

COVENANTS AND RESTRICTIONS

WHEREAS, Everett T. MacKaben and Jerilyn J. MacKaben of Spearfish, Lawrence County, South Dakota, are the owners of the following described real estate described as follows:

Mac #3  
Lots One (1) through Fourteen (14), E. MacKaben Development #3, Replat of Tract "A", Northwest Quarter Southeast Quarter, Section Thirty-One, Township Seven North, Range Two East, S.H.M., Lawrence County, South Dakota, according to plat recorded as Document #78-1868, Register of Deeds Office, Lawrence County, South Dakota.

Let it be known that we do hereby make the following declaration as to the limitations, restrictions and uses to which any lot thereof may be put, hereby specifying that said declarations shall be binding upon all grantees of any portion of said property and all persons claiming under or through them, or for the benefit of and limitations of all future owners of this real property area; this declaration of restrictions being designed for the purposes of keeping all new additions desirable, uniform and suitable in architectural design and uses as herein specified.

NOW THEREFORE, the undersigned owners do hereby declare and make the following covenants:

I.

All lots in the above described property shall be known, utilized and described as residential lots. All residential structures shall be single family dwellings, not to exceed two (2) stories in height and a private garage for not more than three (3) cars. That only one (1) residence shall be built upon each lot. No lot shall be further subdivided.

II.

That no building shall be located on any of the lots nearer than thirty (30) feet to the front lot line, nor nearer than twenty (20) feet from any side lot line. For the purposes of this covenant, eaves, steps and open stoops and porches, not exceeding ten (10) feet in width, shall not be considered as part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

III.

No commercial use, feed lot, noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

IV.

No trailer, basement, moved in house, with the exception of pre-fabricated new home construction, tent, shack, garage, or any other building shall be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence at any time, except as provided in this paragraph. A moved in house may be permitted on Lots 7, 12, 13 and 14 with the express written permission of Everett T. MacKaben, Developer, or his successors in interest for a period of ten (10) years from the date of execution of these covenants and restrictions.

V.

Once construction of any residence on any lot in the above described tract is commenced, all exterior construction plus lawn shall be completed within

Covenants and Restrictio

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The ground floor porches and garages, st story structure, nor les or two story structure b be less than 936 square and new construction.

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Easements for in reserved within a five (5 no structure, planting or change the direction of f other than along the dral retard the flow of water zrea of each lot and all f owner of the lot except f responsible.

No sign of any ki one professional, direct and one sign of not more signs used by the bul' ter period, which sign shall

No animals, live this subdivision except a than four head or horse and Thirteen shall be all Dogs, cats and other pei shall be kept on a leash

No motor vehicle running condition and in real property. It is spe forbid the keeping of any and any other like debris

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two hundred forty (240) days. This restriction does not apply to minor items relative to construction on the inside of the structure, where the construction of the outside of the structure and the lawn have been completed.

VI.

The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 936 square feet in the case of a one story structure, nor less than 1,200 square feet in the case of a one and one-half or two story structure but in no case shall the square footage of the ground floor be less than 936 square feet. Construction of all houses shall be of new material and new construction.

VII.

Easements for installation and maintenance of utilities facilities shall include a twelve foot wide utility easement reserved on the interior of the North, West and South exterior boundary. A six foot wide utility easement is reserved on either side of all interior lot lines. Water utility easement is reserved within the sixty-six foot right of way reserved for public use.

VIII.

Easements for installation and maintenance of drainage facilities are reserved within a five (5) foot strip adjacent to all lot lines. Within these easements no structure, planting or other materials shall be permitted to remain which may change the direction of flow of drainage channels in the easements in any direction other than along the drainage easements into the streets or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for the improvement for which a public utility company is responsible.

IX.

No sign of any kind shall be displayed to the public view on any lot except one professional, directive or informational sign of not more than one square foot, and one sign of not more than five square feet advertising the property for sale, or signs used by the builder to advertise the property during the construction and sale period, which sign shall be not more than 32 square feet.

X.

No animals, livestock, horses or poultry shall be kept, bred or raised in this subdivision except as follows: Lot Fourteen shall be allowed to have not more than four head of horses or cows or eight head of calves. Lots Seven, Twelve and Thirteen shall be allowed not more than three head of horses, cows or calves. Dogs, cats and other pets for household enjoyment and not for commercial purposes shall be kept on a leash or fenced.

XI.

No motor vehicles, cars, buses, tractors, trailers that are not in normal running condition and in average use shall be kept on any of the above described real property. It is specifically understood that this covenant is to prohibit and forbid the keeping of any wrecked motor vehicles not in normal use and operation, and any other like debris on any of the above described property.

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XII.

No lot shall be used or maintained as a dumping ground for trash or other waste. All trash, garbage and refuse shall be placed in trash garbage cans of the type and kind in normal use in this locality and that shall be emptied and disposed of at least once every fourteen (14) days.

XIII.

No outhouse or privy shall be permitted on any lots in this subdivision and sanitary sewage disposal shall be that which is approved by the appropriate governmental regulations.

XIV.

Any transfer of title by deed or otherwise or possession by lease or otherwise shall be subject to the provisions of the protective covenants herein.

XV.

No more than one family occupancy shall be permitted to exist on a permanent basis on any lot; except that this provision shall not exclude any person from residence with the principal occupant when such person shares as a member of the principal occupants family in the common living arrangements and otherwise maintains a home in common with the principal occupants.

XVI.

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 (25) years from the date these covenants are recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots within said subdivision has been recorded agreeing to change said covenants in whole or in part.

XVII.

Enforcement of these covenants shall be by proceedings at law or in equity against any person violating or attempting to violate any covenants, and said proceedings shall be either to restrain violation or to recover damages, and the action may be brought by any person possessing any interest in the above described land or by any landowners on this real property.

IN WITNESS WHEREOF the undersigned owners do hereby set their hands to these covenants on this 23<sup>RD</sup> day of August, 1978.

*Everett T. MacKaben*  
Everett T. MacKaben

*Jerilyn J. MacKaben*  
Jerilyn J. MacKaben

State of South Dakota ) ss  
County of Lawrence )

On this 23<sup>RD</sup> day of August, 1978, before me, the undersigned officer, personally appeared Everett T. MacKaben and Jerilyn J. MacKaben, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained. In Witness Whereof I hereunto set my hand and official seal.

*Shail R. Bengard*  
Notary Public

My commission expires: 3/31/82