unless written notice of the time and purpose of a meeting called for that purpose is sent to every member at least sixty (60) days prior to any such meeting.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On June 30, 1981.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in collection of the same, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of Properties, services, and facilities devoted to

this purpose and related to the use and enjoyment of the common Properties and of the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance on the Common Area and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Fifty Dollars (\$50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of both classes of members who are voting in person or by proxy at a meeting duly called for this purpose. For purposes of this section, capital improvements shall be defined as recreation-oriented facilities (swimming pool, tennis courts, club house and similar related facilities). The term capital improvements shall not be construed to include bicycle paths, benches, trees, shrubs and similar landscaping amenities.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, provided that the rate set for the Lots owned by the Declarant shall be fixed at one-third (1/3) the assessment rate for the other

Lots. These assessments may be collected on a monthly, quarterly, semi-annual or annual basis as designated by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments:
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area from the Declarant to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) All Common Areas as defined in Article I, Section 5 hereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, structure, or other improvement of any type or description (other than landscaping) shall be constructed, 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, kind, shape, height, materials, and location of 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 Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. The Board, or its designated committee, shall have the right to disapprove any such plans or specifications which are not suitable or desirable in the Board or committee's opinion for aesthetic or other reasons, and in passing upon such plans and specifications, the Board or committee shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property, and if it is in accordance with all of the provisions of this Declaration.

Section 3. The Board or committee may disapprove if the plans and specifications submitted are incomplete, or in the event the Board or committee deems the plans, specifications or detail or any part thereof to be contrary to the spirit or intent of these conditions and restrictions. The decisions of the Board or its said committee shall be final.

Section 4. Neither the undersigned nor any architect or agent of the undersigned nor any member of the Board or its said committee by virtue of his membership thereon, or discharge of his duties required thereby, shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans or specifications. No building or improvements of any kind constructed or placed upon any of said lots thereafter shall be moved without the prior written approval of the Board or its said committee. In the event said Board 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. Neither the members of the Board or its said committee shall be entitled to any compensation for services performed pursuant to this covenant.

ARTICLE VI

USE RESTRICTIONS

Section 1. The use of the Common Area shall be subject to the restrictions set forth in Article II, Section 1, and to those restrictions hereinafter set forth.

Section 2. No owner shall place any structure whatsoever upon the Common Area nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Area to all Members.

Section 3. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

Section 4. The Properties are hereby restricted to residential dwellings for residential use and structures and uses related to the convenience and enjoyment of such residential use, including but not limited to park and recreational facilities, such as tennis courts and swimming pools.

Section 5. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Household pets within the Properties and Common Area will be subject to regulation, restriction, exclusion and special assessment as may be determined by the Association from time to time. Included within such regulations, but not by way of limitation thereof, shall be a prohibition against dogs, cats, and other household animals being allowed to run at large within the Properties and Common Area, and a requirement that same at all times be on a leash or other immediate control of their owner. It shall be the duty of the

Association to keep the common property free from litter and feces caused by and left by pets. The owners of any pets known to be at large shall be properly assessed by the Association for the cleanup expenses incurred.

Section 6. 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 for not more than two dogs shall be permitted provided the construction plans and specifications and the location of the proposed structure have first been approved in writing by the Board or its said Committee.

Section 7. No house trailer, basement, tent, shack, barn, or other out-building shall be built, erected or placed upon any Lot covered by this declaration, other than such dog house as may be approved under Section 6 of this Article.

Section 8. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat, motorhome, truck (except pick-up truck), or other recreational vehicle may be maintained, stored or kept on any of the Lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said Lots by other provisions contained herein. No grading 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.

Section 9. No repair of automobiles will be permitted outside of garages on any Lot at any time; nor will any vehicle 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.

Section 10. No outdoor antenna of any type and for any purpose shall be erected or placed on any Lot covered by this declaration without the prior written approval of the architectural control committee.

Section 11. No signs, except conventional temporary "For Sale" and similar temporary real estate signs shall be erected or placed on any Lot or structure located thereon covered by this declaration.

Section 12. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road, or portion of the Common Area, nor on any of the Lots covered by this declaration unless placed in a suitable container discreetly concealed so as to not be visible from other Lots, Common Areas or streets.

Section 13. No incinerator or trash burner shall be permitted on any lot. 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.

Section 14. 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.

Section 15. Automobile parking will be subject to regulations and restriction by the Association.

