

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS TO RUN WITH THE LAND
FOR
SUNSET PARK ESTATES**

KENNETH D. HANSEN and ELLEN J. HANSEN, husband and wife, of 46005 196th Street, Estelline, South Dakota 57234, and ROGER D. HANSEN and DIANE L. HANSEN, husband and wife, of 518 12th Street, Prairie Farm, WI 54762, hereinafter referred to as Declarants, hereby make this declaration of restrictive and protective covenants:

WITNESSETH:

WHEREAS, Declarants are the owners of the real property described in Exhibit "A".

WHEREAS, the Declarants intend to develop and improve said tract of land; desire to offer for sale the lots in said plat along with additional lots; and desire to subject said tract of land, together with all the other properties (hereinafter defined), with this Declaration of Covenants, Conditions and Restrictions.

WHEREAS, SUNSET PARK ESTATES HOMEOWNERS ASSOCIATION, is a South Dakota nonprofit corporation created by the Declarants and set up for the benefit of future lot owners to provide among other things maintenance of property, services to lot owners and architectural control.

NOW THEREFORE, Declarants hereby declare that all of said property is hereby made and shall hereafter be held, transferred, sold conveyed and occupied subject to the covenants, conditions, restrictions, reservations, liens, charges and uses hereinafter set forth. Said covenants, conditions, restrictions, reservations liens, charges and uses shall run with the real property described in Exhibit "A" attached hereto, shall be binding upon all parties having and/or acquiring any right, title or interest in the said real property or in any part thereof and shall inure to the benefit of each and every person or entity from time to time owning or holding an interest in said real property.

**ARTICLE I
GENERAL PURPOSE OF COVENANTS**

The real property described heretofore is subject to the covenants, restrictions conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvements of each building site thereof; to protect the owners of building sites against such improper

use of surrounding building sites as will depreciate the value of their property; to preserve, so far as practical the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures built of improper or unsuitable materials; to insure the best development of said property; to encourage and secure erection of attractive structure and landscaping thereon, with locations thereof on building sites; to prevent haphazard and inharmonious improvements of free space between structures, and in general to provide adequately for a high type and quality to improvements in said property, thereby enhancing the values of investments made by purchasers of building sites therein.

ARTICLE II
PROPERTY SUBJECT TO DECLARATION

The real property subject to this Declaration is described in Exhibit "A" attached hereto and made a part thereof by reference. Additional real property (including common property) out of, adjacent to or in the immediate vicinity of the land may be added to the properties by an amendment to this Declaration by the Declarants recorded in the Hamlin County Register of Deeds.

ARTICLE III
EASEMENTS

Section 1. Appurtenant Easements. Declarants grant to all owners (and their guests, lessees and invitees) as an appurtenance to and as part of the ownership held by such owner, but subject to this Declaration, the articles and by-laws of the Association and the rules promulgated by the Association, a perpetual non-exclusive easement for ingress and egress over, across and through and for the use and enjoyment of all property marked on the master plat, as may be amended from time to time, as common property, which common property is an intrinsic and appurtenant part of the value of the lots; such use and enjoyment to be shared in common with the other owners, their guests, lessees and invitees.

Section 2. Utility Easements on Common Property. The Declarants reserve to themselves (and their successors and assigns) the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within the common property upon, under and across the common property and the properties owned by Declarants including the private streets. Said easements shall only be given for the purpose of maintaining, installing, repairing, replacing, altering and operating sewer lines, waterlines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, pipes, wires, power lines, electrical lines, telephone service, gas lines, valves, gas, pipelines, cable television services, alarm systems and all machinery and apparatus

appurtenant thereto to all of the foregoing as may be necessary or desirable for the installation and maintenance of the utilities and providing services to owners, the properties and common property. All such easements to be of a size, width and location so as to not unreasonably interfere with the use of any improvements.

Section 3. Utility Easements. An easement both under and over the ground is reserved to the Declarants (and their successors or assigns) covering a strip of land five (5') feet at the back of each lot platted, as it abuts the private or public streets, for the purpose of maintain, installing, repairing, replacing altering and operating sewer lines, waterlines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, pipes, wires, power lines, electrical lines, telephone service, gas lines, valves, gates, pipelines, cable television services, alarm systems and all machinery and apparatus appurtenant thereto to all of the forgoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to the lot owners, the properties and common property. All such easements to be of a size, width and location so as to not unreasonably interfere with the use of any improvements.

