

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS, AND EASEMENTS**

Ronald D. Offutt and Karen G. Offutt, (“DECLARANTS”) hereby make this DECLARATION on this ____ day of December, 2002.

BACKGROUND

Declarants are the Owners of certain property in Fargo, County of Cass, State of North Dakota, which is more particularly described as:

COULEE’S CROSSING ADDITION

Declarants have caused the Plat of Coulee’s Crossing Addition to be recorded on August 16, 2002, as Document No. 1024982 in the Office of the County Recorder of Cass County, North Dakota, subdividing the above described real estate. Declarants will convey the parcels of real estate comprising said addition subject to certain protective covenants, conditions, restrictions, reservations, and easements as hereinafter set forth.

DECLARATION

Declarants hereby declare that all of the properties described herein shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These covenants, conditions, restrictions, reservations, and easements shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the properties herein described or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

Section 1.

“Properties” shall mean and refer to each and every parcel, and all portions thereof, of the real property hereinbefore described and the additions thereto.

Section 2.

“Lot” shall mean and refer to any plot of land shown upon any recorded Plat of the properties. If a Lot as shown on the Plat or a portion thereof, is added to an adjacent Lot, then the same shall be considered as one Lot for purpose of this Declaration.

Section 3.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot (as defined in Section 2 of this Article) which is a part of the Properties, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 4.

“Declarants” shall mean and refer to Ronald D. Offutt and Karen G. Offutt their successors and assigns if any successors or assigns should acquire a majority of the undeveloped Lots for the purpose of development.

Section 5.

“Coulee’s Crossing Addition” shall mean that certain property in Fargo, County of Cass, State of North Dakota, which is more particularly described as follows:

A PART OF THE SE¼ OF SECTION 35, TOWNSHIP 139 NORTH, RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35; THENCE NORTH 04°30’27” WEST ALONG THE EAST LINE OF SAID SECTION 35 FOR A DISTANCE OF 1,746.50 FEET TO THE NORTHEAST CORNER OF MEADOW CREEK ADDITION TO THE CITY OF FARGO, THE POINT OF BEGINNING; THENCE SOUTH 88°02’47” WEST ALONG THE NORTH LINE OF SAID MEADOW CREEK ADDITION FOR A DISTANCE OF 1,210.92 FEET TO A POINT ON THE CENTERLINE OF CASS COUNTY DRAIN #53; THENCE NORTH 59°57’14” EAST ALONG THE CENTERLINE OF SAID CASS COUNTY DRAIN #53 FOR A DISTANCE OF 142.60 FEET; THENCE NORTHEASTERLY ALONG THE CENTERLINE OF SAID CASS COUNTY DRAIN #53 ALONG A CURVE TO THE LEFT (R = 286.48’, Δ = 39°29’59”) FOR AN ARC DISTANCE OF 197.50 FEET; THENCE NORTH 20°30’14” EAST ALONG THE CENTERLINE OF SAID CASS COUNTY DRAIN #53 FOR A DISTANCE OF 26.70 FEET; THENCE NORTHEASTERLY ALONG THE CENTERLINE OF SAID CASS COUNTY DRAIN #53 ALONG A

CURVE TO THE LEFT (R = 477.46, Δ = 30°00'00") FOR AN ARC DISTANCE OF 250.00 FEET; THENCE NORTH 09°29'46" WEST ALONG THE CENTERLINE OF SAID CASS COUNTY DRAIN #53 FOR A DISTANCE OF 305.70 FEET; THENCE NORTHEASTERLY ALONG THE CENTERLINE OF SAID CASS COUNTY DRAIN #53 ALONG A CURVE TO THE RIGHT (R = 150.94', Δ = 46°54'20") FOR AN ARC DISTANCE OF 123.57 FEET TO A POINT ON THE NORTH LINE OF THE SE¼ OF SAID SECTION 35, SAID POINT ALSO LYING ON THE SOUTH LINE OF OAK CREEK ADDITION TO THE CITY OF FARGO; THENCE NORTH 88°03'47" EAST ALONG THE NORTH LINE OF SAID SE¼ AND THE SOUTH LINE OF SAID OAK CREEK ADDITION FOR A DISTANCE OF 880.00 FEET TO THE TO THE NORTHEAST CORNER OF SAID SE¼ AND SOUTHEAST CORNER OF SAID OAK CREEK ADDITION; THENCE SOUTH 04°30'27" EAST ALONG THE EAST LINE OF SAID SE¼ FOR A DISTANCE OF 899.65' FEET TO THE POINT OF BEGINNING.

