

43.00

Don Jolie
REGISTER OF DEEDS
1998 MAY 11 A 9:51

INST. NO 98
022057

BLOCK
CODE
CRORS012
CHECKED
ENTERED
EDITED

RESTRICTIVE COVENANTS

The undersigned (Owner) is the Owner of the following described real estate located in Lincoln, Lancaster County, Nebraska:

Lots 1 through 6, Block 1; Lots 1 through 6, Block 2; Lots 1 and 2, Block 3; Lot 1, Block 4; Lots 1 through 10, Block 5; and Outlot A; Cripple Creek South Twelfth Addition, (Properties).

Cripple Creek Homeowners Association (Corporation) has been incorporated in Nebraska for the purposes of enforcing the Restrictive Covenants established upon the Properties and of administering and maintaining the Commons.

These Restrictive Covenants are established upon the Properties.

1. **USE:** No lot within the Properties shall be used other than for single family residential purposes.
2. **COMPLETION OF CONSTRUCTION:** Any building placed or construction upon any lot within the Properties shall be completed within twelve months after the commencement of construction.
3. **ANTENNAS:** Unless approved by the Owner in writing prior to installation, no wiring or antenna for electrical power, telephone, television, radio, or any other use shall be permitted above ground, except within a building.
4. **APPROVAL OF PLANS:** The Owner shall have the exclusive right to establish grades and slopes for all lots within the Properties and to fix the grade at which any building shall be placed or constructed upon any lot, in conformity with the general plan for the development of the Properties. Plans for any building or other improvement to be placed or constructed upon any lot within the Properties shall be submitted to the Owner and shall show the design, size and exterior material for the building or improvement and the plot plan for the lot. Unless modified in writing by the Owner prior to the commencement of construction, a front yard set back of 25 feet and a side yard set back of 7 1/2

*Box 83405
West Gate Inc.
1640 L. Street
Lincoln, NE 68501*

feet shall be required. One set of plans shall be left on permanent file with the Owner. Construction of the building or improvement shall not be commenced unless written approval of the plans has been secured from the Owner and shown of record. Written approval or disapproval of the plans shall be given by the Owner within 30 days after receipt thereof. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. The Owner shall have the exclusive right to disapprove the plan, if in the Owner's opinion the plans do not conform to the general standard of development in the Properties. The rights and duties of the Owner under this paragraph shall be assigned to the Corporation when residences shall have been placed or constructed upon all of the lots within the Properties.

5. **CITY REQUIREMENTS:** All buildings within the Properties shall be constructed in conformity with the requirements of the applicable building codes of the City of Lincoln, Nebraska. Public sidewalks and street trees shall be installed as required by the City of Lincoln, Nebraska.

6. **TEMPORARY STRUCTURES:** No partially completed dwelling or temporary building and no trailer, tent, shack or garage on any lot within the Properties shall be used as either a temporary or permanent residence, except with the written approval of the Owner during construction of a permanent residence.

7. **NUISANCE:** No noxious or offensive activity shall be conducted or permitted upon any lots within the Properties, nor anything which is or may become an annoyance or nuisance to the neighborhood or which endangers the health or unreasonably disturbs the quiet of the occupants of adjoining lots.

8. **SIGNS:** No advertising signs, billboards, or other advertising devices shall be permitted on any lot within the Properties. However, the Owner may erect signs advertising lots for sale within the Properties, and a sign advertising a single lot for sale may be erected upon any lot.

9. **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot within the Properties for any commercial purposes.

10. **HOMEOWNERS ASSOCIATION:** Every person or entity who becomes a titleholder of a fee or undivided fee interest in any lot within the Properties shall be a member of the Corporation. However, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

11. **MEMBERSHIP:** The Corporation shall have three classes of membership:

Class A membership shall include those members of the Corporation, except the Owner, who are the owners of lots within the Properties abutting the Commons. The golf course, which is owned by others, shall not be considered a "Commons". Each Class A member of the Corporation shall be entitled to all the rights of membership and to three votes for each lot in which the interest requisite for membership is held.

Class B membership shall include those members of the Corporation, except the Owner, who are the Owners of lots within the Properties not abutting the Commons. Each Class B member of the corporation shall be entitled to all the rights of membership and to one vote for each lot in which the interest requisite for membership is held.

Class C membership shall include only the Owner and any successor in interest. Until January 1, 2001, the Class C members shall be entitled to a total number of votes equal to the votes of the Class A members, plus the votes of the Class B members, plus one. Thereafter, the Class C member shall be entitled to such total number of votes as would Class A or Class B members holding the lots in which the interest requisite for membership is held.

12. **CONVEYANCE OF COMMONS:** The owner shall convey the Commons to the Corporation, free from encumbrance, on or before January 1, 1999.

13. **USE OF COMMONS:** Each member of the Corporation shall have the right to use and enjoy the Commons and shall have an easement upon the Commons for the use thereof, which shall be appurtenant to the interest requisite for membership.

