

**DECLARATION OF
RESERVATIONS AND RESTRICTIVE COVENANTS AND CONDITIONS
FOR SMOKEY GROVES ADDITION
RESIDENTIAL DISTRICTS**

THIS DECLARATION (“*Declaration*”), made this ___ day of _____, 2022, by the City Commissioners for the City of Chamberlain, a South Dakota municipality (the “*City*”).

WHEREAS, the City intends to offer for sale residential 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 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:

Lots 1-7, Block 1, Lots 1-2, Block 2, Lots 1-9, Block 3, Lots 1-7, Block 4, Lots 1-16, Block 5, Lots 1-15, Block 6, Smokey Groves Addition to City of Chamberlain in the southwest quarter of Section 27, Township 104 North, Range 71 West of the 5th Principal Meridian, City of Chamberlain, Brule County, South Dakota.

1. City Ordinances Applicable. In addition to the restrictions and covenants described herein, all other ordinances of the City shall apply to the lots described above.

2. Land Use and Building Type. No lot shall be used except for residential purposes in R-2 and R-3 zoned areas.

3. Architectural Guidelines. No lot shall be maintained or improved except in accordance with the following requirements and standards:

A. Minimum Square Footages, Single Family:

| | |
|-------------------------|------------------------|
| Ranch, main floor | 1,500 sq. ft. |
| Split foyer, main floor | 1,500 sq. ft. |
| Multi-level, main floor | 1,500 sq. ft. |
| Two story, main floor | 1,000 main/500 sq. ft. |

B. Minimum Square Footages, Townhomes:

| | |
|-----------------------|---------------|
| One story above grade | 1,500 sq. ft. |
| Two story above grade | 1,500 sq. ft. |

C. All homes will have a concrete or wooden front stoop and steps unless a

written waiver is granted by the City prior to construction.

- D. Roof pitch shall be 5/12 or greater.
- E. The roof shall be shingled and shall not be made of steel or metal.
- F. Exterior colors must be approved by the City.
- G. Exterior walls shall have conventional house siding.
- H. All homes will have a masonry basement or foundation with a minimum four (4) foot frost footing which shall be located completely under the exterior walls.

Notwithstanding the foregoing, the requirements set forth in Section 3(A) and (B) hereof shall not apply to any lots smaller than .45 acres (the "*Excepted Lots*"). The minimum square footage for primary structures within the Excepted Lots shall be 1,200 sq. ft.

4. Garage and Off-Street Parking. In all R-2 zoned areas the primary structure must include an attached, single family appropriate, private two (2) car garage.

5. Height Restriction. Nothing shall protrude more than three (3) feet above the roofline of the primary structure.

6. Building Location. In the interest of harmony, buildings shall be placed on lots according to the setback lines shown in the Zoning Ordinance of the City of Chamberlain.

7. Nuisances. The following activities and structures are hereby prohibited on the property:

- A. Modular homes or manufactured homes not meeting or exceeding requirements of Uniform Building Code, or H.U.D., mobile homes, tents, shacks, barns, temporary buildings, or structures of a temporary character.
- B. Modular homes, manufactured homes, or any structure more than two (2) years old, unless excepted by the City.
- C. No trade or activity, as prohibited by statute or ordinance as amended from time to time, shall occur upon a lot in the development, nor shall anything be done which may become an annoyance or nuisance, as defined by law.
- D. No large vehicles such as trucks, and travel trailers, except those brought in temporarily in connection with service work, or in case of emergencies, and no farm equipment, recreational vehicles including motor homes, boats and boat trailers shall park on the streets or on private property within the development; however, such trucks, travel trailers, boats, boat trailers, etc.

may be parked inside the garage on the premises.

- E. Satellite dishes greater than 36” in diameter and those not mounted on the principal structure.
- F. Business enterprises, including self-employed businesses where the public is invited. Additionally, the operation of road and off-road recreational vehicles, other than golf carts, shall not be permitted on any of the lots subject to these covenants and restrictions.

