

SPRUCE GLEN

DECLARATION OF RESERVATIONS AND RESTRICTIVE

COVENANTS AND CONDITIONS

THIS DECLARATION is made on this ____ day of _____, 20 ____, by SPRUCE GLEN, INC., a South Dakota Corporation, with its principal office located at P.O. Box 187, Dell Rapids, South Dakota, 57022, hereinafter called the “Developer”; and

WHEREAS, the Developer is the fee owner of the real property to be legally described as:

Block 1, Lots 7-22; All of Block 2; All of Block 3; All of Block 4; All of Block 5; All of Block 6; All of Block 7; Block 8, Lots 1-6; and All of Block 9, Spruce Glen Addition to the City of Dell Rapids, Minnehaha County, South Dakota; and

WHEREAS, the Developer intends to develop and offer for sale Lots and Tracts to be located within SPRUCE GLEN, an Addition to Dell Rapids (herein sometimes referred to as the “Development”) and is desirous of subjecting all of the land located within this Development to certain covenants, easements, restrictions, conditions and charges as hereinafter set forth; and

WHEREAS, the Developer has deeded to the Dell Rapids Golf Course (now known as Rocky Run Golf Course) land to be developed and utilized as a golf course, and it is mutually understood and agreed between Rocky Run Golf Course and the Developer that certain Lots and Tracts within the Development to be sold by the Developer will be adjacent to portions of the golf course owned and operated by the Rocky Run Golf Course.

WHEREAS, Lot Owners owning or purchasing Lots lying in proximity to the golf course will, under and pursuant to these restrictive covenants and conditions, assume certain special risks which will be set forth with more particularity in these Restrictive Covenants, Conditions and Restrictions; and

WHEREAS, the Developer reserves for itself, its successors and assigns easements for public utilities, drainage and storm sewers which are identified and shown on the plat or plats of Spruce Glen, an Addition to Dell Rapids, South Dakota, filed and to be filed by the Developer to insure the harmonious and systematic development of the Property;

NOW, THEREFORE, the Developer and other owners of property heretofore described hereby declares that the real property located in Minnehaha County, South Dakota, and legally described as:

Block 1, Lots 7-22; All of Block 2; All of Block 3; All of Block 4; All of Block 5; All of Block 6; All of Block 7; Block 8, Lots 1-6; and All of Block 9. Spruce Glen Addition to the City of Dell Rapids, Minnehaha County, South Dakota,

(hereinafter referred to as the “Property”) shall be held, transferred, sold, conveyed and occupied subject to the conditions, restrictions, easements, charges and liens as hereinafter set forth, which covenants, restrictions and easements shall run with the Property and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, together with their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

Definitions

1.1 Definitions. The following words, when used in this Declaration, shall have the following meanings:

- (a) "Developer" shall mean and refer to Spruce Glen, Inc., a South Dakota corporation, its successors and assigns.
- (b) "Lot" shall mean and refer to any tract or parcel of land designated as a Lot shown upon any recorded plat or subdivision map of the property.
- (c) "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot (excluding, however, contract sellers and including in their place their contract purchasers), and excluding any person having such interest merely as security for the performance of an obligation.
- (d) "Spruce Glen Addition" shall mean and refer to all of the Lots and Tracts which will be a part of Spruce Glen, an Addition to Dell Rapids, Minnehaha County, South Dakota.

ARTICLE II

Additional Platting of Spruce Glen Addition

2.1 The Developer shall have the right, without obtaining the consent of the Owners, to bring within the scheme of Spruce Glen Addition and this Declaration additional real property which will be described in additional plats to be recorded. Such supplemental plats and Declarations may contain certain modifications and complimentary additions to reflect the different character, if any, of the additional property which will become a part of Spruce Glen addition.

ARTICLE III

Easements

3.1 Easements. Easements are hereby reserved by the Developer for water, sewer, electricity, gas, telephone, storm sewers, drainage, television, street lights, snow removal, and signage, all as more particularly shown on the plat or plats of Spruce Glen Addition.

3.2 Use of Easements. Said reserved easements areas may be utilized for the purposes of ingress, egress, and for the installation, replacing, repairing and maintaining of utilities placed within the easement areas.

3.3 Dedication. The easement areas reserved by the Developer as shown on the recorded plats of Spruce Glen Addition are hereby dedicated to those utilities and entities that provide the various services referred to in paragraph 3.1. above.

3.4 Maintenance of Easement Areas. The Owner of a Lot shall maintain the easement area located upon his Lot, except for those improvements for which a public utility or public authority is responsible. No structure, planting or other materials shall be placed or permitted to remain or to interfere with the dedicated easement areas.