Section 16. The structures and the grounds of each Lot shall be maintained in a neat and attractive manner. Upon the owner's failure to do so, the Board of Directors of the Association, or its designated architectural control committee may, at its option, after giving the owner thirty (30) days written notice sent to his last known address, have the grass, weeds, and vegetation cut when, and as often as, the same is necessary in its judgment, and have dead trees, shrubs, and plants removed from any lot.

Section 17. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance, the said Board or its designated committee may, at its option, after giving the owner six month's written notice sent to his last known address, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 18. The cost of such maintenance referred to in Sections 12 and 13 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the periodic maintenance, assessment or charge to which such Lot is subject under Article IV hereof.

Section 19. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for a builder of said buildings, upon receipt of prior written permission from the Association to maintain during the period of construction and sale of said buildings upon such portion of the premises as such builder may choose, such facilities as may be reasonably required, convenient or incidental to the construction and sale of, including but without limitation, a business office, a storage area, construction yards, signs, model units and sales office.

Section 20. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

Section 21. Public sidewalks shall be constructed four feet wide by four inches thick on the dedicated street side of each Lot which abuts a dedicated street, whether solely in an appurtenant Outlot or other Lot or partly in the Outlot and partly in the Lot to which it is appurtenant. 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.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter.

Section 2. Severability. Invalidity 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.

Section 3. Notices. Any notice required to be sent to any member or Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Construction Easement. If any portion of an exterior wall of a residence is situated within five (5) feet of any adjoining lot line, a valid easement shall and does exist, three (3) feet in width along the adjoining Lot and adjacent to the said lot line, which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of the residence that is situated within five (5) feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of this easement.

Section 5. Maintenance Easement. If any portion of a residence encroaches upon the Common Area or upon the easement of any adjoining Lot established under the provisions of Section 4 above, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 6. Roof Overhang Easement. If any portion of the roof or eaves of a residence shall encroach upon the Common Area or upon any adjoining Lot, there shall exist in the air above the ground within three (3) feet of the lot line to which the encroaching residence abuts, an easement for the purposes of construction and maintenance of the said encroaching portion of the roof or

eaves, provided however, that no roof overhang of any description shall encroach on any adjoining property by an amount greater than three (3) feet, and further provided that this easement shall not extend to or include any easement, license or right upon the surface or subsurface of said adjoining property.

Section 7. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date of recording of this declaration, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots, provided that Declarant may, within five (5) years of the date of this instrument, amend this Declaration without the consent of Class A members, subject to the provisions of Section 9 of this Article. Any amendment must be recorded.

Section 8. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the Declarant without the consent of members within five (5) years of the date of this instrument provided that the Federal Housing Administration and Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

Section 9. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned owners of Lots in Eldorado, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, do hereby signify their approval of and consent to the foregoing Amended Declaration of Covenants, Conditions and Restrictions by executing or causing this instrument to be executed on the dates indicated hereinafter.

Lots Owned

299-305, inclusive; 307-334, inclusive;
339-347, inclusive; 358-457, inclusive;
459-463, inclusive; 465-532, inclusive;
534-541, inclusive

No.

225

N. P. DODGE COMPANY
Declarant

By N. P. Dodge
President

Attest: R. D. Whelan
Secretary

O, F, Q, R and S

ELDORADO III HOME ASSOCIATION

By R. D. Whelan
President

Attest: Thompson
Secretary

348, 349, 350, 351, 354,
355 and 357

7

THORNTON CONSTRUCTION CO.

By L. A. Thornton
President

Attest: J. J. Thornton
Vice Secretary

335, 336, 337 and 338

4

THE OMAHA NATIONAL BANK

By Donald R. Shiner
Vice President

By John G. Shiner
2nd Vice President

Lots Owned
306 and 533

No.

PRESTON HOMES, INC.

By

President

Attest:

Secretary

458

1

Richard H. Abernathy, Jr.
Richard H. Abernathy, Jr.

458

Raymond L. Fuelskamp
Raymond L. Fuelskamp

458

George D. Walsh
George D. Walsh

464

1

Donald R. Sievers
Donald R. Sievers

464

Peter Gage, Jr.
Peter Gage, Jr.

464

Gary E. Thrasher
Gary E. Thrasher

352

1

Charles Leroy Gage
Charles Leroy Gage

352

Shirley Margaret Gard
Shirley Margaret Gard

353

1

Harry E. Hayter
Harry E. Hayter

353

Patricia L. Hayter
Patricia L. Hayter

356

1

Ira Merle Underwood
Ira Merle Underwood

356

Mary E. Underwood
Mary E. Underwood

Total

243 Lots

Being 100% of Lots 299-541,
inclusive, Eldorado

Trust Deed Lot 353

UNITED FEDERAL SAVINGS AND LOAN
ASSOCIATION OF DES MOINES, IOWA

By

D. H. Payne, Senior Vice President/Secretary

Attest:

Wilma C. Hefti

This Amended Declaration of Covenants, Conditions and Restrictions is
hereby approved this 17 day of November, 1977.

