

DECLARATION OF  
RESERVATIONS AND RESTRICTIVE COVENANTS AND CONDITIONS  
FOR CEDAR HEIGHTS SECOND ADDITION  
COMMERCIAL AND HIGHWAY COMMERCIAL DISTRICTS

THIS DECLARATION, made this 3rd day of July 2000 by the CITY COMMISSIONERS for the CITY of CHAMBERLAIN, SOUTH DAKOTA, WHEREAS, the City intends to offer for sale commercial and highway commercial lots and is desirous of subjecting all of the land located within this zoning to certain covenants, easements, restrictions, conditions and charges as hereinafter set forth; NOW, THEREFORE, WITNESSETH: The City Commission does hereby impose and charge the following described real property located in Brule County, South Dakota, with the following covenants, agreements and restrictions as set forth in this Declaration hereby specifying that this Declaration shall constitute covenants running with the land and shall be binding upon, and for the benefit of, all owners of Lots or Tracts presently platted or to be platted to the City of Chamberlain, Brule County, South Dakota, as follows:

A survey plat of Lots 7-27 and Outlots A and B Block 1, Lots 9-23 Block 2, Lots 2-16 Block 3, Lots 1-16 Block 4, Lots 1-4 Block 5, Lots 1-9 Block 6, Lots 1-4 and Outlot C Block 7, Lots 1-10 Block 8, Lots 3-5 and Outlot D Block 9, of Cedar Heights Second Addition; Formerly a Portion of County Auditor's Tract No.1 in the NE1/4 SW 1/4; Tract X Less Lots 1 and 2 of Tract X in the SE 1/4, A Portion of Tract Y in the SE 1/4, Tract W Less Lot W-1 of Tract W in the SE 1/4, Lot 1A of Lot 1, Lot 1C of Lot 1 in the E 1/2 SE 1/4, Lot 2 Less Lot 2A of Lot 2 in the E 1/2 SE 1/4, Lot 3 in the E 1/2 SE 1/4; all in the SE 1/4 and NE 1/4 SW 1/4 of Section 22, Township 104 North, Range 71 West of the 5<sup>th</sup> Principal Meridian, Chamberlain, Brule County, South Dakota

## EASEMENTS AND RIGHTS-OF-WAY

The easements, dedicated right-of-way for utilities, easements for storm sewer drainage purposes and functions, streets and highways shall be as shown on the plat or plats filed or to be filed by the City shall be for the uses and purposes as marked and noted on such plat or plats.

The purchasers of lots and tracts shall at their own cost and expense keep and maintain that portion of their property subject to the aforesaid easements and right-of-way in the same manner as they maintain the surface of their like property.

## II

### PROTECTIVE COVENANTS

1. Land Use. The property shall be used only for those purposes as permitted by the zoning ordinances of the City of Chamberlain and the environmental laws of the State of South Dakota as the same may be amended or changed from time to time.
2. Type of Construction. The exterior coverings of all buildings shall be subject to the Uniform Building Code as contained in the Revised Ordinances of the City of Chamberlain, as the same may be amended or changed from time to time, and paragraph 3. Following.
3. Approval of Plans.
  - A. Before commencing the construction or alteration (excluding interior alterations) of any buildings, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on any tract or lot, the property owner shall first submit a building permit application including site plans and specifications therefore to the Chamberlain Zoning Administrator for approval. Provided, however, that the building or other structures or improvements shown thereon are harmonious in design and construction with the then existing buildings, structures and improvements.
  - B. Submitted plans must include a site plan, drainage plan, landscaping plan, all floor plans, exterior elevations, at least one cross-section showing the nature of the construction and materials and a description of any intended outside storage.

C. Submitted specifications must contain sufficient data to indicate all materials and finishes for all foundations, exterior walls and roof of buildings and for all outside storage, fencing and walls.

D. When developing the plans and specifications, the Owner shall utilize the following guidelines:

1. On buildings whose walls are essentially metal paneled, the use of masonry or other architectural relief to be installed thereon on the street sides and the use of a good quality and durable finish on the metal panels will be required.
2. On buildings whose roofs are essentially metal surfaced, the use of a good quality and durable finish (unpainted or painted galvanized finish being unacceptable) on the metal surface will be required.

E. Signs, when approved for use, shall not extend vertically above the roof level of the building

4. Minimum Building Size. The principal structure constructed on a lot or tract must occupy a minimum of 20% of the lot area as shown on the plat.

5. Construction Time Requirement. To promote the orderly development of this addition, construction of the principal structure shall be completed and ready for use within 36 months after closing of the lot purchase. If construction is not completed within 36 months after the closing of the lot purchase, the lot shall revert to the City of Chamberlain upon payment of 25% of the original purchase price. The tender of payment by the City of Chamberlain shall be made within eighteen months after the three year construction time period has expired. Purchaser, his assigns and heirs agree that if the principal structure has not been completed within 36 months, the City will be damaged. The damages include lost revenue from real estate taxes, incurred legal and sale expenses from the sale and resale of the lot, and the decreased marketability of other lots that the City intends to sell in the future. The 75% loss of purchase price to the seller or his assigns and heirs is agreed a reasonable estimate of the damages the City of Chamberlain would incur if the principal structure has not been completed within 36 months after the closing of the lot purchase.

