

TO WHOM IT MAY CONCERN:

DATED: 30, 1979  
 FILED:  
 RECORDED: Misc. Bk , Pg

The undersigned, PACESETTER HOMES, INC., a Nebraska corporation, owner of the following real estate:

Lots 5 through 10 inclusive, lots 13 through 23 inclusive, lots 26 through 190 inclusive, lots 291 through 346 inclusive, lots 352 through 357 inclusive, all in Millard Highlands South II, and lots 370 through 496 inclusive, in Millard Highlands South II Replat, both subdivisions in Sarpy County, Nebraska

does hereby state, publish and declare that all of said lots are and shall be owned and held under and subject to the covenants, conditions and restrictions set forth below.

1. The covenants, conditions and restrictions are to run with the land and shall be binding upon all owners, present and future, until January 1, 2009. PROVIDED, however, until January 1, 2009, these covenants may be modified or changed, in whole or in part, upon the written approval of the owner(s) of sixty percent (60%) or more of the lots subject to them. After January 1, 2009, these covenants shall be automatically extended for successive periods of ten (10) years each unless modified or changed, in whole or in part, by written approval of the owners of fifty one percent (51%) or more of the lots subject to them.

2. If the owner of any lot shall violate or attempt to violate any of the covenants herein, it shall be lawful for any owner of any lot to bring legal proceedings against such person violating or attempting to violate such covenants, to prevent him or them from so doing and/or to recover damages or other compensation due for such violation; but this instrument shall not be construed as placing any liability or obligation for its enforcement upon the undersigned. Invalidation of any one of the covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

3. All lots shall be used for residential, recreational, church school, or park purposes. PROVIDED, however, model homes constructed by the undersigned developer, its agents and assigns, for the purpose of displaying and selling homes, and for office purposes, will not in any way be a violation of these covenants.

4. No noxious or offensive trade or 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 neighborhood.

5. No trailer, basement, tent, shack, garage, barn or any structure of any like kind or character erected on said real estate shall at any time be used as a residence temporarily or permanently. Nor dwelling constructed in another area or addition may be moved onto or permitted to remain on any lot in this subdivision, unless the undersigned consents thereto in writing

6. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, their successors and assigns, to erect and operate, maintain, repair, replace and renew buried or underground cables, conduits poles with the necessary supports, sustaining wires, cross-arms, guys and anchors and other instrumentalities and to extend thereon wires for the carrying and transmission of electric current for light, heat and power for all telephone and telegraph and message service over, under, through and upon a five (5) foot strip of land adjoining the rear and side boundary lines of said lots in said addition;

FILED FOR RECORD 9-17-79 AT 1:11 PM IN BOOK 502 BY *Marie H. [unclear]*  
 PAGE 647 *Carl S. Hilscher* REGISTER OF DEEDS, SARPY COUNTY, NEB  
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said license being granted for the use and benefit of all present and future owners of lots in said addition; PROVIDED, however, that said side lot line easements granted upon the specific condition that if both of said utility companies fail to construct cables, conduits or poles along any of said side lot lines within thirty-six (36) months of date hereof, or if any pole or wires are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then this side line easement shall automatically terminate and become void as to such unused or abandoned easementways. All telephone entrances to residences or other principal structures on any of said lots shall be underground and the owner of each lot shall provide or have constructed at his cost the underground entrance to the residence which shall meet the following specifications: A 1/2-inch standard galvanized electrical conduit shall be put through the rear outside wall in the middle of each structure. This conduit shall extend 24 inches below the final rear grade line and extend flush into the basement area and shall be mechanically attached to the building. No permanent building, trees, retaining walls or loose rock walls shall be placed in the said easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights granted herein.

7. Portland concrete public sidewalks four (4) feet wide by four (4) inches thick, shall be constructed in front of each built-upon lot and along the street side of each built-upon corner lot. The sidewalk shall be placed four (4) feet back of street curb line and shall be constructed by the then owner of the lot at the time of completion of the mainstructure and before occupancy or use thereof. In lieu of the installation of said sidewalk, because of weather, an escrow deposited with mortgagee or undersigned, or any other other qualified escrow agent, will be considered acceptable.

