

DECLARATION OF PROTECTIVE COVENANTS

Dated June 18, 1973  
Filed June 18, 1973 at 8:55 A.M.  
Recorded in Book 49 of Micro  
Records at page 982

WHEREAS, the undersigned filed a plat of certain lands in Missoula County, Montana, known as Lincolnwood Addition No. 7 to the city of Missoula, Montana, with the Clerk and RECorder of said County on the 18th day of June 1973, at 8:50 A.M., which plat was filed as Document Number 333467.

WHEREAS, the undersigned are the owners of all of the lots in said Lincolnwood Addition No. 7 and desire to place restrictions and conditions upon said lots for the use and benefit of themselves, as present owners, and for the future owners thereof.

NOW THEREFORE, this declaration of restrictions and conditions is made to apply to the following property, to wit:

All persons or corporations who now have or shall hereafter acquire any interest in and to the above described property shall be taken and held to agree and covenant with the owners of the lots contained therein, and with their heirs, successors, and assigns, to conform to and observe the following construction of single family dwellings and improvements thereon.

These covenants and restrictions are designed to provide a uniform plan for the development of said Lincolnwood Addition No. 7, and lots contained therein being unimproved. The covenants and restrictions are as follows:

I

LAND USE AND BUILDING TYPE. No lot shall be used except for residential purposes, and no business, trade or manufacture of any sort or nature shall be conducted thereon. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height and a private garage for not more than 3 cars. All structures shall be constructed of new materials, or suitable used materials such as used brick or if approved by the Architectural Control Committee (See Sec. II), and no old buildings whether intended for use in whole or in part as the main residential structure or for use as a garage or other outbuildings, shall be moved upon said premises.

II

ARCHITECTURAL CONTROL. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the architectural control committee as to quality of workmanship and materials, harmony of external design with

existing structures, and as to location with respect to topography and finish grade elevation. Approval shall be provided for in part No. XIX.

### III

SIZE. The ground floor area of the main structure, exclusive of open porches and garages, shall be not less than 1100 square feet for a one story 2 bedroom dwelling, 1200 square feet for a one story 3 bedroom dwelling, 800 sq. feet on the first floor for a dwelling of more than one story. A split entry dwelling with the first floor below grade and the second floor above grade shall have not less than 900 square feet on the floor above grade.

### IV

BUILDING LOCATION. No building shall be located on any lot closer than 21 feet to the front street line, nor closer than 7½ feet to either side lot line, nor closer than 25 feet to the rear lot line; provided, however, that in the case of a corner lot, the set back from the side street line shall be not less than 15 feet. Where other than a lot as dedicated is utilized as a single building site, the side lot lines shall refer only to lot lines bordering the adjoining property owners. For the purposes of this section, the building location shall be considered to be the building foundation line: eaves steps, and open porches shall not be considered as part of the building. Notwithstanding anything to the contrary, the Architectural Control Committee shall have the right to permit reasonable modifications of the setback requirements when in its discretion such action is considered in the interests of the Owners of the properties.

### V

LOT AREA AND WIDTH. No dwelling shall be erected or placed on any lot having an area of less than 9,700 square feet.

### VI

EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

### VII

NUISANCES. 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. Outdoor bar-b-ques are permitted under this section.

### VIII

TEMPORARY STRUCTURES. A mobile home may be placed on a lot by the owner as a temporary residence while his home is being

constructed for a maximum of 240 days at which time it must be removed. No other structure of a temporary character, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. No mobile homes, trucks, exceeding 1 ton capacity, trailers or unsightly vehicles shall at any time be parked or allowed to remain on any of said lots or along curbs. Camp trailers not to exceed 18 feet in length, pickup trucks carrying campers or campers for pickup trucks and not in use, and boats and boat trailers not to exceed 18 feet in length will be permitted only if behind rear building line of the dwelling and completely screened from view. A screening enclosure may be of sufficient height to conceal any of the above described vehicles and may be built to within 7½ feet of the rear or side lot lines provided that the space between the enclosure and the property lines is landscaped and maintained and that the enclosure is kept painted or stained.