Section 4. Declarant's Easement. The Declarants hereby reserve to themselves, their successors and assigns, a perpetual easement, privilege and right in and to, over, under, on or across the common property and private drives for ingress and egress as required by Declarants and their employees, agents, independent contractors, invitees and assignees; provided, however, that such access and use does not unnecessarily interfere with the reasonable use and enjoyment of these properties and facilities by the owners.

ARTICLE IV RESTRICTIONS AND COVENANTS

Section 1. Compliance by Owners: Restrictions and Covenants. Every owner shall comply with the restrictions and covenants set forth herein and the Articles of Incorporation, By-Laws and all rules and regulations adopted by the Association.

Section 2. Residential Use. The property described in Exhibit "A" attached is hereby restricted to residential usage only, and in no manner may be used for any commercial purposes or for any type of equipment or material storage. Home offices are acceptable, provided that the business has no employees onsite other than immediate family members residing in the dwelling, the business shall not involve continual visits by walk-in customers or the general public, no external evidence of a business operation exists and minimal additional vehicular traffic occurs as a result of the business.

Section 3. Mobile Homes, Temporary or Incomplete Structures.

No mobile, modular or manufactured home shall be allowed on any lot. No structures of temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently. All residences must be completed on the outside in accordance with the original plans and specifications, including finishing, treating or painting of all exterior surfaces before occupancy.

Section 4. Buildings, Garages and Driveways. All buildings shall be of new construction. No buildings other than one (1) single family residence and one (1) garage may be constructed upon any lot. On lake frontage lots, the floor area of the residence, exclusive of porches and garages, shall not be less than One Thousand Seven Hundred (1,700) square feet, which may be either a one or two story residence. On all lots other than lake frontage lots, the ground floor area of the residence, exclusive of porches and garages, shall be not less than One Thousand Five Hundred (1,500) square feet, which may be either a one or two story residence. Each residence shall have at least Twenty-Five (25%) percent of the front of the home covered with stone or brick exterior siding material, excluding the foundation unless a variance is granted by the Design Review Committee. Garages may be attached or detached, and shall be of a minimum size, so as to provide sufficient space for two automobiles and a maximum size so as to provide space for three (3) automobiles. All driveways to garages shall be of concrete or its equivalent. No sheds or similar structures shall be constructed or placed upon any lot.

Section 5. Nuisance Control. No noxious, offensive, or dangerous activities shall be carried on in any building or upon any lot nor shall anything be done thereon which shall become an annoyance or nuisance. All lots and buildings shall at all times be kept in a neat and clean condition. Lawns shall be regularly mowed and trimmed, and lot owners shall maintain and mow the road right-of-way adjoining their lot. No outside clothes lines shall be erected and clothes shall not be dried outside. No trash, rubbish, machinery, inoperable or junk vehicles, building materials or appliances shall remain exposed on any lot as to be visible from other property or roadways. No part of any lot shall be used as dumping ground for junk, trash, sewage, rubbish or garbage. Machinery trailers and garden and maintenance equipment shall be kept at all times, except when in use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a sanitary container. No lumber, shrub or tree clippings, plant waste, metals, bulk material, scraps or refuse, trash, unlicensed automobiles, parts, machinery or equipment shall be kept, stored or allowed to accumulate on any of the sites. No garbage or large commercial trucks shall be parked or housed on a lot or the streets of the addition. No automotive repair may be conducted on any lot except within a garage, however, no commercial automotive repair shall be conducted under any circumstances. The Design

Review Committee, of its own motion, or the committee's designee, may enter on a lot to correct or remove any of the foregoing and the cost of such action shall be chargeable to the owner of the offending lot. Any such entry shall not be deemed a trespass.

Section 6. Vacant Lots. Purchasers of vacant lots must keep them neat and clean in appearance and must maintain them by mowing at least twice per month during the growing season. Upon failure to do this and after three-day notice is given, the Design Review Committee may perform such maintenance as necessary and bill the purchaser of the expense incurred.

Section 7. Restrictions Against Pollution of Water. In the interest of public health, sanitation, protection of the water supplies, recreation, wildlife and protection of Lake Poinsett, no owner shall use, for any purpose, the described real property in such a manner that may result in the pollution of the lake or any waterway that flows through or adjacent to such property with refuse, sewage or material that might tend to pollute the waters or otherwise impair the ecological balance of the surrounding land.