14. **RIGHTS IN COMMONS:** The rights and easements of the members of the Corporation shall be subjected to:

- A) The right of the Corporation to borrow money for the purpose of improving the Commons and to mortgage the Commons. In the event of default, the mortgagee shall have the right, after taking possession of the Commons, to charge admission and other fees as a condition of the continued use of any recreational facilities within the Commons by the members, and to open the facilities to a wider public until the mortgage debt is satisfied. Any mortgage of the Commons shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed mortgage is contained in the notice of the special meeting.
- B) The right of the Corporation to take any steps reasonably necessary to protect the Commons against foreclosure.
- C) The right of the Corporation to suspend the enjoyment of the facilities by any member for any period during which an assessment remains unpaid, and for a period not to exceed 30 days for any infraction of the published rules and regulations governing the use of the facilities.
- D) The right of the Corporation to charge reasonable admission and other fees for the use of the facilities.
- E) The right of the Corporation to dedicate or convey all or any part of the Commons to any public entity. Any dedication or conveyance shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed dedication or conveyance is contained in the notice of the special meeting.

15. **MAINTENANCE OF COMMONS:** The Corporation covenants and each member of the Corporation, by the acceptance of a deed by which the interest requisite for membership is acquired, except the Class C member, shall be deemed to covenant to maintain the Commons, which covenants by the members shall be satisfied by the payment of annual and special assessments for the administration, maintenance or improvement of the Commons. Until January 1, 1999, the lots of the Class C member shall be assessed an amount sufficient to maintain the Commons and the lots of the Class A and Class B members shall be assessed the minimum amount. Thereafter, annual and special assessments shall be uniform within each Class of membership and proportionate to the number of votes to which each member is entitled. The minimum annual assessment of a Class A member shall be \$15.00 and the minimum annual assessment of a Class B member shall be \$5.00. Each assessment shall be the personal obligation of the member who is, or was, the titleholder of the lot or living unit assessed at the time of the assessment, shall

bear interest at the rate of ten percent (10%) per annum until paid and, when shown of record, shall be a lien upon the lot or living unit assessed.

16. **LIEN OF ASSESSMENTS:** The lien of any annual or special assessment shall be subordinate to the lien of any mortgage placed upon the lot against which the assessment is levied.

17. **ANNUAL AND SPECIAL ASSESSMENTS:** Annual and special assessments, other than for capital improvements, may be levied by the Board of Directors of the Corporation. Annual assessments shall be levied by July 1st of each year. Any special assessments for capital improvements shall be approved by the affirmative vote or two-thirds of each class of members affected and entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of a special assessment is contained in the notice of the special meeting.

18. **ADDITIONS:** Any person may add lots within Cripple Creek Addition, Cripple Creek First Addition, Cripple Creek Second Addition or Cripple Creek Third Addition to the Properties, at any time, without the consent of the members of the corporation. The Owner may add additional real estate to the Properties or the Commons, at any time, without the consent of the members of the corporation. Additions shall be made by the execution and recordation of Restrictive Covenants upon the additional real estate, making the addition subject to these Restrictive Covenants.

19. **GOLF COURSE:** The owner of each lot is hereby notified that the City of Lincoln, Nebraska has approved Special Permit No. 1621 for the construction and operation of a golf course, including clubhouse and related facilities on the property lying generally south of San Mateo Lane and east of South 40th Street. The Special Permit includes permission for the construction of a clubhouse, together with associated parking lots, and includes the right to construct facilities including, but not limited to a driving range, putting greens, swimming pool, tennis courts, and restaurant facilities. The clubhouse may include all amenities commonly associated with a country club including a pro shop, physical fitness apparatus, showers, locker rooms, etc. Parking lots, tennis courts, and pool

areas may be artificially lit at night, and the facility will host events such as golf tournaments and private parties.

20. **AMENDMENTS:** These Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Owner and all persons claiming under the Owner. These Restrictive Covenants may be terminated or modified, in writing, by two-thirds of each class of members affected, at any time. However, the provisions of these Restrictive Covenants governing membership in the association and the maintenance of the Commons shall not be terminated or modified without the consent of the City of Lincoln, Nebraska.

21. **ENFORCEMENT:** The enforcement of these Restrictive Covenants may be by proceedings at law or in equity against any person violating or attempting to violate any provision hereof. The proceedings may be to restrain the violation, or to recover damages and, by the Corporation, may be to enforce any lien or obligation created hereby.

22. **SEVERABILITY:** The invalidation of any one of these Restrictive Covenants shall not affect the validity of the remaining provisions hereof.

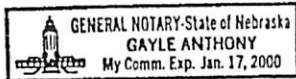
Dated this 7th day of May, 1998.

WEST GATE, INC.

By: *S. Edward Copple*
S. EDWARD COPPLE, PRESIDENT

STATE OF NEBRASKA }
 } ss
COUNTY OF LANCASTER }

The foregoing instrument was acknowledged before me this 7th day of May, 1998, by S. EDWARD COPPLE, PRESIDENT of WEST GATE, INC., a corporation, on behalf of the corporation.



Gayle Anthony
Notary Public