

LAND USE COVENANTS APPURTENANT TO AND RUNNING WITH THE LAND

KNOW ALL MEN BY THESE PRESENTS:

JOHN E. APLAND of Belle Fourche, Butte County, South Dakota, hereby declares and represents as follows:

I.

WHEREAS, John E. Apland declares as follows respecting the lands hereinafter described, all of which lands are owned by John E. Apland as of the date of the execution hereof:

1. John E. Apland holds fee title to certain lands located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 24 and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) and the East Half of the Northwest Quarter of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 25, all in Township 8 North, Range 1 East, B.H.M., Butte County, South Dakota. Certain portions of said lands have been surveyed and platted and said platted portions are subject hereof.

2. The lands subject hereof are those certain lands which have been surveyed and platted as evidenced and disclosed by the following plat, recorded in the Office of the Register of Deeds, Butte County, South Dakota, to-wit:

Plat entitled "PLAT OF LOT R1, LOT R2 AND LOTS 1 THRU 34 OF GRANDVIEW SUBDIVISION, LOCATED IN THE SW $\frac{1}{4}$ OF SECTION 24 AND THE NE $\frac{1}{4}$ NW $\frac{1}{4}$ & E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ OF SECTION 25 TOWNSHIP 8 NORTH, RANGE 1 EAST, BLACK HILLS MERIDIAN, BUTTE COUNTY, SOUTH DAKOTA," as recorded on the 24th day of April, 1984 at 2:00 o'clock p.m., in Plat Book 12, on Page 29A, Receiving Number 627-84.

3. The aforesaid properties were surveyed and platted for purposes of developing the same for residential use, accordingly, all the contents hereof are applicable to the aforesaid platted lands.

II.

NOW, THEREFORE, JOHN E. APLAND, as sole owner of the lands heretofore described, for himself, his heirs, executors, administrators, personal representatives, successors, assigns and subsequent grantees and all successors in interest, does hereby declare, create and impose the following land use covenants, restrictions, limitations and qualifications on each and all of the platted parcels of land heretofore described, so as to (i) assure the use of the property for attractive residential purposes, (ii) prevent and minimize nuisances, and (iii) prevent impairment of attractiveness of the properties and thereby afford owners thereof opportunities to preserve and improve property values and to afford such owners and occupants of the lands subject hereof maximum benefit and enjoyment of such properties with no greater restrictions or limitations upon the free and undisturbed use of such lands than is necessary to accomplish and fulfill the purposes and provisions hereof. Accordingly, the following covenants and restrictions regarding land use are hereby created and imposed, each and all of which are appurtenant to the lands and shall run with the lands for the direct benefit of the lands, and any deed, lease, conveyance transfer or contract respecting title or possession of the aforesaid lands, shall be subject to these covenants.

1. Only modern single family private residential dwellings, including structures such as garages and other accessory use buildings necessarily related or appurtenant to normal residential uses, shall be erected, located and maintained on the aforesaid premises. Not more than one (1) such residential unit shall be located upon any two (2) acres of land area within any of the aforesaid tracts in the event the same be subdivided. No dwelling shall have less than nine hundred fifty (950) square feet on the ground floor. All construction of all dwellings and buildings shall be of new material and new construction, and no dwellings or buildings previously located on any site outside of the aforesaid premises shall be moved onto the aforesaid premises. Modular or pre-built dwellings and buildings fulfilling Farmers Home Administration or Veterans Administration specifications may be located on the aforesaid premises. No trailer houses or mobile homes (as defined by the zoning ordinances of the City of Belle Fourche, South Dakota) shall be located or maintained on any of the aforesaid premises, except the same may be located thereon for a single duration of not more than three (3) years.

2. None of the following shall be constructed, erected, located, established or maintained on any of the aforesaid premises, or any portion thereof: junk yards, salvage yards, commercial or public sewage treatment facilities or sewage lagoons, garbage or trash dumps, sanitary land fills, commercial or business operations, commercial agricultural operations or enterprises, any activities or operations which are noxious or offensive by reason of odor, dust, gas, smoke (except that this shall not preclude wood and/or coal heating systems) or noise, any operation, activity or use which has been declared by the South Dakota Supreme Court to constitute a nuisance in a residential area, or any illegal or unlawful activities, trade or business operations.

3. No building or structure shall be erected, located or maintained nearer than twenty-five (25) feet to any boundary line of any tract or any subdivided site thereof. No building or structure shall be located on or over any right-of-way or easement of record contrary to any previous reported restrictions or limitations involving any such right-of-way or easement of record. No building or structure shall exceed thirty-five (35) feet in height as measured from ground level of construction. Nothing in this paragraph shall restrict or abrogate other spacing or location requirements contained herein.

