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BOOK 58 OF Misc Rec  
PAGE 2124

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*Carl L. Hibbeler*  
REGISTER OF DEEDS

**DECLARATION**

**OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR HERITAGE HILLS**

Lots 1 through 93, Inclusive

THIS DECLARATION, made on the date hereinafter set forth by HERITAGE HILLS JOINT VENTURE, a Joint Venture organized under and subject to the Uniform Partnership Act of Nebraska, hereinafter referred to as the "Declarant",

**WITNESSETH:**

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

Lots 1 through 93, inclusive, in Heritage Hills a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska;

and

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, 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.

*Declarant*  
12292

ARTICLE I  
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 a 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 or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1 through 93, inclusive, in Heritage Hills, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map of the Properties, including lots and outlots.

D. "Declarant" shall mean and refer to Heritage Hills Joint Venture, its successors and assigns.

E. "Architectural Control Committee" shall mean the individual or committee initially appointed by the Declarant, its successors or assigns.

ARTICLE II  
ARCHITECTURAL CONTROL

A. No dwelling, fence (other than fences constructed by Declarant), wall, driveway, patio, patio enclosure, deck, rock garden, clothes lines, swimming pool, exterior television or radio antenna, TV satellite discs, solar collecting panels or equipment, air-conditioning equipment, wind-powered generating 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 without express written prior approval of the Declarant through its Architectural Control Committee, or its permission by implied approval procured in the manner set forth in Paragraph D below.

B. The following improvements are prohibited and not allowed in the subdivision:

1. Solar panels installed on any corner lot, or which are mounted in any location other than the rear roof of a residential dwelling;

2. Driveways made of materials other than concrete, concrete brick pavers or clay fired brick pavers;
3. Detached sheds or other outbuildings.
4. Chainlink or other wire fences or enclosures.

C. The Declarant, through its Architectural Control Committee, shall consider general appearance of the proposed house and lot, 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 of proposed improvements for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Similar designs, forms, plans, styles or motifs will be considered repetitive if they are not separated by at least three adjacent lots regardless of orientation. Superficial, cosmetic or minor architectural detail differences in like designs will not constitute a basis for approval. The right is specifically reserved to the Architectural Control Committee to deny permission to construct, add 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.

D. 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 documents, materials and/or drawings:

1. Site plan showing specific improvement and its relationship to the Lot and other prior improvements on the Lot and indicating Lot number, street address, grading, surface drainage and sidewalks.
2. Complete construction plans, including, but not limited to, basement 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.
3. An architectural review fee of Fifty Dollars (\$50) per improvement plan per lot will be charged. Said fee is

subject to adjustment or waiver if so determined by the Architectural Control Committee. Additional review fees will be required for resubmissions for the same lot or alterations or additions to previously reviewed submittals. If construction has commenced on any lot without Architectural Control Committee approval, the review fee will be One Hundred Dollars (\$100). The applicant's name, address and telephone number shall appear on each set of plans submitted to the Architectural Control Committee. If applicant wishes that his plans be returned via the mail, he shall include with his submittal an additional Two Dollars (\$2) for postage and handling.

E. 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 of submitted plans within thirty (30) days after receipt of all of the documents and the fee required above, by mailing such written approval or disapproval to the last-known address of the applicant as shown on the submitted plans, shall constitute an approval of the application.

**ARTICLE III**  
**RESTRICTIONS FOR SINGLE FAMILY RESIDENTIAL DWELLINGS**

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

<u>Type of Dwelling</u>	<u>Minimum Area</u>	<u>Location of Area</u>
1. One-story house with attached garage	1100 sq. ft.	On the main floor, exclusive of garage area (garage must be approximately at the same level as the main floor)
2. One-story house with basement garage	1200 sq. ft.	On the main floor
3. One and one-half and two-story houses	1700 sq. ft.	Total area above the basement level, and 900 sq. ft. minimum area on the main floor

- |                                  |              |                        |
|----------------------------------|--------------|------------------------|
| 4. Split entry (bi-level house)  | 1200 sq. ft. | On the main floor      |
| 5. Tri-level (split level) house | 1600 sq. ft. | Total area above grade |

C. 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). Area means finished habitable space, measured to the exterior of the enclosing walls, but does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even though it is one hundred percent above grade on one side, so long as it is at least fifty percent (50%) below grade on the other three (3) sides. All dwellings shall have an attached, enclosed, side-by-side, two-car garage minimum which must contain an area of at least four hundred (400) square feet.

