



BK 1378 PG 332-335



MISC 2001 05643

REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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RECEIVED

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PINEY CREEK, A SUBDIVISION IN
DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth by Piney Creek, Inc., hereinafter referred to as the "Declarant."

WITNESETH:

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

Lots 1 through 129, inclusive, which have been divided, in Piney Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

WHEREAS, said Lots have been zoned SF-4 and are available for single family use; and

WHEREAS, the Declarant will convey said Lots subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth;

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

**ARTICLE I.
DEFINITIONS**

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such properties that are subject to this Declaration and any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1 through 129, inclusive, of Piney Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 1 through 129, inclusive, in Piney Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

D. "Declarant" shall mean and refer to Piney Creek, Inc., its successors and assigns.

E. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

**ARTICLE II.
ARCHITECTURAL CONTROL**

RETURN:

R Peterson
11306 Davenport

Omaha, Neb
68654

8450 OC-30727
FEE 84 FB
BKP C/O COMP MB
DEL SCAN OR FV

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A. No dwelling, outbuilding or fence shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot without express written prior approval of the Declarant through its Architectural Control Committee, all improvements requiring building permits shall be built according to the applicable city or county building codes and only after the necessary permits are issued.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. The Architectural Control Committee specifically reserves the right to deny permission to construct or place dwellings, which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.
RESTRICTIONS FOR RESIDENTIAL DWELLINGS

A. Single Family Lots. Lots 1 through 129, inclusive, shall be subject to the following restrictions.

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

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

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

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

2. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone.

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

4. No dog runs shall be constructed unless shielded from view of neighboring lots by privacy fencing not less than six (6) feet in height.

5. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No precut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

6. No trailer, recreational vehicle, motor home, tractor or unlicensed vehicle of any type shall be permitted to be placed or parked on any portion of the properties for more than four (4) continuous days.

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

8. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

9. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any waste materials, and shall be maintained level and smooth enough for machine mowing. Nothing herein contained shall prohibit Declarant from utilizing lots within the properties for placement of usable building materials, equipment or earth for reasonable periods of time in anticipation of construction commencement on such properties.

10. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

11. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

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

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

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

15. No television antenna, or antenna of any kind or nature, except satellite dishes, shall be allowed on the Lots except that if they are inside the dwellings or otherwise completely concealed from view from all other Lots television antennas will be allowed.

C. Accessory Buildings. One non metal, detached structure shall be allowed only pursuant to these Covenants and the existing building codes for the applicable governmental subdivision. Plans and approval for same shall be subject to the architectural control provisions of Article II hereof, where applicable. Such detached structures shall be compatible with the

dwelling unit in color, decor and dimension. In no event shall construction of such detached structure commence until the dwelling unit construction has passed inspection by the local governing body, unless construction is done by the builder in conjunction with the dwelling unit. In all events, construction of such detached structure shall be completed within sixty (60) days of commencement.

ARTICLE IV.
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. At the end of such 25 year period, these Covenants shall automatically renew for ten (10) year intervals unless more than 50 percent of the then property owners vote to terminate this declaration. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

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

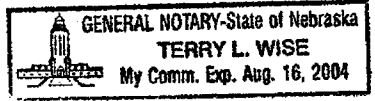
April IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 16th day of _____, 2001.

DECLARANT: PINEY CREEK, INC.

By: Henry J. Sudbeck
Henry J. Sudbeck, Its President

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) SS.

On this 16 day of April, 2001, before me the undersigned, a Notary Public in and for said County and State, personally came Henry J. Sudbeck, President of Piney Creek, Inc., and acknowledged that he executed the above as the willful act and deed of said corporation.



Terry L. Wise
Notary Public



MISC 2006146174



DEC 26 2006 14:24 P 1

OC-30727
 M.Y. OC-30728-Replat
 FEE 25.50 FB
 BKP _____ C/O _____ COMP *JW*
 Del _____ SCAN _____ FV _____

Received - DIANE L. BATTIATO
 Register of Deeds, Douglas County, NE
 12/26/2006 14:24:57.76



2006146174

**FIRST AMENDMENT TO THE DECLARATION
 OF COVENANTS, CONDITIONS, AND RESTRICTIONS
 FOR PINEY CREEK, A SUBDIVISION IN
 DOUGLAS COUNTY, NEBRASKA**

THIS FIRST AMENDMENT TO DECLARATION made on the date hereinafter set forth, by Piney Creek, Inc., a Nebraska corporation ("Declarant").

