

96-02636

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HOPPE-KILDOW ADDITON

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

Lots 1 through 19, inclusive, all in the Hoppe-Kildow Addition as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, all the above-described real estate is available for a 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;

WHEREAS, THEREFORE, the Declarant hereby declares that all of the Lots described above shall be held, sold, and conveyed subject to the following easements, covenants, restrictions, 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 1.  
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 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 the Declaration, which now consists of Lots 1 through 19, inclusive of the Hoppe-Kildow Addition, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 1 through 19, inclusive, in the Hoppe-Kildow Addition, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Declarant" shall mean and refer to Quinten R. Mahlock and Agnes J. Mahlock, its successors and assigns.

E. "Architectural Control Committee" shall mean and refer to Robert G. Hoppe or David P. Kildow the individuals appointed by the Declarant.

Article 2.

Architectural Control

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dish, solar collecting panels or equipment, air conditioning equipment,

wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

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. Only exterior colors of certain earth tone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements 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 document, material 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, basements 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 or 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 3.

RESTRICTIONS FOR SINGLE FAMILY RESIDENTIAL DWELLINGS

A. Single Family Lots. All Lots shall be subject to the following Restrictions:

1. The Lot shall be used only for residential purposes, and no

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Lot shall contain more than one (1) detached, single family dwelling.

2. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

a. Each one story dwelling shall contain no less than 1,200 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story dwelling shall contain no less than 1,700 square feet of total Living Area above the basement level with a minimum of 900 square feet on the main floor, exclusive of garage area.

c. Other dwelling styles not described in a, and b, above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes built in Hoppe-Kildow Addition in the opinion of the Architectural Control Committee in its sole and absolute discretion.

d. All buildings on all Lots shall comply with the setback requirements of the Zoning Code of the City of Springfield, NE.

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

1. All dwellings shall, as a minimum, have attached, enclosed, side-by-side two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the dwelling. Other or additional garages maybe permitted at the discretion of the Architectural Control Committee.

2. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basement, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basements is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

3. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

4. In the event that a fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front of dwelling, or is exposed above the front plane of the roof, the enclosure of the fireplace and flue shall be constructed of, or finished

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with, clay-fired brick or stone. If the fireplace and/or enclosure for the fireplace flue is constructed in such manner so as to protrude beyond the outer perimeter of the side or rear of the dwelling, the enclosure of the fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone. No furnace flue may protrude more than four(4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

5. Fences, shall be constructed only of wood, decorative iron, brick or stone, and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

6. 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.

7. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

8. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Springfield and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

9. The Declarant has created a water drainage plan by grading the properties and installing improvement 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.

10. No stable or other shelter for any animal, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the lot of their owner and are not permitted to run loose outside the Lot of the Owner.

11. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision. No garden, lawn or

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maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air condition condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

12. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailer, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

13. 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. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of eighteen(18) inches.

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

15. 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.

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

17. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

18. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

19. 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 six(6) square feet 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

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development of the Hoppe- Kildow Addition.

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

21. The front, side and rear yards of all Lots shall be sodded, or seeded. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded or seeded within one(1) year from the date that construction for the residence on the Lot was initiated.

22. No television antenna, no antenna of any kind or nature, no satellite dish, no solar collecting panels or equipment, no wind generating power equipment 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 and satellite dishes will be allowed.

Article 4

EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U.S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assign, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable light, heat and television under a 8-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and said license is being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wire or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

Article 5.

GERERAL 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 the Declaraton, 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 the declaration shall run with

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and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. 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 (90%) percent 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.

D. If the Declarant conveys the entire Addition consisting of all Lots 1 through 19 in a single conveyance and at the same time, then the Declarant assigns all his rights as the Declarant, in regard to these Declared covenants, to the new owner(s) of the Addition. All other provisions Hereof remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 12<sup>th</sup> day of February, 1996

Declarant:

*Quinten R. Mahloch*  
Quinten R. Mahloch

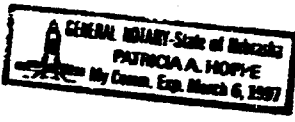
*Agnes J. Mahloch*  
Agnes J. Mahloch

STATE OF NEBRASKA )  
                          )SS.  
COUNTY OF SARPY  )

On this 12<sup>th</sup> day of February, 1996 before me the undersigned, a Notary Public in and for said County and State, personally came, and acknowledged that they executed the above as their willful act and deed.

Notary Public

*Patricia A. Hoppe*



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