Section 8. Water and Sewer. No private wells shall be allowed on any lots other than wells used exclusively for ground water heating/cooling systems or irrigating lawns. Septic tanks and drainfields shall be installed in the area between the residence and the road and must be installed by a South Dakota certified septic installer.

Section 9. Livestock and Poultry. No horses, cows, other animals or poultry of any kind shall be raised, bred or kept on any lot. A reasonable number of domestic household pets, such as dogs and cats, may be kept, provided they are not maintained for commercial purposes and do not make objectionable noises or become an annoyance or nuisance of any sort to the neighborhood. All pets shall be leashed at all times when not under the physical control of the pet owners. Dog kennels may be allowed with prior permission of the Design Review Committee. All dog kennels must be kept clean and free of smells and flies.

Section 10. Satellite Dishes and Antenna. All radio, television and other antennas, or satellite dishes of every kind and nature shall be placed inside the residential structure so that no portion thereof shall be visible from the outside of said structure. An owner may, however, install such devices outside the residential structure with the specific prior approval of the Design Review Committee.

Section 11. Tanks. All tanks for storage of gas, fuel oil, propane or gasoline shall be hidden from view by means of a solid type fence or wall of design and finish either similar to the exterior of the dwelling or approved by the Design Review Committee.

Section 12. Fences. No fence or wall shall be erected or maintained on any lot within the real property, unless approved by the Design Review Committee.

Section 13. Docks. Docks shall comply with the rules and regulations of the South Dakota Game, Fish and Parks Commission. All docks and boat lifts must be stored between the residence and the lake during storage periods.

Section 14. Firearms. No hunting or discharge of firearms or weapons shall be permitted on the property.

Section 15. Shoreline Stabilization. No rock, concrete, metal or other foreign object shall be erected or maintained for purposes of shoreline stabilization or landscaping along the shoreline unless approved by the Design Review Committee.

Section 16. Removal of Soil. No soil may be removed from this addition resulting from any excavation without the prior approval of the Design Review Committee.

Section 17. Height and Grade. No grantee, owner or any person or persons claiming under him shall or will at any time raise the grade of any lot within the real property above the grade established at the time of initial transfer by the Grantors, unless approved by the Design Review committee.

Section 18. Lawn Irrigation Systems. All lake lots shall have underground irrigation systems installed to water the lawns. Such systems must cover the entire lawn area.

Section 19. Mailboxes. All mailboxes shall be at one or more central locations to be designated by the Design Review Committee. Mailboxes shall be uniform and shall be provided and erected by the Design Review Committee. The lot owners shall reimburse the Design Review Committee in the amount of \$100.00 for erecting their mailbox.

Section 20. Renting. No portion of the premises other than the entire lot, together with the improvements and structures thereon, may be rented or leased and then only to a single family.

Section 21. Signs. No signs for advertisement of any kind shall be displayed on any lot to the public except as follows:

- A. One sign of not more than four square feet bearing the name of the occupant.

- B. One sign of not more than six square feet advertising the property for sale or rent.
- C. Necessary street number or other identification numbered signs.
- D. Signs used by builder or developer to advertise the property during the construction, development or sales period.

Section 22. Trees and Shrubbery. Natural beauty, wherever possible, shall remain. In no case shall trees be harvested for commercial purposes. No additional Box Elder, Siberian (Chinese) Elm, American Elm, Native Cottonwood, Columnar Poplar, Cedar or other such noxious trees shall be planted on any part of the subdivision. Each lot owner shall plant two (2) deciduous trees of a minimum base diameter of one and one-half (1.5") inch and minimum of height of eight (8) feet; such trees shall be planted ten (10) feet from the street right-of-way at locations approved by the Design Review Committee.

Section 23. Construction Time Requirements. All lot owners shall comply with the following time construction requirements concerning their lots:

- a) No time restriction for building.
- b) All exterior construction of the primary residential structure, garage, porches and any other appurtenances or appendages of every kind and character on any lot shall be completed not later than twelve (12) months following the commencement of construction.
- c) The residential lawn must be seeded or sodded and the lawn irrigation system must be installed upon the lot not later than twelve (12) months following completion of the primary residential structure.
- d) The two (2) trees required to be planted under Section 22 above must be planted not later than twelve (12) months following completion of the primary residential structure.