6. Minimum Yard Requirements. The front yard shall be planted with grass, trees, shrubs and other decorative plantings and shall be otherwise appropriately landscaped, except those portions used for

driveways or parking. Grass shall be kept mowed to not more than 6 inches in height. If found to be excessively tall, the City of Chamberlain will hire someone to mow the grass at the owners expense.

7. Parking Facilities. Owners of tracts or lots shall provide the following minimum parking spaces for their employees:

1 space for each 1,000 square feet of gross floor area used for warehousing and distribution;

1 space for each 500 square feet of gross floor area used for manufacturing;

1 space for each 400 square feet of office floor area.

In no case shall any storage, servicing or dismantling of automobiles or other vehicles, or loading or unloading operations, be permitted in the required parking areas. All parking areas shall be hard surfaced with appropriate curb.

8. Loading Areas. All loading and unloading operations shall be off-street. No loading or unloading shall be permitted in the parking or lawn areas or in a location which will interfere with ingress or egress thereto. Loading areas shall be hard surfaced. No loading docks shall be constructed facing any public street or highway unless the loading dock and every part thereof is at least seventy-five (75) feet inside of the lot line of the street or highway on which said loading dock fronts.

9. Outside Storage. Outside open storage may be stored or placed in the rear yard when properly screened from view from all sides by means of an opaque fence or wall, minimum six (6) feet high, but no less than the highest point of screened items, and which shall be maintained in good condition.

10. Outdoor Signs Outdoor signs identifying the name, business, and products of the occupant of any given site may be utilized provided such signs are no larger than six (6) feet in height and ten (10) feet in length. All logos meeting the aforesaid size requirements will be permitted.

11. Maintenance of Undeveloped Areas. That portion of each lot or tract that is not improved with buildings, parking facilities, loading facilities or lawn area shall be seeded to a cover planting which grows to a height not to exceed approximately (6) inches, and at all times shall be attractively maintained. No part of any of the land area shall be planted or to cultivated row crops.

12. Zoning and Building Regulations The use and building regulations as now or hereafter imposed by the provisions of the Zoning and Building Ordinances of the City of Chamberlain, South Dakota shall apply throughout except as the same may be modified by a duly constituted authority.

13. Fences All fencing for screening, security or other purposes shall be attractive in appearance and shall be either all-metal, industrial type of galvanized or nonferrous material or masonry material. No fence, masonry wall, hedge or mass planting shall be permitted to extend beyond the building set-back lines set forth above except with the prior written approval of the City of Chamberlain, which approval the Commission agrees shall not be unreasonably withheld or delayed.

14. Relotting or Subdividing The owner of any lot or tract shall never relot, subdivide or resubdivide any lot or tract into a smaller lot or parcel without first obtaining the prior written approval of the City Commission.

15. Wastes. No garbage or decomposable animal or vegetable wastes shall be placed or stored upon any lot or tract except in tightly covered metal or plastic containers. All other refuse shall be placed in containers or enclosures in a manner not constituting a nuisance by reason of wind litter, disorderly appearance, or abnormal fire hazards. The owner shall be responsible for the removal of garbage and other refuse from his premises at least once each week.

16. Exceptions and Modifications The City Commissioners shall be authorized to make such exceptions to, or modifications of, these Declarations as unusual circumstances or special situations may warrant; provided, however, that such exceptions or modifications shall not invalidate these Declarations in principal or general objectives. Except for unusual circumstances or special situations, the City of Chamberlain shall enforce these Declarations in a non-discriminatory manner.

17. Duration. These Declarations to run with the land and shall be binding on all parties and all persons claiming under them for a period of 25 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods for 10 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.

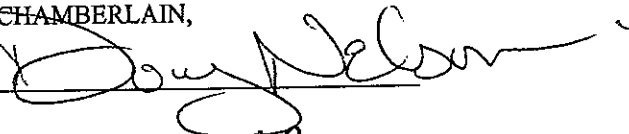
18. Severability. If any paragraph or part thereof of this Declaration be declared invalid, illegal or inoperative for any reason, the remaining parts, so far as possible and reasonable, shall remain fully effective and operative.

19. Enforceability Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of these Declarations either to restrain such violation or attempted violation or to recover damages.

IN WITNESS WHEREOF, the Owner has caused these presents to be signed by those persons designated below.

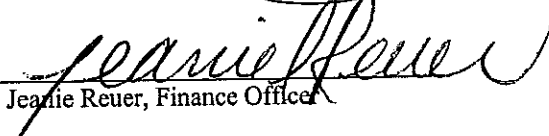
MAYOR OF CHAMBERLAIN,

Doug Nelson



ATTEST:

Jeanie Reuter, Finance Officer




STATE OF SOUTH DAKOTA)

SS

COUNTY OF BRULE )

On this 3 day of July, 2000, before me the undersigned officer, personally appeared Doug Nelson and Jeanie Reuter who acknowledged themselves to be the Mayor and Finance Officer respectively of the City of Chamberlain, a Municipal corporation, and that they as such mayor and Finance Officer, being authorized so to do, executed the forgoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as Mayor and Finance Officer.

In witness whereof I hereunto set my hand and official seal.



Notary Public

My Commission expires: Aug 19, 2005