FEDERAL HOUSING ADMINISTRATION

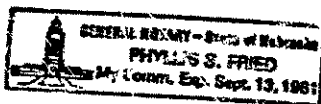
By

Area Director

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.

Before me, a notary public qualified in said county, personally came N. P. Dodge, President of N. P. Dodge Company, a corporation, and R. H. Abernathy, Jr., Secretary of said corporation, known to me to be the President and Secretary of said corporation and the identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on November 10, 1977.



Phyllis S. Fried
Notary Public

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.

Asst- Before me, a notary public qualified in said county, personally came L. A. Thornton, President of Thornton Construction Co., a corporation, and *Robert A. Paine*, Secretary of said corporation, known to me to be the President and Secretary of said corporation and the identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on 11 November, 1977.

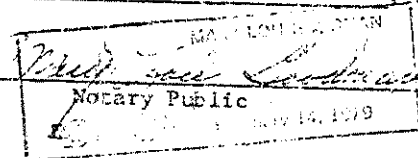


Barbara L. Brophy
Notary Public

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.

Before me, a notary public qualified in said county, personally came Donald R. Sievers, Vice President of The Omaha National Bank, a corporation, and Peter Gage, Jr., 2nd Vice President of said corporation, known to me to be the Vice President and 2nd Vice President of said corporation and the identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on November 10, 1977.



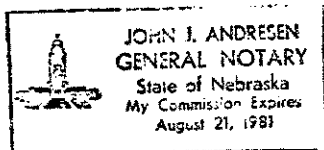
Mark Louis A. Moran
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

BOOK 589 PAGE 485

Before me, a notary public qualified in said county, personally came James P. Preston, President of Preston Homes, Inc., a corporation, and Teresa J. Preston, Secretary of said corporation, known to me to be the President and Secretary of said corporation and the identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on November 14, 1977, 1977.

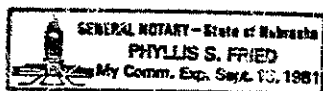


John I. Andresen
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said county, personally came Richard H. Abernathy, Jr., Raymond L. Huelskamp and George D. Walsh, to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and notarial seal on November 11, 1977.



Phyllis S. Fried
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said county, personally came Donald R. Sievers, Peter Gage, Jr., and Gary R. Thrasher, to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

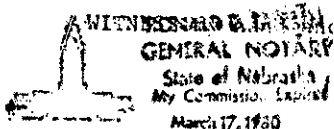
WITNESS my hand and notarial seal on November 10, 1977.

Phyllis S. Fried
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said county, personally came Charles LeRoy Card and Shirley Margaret Card, Husband and Wife, to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and notarial seal on 11-13, 1977.



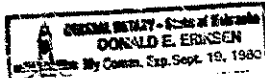
Ronald W. Eubank
Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

BOOK 589 PAGE 486

Before me, a notary public qualified in said County, personally came Harry E. Hayter and Patricia L. Hayter, Husband and Wife, to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and notarial seal on Nov. 16, 1977.

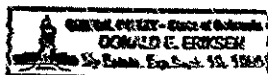


Donald E. Ericksen
Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said County, personally came Ira Merle Underwood and Mary E. Underwood, Husband and Wife, to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and notarial seal on Nov. 16, 1977.



Donald E. Ericksen
Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said County, personally came _____ and _____, Husband and Wife, to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and notarial seal on _____, 1977.

Notary Public

STATE OF IOWA)
)ss.
COUNTY OF POLK)

Before me, a notary public qualified in said county, personally came D. H. Payne, _____ of United Federal Savings and Loan Association of Des Moines, Iowa, a corporation, and D. H. Payne, _____ of said corporation, known to me to be the Senior Vice President/Secretary of said corporation and the identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on Nov. 17, 1977.

F. H. Lock
Notary Public

F. H. Lock

RECORDED BY TOLSON
NOV 17 1977
DEARBORN

Book 589
Page 474
of 214

Fee 10.00

Index

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79-431+

BOEM 511 PAGE 3

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS.