The Design Review Committee, for cause, in its discretion, may extend such time deadlines.

Section 24. Replatting of Subdivision. No one, except Declarants, shall at any time every replat, subdivide or re-subdivide any lot into a smaller lot or in any other manner change this plat and replat as it is now shown on the recorded plat of this addition.

ARTICLE V
DESIGN REVIEW COMMITTEE

Section 1. Establishment of Design Review Committee. There is hereby established a Design Review Committee (DRC).

Section 2. Duties of and Functions of DRC. The duties, power and responsibilities of the DRC shall be as follows:

A. The DRC shall consist of three (3) or more persons designated and appointed by the Declarants. A record of the members of the DRC shall at all times be kept at the offices of the Declarants and such information shall be provided to any owner or prospective purchaser of any lot upon request. The initial members of the DRC are: KENNETH D. HANSEN, 46005 196th Street, Estelline, SD 57234, ELLEN J. HANSEN, 46005 196th Street, Estelline, SD 57234, ROGER D. HANSEN, 518 12th Street, Prairie Farm, WI 54762, DIANE L. HANSEN, 518 12th Street, Prairie Farm, WI 54762

At such times as Declarants no longer own any real property within the properties (or earlier at the Declarants' option), the Declarants shall assign to the Association the rights powers, duties and obligations of the DRC, whereupon the Board shall appoint the members of the DRC and shall provide for the terms of the members of the DRC. Members of the DRC need not be officers, directors or members of the Association.

B. The duties of the DRC shall include the specific approval or veto of all architectural, engineering, platting and planning aspects of any improvement or development of buildings. The DRC may also, in its sole discretion, impose standards of architectural and landscaping design, elevation, building setback lines or the general plan for development, which standards may be greater or more stringent than standards prescribed in applicable building, zoning, planning or other local governmental codes.

C. No building, fence wall or other structure shall be constructed, erected, removed or maintained, nor shall any addition to or any change or alteration therein or thereto be made until the plans and specifications showing the nature, kind, shape, height, materials and floor plans shall have been submitted to and approved, in writing, by the DRC. Refusal of approval of plans, specifications or location may be based upon any grounds, including purely aesthetic consideration, which the DRC, in its sole and uncontrolled discretion, deems sufficient.

D. As part of the application process, two (2) complete sets of plans and specifications prepared by an architect or other person found to be qualified by the DRC shall be submitted for approval by written application on such form as may be provided or required by the DRC. In the event the

information submitted to the DRC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

E. The DRC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably or capriciously withheld. In approving or disapproving such plans and applications, the DRC shall consider the suitability of the proposed building, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property.

F. There is specifically reserved unto the DRC the right of entry and inspection upon any lot for the purpose of determination by the DRC whether there exists any construction of any improvement which violates the terms of any approval by the DRC or the terms of this Declaration or of any other covenants, conditions and restrictions. The DRC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety or any constructed improvement, or to remove any unapproved improvement, and it successful the Declarants or the Association shall be entitled to recovery of all court costs, expenses and reasonable attorney fees in connection therewith. The Association shall indemnify and hold harmless the DRC from all costs, expenses and liabilities, including attorney fees, incurred by virtue of any member of the DRC's service as a member of the DRC.

G. The DRC has the right, but not the obligation, to grant waivers for minor deviations and infractions of this Declaration. The granting of any waiver for any portion of the properties may be given or withheld in the DRC's sole discretion and a prior grant of a similar waiver shall not impose upon the DRC the duty to grant new or additional requests for such waivers.

H. The Association, Declarants, the DRC or any officer, employee, director or member thereof shall not be liable for damages to any person submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Each person submits plans and specifications for approval agrees, by submission of such plans and specifications, that the copies of all such plans and specifications shall be the property of the DRC and the Association and that it will not bring any action or suit against the Association, Declarants or DRC to recover any such damages.

ARTICLE V GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions and restrictions shall run with and bind the properties and shall inure to the benefit of and be enforceable by the Association, the Declarants and any owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period, the covenants, conditions and restrictions shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with the covenants, conditions and restrictions being automatically renewed and extended upon the expiration of each ten (10) year period for an additional ten (10) year period; provided, however, that the covenants, conditions and restrictions may be terminated and released at any time upon the vote of two-thirds (2/3) of the votes by each member at a duly held meeting of members.

