

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION, made of the date hereinafter set forth by Medema Homes, Inc., a Colorado Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Arapahoe, State of Colorado, which is legally described as follows (hereinafter sometimes referred to as the Cherry Park Subdivision):

Lots 1 through 107, inclusive, CHERRY PARK SUBDIVISION,
County of Arapahoe, State of Colorado.

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

ARTICLE I

DEFINITIONS

Section 1. "Committee" shall mean and refer to the Cherry Park Architectural Control Committee, 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 sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and referred to as the Cherry Park Subdivision.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties, excluding road, streets, etc. or a property survey furnished at the time of closing.

Section 5 "Declarant" shall mean and refer to Medema Homes, Inc., its successors and assigns.

ARTICLE II

ARCHTECTURAL CONTROL

Section 1. Architectural Control Committee. There is hereby created the Cherry Park Architectural Control Committee, hereinafter referred to as "Committee", for the purpose of maintaining within the Cherry Park Subdivision, a style and nature of building design which is homogeneous to the area's physical setting.

Membership: The Committee is composed of WILLIAM J. KLEIN, LARRY C. OFFE AND EVERETT L. PFEIFF, Medema Homes, Inc., 4901 East Dry Creek Road, Littleton, Colorado 80122.

The Committee shall adopt reasonable rules and regulations, fix the time and place of its regular meetings, appoint a chairman and secretary, and keep minutes of the meetings which shall be open for inspection by any Owner, upon approval of a member of the Committee.

All decisions of the Committee shall be by majority vote, provided that a majority of Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. In the event no volunteer successor can be found, the remaining members shall designate any Owner of a lot as successor. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this covenant. At any time, the then recorded Owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the Committee, to increase or decrease its number, or to withdraw any member from the Committee.

It shall remain the prerogative and in the jurisdiction of the Committee to review applications and grant approval for exceptions to this Declaration. Variations and deviations from these requirements and restrictions may be made only when such exceptions, variations and deviations do not in way detract from appearance and aesthetic qualities of the properties, and are not in any way detrimental to the property values of individuals located in the vicinity or in any way detrimental to the general public health, safety, or welfare.

Sections 2. Control. No building, fence, wall, or other structure shall be erected or alterations made on any building until the construction plans and specifications regarding quality of workmanship, type of materials and harmony of external design shall have been approved by the Committee. Also a site plan shall be submitted to the Committee, for their approval, showing location of said proposed structure with respect to topography, finish grade elevation and any existing structures on or adjacent to said building site. Each Owner shall provide, at his cost, one complete set of house plans, specifications, site and grade plan, to the Committee at least thirty (30) days prior to the date actual construction is scheduled to commence on his residence.

Should the Committee fail to approve or disapprove the plans and specifications submitted to it by the Owner of a lot in the Properties within thirty (30) days after written request thereof, then such approval shall not be required, provided, however, that no building or other structure shall be erected or be allowed to remain on any lot which violates any of the covenants or restrictions contained herein. The issuance of a building permit or license, which may be in contravention of these protective covenants, shall not prevent the Committee from enforcing these provisions.

The Committee's approval of a building, fence, wall, or other structure does not alleviate the Owner from the responsibility of obtaining a building permit from the City or County.

ARTICLE III

USE RESTRICTIONS

Section 1. Residential Use. No lot or lots embraced in the properties shall be used for other than single family residence purpose, the same to house one (1) family consisting of one (1) couple and their lineal descendants. There shall not exist on any lot as shown on the plat recorded at the Arapahoe County Clerk and Recorder's Office at any time more than one residence. All buildings or structures erected upon said property shall be of new construction. No garage, carport, or porch shall be constructed except as an integral part of the residence it is intended to serve. Any garage or carport shall not hold more than three cars.

Section 2. Building Standards. All structures shall conform with the current edition of the Uniform Building Code published by the International Conference of Building Officials as a guide for sound construction; furthermore, all buildings shall conform to current editions of the National Electric and National Plumbing codes.

Sections 3. Building Height. The designated maximum building height shall be considered as the vertical distance from the average finished ground level of the building site to the highest point of the structure directly above said ground level. The designated maximum building height requirements may be waived by the Committee when in their opinion, such

structures relate to sound architectural planning and land use, and conform to the overall design and pattern of the development.