#### IX

No boundary fence shall be constructed of materials other than open chain link, split rails, hedge, or shrubbery. A wood fence will be permitted to provide privacy or safety for a play area, patio, or pool, but shall not be constructed nearer than 7½ feet to any property line nor closer to a street line than the building line of the dwelling on the lot. No fence shall exceed 5 feet in height. No portion of a fence nearer the street line than the building line of a dwelling on the lot shall exceed 3 feet 6 inches. Split rail fence will be permitted on the property line around the perimeter of a lot and are not to exceed 3 feet 6 inches in height. The owners of lots 33, 34, and 36 through 41 inclusive may construct a fence of wood or other material along their west property line at a height to suitably screen their lots from any future development of land lying west of Lincolnwood Addition No. 7. No fence or comparable structure shall be constructed or placed on any lot until after the height, type, design, and approximate location therefore shall have been approved by the Architectural Control Committee.

#### X

None of said lots shall be used for residential purposes prior to installation of water flush toilets and all bathrooms, toilets or sanitary conveniences shall be inside the buildings permitted hereunder. Until such time as sewers may be available, all bathrooms, toilets, or sanitary conveniences shall be connected to septic tanks and seepage pits or drainfields constructed according to County Health Department specifications. When and after sewers are available then all such toilets, bathrooms, and sanitary conveniences thereafter installed shall be connected to such sewer system.

#### XI

No store, office or other place of business of any kind, and no hospital, sanitarium, or other place for the care and treatment of the sick or disabled, physically or mentally, nor

any theater, saloon or other place of entertainment shall ever be erected or permitted upon any of said lots, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence on said lots.

XII

There shall be no washing of cars, or repair of cars or other vehicles in streets of said subdivision at any time.

XIII

There shall be no burning of leaves or trash on the paving in any street.

XIV

No advertising signs (except for one "For Rent" or one "For Sale" - per lot), Billboards, unsightly objects or nuisance shall be erected, placed, or permitted to remain on any of said Lots; nor shall the premises be used in any way or for any purposes which may endanger the health or unreasonably disturb the holder of any lot in Lincolnwood Addition No. 7.

XV

No animals or fowl, domestic or wild except cats, dogs or household birds such as canaries, shall be kept on the lands herein conveyed or in the structures thereon and in no case may any animals or fowl be raised or cared for on a commercial basis.

XVI

No structure of any kind shall be erected, permitted or maintained on the easement for Utilities as shown on the plat of Lincolnwood Addition No. 7.

XVII

All garbage shall be stored in containers of metal, plastic, or other suitable material which have a sufficiently tight fitting cover to prevent the escape of noxious odors. All such garbage containers must be either sunk in the ground, stored in a garage, or screened from view in an appropriate enclosure. In accordance with the provisions of this instrument, plans for such enclosures or other structures shall require advance approval by the Architectural Control Committee.

XVIII

Rattlesnake Creek on which certain lots in Lincolnwood Addition No. 7 abut is to be kept in its natural state and no changes in the stream bed will be permitted. Removal of debris as found necessary by the owners of the lots adjacent

to the creek and random placement of rocks on the edge of the creek so as to protect against erosion, may be done with advance approval of the Architectural Control Committee.

## XIX

### ARCHITECTURAL CONTROL COMMITTEE.

(A) MEMBERSHIP. The architectural control Committee is composed of present owners of Lincolnwood Addition No. 7 and Louis H. Maillet, Missoula, Montana. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

### (B) PROCEDURE.

The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction of a dwelling house has been commenced prior to its completion, no approval will be required and the related covenants shall be deemed to have been fully complied with.

### (C) RULES

1. Grade: All houses to be built within Lincolnwood Addition No. 7 shall have a finish lawn grade along the front building line of the house located thereon twelve (12) inches above curb grade immediately in front of each particular house unless otherwise permitted by the Architectural Control Committee.

2. Upon completion of any house built within this subdivision, the builder shall immediately cause the lawn to be readied for seeding and all other general landscaping completed.

3. Survey pins have been placed on the corners of each lot. Upon an agreement to sell any lot, responsibility for the protection of these pins no longer lies with the present owners. It shall become the responsibility of the new purchaser of the lot to caution any contractors operating on the property to protect the pins and any replacement cost will be borne by the purchaser or contractor.

### GENERAL PROVISIONS.

1. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded, after which time covenants shall be automatically extended for successive periods of ten years unless an instrument

signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

2. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

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

IN WITNESS WHEREOF, we have hereunto set our hands the 18th day of June, 1973.

DONALD F. TOMLINSON  
RUTH D. TOMLINSON  
OWNERS

Acknowledged State of Montana, County of Missoula, on June 18, 1973, before Constance M. Shriner, Notary Public for the State of Montana, residing at Missoula, Montana, by Donald F. Tomlinson and Ruth D. Tomlinson. Commission expires July 21, 1974.  
(Notarial Seal)