

55-670

DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF HICKORY HILL, A SUBDIVISION
IN SARPY COUNTY, NEBRASKA

THIS DECLARATION, made on the date hereinafter set forth, is made by FRANKLIN P. ROGERS and MICHAEL F. ROGERS, hereinafter collectively referred to as the "Declarants".

PRELIMINARY STATEMENT

The Declarants are the owners of certain real property located within Sarpy County, Nebraska and described as follows:

Lots 134 through 180, inclusive, in Hickory Hill, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarants desire to provide for the preservation of the values and amenities of such community and for the maintenance of the character and residential integrity of the Lots.

NOW, THEREFORE, the Declarants hereby declare that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots. These restrictions, covenants, conditions and easements shall run with such real estate and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot as and shall be subject to all and each of the following conditions and other terms:

ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarants, or their successors or assigns, for use as a church, school or park, or for other non-profit use.

2. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

3. The ground floor finished and enclosed living area of main residential structures, exclusive of porches, breezeways, basements and garages, shall be not less than the following minimum sizes:

- (i) 1250 square feet for a one-story dwelling;
- (ii) 1000 square feet for a 1½-story or 2-story dwelling; and
- (iii) 1100 square feet for a split-level dwelling. (On split-level or split-entry dwellings, the "ground floor" shall be deemed to include all finished living areas except such areas as are constructed on top of other finished living areas.)

For each single-family dwelling there must be erected a private garage for not less than two (2) cars, nor more than three (3) cars (each car stall to be a minimum size of ten feet by twenty-one feet).

4. For a period of fifteen years after the filing of this Declaration, no residence, building, fence, wall, driveway, patio, patio enclosure, rock garden, swimming pool, tennis court, dog house, tree house, antenna, satellite receiving stations ("discs"), flag pole, solar heating or cooling device, tool shed, wind mill, wind generating equipment, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarants as follows:

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(i) An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarants (herein collectively referred to as the "plans"). Such plans shall reflect the type of structure, quality and use of exterior materials, exterior design, exterior color or colors, and location of structure proposed for such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarants of the Owner's mailing address.

(ii) Declarants shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarants. In this regard, Declarants intend that the Lots shall form a developed residential community with homes constructed of high quality materials. If Declarants determine that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarants may refuse approval of the proposed Improvement.

(iii) Written Notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Declarants.

(iv) The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the values, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarants, or to control, direct or influence the acts of the Declarants with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarants by virtue of the authority granted to Declarants in this Section, or as a result of any act or failure to act by Declarants with respect to any proposed Improvement.

5. The exposed front foundation wall as well as any foundation wall facing a street of all main residential structures must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete, brick, paving stone, asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding.

6. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no retail business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarants, their agents or assigns, during the construction and sale of the Lots.

7. No exterior television or radio antenna of any sort shall be permitted on any Lot.

8. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

9. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) except that during the months of May through September vehicles may be parked in the driveway only. No motor vehicle may

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be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this restriction shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.

10. No outside trash or garbage pile, burner, receptacle or incinerator shall be erected, placed or permitted on any Lot. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. No clothes line shall be permitted outside of any dwelling at any time except one umbrella-type clothes line per Lot.

11. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted to extend beyond the front line of a main residential structure unless written approval is first obtained from Declarants. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. All produce or vegetable gardens shall be maintained only in rear yards.

12. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.

13. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built upon corner Lot. The sidewalk shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof.

14. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except that a dog house constructed for one (1) dog shall be permitted; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarants, or their assigns, if required by this Declaration. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view.

15. Any exterior air conditioning condensor unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of eight (8) inches.

16. No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plat.

17. No structure of a temporary character, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings, or modular housing improvements shall be moved from outside Hickory Hill to any Lot.

18. At the time of initial occupancy of the main dwelling, the then owner shall plant, and there shall thereafter be maintained in a growing state by the then owners, at least one deciduous tree with a minimum trunk diameter of one and one-half inches; such tree to be located in the front yard at least ten feet from the front Lot line.

ARTICLE II. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Northwestern Bell Telephone Company, Peoples Natural Gas Co., the City of Papillion, Nebraska, and Sanitary and Improvement District No. 121 of Sarpy County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or

conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service over, through, under and upon an eight foot (8') wide strip of land adjoining the rear lines and a five foot (5') wide strip adjoining the side boundary lines of the Lots; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that the side Lot line easement is granted upon the specific condition that if all of such utility companies fail to construct such facilities along any of said side Lot lines within thirty-six (36) months of date hereof, or if any such facilities 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. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein. All such utility service lines from property line to dwelling shall be underground.

ARTICLE III. GENERAL PROVISIONS

1. The Declarants or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarants 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.

2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded. This Declaration may be amended by Declarants or any person, firm, corporation, partnership, or entity designated in writing by Declarants, in any manner which it may determine in its full and absolute discretion for a period of eight (8) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

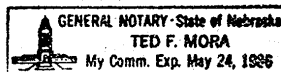
3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarants have caused these presents to be executed this 7 day of October, 1982.

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BOOK 55 OF Microfilm MICHAEL F. ROGERS
PAGE 690
1982 OCT 26 AM 9:59
FRANKLIN P. ROGERS
"Declarants"

STATE OF NEBRASKA)
COUNTY OF DOUGLAS)
REGISTER OF DEEDS
ss.:
Carl A. Hildner

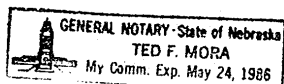
The foregoing instrument was acknowledged before me this 7 day of October, 1982, by MICHAEL F. ROGERS.



Ted F. Mora
Notary Public

STATE OF NEBRASKA)
COUNTY OF DOUGLAS)
ss.:

The foregoing instrument was acknowledged before me this 7 day of October, 1982, by FRANKLIN P. ROGERS.



Ted F. Mora
Notary Public