

## COMPARED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
OAK VALLEY SUBDIVISION - DIVISION I

This Declaration is made by Norman Driver and Marlene Driver, husband and wife, as follows:

WHEREAS, Norman and Marlene Driver are the owners of certain real property, which is more particularly described as follows:

A tract of land located in part of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 25 and part of the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , part of the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , and part of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 36, all located in Township 76 North, Range 44 West of the 5th Principal Meridian, Pottawattamie County, Iowa, more fully described as follows:

Commencing at the Northwest corner of said Section 36 and point of beginning; thence N0°15'53"W along the West line of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 25 a distance of 121.66 feet to the centerline of Lapworth Creek; thence along said centerline with the following courses: S72°02'21"E, 38.13 feet; S62°15'49"E, 56.53 feet; N28°59'31"E, 93.56 feet; N35°52'06"E, 51.79 feet; N83°41'54"E, 128.53 feet; N76°38'37"E, 66.81 feet; S69°39'06"E, 89.56 feet; S49°46'16"E, 85.81 feet; S22°05'51"E, 86.44 feet; S06°20'35"E, 45.27 feet; S09°02'37"E, 29.79 feet to a point on the North line of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 36; thence leaving the centerline of said Lapworth Creek S89°33'58"E along the North line of said NW $\frac{1}{4}$  NW $\frac{1}{4}$  and along the North line of said NE $\frac{1}{4}$  NW $\frac{1}{4}$  a distance of 1162.37 feet to a point on the centerline of Iowa Highway No. 183; thence S20°38'09"W along said centerline a distance of 385.45 feet; thence N69°21'51"W a distance of 200.00 feet; thence S20°38'09"W and parallel with said centerline a distance of 20.40 feet to the beginning of a curve concave Southeasterly having a radius of 916.20 feet and a central angle of 14°22'05"; thence Southwesterly along said curve an arc length of 229.76 feet with a chord bearing and distance of S13°27'06"W, 229.15 feet; thence S83°43'56"E a distance of 200.00 feet to a point on said centerline of Iowa Highway No. 183, said point being on a nontangent curve concave Easterly having a radius of 716.20 feet and a central angle of 54°12'50"; thence Southeasterly along a portion of said curve an arc length of 224.45 feet with a chord bearing and distance of S02°42'36"E, 223.53 feet; thence S75°22'28"W a distance of 247.94 feet; thence S04°26'56"E a distance of 153.06 feet; thence N85°33'04"E a distance of 34.69 feet to a point on the East line of said NW $\frac{1}{4}$  NW $\frac{1}{4}$ ; thence S0°27'29"E along the East line of said NW $\frac{1}{4}$  NW $\frac{1}{4}$  and along the East line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$  a distance of 344.60 feet; thence S89°32'31"W a distance of 400.06 feet; thence N0°30'16"W a distance of 29.52 feet; thence S87°50'01"W a distance of 916.20 feet to a point on the West line of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 36; thence N01°09'49"W along the West line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$  and along the West line of said NW $\frac{1}{4}$  NW $\frac{1}{4}$  a distance of 1355.94 feet to the point of beginning. Said tract contains 46.356 acres, more or less, and is subject to easements of record.

NOTE: The West lines of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 36 are assumed to bear N01°09'49"W for this description.

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and

WHEREAS, Norman and Marlene Driver will convey the said lots as shown in the plat attached hereto subject to certain protective covenants and restrictions as hereinafter set forth; and

NOW, THEREFORE, Norman and Marlene Driver hereby declare that all of the lots as shown on the plat which is attached hereto and made a part hereof as though fully set out, shall be held, sold, and conveyed, subject to the following restrictions and covenants all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property. These covenants and restrictions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described lots or any part thereof, and shall inure to the benefit of each owner thereof.

1. If the present or future owners, users or occupants of any of the said lots, shall violate or attempt to violate any of these covenants, it shall be lawful for any other person or persons owning any part of said real estate to prosecute proceedings at law or at equity against the person violating or attempting to violate any such covenant and either to prevent him from so doing or to recover damages for such violation.

2. Invalidation of any of these covenants, conditions or restrictions by judgment or Order of Court shall in no way affect the enforceability of any of the other covenants, conditions or restrictions set out herein.

3. The following lots shall be used only for single family residential purposes except such lots, or portions thereof, as may hereafter be conveyed or dedicated by the undersigned for recreational, public, church, educational or charitable uses, to wit: Lots 1 through 7; Lots 14 through 18; and Lots 26 through 31 and Lot 54, all of said lots being located within Oak Valley Subdivision - Division I, a subdivision located in Pottawattamie County, State of Iowa.