THIS DECLARATION, made on the date hereinafter set forth,
by DAMARK PROPERTIES, INC., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property,
more particularly described as:

Eldorado, Lots 120 through 298, both inclusive,
and Lots "J", "K" and "M", as surveyed, platted
and recorded in Douglas County, Nebraska, and

WHEREAS, Declarant desires to create thereon a residential
community with permanent parks, playgrounds, open spaces, and other
common facilities for the benefit of the said community; and

WHEREAS, Declarant desires to provide for the preservation
of the values and amenities in said community and for the main-
tenance of said parks, playgrounds, open spaces and other common
facilities; and to this end, desires to subject the aforesaid real
property to the covenants, restrictions, easements, charges and
liens hereinafter set forth, each and all of which is and are for
the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient
preservation of the values and amenities in said community, to create
an agency to which should be delegated and assigned the powers of
maintaining and administering the community properties and facilities
and administering and enforcing the covenants and restrictions and
collecting and disbursing the assessments and charges hereinafter
created; and

WHEREAS, Declarant has incorporated under the laws of the State
of Nebraska a nonprofit corporation, known as the Eldorado II Home
Association, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant hereby declares that all of the
properties described above shall be held, transferred, sold, con-

and occupied subject to the following covenants, easements, restrictions, charges, and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Eldorado II Home Association, its successors and assigns.

Section 2. "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, but excluding those having such interest merely as security for the performance of an obligation (mortgagees).

Section 3. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners, and shall include the properties whereupon the private, non-dedicated Cul-de-Sac roads are situated, as well as the common park areas separating the individual lot clusters. The Common Area to be conveyed to the Association by the Declarant within ninety days of the conveyance of the first lot is described as follows:

Eldorado, Lots "J", "K" and "M", as surveyed,
platted and recorded, in Douglas County, Nebraska.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 7. "Declarant" shall mean and refer to Damark Properties, Inc., its successors and assigns, if such successors or assigns should at any time acquire all the remaining right, title and interest of Damark Properties, Inc. in and to the "Properties" as defined herein.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to otherwise impose reasonable limitations on the use thereof;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association, in accordance with its Articles of Incorporation and By-laws, to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said Common Properties.

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument approved by two-thirds (2/3) of each class of members present and voting at a meeting duly called for that purpose and agreeing to such dedication or transfer has been recorded, and unless written notice of the time and purpose of a meeting called for that purpose is sent to every member at least sixty (60) days prior to any such meeting.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On June 30, 1978.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assess-

ments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in collection of the same, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the common Properties and of the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be one hundred fifty dollars (\$150.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Class A members who are voting in person or by proxy at a meeting duly called for this purpose. For purposes of this section, capital improvements shall be defined as recreation-oriented facilities (swimming pool, tennis courts, club house and similar related facilities). The term capital improvements shall not be construed to include bicycle paths, benches, trees, shrubs and similar landscaping amenities.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, provided that the rate set for the Lots owned by the Declarant shall be fixed at one-third (1/3) the assessment rate for the other Lots. These assessments may be collected on a monthly, quarterly, semi-annual or annual basis as designated by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments:

Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area from the Declarant to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of seven percent (7%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject

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to this declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

(b) All Common Areas as defined in Article I, Section 5 hereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, structure, or other improvement of any type or description shall be constructed, 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, kind, shape, height, materials, and location of 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 Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. In the event said Board of Directors, or its designated architectural control committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article shall be deemed to have been fully satisfied.

Section 3. A majority vote of the Board of Directors or its designated committee is required for approval or disapproval of proposed improvements.

Section 4. The said Board or its designated committee shall maintain written records of all applications submitted to it and of all actions taken by it.

ARTICLE VI

USE RESTRICTIONS AND EASEMENTS

Section 1. The Properties described herein have been platted as a Cluster Housing development under and in accordance with the regulations pertaining thereto of the Omaha Municipal Code.

Section 2. All Lots covered by this declaration shall be known and described as residential lots, but may be used for any purpose as set forth in the use regulations of the zoning ordinance of the City of Omaha for first residence (R-1) district. Every dwelling unit constructed on these Lots shall have a garage with a capacity of not less than two cars. In addition, each lot shall have sufficient driveway space, excluding that covered by garages, to accommodate two full sized automobiles entirely within the boundaries of said lot.

Section 3. All buildings, appurtenances thereto and improvements located on the Lots covered by this declaration shall comply with the front, side, and rear yard requirements as specified in the zoning ordinance of the Omaha Municipal Code for Cluster Housing.

Section 4. No noxious or offensive trade or activity shall be carried on upon any Lot covered by this declaration, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

Section 5. No house trailer, basement, tent, shack, barn, or other out-building shall be built, erected or placed upon any Lot covered by this declaration.