8. Dwellings shall be restricted to the following finished living square-foot areas, exclusive of garages, breezeways and porches:

- a) Eight Hundred (800) square feet on the ground floor of a one-story home;
- b) Eight Hundred (800) square feet throughout the home for a bi-level, tri-level, split-level, split-entry, 1-1/2 story or higher;
- c) The minimum setbacks for a residential structure shall be front yard, twenty (20) feet, and side yard, five (5) feet. Notwithstanding said requirements, the side and front yard limitations shall automatically be amended and changed in the event Sarpy County ( or whatever governmental authority has jurisdiction) or any of its regulatory boards, shall determine and permit a lesser area or distance.

9. Motor vehicles of every type parked anywhere in the subdivision out in the open must be in operating condition; otherwise, said cars at the request or action of any landowner may be towed away at the expense of the car's owner. Motor vehicles must be parked in garages, on concrete slabs or driveways, and all repair work must be done indoors. All boats, trailers and campers, self-propelled or otherwise, of every kind and description must be parked or stored indoors so as not to be visible from outside.

10. No fences shall be permitted to be erected or maintained in front of the main residential structure.

11. No outside radio, television, ham broadcasting or any electronic antenna or aerial shall be erected or placed on any structure or on any lot, except such model homes used by the undersigned developer, its agents or assigns, for an office or display and selling of homes in the addition.

12. In no event will any construction begin or any structure be erected or permitted to remain on any lot until the plans and specifications, plot plan and lot grading plan have been first submitted to and have received the written approval of the undersigned as to the exterior design, use of exterior materials, exterior colors, lot grading and placement of structures on

52-647 B

the lot. No sign or billboard of any kind or size shall be erected, placed or permitted to remain on any lot until the undersigned has given its written approval therefor, except only "For Sale" signs not exceeding four (4) square feet in area will be permitted. The above restrictions as to signs does not apply to those erected by the undersigned developer, its agents and assigns, all in connection with the sale of property in the subdivision.

13. No animals, livestock, or poultry of any kind shall be raised bred or kept on any lot, except dogs, cats or other household pets, provided they are not kept, bred or maintained for any commercial purpose.

DATED this 30<sup>th</sup> day of July, 1979

PACESETTER HOMES, INC.

Attest:

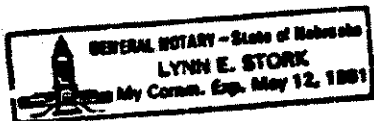
*Andrew J. Harrison*  
Secretary

By: *Ralph J. Heavrin*  
Ralph J. Heavrin, President

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF SARPY )

On this 30 day of July, 1979, before me, the undersigned a Notary Public in and for said County, personally came RALPH J. HEAVRIN, President of Pacesetter Homes, Inc., a corporation, to me known to be the President and the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of the said corporation, and that the seal of said corporation was thereto affixed by its authority.

WITNESS my hand and seal the day and year last above written.



*Lynn E. Stork*  
Notary Public

57-437 575.50

BOOK 57 OF Misc Rec.  
PAGE 437

1984 JUN 27 AM 3:08

Amendment to

Protective Covenants, Restrictions & Easements

LOTS 5 THROUGH 10 INCLUSIVE, LOTS  
THROUGH 23 INCLUSIVE, LOTS  
THROUGH 190 INCLUSIVE, LOTS  
THROUGH 346 INCLUSIVE, LOTS  
THROUGH 357 INCLUSIVE, ALL IN  
MILLARD HIGHLANDS SOUTH II, AND LOTS  
370 THROUGH 496 INCLUSIVE, IN  
MILLARD HIGHLANDS SOUTH II REPLAT,  
BOTH SUBDIVISIONS IN SARPY COUNTY,  
NEBRASKA.

Paul J. Hebbeler  
REGISTER OF DEEDS

This Amendment is made this 26th day of June,  
1984 by Pacesetter Homes, Inc., a Nebraska Corporation, which  
does certify as follows:

I. That the undersigned, Pacesetter Homes, Inc., is the  
owner of more than sixty (60%) of the above-described lots  
(hereinafter referred to as "the property"), as required by  
Section 1 of the Protective Covenants, Restrictions and Easements  
for said property.