ARTICLE II. ARCHITECTURAL CONTROL

Section 1. Coulee's Crossing Architectural Review Committee.

There is hereby established the Coulee's Crossing Architectural Review Committee ("Review Committee") for the Properties which shall be comprised of the Declarants until the time that residences have been constructed and completed on all of the Properties or until the time that the Declarants decide to divest themselves of responsibility for architectural control. When such control is relinquished, the responsibility shall be vested in a committee comprised of three Owners who shall be elected by all Lot Owners in the subdivision. The elected Committee shall, at that time, adopt a meeting schedule and rules of operation.

Section 2. Procedure for Submission of Plans and Specifications.

Two (2) copies of Plans (for which receipt must be acknowledged in writing) shall be submitted to the Review Committee. Approval or disapproval of the plans shall be made in writing within ten (10) business days after the receipt of the plans. In the event the Review Committee fails to approve or disapprove of the plans and related documents within ten (10) business days, said plans shall be considered as approved. Approval shall not be arbitrarily withheld or delayed, it being the intention of the Review Committee to grant or withhold approval for the purpose of establishing a quality, restricted residential district, free from objectionable or value destroying features and in conformity with the governing zoning codes, building codes and other applicable regulations then in force.

Section 3. General Requirements.

A. The construction, placement or maintenance of buildings, fences, mailboxes, drives, sidewalks, walls, pools, play equipment, other structure of any kind or nature, and landscaping shall be subject to architectural control. The review standards are divided into the construction and post-construction phases as provided herein.

No building, fence, mailbox, drive, sidewalk, wall or other structure shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made, nor shall any landscaping be performed until the plans and specifications showing the nature, kind, shape, height, materials, workmanship, and location of the same shall have been submitted to and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography by the Review Committee.

B. Plans submitted for approval shall include the following:

1. House plans, including:
 - a. floor plans
 - b. building elevations
 - c. construction materials and specifications
2. Site plans, which indicate:
 - a. building land coverage and location which must also conform to the standards of the SR-2 zoning
 - b. location, size and surface type of all drives
 - c. location and type of all exterior lights
 - d. general site grading plan including existing and proposed contours
 - e. landscaping plans
3. Accessory Structures, which include:
 - a. pools and pool houses
 - b. storage and utility buildings

- c. gazebos
- d. additional garage structures

4. Any and all solar heating devices, whether installed at the time of erection of a dwelling or thereafter, must be approved by the Review Committee pursuant to the procedures described in this Article.

Section 4. General Standards.

A. Each Lot shall be restricted to construction of 1 single-family residence with either a 2, 3, or 4 car attached garage.

B. The following minimum square foot requirements for the ground floor space, not including basements, open porches, or garages apply:

- 1. 1740 square feet for a standard one-story; and
- 2. 1200 square feet for a 2 story or 2 1/2 story

All 2 story or 2½ story dwellings must have a total square footage of at least 2400 square feet not including the basement, garage or porch area. A reduction in the square footage with respect to any of the above Lots may be granted by the Review Committee at any time. Any reduction shall be evidenced by a written certificate of variance issued by the Review Committee.

C. Siding shall be of appropriate material for the house style. Bright and obtrusive colors shall be prohibited.

D. The desired standard for roof pitch shall be a minimum of 6:12. However, with Review Committee approval, the pitch may be reduced when deemed appropriate to house style and fit with adjacent homes. Houses shall be no more than 2 1/2 stories high nor shall they be more than 35 feet high.