Section 4. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot at a cost less than \$25,000 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of this covenant to assure that all dwellings shall be of a quality of workmanship and material substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 800 square feet for a one-story dwelling, nor less than 500 square feet for a dwelling of more than one story.

Section 5. Lot Area and Width. No dwelling shall be erected or placed on any lot having a width of less than 50 feet at the building setback line.

Section 6. Time for Construction. At the time plans and specifications receive approval from the Committee, the prospective builder shall proceed diligently with construction of said building, and the same shall be ready for occupancy within a maximum period of one (1) year, time from the date of commencement; excepting, however, that this period may be extended by written instrument as may be deemed reasonable by the Committee if said extension is made necessary by reason of inclement weather, inability to obtain materials, strikes, act of God, etc.

Section 7. Occupancy of Structure. No structure shall be occupied or used for the purpose for which it was designed or built until the same shall be approved and/or inspected by the County Building Inspector or such other official designated by Arapahoe County. No structure erected upon any lot shall be occupied in any manner while in the course of construction nor at any time prior to its being fully completed, as herein required.

Section 8. Building Exterior. The exterior portions of all buildings shall have manufactured finished surface materials, natural stone or shall be painted or stained upon completion so that all exposed surfaces shall have a finished appearance.

Section 9. Air Conditioning Units, Television or Communication Antennae. No air conditioning unit, evaporative cooler, radio, television antennae or other object shall be placed upon the roof or fireplace chimney of any residence or building except or unless such air conditioning unit, or object, is architecturally concealed from view and plans for concealment have been submitted to and approved by the Committee.

Section 10. Parking and Storage. At least one off-street parking space shall be required for each residence. No vehicle, whether operational or not, shall remain parked in the front of any residence for more than three (3) calendar days. Vehicles to be parked for more than three (3) days or to be stored for indefinite periods of time will be concealed within an enclosed garage or in the rear of the residence which is concealed from view by a six (6) foot high privacy fence surrounding the rear yard area. For purposes of this section, a vehicle is defined as an automobile, truck, tractor, trailer, camper, boat, motorcycle, or any other motorized vehicle.

Section 11. Clearing of Trees and Grading. All the trees cleared will be disposed of in such a way that all lots, whether vacant or occupied by a residence, shall be kept free of accumulations of brush, trash or other materials which may constitute a fire hazard or render a lot unsightly, provided, however, that this shall not operate or restrict grantees from storing fireplace wood in neat stacks on their lots.

Under no circumstances shall the Owner of any lot or parcel of land disturb the natural soil or grasses unless the Owner immediately thereafter constructs upon, paves, gravels, or replants such area with ground cover approved by the Committee. The ground may be cultivated for gardening, provided, however, that no garden is maintained for commercial purposes.

A grading plan shall be presented to the Committee for their approval prior to commencing construction of any residence unit on any lot and no additional grading on any lot shall be permitted without prior approval by the Committee.

Section 12. UNNATURAL DRAINAGE. UNDER NO CIRCUMSTANCES SHALL THE DRAINAGE CHARACTERISTICS OF ANY LOT(S) AS ESTABLISHED BY DECLARANT BE ALTERED BY ANY PROPERTY OWNER(S) DURING THE COURSE OF LANDSCAPING OR SUBSEQUENT CONTRUCTION WITHIN THE SITE(S). DRAINAGE SWALES AND CHANNELS ESTABLISHED BY DECLARANT SHALL NOT BE ALTERED, OBLITERATED OR BLOCKED BY A PROPERTY OWNER(S). THE ELEVATION OF A LOT SHALL NOT BE CHANGED SO AS TO MATERIALLY AFFECT THE SURFACE ELEVATION OR GRADE OF THE ADJACENT LOTS.

Section 13. Temporary Residence. No structure of temporary character, no trailer, converted trailer, mobile home, basement, tent or accessory building shall be used on any lot as a residence, temporarily or permanently, and no used structure of any sort shall be moved onto any lot, except that the Committee may approve the use of trailers or mobile homes for a designated length of time, not to exceed six (6) months, to be used solely for a temporary residence or construction headquarter during the construction of the permanent residence. The approval in the above case by the Committee is expressly subject to approval and issuance of a permit in each case by the County of Arapahoe.