II. That the property was limited in its use pursuant to the  
Protective Covenants, Restrictions and Easements dated the 30th  
day of July, 1979, and recorded at Miscellaneous Book 52, Page  
647, in the Office of the Register of Deeds of Sarpy County,  
Nebraska.

III. Said covenants are hereby amended so as to include the  
following provisions:

A. General Scheme of Development. As a part of the  
general scheme of development, provision has been made, and the  
property has been planned, so as to provide adequate access to  
sunlight and prevent the shading of solar collecting surfaces for  
the purpose of collection, use and storage of solar energy for  
domestic hot water heating, space heating, space cooling, and  
such other uses as may develop in the future.

B. Definitions. As used herein, the following terms  
shall be defined as follows:

1. SOLAR ENVELOPE. A Solar Envelope is three-  
dimensional and defines the maximum allowable space which may be  
utilized by buildings, structures, trees, vegetation or any other  
object on the lot. Illustrations of Solar Envelopes developed for  
lots within the property are attached hereto and incorporated  
herein.

2. SOLAR ACCESS. As used herein, solar access is  
defined as access to solar energy for solar lots in the property  
such that not more than 15% of the solar collecting surfaces

57-437A

located on the south wall and roof of homes on designated solar lots will be shaded on December 21 between the hours of 9:30 AM and 3:00 PM Mean Solar Time.

3. **SOLAR LOTS.** Those lots within the property for which provisions for solar access have been made.

4. **NON-SOLAR LOTS.** Those lots within the property for which solar development is not practicable for reasons of placement, topography, or proximity to lots located outside the property. Non-solar lots are, however, restricted by Solar Envelopes.

5. **FRONT SETBACK.** The minimum horizontal distance between the street line and the front line of the building, as determined by county zoning regulations.

6. **SOLAR SETBACK.** The maximum horizontal distance from the front curbline to the south building line (south-facing facade) of the residence as shown in the Solar Envelope illustrations attached hereto and incorporated herein.

C. **Solar Lots.** The following lots have been designated as solar lots:

8, 9, 10, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
38, 42, 43, 47, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69,  
70, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 108, 109, 110, 111, 128,  
129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144,  
145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160,  
161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176,  
177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 291, 299,  
310, 311, 312, 313, 314, 315, 316, 317, 326, 327, 328, 329, 330, 331, 332, 333,  
334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 353, 354, 370,  
371, 372, 373, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387,  
388, 389, 390, 391, 392, 393, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404,  
405, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421,  
422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437,  
438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453,  
454, 456, 457, 460, 462, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474,  
475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490,  
491, 492, 493, 494, 495, 496.

**Non-solar Lots.** The following lots have been designated as non-solar lots:

5, 6, 7, 17, 18, 35, 36, 37, 39, 40, 41, 44, 45, 46, 48, 49, 50, 51, 52, 53, 71,  
72, 73, 74, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 99, 100, 101, 102, 103, 104,  
105, 106, 107, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124,  
125, 126, 127, 292, 293, 294, 295, 296, 297, 298, 300, 301, 302, 303, 304, 305,  
306, 307, 308, 309, 318, 319, 320, 321, 322, 323, 324, 352, 355, 356, 357, 406,  
455, 458, 459, 461, 463.

D. **Provisions for Solar Access.**



57-437B

1. No house, garage, fence, wall, sign, billboard, antenna, pole, or any other structure, or tree, bush, or any other vegetation, or any other object shall be constructed, altered, built, erected, installed, planted, or otherwise maintained or undertaken on any lot (whether designated solar or non-solar) within the property so as to exceed the maximum allowable space designated in the Solar Envelope designed for each lot (which Solar Envelope illustrations are attached hereto and incorporated herein) so as to provide solar access to designated solar lots within the property. Only necessary utility poles are specifically exempted from this provision.

2. No south facade of any residence shall be located so as to exceed the solar setback designated for the lot (as indicated on the Solar Envelope illustrations attached hereto and incorporated herein).

B. Limitation of Liability. While the property has been planned to provide adequate solar access for designated solar lots within the property, this instrument shall not be construed as a guarantee of adequate solar access for any particular lot or as placing any liability or obligation upon the undersigned to provide adequate access to solar energy. Lot owners are hereby cautioned that the burden for assuring adequate solar access for a particular type of solar energy system for a particular lot rests on the owner of that lot to insure that building design and configuration, solar energy system design and placement, vegetation, and all other applicable variables insure adequate solar access.