E. No building shall be moved onto any lot, unless permission is granted in writing by the Review Committee.

F. Homes of earth sheltered design shall not be permitted.

Section 5. Construction Phase Standards.

A. Siting The House

1. The Review Committee shall review the siting of the house on the Lot to ensure proper visual appeal, privacy between houses, elevation relative to the street, adjacent houses and ground forms,

proper use of design, driveway and drainage. Such review and approval shall in no way represent any assurance as to engineering or architectural design propriety nor incur any liability of the part of the Review Committee as to proper function, design, or safety.

2. Houses shall be sited on the Lots in a manner, which shall maximize open yard areas and privacy between houses.

B. Site Design

1. Driveways. Driveways and parking areas shall be constructed of concrete unless otherwise approved by the Review Committee.

2. Public Sidewalks. Concrete sidewalks shall be constructed in a uniform manner in compliance with the applicable standards of the City of Fargo. All sidewalks shall be completed at the same time as the driveways are installed.

3. Walkways. Other walkways shall be constructed of concrete, brick, or other hard-surfaced material approved by the Review Committee.

4. Mailboxes. All mailboxes shall be erected to conform with the design established by the Review Committee or approved by the Review Committee. The design has been established to provide uniformity throughout Coulee's Crossing Addition.

5. Fences. All fences must be approved by the Review Committee. Any fence built on a Lot shall be constructed of quality materials, harmonious and consistent with the contour of the land and buildings located on the Lots, and shall be thereafter maintained in a neat appearing condition. No fence shall be constructed to extend beyond the front of the primary structure facing the front of the Lot (that side of the Lot facing a street). Chain-link fences are prohibited.

6. Lawns. All Lots shall be sodded and/or seeded prior to occupancy of the house with grasses indigenous to this area. If weather conditions do not permit, the Review Committee may grant a time of extension. Sod shall be placed in all practicable areas where grass growth is intended. The remainder of the yard may be sodded or seeded in a manner, which will produce sufficient vigorous grass growth, which provides the same appearance and growth character as the sod placed.

7. Landscape materials. All landscape materials used shall be hardy and appropriate to the area

and use on the site.

8. Construction Time and Requirements. Construction of all primary structures shall be substantially completed within twelve (12) months after issuance of any building permit for the structure. Landscaping shall be completed as soon as weather permits following substantial completion of the primary structure. No outside storage of building materials shall be permitted on any Lot after the twelve (12) month construction period. No such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion within the time prescribed herein, is in compliance with applicable, federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. No construction activity shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Lot Owner or the Owner's family.

9. Sight Distance at Intersections. No fence, wall, hedge, or shrub planting, which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines. Sight-line limitations shall also apply within two (2) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of site-lines.

Section 6. Post Construction Phase Standards.

A. House and Structures.

Additions to houses and structures, remodeling or reconstruction shall be subject to the same restrictions and conditions as the original house construction. Care shall be taken to assure that alterations of the building exterior are of the same style as the existing house. Materials used and considerations made by the Review Committee in review of the plans shall be the same as for the Construction Phase standards.

B. Exterior Maintenance.

Each Lot and the building(s) erected thereon shall at all times be maintained in a neat condition and appearance commensurate with the character of the subdivision.

ARTICLE III. USE RESTRICTIONS

Section 1. Building Setback.

The building setback lines shall be as required by zoning requirements of the City of Fargo and as further restricted by easements as shown by the final recorded Plat of Coulee's Crossing Addition which is hereby made a part of this Declaration. Whenever any of these covenants and restrictions may be at variance with any existing zoning codes or ordinances applicable to Coulee's Crossing Addition, the more restrictive regulation shall apply.

Section 2. Utilities.

Temporary overhead telephone lines and electric light and power lines shall be permitted until permanent underground facilities are installed. Otherwise, all utility lines shall be underground and no outside lines shall be placed overhead, except during emergencies and repairs.

Section 3. Easements.

Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the final recorded Plat of Coulee's Crossing Addition. Within these easements, no structures, plantings, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or rate of flow of drainage channels or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. No utilities shall be placed on the boundary line of the easement as shown on the Plat on record in the Office of the Recorder, Cass County, North Dakota.

All claims for damages, if any, arising out of the construction, maintenance, and repair of the utilities or any account of temporary or other inconvenience caused thereby against the Declarant or any utility company or municipality or any of its agents or servants are waived by the Owners. Declarant reserves the

right to change, layout new or discontinue any street, avenue, or way shown on the Plat of Coulee's Crossing Addition, which is not necessary for ingress or egress to and from a Lot, subject to the approval of the appropriate governing authority of the City of Fargo if such approval is required.

Section 4. Drainage Control.

In order to provide grading which will divert water away from buildings and prevent standing water and soil saturation detrimental to structures and Lot use, the finish grade at each foundation wall shall in no event be less than a height which will provide the Lot with a minimum vertical fall of six (6) inches in the first ten (10) feet from foundation and a minimum gradient thereafter of Lot lines of not less than one-quarter (1/4) inch per foot (2%).

Section 5. Oil and Mining Operations.

No oil drilling, oil development operations, oil refining, coring or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or located upon any property in Coulee's Crossing Addition.

Section 6. Antennae.

There shall be no free-standing antennae and any antennae attached to a roof shall not be more than three feet high above the highest point of the roof, shall be located on the back-side of the roof, and must be approved by the Review Committee.

Section 7. Satellite Dish.

Placement of satellite dishes shall be in rear yards only, and must be approved by the Review Committee. No satellite dish of more than 28 inches in diameter shall be installed or permitted on any Lot.

Section 8. Lot Subdivision.

No Lot shall be subdivided into smaller Lots or areas other than as originally platted, except this restriction shall not prevent a Lot from being divided for the purpose of adding it to an adjacent Lot or portion thereof.

Section 9. Signs.

No signs of any kind shall be displayed to the public except one professional sign of not more than one square foot, and one sign of not more than six square feet advertising the property for sale. In addition, builder's signs may be displayed during the construction phase and permanent signs for the development may be erected at the entrances of Coulee's Crossing Addition.

Section 10. Nuisances.

No obnoxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood. No Lot shall be used in whole or in part for storage of rubbish of any kind whatsoever nor for the storage of any property or things that will cause such Lot to appear untidy, unclean, or obnoxious to the human eye; nor shall any substance, thing, or material be kept on any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort and serenity of the Owners of the surrounding Lots. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any such premises without the prior written approval of the Review Committee.

Section 11. Animals.

No animals, livestock, poultry nor insects shall be raised, bred or kept on any Lot except for dogs, cats and other common household pets, provided they are not kept, bred or maintained for commercial purposes.

Section 12. Disposal of Garbage and Refusal.

No garbage, garbage cans, ashes, refuse, or trash receptacles shall be allowed on a Lot exposed to view (except as required by the City of Fargo to facilitate garbage pickup) and no outside incinerator shall be permitted. No burning of rubbish outside of a residence shall be permitted. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

Section 13. Propane Tanks.

No combustible liquid or gas tanks, exposed to view, shall be allowed on the Properties.

Section 14. Temporary Residences.

No trailer, mobile home, motor home, tent, shack, garage, barn, basement, house or other building shall be used as a residence either temporarily or permanently nor shall any residence of a temporary character be permitted.

Section 15. Occupancy.

No private dwelling house erected upon any Lot shall be occupied in any manner while in the course of construction nor at any time prior to full completion. Nor shall any residence, when completed, in any manner be occupied until made to comply with the approved plans and all covenants, conditions, reservations and restrictions herein set forth.

Section 16. Vehicles.

No recreational vehicles, including without limitation, motor homes, boats, snowmobiles, motorcycles or all-terrain vehicles shall be stored or parked on any Lot (unless enclosed in a garage or storage building) except while in transit or while loading or unloading on a Lot. All motor vehicles kept on or about a Lot shall be currently licensed and shall be maintained in an operable condition at all times, temporary mechanical difficulties and breakdowns excepted.