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4. Prior to any construction or grading on residential lots, the owner must first submit construction plans to the undersigned or their successors, assigns, or any person, partnership, or corporation designated by the undersigned and secure their written approval thereof. Plans shall include site plans showing location of residence, other buildings and structures. Said plans shall include exterior elevations, exterior materials, floor plans, foundation plan, plot plan, landscaping plan, drainage plan, and site lines. In the event the owner contemplates construction of a fence, such plan shall include the type of materials to be used and the location thereof. Within thirty (30) days of receipt of said plans, the undersigned shall either notify the owner in writing of its approval of the plans or its disapproval and the reasons therefor. If the undersigned shall fail to send either notice within a thirty (30) day period, then such plan shall be deemed approved. Said plan shall also include the plans, specifications and diagrams of the septic tank and the well system.

5. Construction on, or improvements, of any residential lot shall be subject to the following restrictions:

- a. No lot shall be used as a building site for a residential structure if the lot has been reduced in area below its originally platted size, unless such lot split, or subdivision, has been approved in writing by the undersigned.
- b. For all lots except 1 and 2, each dwelling shall contain not less than 1,400 square feet of finished living space (exclusive of porches, breezeways and garages) and the foundation walls (exclusive of breezeways and attached garages) must enclose a ground area of not less than 1,200 square feet.
- c. Each residence shall include an enclosed garage for at least two cars (attached, detached or basement).
- d. All the power and telephone service wires shall be buried underground.
- e. Driveways shall be portland concrete or asphalt from the public roadway to the garage.
- f. Construction must commence at least one year after purchase of any lot and must be completed within one year from the time excavation for footings is commenced.

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g. Subject to the restrictions and the location thereof hereinafter noted in Paragraph 7, below, not less than three ornamental or deciduous shade trees must be planted on each residential lot within one year after excavation for footings, and thereafter maintained in good growing condition or replaced if necessary. No existing tree with a trunk over three inches in diameter (measured twelve (12) inches from ground level) shall be moved, removed, damaged or destroyed without prior written approval of the undersigned.

h. All fences to be constructed must be approved with regard to height, materials and location by the undersigned or its successors, assigns, or any person, partnership or corporation designated by the undersigned to insure uniformity.

6. A perpetual easement for the installation and maintenance of utilities and drainage is hereby reserved on behalf of those providing utilities to Oak Valley Subdivision - Division I over, under, through and upon a five (5) foot strip of land on the front and side lot lines and a ten (10) foot strip of land on the rear lot lines except that along the lot line common to Lots 4 and 18 the easement shall be twenty (20) feet, ten (10) feet on either side of said line. No permanent buildings, trees, or retaining walls or loose rock shall be placed in the said easement ways but the same may be used for gardens, shrubs, landscaping and other purposes that do not then, or later, interfere with the aforesaid uses and rights granted herein.

7. No garden or field crops shall be grown upon that portion of any lot nearer to the street than provided for minimum building set back lines. No trees, shrubs, hedges or other plants shall be maintained or permitted in such proximity to any lot as will interfere with use or maintenance of any street or walk or the unobstructed view of street intersections sufficient to the safety of pedestrians and vehicles. The owner shall take whatever steps are necessary to control noxious weeds on his real estate. Ground cover shall be maintained on all lots in order to prevent erosion. Any and all dead trees and shrubbery must be removed at the owner's expense.

8. None of the land shall be used in whole or in part for the storage of any property or thing that will cause the land to appear in an unclean or untidy condition, or that will be obnoxious

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to the eyes, nor shall any substance or materials be kept upon the land that will emit a foul or noxious odor, or cause any noise or will, or might, disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property. No firearms or guns of any type or nature shall be fired or discharged upon, over, or across any lands in the subdivision unless approved by the undersigned. All rubbish, trash, and garbage shall be removed from the subdivision, shall not be burned by open fire, incinerator, or otherwise on the subdivision or any part thereof.

9. No dwelling house constructed in another area or addition and no prefabricated house may be moved onto or be permitted to remain on any lot or portion thereof in this subdivision, without the prior written approval of the undersigned. All trailers, boats or other recreational or business vehicles shall be stored in either enclosed structures or to the rear of the rear building line of the residence. All trucks shall be kept in enclosed structures and trucks shall not be permitted to be parked in driveways or on the public streets. No outside TV or radio antennas may be erected on any lot or any portion of a lot without the prior written approval of the undersigned. All signs or billboards or any type or nature whatsoever shall be placed on, constructed or erected on any lot or portion of a lot without the prior written approval of the undersigned.