F. Enforcement. If the owners of any lot or their heirs, successors or assigns shall violate or attempt to violate any of the provisions of the Amendment herein, it shall be lawful for any owner of any lot to bring any legal proceeding against such person violating or attempting to violate such provisions either to prevent him or them from so doing or to recover damages or other compensation due for such violation; but this instrument shall not be construed as placing any liability or obligation for its enforcement upon the undersigned. Invalidation of any one of the provisions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IV. All other provisions of the Protective Covenants, Restrictions and Easements dated the 30th day of July, 1979, shall remain in full force and effect.

DATED this 26th day of June, 1984.

FACESETTER HOMES, INC.

By Ralph J. Heavrin  
Ralph J. Heavrin, President

57-437C

Attest:

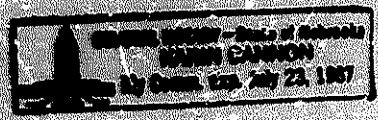
\_\_\_\_\_  
Secretary

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF SARPY )

On this 26th day of June, 1984, before me, the undersigned, a Notary Public in and for said County, personally came RALPH J. HEAVRIN, President of Pacesetter Homes, Inc., a corporation, to me known to be the President of said corporation and the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of the said corporation, and that the seal of said corporation was thereto affixed by its authority.

WITNESS my hand and seal the day and year last above written.

Kevin Cannon  
Notary Public



PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS

TO WHOM IT MAY CONCERN:

The undersigned, PACESETTER HOMES, INC., a Nebraska corporation, owner of the following real estate:

Lots 1, 118, 135, 136, 153, 154, 203, 204, 217 through 222 inclusive, 250, 251, 262 through 289 inclusive, 294 through 459 inclusive, all in Millard Highlands South, and Lots 462 through 509, inclusive, in Millard Highlands South Replat, both subdivisions in Sarpy County, Nebraska,

does hereby state, publish and declare that all of said lots are and shall be owned and held under and subject to the covenants, conditions and restrictions set forth below:

1. The covenants, conditions and restrictions are to run with the land and shall be binding upon all owners, present and future, until January 1, 2007. PROVIDED, however, until January 1, 2007, these covenants may be modified or changed, in whole or in part, upon the written approval of the owner(s) of sixty percent (60%) or more of the lots subject to them. After January 1, 2007, these covenants shall be automatically extended for successive periods of ten (10) years each unless modified or changed, in whole or in part, by written approval of the owners of fifty-one percent (51%) or more of the lots subject to them.
2. If the owners of any lot or their heirs, successors or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any owner of any lot to bring any legal proceeding against such person violating or attempting to violate such covenants either to prevent him or them from so doing or to recover damages or other compensation due for such violation; but this instrument shall not be construed as placing any liability or obligation for its enforcement upon the undersigned. Invalidation of any one of the covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
3. All lots shall be used for residential, recreational, church, school, or park purposes. PROVIDED, however, model homes constructed by the undersigned developer, its agents and assigns, for the purpose of displaying and selling homes, and for office purposes, will not in any way be a violation of these covenants.
4. No noxious or offensive trade or 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 neighborhood.
5. No trailer, basement, tent, shack, garage, barn, or any structure of any like kind or character erected on said real estate shall at any time be used as a residence temporarily or permanently. No dwelling constructed in another area or addition may be moved onto or permitted to remain on any lot in this subdivision.
6. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, their successors and assigns, to

*[Handwritten signature]*  
PAGE 2 of 2

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erect and operate, maintain, repair, replace and renew buried or underground cables, conduits, poles with the necessary supports, sustaining wires, cross-arms, guys and anchors and other instrumentalities and to extend thereon wires for the carrying and transmission of electric current for light, heat and power for all telephone and telegraph and message service over, under, through and upon a five (5) foot strip of land adjoining the rear and side boundary lines of said lots in said addition; said license being granted for the use and benefit of all present and future owners of lots in said addition; PROVIDED, however, that said side lot line easement is granted upon the specific condition that if both of said utility companies fail to construct cables, conduits or poles along any of said side lot lines within thirty-six (36) months of date hereof, or if any pole or wires are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then this side line easement shall automatically terminate and become void as to such unused or abandoned easementways. All telephone entrances to residences or other principal structures on any of said lots shall be underground and the owner of each lot shall provide or have constructed at his cost the underground entrance to the residence which shall meet the following specifications: A 1/2-inch standard galvanized electrical conduit shall be put through the rear outside wall in the middle of each structure. This conduit shall extend 24 inches below the final rear grade line and extend flush into the basement area and shall be mechanically attached to the building. No permanent building, trees, retaining walls or loose rock walls shall be placed in the said easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights granted herein.