Section 17. Basement Dwellings.

No basement shall be constructed for temporary residential purposes and no basement structure shall be used for residential purposes unless and until the entire primary structure has been erected thereon and complies with the building code of the City of Fargo and this Declaration.

Section 18. No Hazardous Activities.

No activities shall be conducted on the Properties and no improvements constructed on the Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Properties; and no open fire shall be lighted or permitted on the Properties except in a contained barbecue while intended and in use for cooking purposes or within a safe and well designed interior fireplace.

Section 19. Mortgages.

The breach of any of the foregoing covenants, conditions, reservations, or easements shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any Lot or Lots

or any portions of Lots on the Properties but these covenants, conditions, reservations, and easements shall be binding upon and effective against any mortgagee or trustee or Owner whose title or whose grantor's title is or was acquired by foreclosure, trustee sale or otherwise.

Section 20. Basketball Backboards and Hoops.

No basketball backboards or hoops shall be attached to any structure on any Lot. A separate pole for installation of such equipment erected and maintained at the expense of the Lot Owner shall be permitted. Portable backboards and hoops are also permitted.

Section 21. Clotheslines.

Clotheslines or other exterior clothes drying apparatus are prohibited.

ARTICLE IV. GENERAL PROVISIONS

Section 1. Enforcement.

Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages and the prevailing party shall be awarded reasonable attorney's fees and court costs in connection therewith.

Section 2. Right to Enforce.

The restrictions set forth shall run with the land and bind the present Owner or Owners, their heirs, executors, administrators, successors and assigns and all parties claiming by, through or under them, shall hold and hereby agree and covenant with the Owners of said Lots, their heirs, executors, administrators, successors and assigns and with each of them, to conform to and observe said restrictions as to the use of said Lots hereby restricted and the construction of improvements thereon. No restriction, however, shall be personally binding on any person except in respect to breaches committed during their ownership of the particular property upon which such violations occurred. For any violation of the restrictions herein set forth the Owner or Owners of any Lots shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce legal action for damages against the offender only. Failure of the Declarant or the Owner of any Lot or Lots to enforce any of the restrictions herein set forth at the time of violation, shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability.

Invalidation of any one of or a portion of the provisions of this Declaration by court judgment or order shall neither affect nor invalidate any other provisions, and the same shall remain in full force and effect.

Section 4. Dedicated Right.

The Properties shall be subject to any and all rights and privileges which the City of Fargo or the County of Cass or the State of North may have acquired through the dedication or the filing or recording or maps or plats as authorized by law and provided further that no covenants, conditions, reservations, restrictions, easements or acts performed shall be in conflict with any zoning ordinance, land use law, building code or other applicable law of the City of Fargo, County of Cass, or the State of North Dakota.

Section 5. Term of Declaration.

The covenants, conditions, restrictions, reservations, and easements of the Declaration shall run with the land and bind the same, and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to this Declaration, and/or the Owner's respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time the covenants, restrictions, conditions, reservations, and easements shall be automatically extended for successive periods of ten (10) years.

Section 6. Amending the Declaration.

This declaration of covenants, conditions, restrictions, reservations, and easements may be amended by the Declarants until they divest themselves of the responsibility for architectural control. After that time, this Declaration may be amended by an instrument signed by the Owners of not less than 80% of the Lots. Any instrument amending, modifying or canceling this Declaration must be properly filed and recorded before it shall be effective.

The Declarants, being the owners of Coulee's Crossing Addition to the City of Fargo, North Dakota, hereby impose and consent to the foregoing Declaration of Covenants, Conditions, Restrictions, Reservations, and Easements and subject our interests thereto.

Ronald D. Offutt

Karen G. Offutt

STATE OF NORTH DAKOTA

COUNTY OF CASS

The foregoing instrument was acknowledged before me this _____ day of December, 2002,
by Ronald D. Offutt and Karen G. Offutt, husband and wife.

Notary Public