8. Trees. No trees may be planted that are seed bearing elm, ash, locust or cottonwood. No tree shall be planted in the public right-of-way unless a permit for the same has been obtained from the City.

9. Lot Frontages. Lot frontages shall be seeded to grass or planted shrubs, and trees.

10. Vegetable Gardens. Vegetable gardens are only allowed in the rear of the lot.

11. Hedges and Fences. No fences will be allowed in any front yard. To maintain the openness and visibility of the river and bluffs, no fences or hedges planted for the purpose of creating a fence or barrier will be allowed in the rear yard or any lot boarding the bluff. A permit must be obtained from the City for the construction of any fence. Permitted fences shall not be over six (6) feet in height.

12. Doghouses and Kennels. Doghouses and kennels are allowed only in the rear of the lot.

13. Sidewalks. All public sidewalks shall be concrete and shall be constructed by the landowner after the curb and gutter has been installed bordering the lot.

14. Construction Time Requirement. To promote the orderly development of this addition, construction of the principal structure shall be completed and ready for occupancy within twelve (12) months after the closing of the lot purchase. If construction is not completed within twelve (12) months after the closing of the lot purchase, the lot shall revert to the City upon payment of 25.0% of the original purchase price. The tender of payment by the City shall be made within nine (9) months after the twelve (12) month construction time period has expired. Purchaser, its assigns and heirs agree that if the principal structure has not been completed within twelve (12) months, the City will be damaged. The damages include lost revenue from real estate taxes, incurred legal and sales 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 75.0% loss of purchase price to the seller or its assigns and heirs is agreed a reasonable estimate of the damages the City would incur if the principal structure has not been completed within twelve (12) months after the closing of the lot purchase.

The twelve (12) month time period shall not be affected by any subsequent sale by the purchaser, and any new purchaser must complete the principal structure within the twelve (12)

month period that started with the real estate closing with the original purchaser.

All lots shall have principal structures completed within twelve (12) months. If more than one (1) lot is obtained by a purchaser, building one (1) structure will not satisfy the building requirement to the other lot or lots. Each lot must have a principal structure completed within twelve (12) months of the purchase from the City.

15. Manufactured Housing. No manufactured housing or any structure of any kind of what is commonly known as "boxed" or "sheet metal" construction is allowed on any lots.

16. General Provisions. 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 for ten (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.

17. Enforcement and Limitation of Others. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages. No family member, occupant, invitee, agent, contractor or employee of any of the foregoing shall have any right, individually or together, to enforce this Declaration.

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. Cooperation. Each owner acquiring an interest in a lot or lots shall cooperate with the City in any way reasonably requested by the City including but not limited to, the execution of all written instruments which may be necessary or desirable for any of the purposes described herein.

20. Additional Requirements. Owner is responsible for maintaining a rubble-free site, including but not limited to removal of excess dirt left on the lot or in the streets/gutters. Concrete washouts are only allowed in the designated concrete washout area. All lots must be kept clear of any debris, weeds and general clutter. Weeds must be mowed and sprayed as necessary to maintain a clean environment.

21. Liability. The City shall not be liable for damages to any owner of a lot or lots or any other person or firm who is or may be affected by this Declaration, by any reason arising out of or in connection with the enforcement or failure to exercise any authority, right, or remedy under this Declaration.

IN WITNESS WHEREOF, the City has executed this Declaration as of the date first written above.

CITY:
CITY OF CHAMBERLAIN

By: Chad Mutziger
Its: Mayor

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF BRULE)

On this, the ____ day of _____, 2022, before me, the undersigned officer, personally appeared Chad Mutziger, who acknowledged himself to be the Mayor of the City of Chamberlain, a South Dakota municipality, and that he, as Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the municipality by himself as Mayor.

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

Notary Public, South Dakota
My Commission Expires: _____