

FILED SARPY CO. NE.
INSTRUMENT NUMBER
0006-35882

2006 OCT 18 P 3:08

Lloyd J. Dowding
REGISTER OF DEEDS

COUNTER W C.E. W
VERIFY ach P.E. P
PROOF TM
FEES \$ 109.50
CHECK # _____
CHG PRE CASH _____
REFUND _____ CREDIT _____
SHORT _____ NCN _____



**THIS PAGE ADDED
FOR RECORDING
INFORMATION.**

**DOCUMENT STARTS ON
NEXT PAGE.**

LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS
1210 GOLDEN GATE DRIVE, STE 1109
PAPILLION, NE 68046-2895
402-593-5773

A

**FIRST AMENDMENT TO AND RESTATEMENT OF DECLARATION
AND SUBSEQUENT PHASE DECLARATION OF CLEARWATER FALLS**

THIS FIRST AMENDMENT TO AND RESTATEMENT OF DECLARATION AND SUBSEQUENT PHASE DECLARATION is made the date hereinafter set forth by CLEARWATER FALLS, LLC, a Nebraska limited liability company ("Declarant").

RECITALS

A. On October 14, 2004, a document entitled Declaration of Covenants, Conditions, Restrictions and Easements of Lots 11 - 21, 34 - 52, and 60 - 89, Clearwater Falls, a Subdivision in Sarpy County, Nebraska (hereinafter the "Declaration") was recorded by Declarant, in the office of the Register of Deeds of Sarpy County, Nebraska as Miscellaneous Instrument No. 2004-39604.

B. Paragraph 2 of Article IV of the Declaration provides that for a period of twenty (20) years following October 12, 2004, the Declarant shall have the sole, absolute and exclusive right to amend, modify or supplement all or any portion of the Declaration and Declarant retained the right to add additional lots to the Declaration.

NOW, THEREFORE, Declarant hereby declares that the Declaration recorded on October 14, 2004 in the office of the Register of Deeds of Sarpy County, Nebraska as Miscellaneous Instrument No. 2004-39604, should be and hereby are amended and restated in the following manner:

I. By deleting therefrom the Declaration in its entirety and adding in its place and stead the following:

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS OF LOTS 11 - 21, 34 - 52, 57-89, AND 167 - 172, CLEARWATER FALLS,
A SUBDIVISION IN SARPY COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereunder set forth, is made by CLEARWATER FALLS, LLC, a Nebraska limited liability company, hereinafter referred to as the "Declarant."

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Sarpy County, Nebraska and described as follows:

Lots 11 - 21, inclusive, Lots 34 - 52, inclusive, Lots 57 - 89, inclusive, and Lots 167 - 172, inclusive, all in Clearwater Falls, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska,

and such property that may be added thereto by the Declarant. Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation of the values and amenities of the Lots in Clearwater Falls, for the maintenance of the character and residential integrity of the Lots in Clearwater Falls, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of those Lots in Clearwater Falls.

B

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part be subject to all and each of the following conditions and other terms:

ARTICLE I.

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be designated by the Declarant for townhome or villa use and except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a church, school, park or for other non-profit use.

2. No residence, building, fence (other than fences constructed by the Declarant), wall, pathway, driveway, patio, patio cover enclosure, deck, rock garden, swimming pool, dog house, pool house, tennis court, flag pole, satellite receiving station or disc, solar heating or cooling, device, playground equipment or other external improvement, above or below the ground (herein collectively referred to as "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading, excavation or tree removal for any Improvement be commenced, except for Improvements which have been approved by Declarant. as follows:

A. An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall, include a description of location, type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall review such plans in relation to the type and exterior of Improvements constructed, or approved for construction on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a residential community with homes constructed of high quality materials and presented in a high quality manner. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant, in its sole and absolute discretion, to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

C

C. Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

D. No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or any right to control, direct, change, object or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot, except for Lots excepted from this requirement by virtue of Paragraph 1 of this article, other than one detached single-family dwelling which does not exceed two stories in height. All Improvements on the Lots shall Comply with all requirements of the Zoning Code and Municipal Code of the City of Bellevue, Nebraska, and in addition, there shall be a thirty (30') foot front yard setback, twenty-five (25') foot rear yard setback, fifteen (15') feet street side yard setback, and for all other side yards a five (5') foot side yard setback.

4. Subject to the specific requirements set forth below, all foundations shall be constructed of concrete, concrete blocks, brick or stone. The exposed front foundation walls and any exposed foundation walls of all main residential structures facing any street must be constructed of or faced with clay-fired brick, or stone or other material approved by Declarant. All corner lots with exposed foundation walls facing any side street in clay-fired brick or stone or other material approved by Declarant. All exposed side and rear concrete or concrete block foundation walls not facing a street must be covered with clay-fired brick, stone, siding or shall be painted. All driveways must be constructed of concrete, brick, paving stone, or laid stone. Any fireplace chimney or enclosure of any fireplace flue which is located on the front side of a residence shall constructed of or finished with clay-fired brick or stone or other material approved by Declarant. All fireplace chimneys facing any street shall be faced with clay-fired brick or stone or other material approved by Declarant. All other fireplace chimneys, may be covered with wood, vinyl siding or other material if approved in writing by Declarant. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt shingles that are weathered wood in color. Direct vent fireplaces are allowed. Only 6/12 pitch roofs and above are allowed.

5. No streamers, posters, banners, balloons, exterior illumination or other rallying devices will be allowed on any Lot in the promotion or sale of any Lot, residential structure or property unless approved in writing by the Declarant. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square fact advertising a Lot as "For Sale". No business activities of any kind whatsoever shall be conducted an any Lot including home occupations as defined in the Zoning Code of the Municipal Code of the City of Bellevue, Nebraska; nor shall the premises be

D

used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Provided, however, the foregoing paragraph shall not apply to the business activities, sign and billboards or the construction and maintenance of buildings, including model homes, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots.

6. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including but not limited to, odors, dust, glare, sound, lighting, smoke vibration and radiation. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

7. No outside radio, television, ham broadcasting, earth station, satellite dish or other electronic antenna or aerial shall be erected or placed on any structure or on any Lot, except, with the prior written approval of Declarant, one (1) satellite dish of 24" or less in diameter or diagonal measurement which is screened from view of any street or sidewalk will be permitted per Lot. The foregoing notwithstanding, any earth station, satellite dish or other electronic antenna or aerial specifically exempted from restriction by statute, regulation, binding order of a court or governmental agency shall be maintained in accordance with the strictest interpretation or condition for such use as may be permitted by such order.

8. No tree houses, sheds, shacks, doll houses, windmills or similar structures shall be permitted on any Lot.

9. No repair of any boats, automobiles, motorcycles, trucks, campers (trailers, van-type, auto-drawn or mounted), snowmobiles, recreational vehicles (RV), other self-propelled vehicles or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time, nor shall vehicles or similar chattels offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

10. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than two (2) consecutive days and no more than twenty (20) days combined within any calendar year. No motor vehicle may be parked or stored outside on any Lot except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers or other commercial vehicles shall be stored, parked, kept or maintained in any yards, driveways, or streets. However, this Section 9 does not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable ordinances of the City of Bellevue, Nebraska.