D. All buildings, except those constructed on Lots 80 through 89, shall be located at least twenty-five feet (25') from the front Lot line. The buildings on Lots 80 through 89 shall be located not less than 20.5 feet from the front lot line. All buildings shall be located at least seven feet (7') from the side Lot lines, and at least twenty-five feet (25') from the rear Lot line. On corner Lots, either street side may be designated by the Owner as the front, and either nonstreet side as the rear, for purposes of determining compliance herewith, but buildings must be at least twenty feet (20.0') from the other street side Lot line. For purposes of this restriction, eaves, open patios and steps shall not be considered part of the building.

E. 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, shall be covered with clay-fired brick, stone, siding, or shall be painted. 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.

F. In the event that a fireplace is constructed as a part of a dwelling on any Lot, except a corner Lot, and said fireplace and/or the enclosure for the fireplace flue, is constructed in

such a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the fireplace and/or the enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling, the enclosure of the fireplace and flue may be constructed of, or finished with, the same materials as is the dwelling at the point from which the fireplace and/or the flue protrudes. Notwithstanding the foregoing, when any fireplace is constructed as a part of a dwelling on any corner Lot, and said fireplace and/or the enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the dwelling, or is exposed above the roof, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. The parts of all pre-fabricated metal furnace flues that protrude from the roof of a dwelling must be painted and no furnace flue may protrude more than five feet (5') 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. In the event that a dwelling is constructed without a fireplace, the furnace flue must then be faced with clay-fired brick or stone above roof level. All furnace flues must be located on the rear side of the roof ridge.

G. No fences may be built forward of the rear-most wall of the house and, under no circumstances, closer to any adjoining street than the property line. Fences shall be constructed only of wood, decorative iron, brick or stone, and require prior 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.

H. No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be erected on said 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 pre-cut 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.

I. No primarily flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes or wood shingles.

58-2124F

J. 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 Bellevue, and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

K. The Declarant has created a water drainage plan by grading the Properties and installing improvements 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.

L. No stable or other shelter for any animal, livestock, 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.

M. 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 maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. Any exterior air conditioner condensing units or heat pump units shall be placed in the designated rear yard of the dwelling and in no case closer than ten feet (10') to the neighboring property line. Detached accessory buildings or sheds, whether or not permanently affixed to the ground, are not permitted.

N. 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 of the garage. 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 trailers, van-type campers, auto-drawn trailers

of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles 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 the 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.

O. All Lots shall be kept free of rubbish, debris, merchandise and building materials; however, building materials may be placed on Lots during construction of 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 other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant lots where capital improvements have not been installed shall be allowed to reach a maximum height of more than twelve inches (12").

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

Q. 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.

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

S. 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.

T. 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.

U. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" signs, not exceeding six square feet (6') 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 its agents, in the development of Heritage Hills.



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V. None of said Lots shall be subdivided, split or in any manner combined with any other Lot, or portion of any other Lot, unless the resulting parcel shall contain at least as much area as the smallest of the Lots used in assembling the resulting parcel.

W. The front, side and rear yards of all Lots shall be sodded, and at least one tree not less than two (2) caliper inches in diameter, shall be planted in the front yard, and one such tree in the rear yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall, in any event, be sodded and the trees planted within four (4) months from the date the dwelling on the Lot is completed. The trees referred to above shall be any tree of the deciduous variety that appears on the "recommended" or "highly recommended" list of trees published by the Forestry Division of the City of Omaha, from time to time.

ARTICLE IV  
EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the Northwestern Bell Telephone Company, the Sarpy County franchised cable television firm, and to Omaha Public Power District, their successors and assigns, 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 television under an eight-foot strip of land adjoining the rear boundary lines and a five-foot strip of land adjoining the side boundary lines of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any of said utility companies fail to construct wires or conduits along any of the said lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within sixty (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 a perpetual easementway, but the same may be used for gardens, shrubs, landscaping and othe purposes that do not then or later interfere with the aforsaid uses or rights herein granted.

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

58-2124I

ARTICLE V  
GENERAL 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 this Declaration, 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 this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, and shall thereafter continue for successive periods of ten (10) years each, unless amended within one (1) year of the expiration of the initial or any subsequent ten-year period by the written consent of the record titleholders of at least eighty percent (80%) of the Lots in the subdivision. (This Declaration may be amended, when necessary to facilitate the utilization of the property in accordance with the spirit hereof, 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 record titleholders of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. 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 Declarant has caused these presents to be executed this 26th day of September, 1985.

DECLARANT:

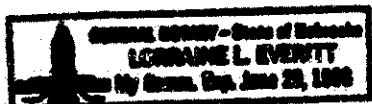
HERITAGE HILLS JOINT VENTURE

By   
Managing Partner

58-2124J

STATE OF NEBRASKA )  
                                  )     ss.  
County of Douglas    )

The foregoing instrument was acknowledged before me on  
September 26, 1985, by Meyer H. Goldman  
Managing Partner of Heritage Hills Joint Venture.



Lorraine L. Everett  
Notary Public