Section 14. Sight Distance at Intersections. On corner lots, no planting of shrubs, trees or flowers or the erection of any fence or structure over 30 inches above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection or the street lines, or in the case of rounded property corner from the intersection of the street property lines extended.

Section 15. Nuisance. Nothing shall be done or permitted on the properties which may be or become an annoyance or nuisance to the subdivision development. No noxious or offensive activities or commercial business or trade shall be carried on or upon any lot. No lot shall be used in whole or in part for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material emit foul or obnoxious odors, or that which will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property.

Section 16. Garbage and Refuse Disposal. No lot, out-lot or vacant parcel shall be used or maintained as dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 17. Walls. No boundary or fence shall be constructed with a height of more than six (6) feet and no boundary line hedge or shrubbery shall be permitted with a height of more than six (6) feet. No wall or fence of any height shall be constructed on any lot until after the height, type, design, and approximate location therefore shall have been approved in writing by the Committee. The heights or elevations of any wall or fence shall be measured form the existing elevations of the property at or along the applicable points or lines. Any questions as to such heights may be completely determined by the Committee. A building permit will be required from the City or County also.

Section 18. Tanks, Etc. No elevated tanks of any kind shall be erected, place or permitted on any part of such premises, provided, that nothing herein shall prevent the permitting of the placing of tanks, and other water system apparatus on the properties. Any tanks for use in connection with any residence constructed on such premises, including tanks for the storage of fuels, must be buried or walled sufficiently to conceal them from the view of neighboring lots, roads, or streets. All garbage cans, equipment, coolers, or storage piles shall be walled in to conceal them from the view of neighboring lots, roads, or streets. Plans for all enclosures of this nature must be approved by the Committee prior to construction.

Section 19. Signs. No sign of any character shall be displayed or placed upon any of the lots in properties except one professional sign of not more than three square feet in area per side advertising the property for sale, house numbers, occupant's name or signs used by a builder to

advertise the property during any construction and sales period. All signs are subject to the approval of the Committee.

Section 20. Subdivision of Lots. None of the lots shall at any time be divided, subdivided or re-subdivided unless said division, sub-division, or re-subdivision is permitted under the regulations, codes and ordinances of the County of Arapahoe, State of Colorado. In the event of said division, all property thereunder shall be subject to all other provisions hereof.

Section 21. Mining. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of such premises, nor shall any oil, natural gas, petroleum, asphaltum, or hydrocarbon products or minerals of any kind be produced or extracted therefrom.

Section 23. Construction. Declarant, during the construction period, shall have the right to ingress and egress over the properties owned by Declarant and the right to store materials thereon and to make such other use thereof as in discretion may be necessary to complete any construction thereon. The exercise of the rights secured to the Declarant herein shall not unreasonably interfere with the rights of access to occupation, use and enjoyment by any Owner of his residence, parking area or his access to a public way from his premises.

Section 24. Setbacks. No building shall be located on any building site nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat and as provided by law. In any event, no building shall be located on any building site nearer than that which is permitted by law; or, fifteen (15) feet to the front lot line, nearer than that which is permitted by applicable law or ten (10) feet to any side street line. No building shall be located nearer than that which is permitted by law or five (5) feet to any interior building site line. No dwelling shall be located on any interior site nearer than that which is permitted by applicable law or fifteen (15) feet to the rear lot line. For purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of the building site to encroach upon another building site as platted in the subdivision.

ARTICLE IV

EASEMENTS

Section 1. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of Cherry Park Subdivision. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installations and maintenance of utilities, or which may change the direction of flow or drainage channels in the easement or which may obstruct or retard the flow of water through drainage channels in the easements. The easements area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. The Committee, or any Owner, shall have the right to end by a proceeding at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of this Declaration. Failure by the Committee or by any Owner to enforce any covenant, or restriction here contained shall in no event be deemed a waiver of the right to so thereafter.