Section 6. No camping trailer, travel trailer, boat trailer, motorboat, houseboat, sailboat, motorhome, truck or other recreational vehicle may be maintained, stored or kept on any of the Lots covered by this declaration for more than fifteen (15) days in any one calendar year, unless housed completely within a structure allowed on said Lots by other provisions contained herein.

Section 7. No animals of any kind (excepting ordinary house pets) shall be kept or maintained on any Lot covered by this declaration.

Section 8. Fences and walls not exceeding six (6) feet in height shall be permitted on the Lots covered by this declaration, provided that the same shall not be constructed closer than ten (10) feet to any publicly dedicated street, and subject to the provisions of Article V hereof.

Section 9. No outdoor antenna of any type and for any purpose shall be erected or placed on any Lot covered by this declaration without the prior written approval of the architectural control committee.

Section 10. No signs, except conventional temporary "For Sale" and similar temporary real estate signs shall be erected or placed on any Lot or structure located thereon covered by this declaration.

Section 11. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road, or portion of the Common Area, nor on any of the Lots covered by this declaration unless placed in a suitable container discretely concealed so as to not be visible from other Lots, Common Areas or streets.

Section 12. The structures and the grounds of each Lot shall be maintained in a neat and attractive manner. Upon the owner's failure so to do, the Board of Directors of the Association, or its designated architectural control committee may, at its option, after giving the owner thirty (30) days written notice sent to his last known address, have the grass, weeds, and vegetation cut when, and as often as, the same is necessary in its judgment, and have dead trees, shrubs and plants removed from any Lot.

Section 13. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance, the said Board or its designated committee may, at its option, after giving the owner six month's written notice sent to his last known address, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 14. The cost of such maintenance referred to in

Sections 12 and 13 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the periodic maintenance, assessment or charge to which such Lot is subject under Article IV hereof.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association 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.

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

Section 3. Notices. Any notice required to be sent to any member or Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Construction Easement. If any portion of an exterior wall of a residence is situated within three (3) feet of any adjoining lot line, a valid easement shall and does exist, three (3) feet in width along the adjoining Lot and adjacent to the said lot line, which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of the residence that is situated within three (3) feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of this easement.

Section 5. Maintenance Easement. If any portion of a residence encroaches upon the common properties or upon the easement of any adjoining Lot established under the provisions of Section 4 above, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 6. Roof Overhang Easement. If any portion of the roof or eaves of a residence shall encroach upon the Common Properties or any adjoining Lot, there shall exist in the air above the ground within three (3) feet of the lot line to which the encroaching residence abuts, an easement for the purposes of construction and maintenance of the said encroaching portion of the roof or eaves, provided however, that no roof overhang of any description shall encroach on any adjoining property by an amount greater than three (3) feet, and further provided that this easement shall not extend to or include any easement, license or right upon the surface or subsurface of said adjoining property.

Section 7. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date of recording of this declaration, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots, provided that Declarant may, within five (5) years of the date of this instrument, amend this Declaration without the consent of Class A members, subject to the provisions of Section 9 of this Article. Any amendment must be recorded.

Section 8. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, and (b) additional land may be annexed by the Declarant without the consent of mem-

bers within five (5) years of the date of this instrument provided that the Federal Housing Administration and Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

Section 9. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

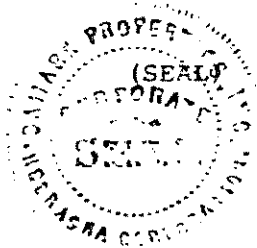
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 12th day of _____, 1972.

DAMARK PROPERTIES, INC., Declarant

Attest:

By: Charles A. Rasmussen
President

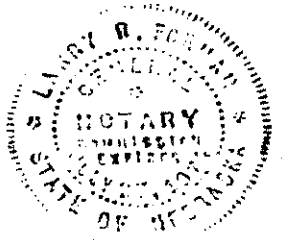
Winifred Adams
Secretary



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public qualified in said county, personally came C. A. Rasmussen, President of Damark Properties, Inc., a corporation, and Winifred Adams, Secretary of Damark Properties, Inc., known to me to be the President and Secretary and identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

WITNESS my hand and notarial seal on _____, 1972.



[Signature]
Notary Public

ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA
9 DAY OF June 1972 AT 8:31 A M. C. HAROLD OSTLEN, REGISTER OF DEEDS

SCHMID, FORD, MOONEY, FREDERICK & CAPORALE
ATTORNEYS AT LAW