10. These covenants, conditions and restrictions shall run with and bind the land, for a term of 25 years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten years. Any amendments hereto shall be approved by an instrument signed by the owners of not less than 75% of the lots in this subdivision and shall be recorded.

Dated this 13 day of September, 1978.

Norman Driver  
Norman Driver

Marlene Driver  
Marlene Driver

**COMPARED**  
RESOLUTION

# 78-25

WHEREAS, a proposed final plat for Oak Valley Subdivision - Division I in Pottawattamie County, Iowa, has heretofore been filed with the Board of Supervisors for its study and approval; and said proposed final plat has been referred to the Pottawattamie County Engineer and the Pottawattamie County Zoning Commission and has been approved by each; and

WHEREAS, this Board of Supervisors has heretofore studied and considered said plat and the improvements proposed to be made and said plat, together with the plans and specifications of said improvements have been examined and found to conform with the provisions of Chapter 409 of the Code of Iowa and Section 79 of the Pottawattamie County Zoning Ordinance; and all requirements for improvements and utilities as shown on said plat, and all bonding arrangements, including a performance bond for the completion of said improvements and a maintenance bond for said public improvements have been filed and approved by the County Engineer for the completion and maintenance of said improvements as required by statute, said bonds containing adequate surety for the performance of the completion of the improvements and their maintenance:

NOW, THEREFORE, BE IT RESOLVED  
BY THE SUPERVISORS OF POTTAWATTAMIE COUNTY, IOWA  
that the proposed final plat of Oak Valley Subdivision - Division I in Pottawattamie County, Iowa be, and the same is, hereby finally accepted and approved as a platted subdivision in Pottawattamie County, Iowa, and the Chairman of the Board of Supervisors and the Pottawattamie County Auditor be, and they are hereby, authorized, empowered, and directed, upon adoption of this Resolution, to certify a true copy hereof to the Pottawattamie County Recorder for recording.

The foregoing Resolution was duly adopted this 18th day of September, 1978.

BOARD OF SUPERVISORS

BY Don Smith  
Don Smith, Chairman

ATTEST:

Douglas Primmer  
Douglas Primmer, County Auditor and  
Board Secretary

Approved  
Charles E. Hales  
Charles E. Hales  
Pottawattamie County Engineer

# COMPARED

We, Don Smith, Chairman of the Pottawattamie County Board of Supervisors, and Douglas Primmer, Pottawattamie County Auditor and Board Secretary, do hereby certify that the above and foregoing Resolution is a true and exact copy of that Resolution adopted the 17 day of September, 1978 and approving the platting of Oak Valley Subdivision - Division I. This certification is made to the Pottawattamie County Recorder for the recording of said Resolution and the platting.

BOARD OF SUPERVISORS

BY: Don Smith  
Don Smith, Chairman

ATTEST:

Douglas Primmer  
Douglas Primmer, County Auditor  
and Board Secretary

79-14467

Oak Valley Subdivision Division 1

COMPARED

5-20 5-19

AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
OAK VALLEY SUBDIVISION-DIVISION I

Come now, Norman Driver and Marlene Driver, being the owners and title holders of all lots located within the above named Subdivision and hereby amend said covenants, conditions and restrictions in the following particulars;

1. Lot 3, Oak Valley Subdivision-Division I, is excepted from the requirements of Paragraph 3 of the conditions and covenants.
2. Lot 3, Oak Valley Subdivision-Division I, shall be excepted from the requirements of Paragraph 5-b, c, and g.

IN WITNESS WHEREOF, we the undersigned, owners and title holders, of all lots in said Subdivision have hereunto set our hands this

5 day of January, 1979.

*Norman Driver*

*Marlene T. Driver*

Norman Driver

Marlene Driver

STATE OF IOWA )  
 ) ss.  
POTTAWATTAMIE COUNTY)

On this 5 day of January, 1979, before me, a Notary Public, in and for Pottawattamie County, Iowa, personally appeared Norman Driver and Marlene Driver, husband and wife, to me known to be the persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

*R. A. Porter*  
Notary Public R. A. Porter

STATE OF IOWA, Pottawattamie County  
Filed for record the 30 day of January  
1979 at 8 o'clock a.m. and recorded  
in book 79 page 14467

*Mirra Larson*

RECORDED

*ll*

79 14467