Section 2. Enforcement. Enforcement of the covenants, conditions and restrictions shall be by an proceeding at law or in equity and may be instituted by the Declarants, their successors or assigns, the Association, its successors and assigns, or any owner against any other lot owner violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages and to enforce any lien created by this Declaration.

Section 3. Homeowners Association. Every owner, including the Declarants, shall be a member of the SUNSET PARK ESTATES HOMEOWNERS ASSOCIATION (hereinafter called "Association"), and by acceptance of a deed acknowledges the authority of the Board and the Association and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association.

Section 4. Assessment. The Declarants covenant, and each owner of any lot shall by acceptance of a deed therefor, regardless of whether it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay the Association: (1) annual assessment, (2) special assessments and (3) individual assessments, all fixed established and collected from time to time as hereinafter provided. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection, shall also be the personal obligation of the person who was the owner of such real property at the time when the assessment first became due and payable. The liability for assessments may not be avoided by waiver of (1) voting rights or (2) the use or enjoyment of any common property, or (3) by the abandonment of the property against which the assessment was made. The case of co-ownership of a lot, all of such co-owners shall be jointly and severally liable for the entire of the assessment.

A. Purpose of Annual Assessment. The annual assessments levied by the Association shall be used exclusively for the improvements and maintenance of the common areas and to provide services which the Association is authorized or required to provide including but not limited to the payment of taxes and insurance on common areas, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions including lawn care of common areas and ditches and snow removal and road maintenance of the of the private streets. The Association may establish major repairs to common property that must be replaced on a periodic basis; (b) emergency and other repairs as a result of storm, natural disaster or other casualty loss; and (c) insurance premiums or taxes.

B. Special Assessments. In addition to the annual assessment, the Association may levy, in any assessment year, a special assessment of the purpose of defraying, in whole or in part, the costs of any acquisition, construction and reconstruction, unexpected repair or replacement of a described capital improvement upon common property or easements, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of a majority of the votes of members at a meeting duly for that purpose.

C. Individual Assessments. The Association may impose an individual assessment upon any owner whose use or treatment of common areas or lot is not in conformance with the standards as adopted by the Association or which increases the maintenance cost to the Association above that which would result from the compliance by the owner with the use restrictions imposed by this Declaration. The Association may also impose an individual assessment upon any owner receiving exterior maintenance as contemplated herein and in the By-Laws of the Association.

D. Annual Assessments.

(1) Commencing January 1, 2004, the annual assessment shall be One Hundred Fifty and no/100ths (\$ 150.00) Dollars, per lot, plus amounts that may be assessed under Special Assessments.

(2) After 2004 the annual assessment (as distinguished from special assessments) may be increased each year by the board without a vote of the members by a sum not exceeding ten (10%) of the maximum assessment for the previous year.

(3) The annual assessment may be increased above ten (10%) percent for the following year by a majority vote of the members.

E. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided herein shall be due and payable in full by January 1 of each year due. The board, pursuant to the By-Laws, shall determine any changes and notify the to owners in writing within thirty (30) days of the due date. Annual assessments shall not be assessed against or due from lots held by Declarants for sale until such lots are sold.

F. Due Date of Special Assessments. Except as otherwise expressly provided herein, the due date of any special or individual assessment shall be fixed in the resolution authorizing the such assessment.

G. Lien for Assessments and Charges. The annual, special and individual assessments together with interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made if the assessment is not paid when due. In addition the obligation to pay such assessment, together with interest thereon and costs of collection, shall remain a personal obligation of the owner of such lot at the time when the assessments fell due.

H. Subordination of the Lien. The lien of the assessment provided for herein is subordinate to the lien of any first mortgage now or hereafter placed upon a lot and to any easement of record prior to the date of recordation of this Declaration.

I. Certificate of Payment. The Association shall upon demand at any time furnish to any owner a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid.

Section 5. Severability. Invalidation of any one of the provisions of this instrument by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF the owners have executed this Declaration this ____ day of August, 2003.

Kenneth D. Hansen

Roger D. Hansen

Ellen J. Hansen
STATE OF SOUTH DAKOTA)
COUNTY OF)

Diane L. Hansen

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