Section 2. Severability. Invalidation of any one of these covenants of 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 term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive period of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by the Owners of not less than ninety percent (90%) of the lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the lots. Any amendment must be recorded.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

ARTICLE VI

STREET LIGHTING

That all lots shall be subject to and bound by Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. Any and all Owners shall pay as billed a portion of the cost of public street lighting in the subdivision in accordance with the rates, rules and regulations now in effect and as hereafter amended by Public Service Company, the same to be filed with and approved by the Public Utilities Commission of the State of Colorado.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has executed this Declaration this 11th day of November A.D., 1977

MEDEMA HOMES, INC.
(Signed by _____)
(William J. Klein, President)

ATTEST:
(Signed by _____)
(Caryl Olson, Assistant Secretary)

The above and foregoing instrument was acknowledged before me this 11th day of November, 1977, by WILLIAM J. KLEIN as PRESIDENT and CARYL OLSON, as ASSISTANT SECRETARY for and on behalf of MEDEMA HOMES, INC.

My commission expires: August 26, 1979

(Signed by _____)
(Linda D. Schubarth)

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

AMENDMENT NO. 1

This amendment made of the date hereinafter setforth by Medema Homes, Inc., as the owner of Cherry Park Subdivision, County of Arapahoe, State of Colorado.

WITNESSETH:

Section 24. Setbacks. No building shall be located on any building site nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat and as provided by law. In any event, no building shall be located on any building site nearer than that which is permitted by law; or fifteen (15) feet to the front line, nearer than that which is permitted by applicable law or ten (10) feet to any side street line. No building shall be located nearer than that which is permitted by law or zero (0) feet to any interior building site line. No dwelling shall be located on any interior site nearer than that which is permitted by applicable law or fifteen (15) feet to the rear lot line. For purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of the building site to encroach upon another building site as platted in the subdivision.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has executed this amendment this 30th day of March, A. D. 1978.

Medema Homes, Inc.

(Signed by _____)
(William J. Klein, President)

Attest:

(Signed by _____)
(Bruce L. Richardson, Vice President)

State of Colorado)
County of Arapahoe) ss.

The above and foregoing instrument was acknowledged before me this 30th day of March, 1978, by WILLIAM J. KLEIN as President and BRUCE L. RICHARDSON as Vice President for and on behalf of MEDEMA HOMES, INC.

My commission expires: August 26, 1979

Witness by hand and seal

(Signed by _____)
(Linda D. Schubarth)
(Notary Public)

ASSIGNMENT
OF
ARCHITECTURAL CONTROL COMMITTEE'S
RIGHTS, DUTIES AND OBLIGATIONS

FOR LOTS 1-107, INCLUSIVE, CHERRY PARK SUBDIVISION,
ARAPAHOE COUNTY, COLORADO

THIS IRREVOCABLE ASSIGNMENT is made this 26 day of August, 1977, by the undersigned persons who are the last known members of the Cherry Park Architectural Control Committee (hereinafter referred to as the "Assignors").

WHEREAS, Assignors are the duly empowered members of the Cherry Park Architectural Control Committee, as that term is defined by, and with all incidental rights, duties and obligations as set forth in that certain Declaration of Covenants, Conditions, and Restrictions dated November 11, 1977, and recorded on November 14, 1977 in Book 2680 at page 349 in the records of Arapahoe County, Colorado, as the same has been amended (the "Covenants"); and

WHEREAS, the Covenants specifically set forth all of the rights, duties and obligations of the Cherry Park Architectural Control Committee in the administration and enforcement of the provisions of the Covenants on the real properties encumbered by the Covenants; and

WHEREAS, Assignee is a nonprofit corporation duly organized for the purpose of, among other things, assuming and discharging all such rights, duties and obligations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Assignors hereby irrevocably assign, transfer and set over onto CHERRY PARK OWNERS ASSOCIATION, INC., its successors and assigns, the entire right, title, interest, including all authority, obligations, responsibilities, duties, powers and rights of the Cherry Park Architectural Control Committee.

THIS ASSIGNMENT SHALL BE RECORDED IN ARAPAHOE COUNTY, COLORADO.

IN WITNESS WHEREOF, Assignors have caused this Assignment to be executed and delivered on the date first above written.

ASSIGNORS:
(Signed by)
(WILLIAM J. KLEIN)

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DONETTA DAVIDSON
ARAPAHOE COUNTY

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

The foregoing document was acknowledged before me this 26 day of August, 1997 by (Signed by William Klein). Witness my hand and official seal.

My commission expires:
Dec. 31, 1998

Notary Public
Signed by Paul Schlenker