7. Portland concrete public sidewalks four (4) feet wide by four (4) inches thick, shall be constructed in front of each built-upon lot and along the street side of each built-upon corner lot. The sidewalk shall be placed four (4) feet back of street curb line and shall be constructed by the then owner of the lot at the time of completion of the mainstructure and before occupancy or use thereof. In lieu of the installation of said sidewalk, because of weather, an escrow deposited with mortgagee or undersigned, or any other qualified escrow agent, will be considered acceptable. No sidewalks need be built on sideyards of Lots 303, 364, 365 and 491.

8. Dwellings shall be restricted to the following finished living square-foot areas, exclusive of garages, breezeways and porches:

a) Eight Hundred (800) square feet on the ground floor of a one-story home;

b) Eight Hundred (800) square feet throughout the home for a bi-level, tri-level, split-level, split-entry, 1-1/2 story or higher;

c) The minimum setbacks for a residential structure shall be front yard, twenty (20) feet, and side yard, five (5) feet. Notwithstanding said requirements, the side and front yard limitations shall automatically be amended and changed in the event Sarpy County (or whatever governmental authority has jurisdiction) or any of its regulatory boards, shall determine and permit a lesser area or distance.

9. Motor vehicles of every type parked anywhere in the subdivision out in the open must be in operating condition; otherwise, said cars at the request or action of any landowner may be towed away at the expense of the car's owner. Motor vehicles must be parked in garages, on concrete slabs or driveways, and all repair work must be done indoors. All boats, trailers and campers, self-propelled or otherwise, of every kind and description must be parked or stored indoors so as not to be visible from outside.

10. No fences shall be permitted to be erected or maintained in front of the main residential structure.

11. No outside radio, television, ham broadcasting or any electronic antenna or aerial shall be erected or placed on any structure or on any lot, except such model homes used by the undersigned developer, its agents or assigns, for an office or display and selling of homes in the addition.

12. In no event will any construction begin or any structure be erected or permitted to remain on any lot until the plans and specifications, plot plan and lot grading plan have been first submitted to and have received the written approval of the undersigned as to the exterior design, use of exterior materials, exterior colors, lot grading and placement of structures on the lot. No sign or billboard of any kind or size shall be erected, placed or permitted to remain on any lot until the undersigned has given its written approval therefor, except only "For Sale" signs not exceeding four (4) square feet in area will be permitted. The above restrictions as to signs does not apply to same erected by the undersigned developer, its agents and assigns, all in connection with the sale of property in the subdivision.

13. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other household pets, provided they are not kept, bred or maintained for any commercial purpose.

DATED this 10<sup>th</sup> day of May, 1977.

PACESETTER HOMES, INC.

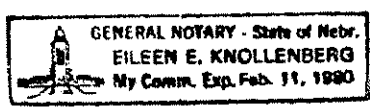
Attest:

Audrey J. Heavrin  
Secretary

By: Ralph J. Heavrin  
Ralph J. Heavrin, President

STATE OF NEBRASKA) On this 10 day of May, 1977,  
)ss. before me, the undersigned a Notary Public  
COUNTY OF DOUGLAS) in and for said County, personally came  
RALPH J. HEAVRIN, President of Pacesetter  
Homes, Inc., a corporation, to me known to be the President and the  
identical person whose name is affixed to the foregoing instrument  
and acknowledged the execution thereof to be his voluntary act and  
deed as such officer and the voluntary act and deed of the said  
corporation, and that the seal of said corporation was thereto  
affixed by its authority.

WITNESS my hand and seal the day and year last above written.



Eileen E. Knollenberg  
Notary Public