4. The following restrictions apply to all water and sewer systems and all utilities related to any given tract as presently disclosed by the aforesaid plat and to any subdivided sites thereof: (a) owners of individual tracts

shall be responsible for providing, constructing and installing all utilities, water and sewer facilities and shall be responsible for payment of all costs and expenses related thereto, (b) all sewer systems, including septic tanks and drain fields, shall be located at least fifty (50) feet from any adjoining property line, (c) all water systems and all sewer systems shall meet or exceed all local, state or federal requirements and regulations, and (d) no outhouses or privies (either functional or decorative) shall be located on any tract nor shall the same be utilized at any time. There is specifically reserved, and the same is hereby dedicated, adjacent to each boundary line of each platted tract heretofore described, a strip of land ten (10) feet in width within each of said platted tracts, for an easement for utilities, and no buildings or structures shall be placed thereon. All lines, pipes and conduits respecting utilities, including, without limitation, electrical power lines, telephone lines, gas lines, water lines, sewer lines and television cable lines, shall be laid and installed beneath the surface of the land (underground) in such manner(s) and at such depth(s) as may be required by the laws of the State of South Dakota and any regulations related thereto, including regulations of public utility companies.

5. Although domestic animals may be kept on the property, the same shall be so kept only under conditions providing sufficient acreage to properly care for and maintain said animals and under the further condition that said animals do not become a nuisance to owners or occupants of adjoining tracts or subdivided sites. Regardless of the foregoing, no pigs (for any purposes) and no commercial animal operations or enterprises shall be permitted on any of the aforesaid properties or any subdivided sites thereof.

6. All fences and fencing shall be the responsibility of the owners of the individual tracts, and obligations respecting fences and fencing as between adjacent or adjoining tracts shall be determined by the laws of the State of South Dakota, provided, however, that the present owner, being the undersigned, shall not be obligated to locate or construct any fences or fencing whatsoever, nor pay any expenses of fences or fencing or maintenance thereof and to such extent any statutes respecting fence obligations are modified. All fences shall be promptly and properly repaired and maintained.

7. Owners of individual tracts shall be required to install or construct, maintain and keep clear of obstructions, drainage culverts or passages in any roadway approaches to tracts, and any such culverts or passages shall be not less than fourteen (14) inches in diameter. Although no specific landscaping requirements are imposed, the height or slope of any individual tract, or any

subdivided site thereof, shall not be raised or modified to such an extent as to cause unnatural or undue drainage burden on any adjoining tract or on any adjoining roadway easement, and in the event of the creation of such undue or unnatural drainage burden, the owner of such tract causing the same shall be responsible for any liability arising therefrom.

III.

NATURE AND SCOPE OF COVENANTS

1. These restrictions and covenants may be amended, altered or modified at any time by action and approval of the owner or owners of all of the original platted tracts heretofore described provided, however, "owner(s)" regarding any such amendments or modifications shall include seller(s) of any platted tract under any executory contract for deed. In the event any of the aforesaid platted tracts be subsequently subdivided, then and in that event, these restrictions and covenants may be amended, altered or modified at any time by action and approval of the owner or owners of three-fourths (3/4ths) of the total area included in the aforesaid platted tracts. Any authorized amendments, alterations or modifications shall be disclosed by written agreement executed by all necessary and appropriate parties and shall be recorded in the Office of the Register of Deeds, Butte County, South Dakota, before the same shall become effective, provided, however, no such amendments, alterations or modifications shall be construed as affecting vested property rights or interests except as otherwise provided herein.

2. Invalidation of any of these restrictions or covenants, or any portion thereof, by a court of competent jurisdiction shall affect only the restriction or covenant in question or issue and shall not in any way affect any of the other restrictions or covenants herein stated, in which event, all such other restrictions and covenants shall remain in full force and effect.

3. Restrictions and covenants herein contained may be enforced according to the laws of the State of South Dakota as the same pertain to covenants appurtenant to the land.

4. Restrictions and covenants herein contained shall be in force and effect for a period of twenty (20) years from the date of recording hereof, and said restrictions and covenants shall be automatically renewed for an additional twenty (20) years unless otherwise amended, altered or modified according to the provisions hereof.

5. These restrictions and covenants run with the land and are appurtenant to the land for the direct benefit of the land and shall be binding on and inure to the benefit of all parties and respective successors and assigns and any parties claiming by or under them. Any transfer of title by deed or otherwise, including a transfer of title by operation of law, shall be subject to these restrictions and covenants herein contained.

IN WITNESS WHEREOF, the undersigned hereby declares as aforesaid and adopts the within and foregoing LAND USE COVENANTS APPURTENANT TO AND RUNNING WITH THE LAND at Belle Fourche, Butte County, South Dakota, on this 2nd day of May, 1984.

John E. Apland
John E. Apland

STATE OF SOUTH DAKOTA)
) ss
COUNTY OF BUTTE)

On this the 2nd day of May, 1984, before me, Max S. Main, the undersigned officer personally appeared JOHN E. APLAND, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Max S. Main
Max S. Main - Notary Public

My Comm. Exps.: 05/15/86
(NOTARIAL SEAL)



687-84
STATE OF SOUTH DAKOTA, COUNTY OF BUTTE } SS

Filed this 3rd day of May, 1984 at 9:20 o'clock,
Book 231 Page 217 By Paul J. Walker
Register of Deeds