PRELIMINARY STATEMENT

WHEREAS, the Declarant is the owner of the following described real property: lots 1-10 Piney Creek replat AND lots 27-29, 41, 42, 44-46, 57, 58, 60-63, 75, 77, 79-82, 96-99, 101-105, and 111 Piney Creek, which have been divided, in Piney Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

WHEREAS, the Declarant has filed an original Declaration of Covenants, Conditions, and Restrictions for the affected lots on April 16, 2001 under instrument Number 1378-352; and

WHEREAS the Declarant wishes to amend Article III, B. 2., as it relates to brick on street side of exposed foundation on corner lots.

NOW, THEREFORE, the Declarant hereby declares that said Lots shall be held, sold, and conveyed subject to the following amended restriction:

**ARTICLE III
 RESTRICTIONS FOR RESIDENTIAL DWELLINGS**

- B. General Restrictions. All dwelling units described above shall comply with the following restrictions.
 2. Exposed portions of the foundation on the front and sides of each dwelling adjacent to a street are to be covered with clay-fired brick or stone.

The Declarant ratifies and restates all covenants, conditions, restrictions and easements for the Piney Creek Subdivision in Douglas County, Nebraska other than as amended herein.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 4th day of December, 2006.

ATTEST:
JeAnn Sudbeck
 JeAnn Sudbeck, Secretary

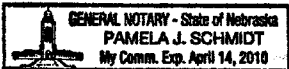
PINEY CREEK, INC., a Nebraska Corporation
Melvin J. Sudbeck
 Melvin J. Sudbeck, Its President

STATE OF NEBRASKA)
 COUNTY OF Douglas)

On this 4th day of December, 2006, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Melvin J. Sudbeck, personally known by me to be the President of Piney Creek, Inc., and JeAnn Sudbeck, personally known by me to be the Secretary of said corporation, and the identical persons whose names are affixed to the foregoing instrument, and they acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written

Return to:
 Piney Creek
 16255 Woodland Drive



Pamela J. Schmidt
 Notary Public



MISC 2007065036



JUN 11 2007 08:02 P 1

SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PINEY CREEK, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
6/11/2007 08:02:43.36
 2007065036

THIS SECOND AMENDMENT TO DECLARATION made on the date hereinafter set forth, by Piney Creek, Inc., a Nebraska corporation ("Declarant").

PRELIMINARY STATEMENT

WHEREAS, the Declarant is the owner of the following described real property: lots 1-8, and 10 Piney Creek replat AND lots 27-29, 41, 42, 44-46, 58, 60-63, 75-77, 79-82, 96-99, 101-105, and 111 Piney Creek, which have been divided, in Piney Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

WHEREAS, the Declarant has filed an original Declaration of Covenants, Conditions, and Restrictions for the affected lots on April 16, 2001 under Instrument Number 1378-332 AND a First Amendment to the Declaration of Covenants for the affected lots on December 26, 2006 under Instrument Number 2006146174; and

WHEREAS the Declarant wishes to amend Article III, A. 2., as it relates to front setback requirements.

NOW, THEREFORE, the Declarant hereby declares that said Lots shall be held, sold, and conveyed subject to the following amended restriction:

**ARTICLE III
RESTRICTIONS FOR RESIDENTIAL DWELLINGS**

- 2. All lots shall have a front setback of at least thirty (30) feet; all other setbacks shall comply with the set back requirements of the Zoning Code of the current governing municipality.

The Declarant ratifies and restates all covenants, conditions, restrictions and easements for the Piney Creek Subdivision in Douglas County, Nebraska other than as amended herein.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 7th day of June, 2007.

ATTEST:

JeAnn Sudbeck, Secretary

PINEY CREEK, INC., a Nebraska Corporation

Melvin J. Sudbeck, Its President

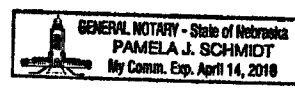
STATE OF NEBRASKA)
COUNTY OF SARPY)

On this 7th day of June, 2007, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Melvin J. Sudbeck, personally known by me to be the President of Piney Creek, Inc., and JeAnn Sudbeck, personally known by me to be the Secretary of said corporation, and the identical persons whose names are affixed to the foregoing instrument, and they acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written

Return to:
Piney Creek
16255 Woodland Drive
Omaha, NE 68136

Notary Public



misc *OC-30728 Rep*
FEE 24.50 FB OC-30727
K/39 BKP _____ C/O _____ COMP *gy*
DEL _____ SCAN _____ PV _____