ARTICLE IV

Golf Course Lots

4.1 Golf Course Lots. Certain Lots are adjacent and contiguous to the Rocky Run Golf Course which adjoins but is not a part of the Property.

- (a) All purchasers of Lots which abut or adjoin the golf course are hereby placed on notice that such Lots may be affected by acts and occurrences resulting from the use, operation and maintenance of a public golf course.

(b) By accepting a conveyance of a Lot abutting or adjoining the golf course, any Owner for himself, his heirs, personal representatives, assigns, his family and invitees assumes the risk of injury or damage to their person or property resulting from the use, operation and maintenance of a public golf course.

(c) By accepting a conveyance of a Lot abutting or adjoining the golf course, any Owner for himself, his heirs, personal representatives and his family agrees to release and hold harmless the Developer and the Rocky Run Golf Course (including in connection with the foregoing, elected and appointed officials, directors, officers, employees, servants and agents) from the use, operation and maintenance of a public golf course.

ARTICLE V

Architectural Review Committee to Approve Plans Prior to Construction

5.1 Purposes and Authority. In order to maintain the criteria for standards, to prevent the impairment of the attractiveness of the individual Lots, and to maintain the desired tone of the residential community, and thereby secure to each Owner the full benefit and enjoyment of his Lot with no greater restriction on the free and undisturbed use of a Lot than is necessary to ensure the same advantages for the other Owners, an Architectural Review Committee is hereby established, appointed by the Developer's Board of Directors.

5.2 Procedure. Before commencing any permanent improvement on or to any of the described Lots, including landscaping, the construction or external alteration of any building, enclosure, fence or any other structure, the Owner shall first submit a site plan and plans and specifications, including as applicable, in the sole discretion of the Committee, architectural, engineering and landscape plans for the written approval of the Architectural Review Committee. In the event that the Committee fails to approve or disapprove plans submitted to it or to request additional information reasonably required within thirty (30) days after the receipt of such plans and specifications, the plans as submitted shall be deemed approved.

5.3 Right to Inspect. Any member of the Committee shall have the right, during reasonable hours and after reasonable notice, to inspect for the purpose of ascertaining whether or not the covenants contained in this Declaration have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry.

5.4 No Waiver of Future Approvals. The approval of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

5.5 No Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the Committee shall not bear any responsibility of ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, land use regulations or any other governmental regulations or requirements. Neither the Developer, the Board of Directors, any committee or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any unit.

ARTICLE VI

Restrictions

6.1 Zoning and Yard Requirements. The Property is zoned residential. The size of the Lots, maximum height of structures and the permitted uses as contained in the Ordinances shall, as a minimum, comply with the applicable ordinances and regulations of Dell Rapids. Minimum yard requirements are as follows: front yard setback - 25 feet; side yard setbacks - 7 feet; rear yard setback - 25 feet. No enclosed or covered structures of any type nor swimming pools shall be allowed in the 25 foot rear yard setback of lots adjacent to the golf course.

6.2 Land Use. No Lot shall be used for any purpose except for a single family residential dwelling or twin home. No Lot in the Property may be subdivided, reduced in size or replatted to any Tract smaller than the whole of the Lot as presently platted, except by the Developer; provided, however, Lot Owners may acquire adjacent Lots, or a portion of the adjacent lot, for purposes of increasing the size of their Lot, but any Lot so increased in size may never contain more than one detached single family dwelling or twin home except for certain lots designated by the Developer for condominiums and zoned as such.

6.3 Style and Nature of Buildings. No building shall be constructed, altered or permitted to remain on any Lot in the Property other than a single family dwelling or twin home. No structure shall exceed two stories in height above the highest point on the Lot where the surface of the earth contacts the structure. All building construction must comply with the restrictions and requirements of these covenants, any County or City Ordinances, amendments or building code requirements of Dell Rapids, South Dakota. All external furnaces, air conditioners, heat pumps and other items or devices of like or similar nature shall be concealed from the public view by foliage or appropriate screening devices. Construction, once commenced on any Lot, must be diligently and steadily pursued until completion. Each dwelling constructed on the Property shall conform to the following requirements:

- (a) Single-level structures shall be constructed with a fully enclosed surface area of no less than 1300 square feet provided that a three stall garage is attached to said structure on any lot where no portion of that lot abuts or adjoins the golf course. All other single-level structures shall be constructed with a fully enclosed surface level area of no less than 1500 square feet. If zoning regulations allow twinhomes to be built on the Lot, no twinhome shall be built with less than 1,200 square feet per living unit.
- (b) No one and one-half story structure shall be constructed with a fully enclosed surface level of less than 1,400 square feet and with no less than 2000 total square feet at and above the enclosed surface level.
- (d) (c) No two-level or higher structure shall be constructed with a fully enclosed surface level area of less than 1,000 square feet and with no less than 1800 total square feet at and above the enclosed surface level. No tri-level structure shall be constructed having a fully enclosed floor area of less than 2,200 square feet.
- (e) For purposes of these restrictions, a "split-foyer" structure consisting of an upper level and a basement shall be considered a single-level structure.
- (f) For purposes of these restrictions, "surface level" is the first floor level that is entirely upon the surface of the earth. Any floor level that is in whole or in part below the surface of and/or surrounded by earth shall not be considered a "surface level". Garages and open porches are excluded in calculating the above areas.
- (g) All dwellings shall have a fully enclosed double garage or larger to serve the principal residence. All such garages must be permanently constructed on concrete foundations, and the exterior design shall be in conformance with the principal residence.
- (h) Only natural wood, brick, stucco, natural stone, textured hardboard (lap application) or oriented strand board (lap application) shall be used as siding materials on the structures located within the Lot. No plywood, hardboard or oriented strand board siding in the form

of panels or sheets shall be used as siding. All roofs shall be covered with cedar shingles, cedar shakes, clay tile, asphalt or fiberglass shingles.

- (i) Except as is immediately required for the construction of a particular dwelling, the grade of a Lot shall not be altered or changed in any significant fashion.
- (j) All roofing, siding and colors at time of original construction or future changes thereto shall be submitted to and approved by the committee. Roof slopes shall be a minimum 4:12.
- (k) Dog runs, or kennels shall not be permitted in the front yard or the required rear yard and side yard setbacks, and the size of dog runs or kennels must contain no more than 72 square feet. Materials for the kennel or run and location must be approved by the Committee.
- (l) Mailboxes shall be of the type and size approved by the Committee.
- (m) All drives and walkways shall be constructed of concrete, stone, or brick. Exceptions of long shared private drives or streets may be constructed of asphalt.

6.4 Prohibited Activities.

- (a) The following activities and structures are hereby prohibited on the Property:
 - (1) Modular homes, mobile homes, tents, shacks, barns, temporary buildings, manufactured houses, structures of a temporary character or existing houses and garages. Temporary Sales Offices to be used by the Developer shall be permitted.
 - (2) Satellite dishes, except those less than 4 feet in diameter, which shall be located in the rear yard not any closer than 20 feet from the rear and side yard lot lines except a permissive satellite dish must be at least 25 feet from the rear lot line for those lots adjacent to the golf course or attached to the structure but not extending more than 5 feet above the roof line at the point of attachment.
 - (3) Recreational vehicles (RV's), except those RV's that are owned by guests. Boats and trailers, unless garaged, shall not be parked on the property for more than 72 hours.
 - (4) Animals, livestock or poultry of any kind raised, bred or kept on any Lot, except that dogs or cats may be kept provided that they are kept, bred or maintained for no reason other than as household pets.
 - (5) Business enterprises, including self-employed businesses where the public is invited. Additionally, the operation of road and recreational vehicles, except golf cars, shall not be permitted on any of the Lots subject to these covenants and restrictions.
 - (6) No noxious or offensive trade or activity, as defined by law, shall be carried on upon a Lot in the Property, nor shall anything be done which may become an annoyance or nuisance, as defined by law.
 - (7) Window or wall heating units and window or wall air conditioning units.
 - (8) Wind turbines or solar panels.
 - (9) Mining activities and private water wells.

(10) Spot lights, flood lights or other lighting that interferes with the enjoyment of adjoining or neighboring Lots.

(11) Above grade swimming pools.

(12) No existing house or garage may be moved onto or relocated on any lot.

(13) Free standing storage buildings and garages.

(14) Permanent clotheslines.

(b) In addition to said prohibited activities, Owners of Lots within the Development shall do and perform the following:

(1) Owners of vacant Lots must keep and maintain those Lots in a neat and clean appearance. Each Lot shall be regularly mowed to keep the length of grass and weeds growing thereon at six inches or less, and weeds shall be sprayed at least annually. Upon failure to comply with this covenant, and after three days notice is given, the Developer may perform such maintenance as is necessary and bill the Lot Owner, as provided herein, for all expense incurred.

(2) Refuse and rubbish. No Lot shall be used or maintained as dumping ground for rubbish or a storage area for any trash, garbage or other waste. Any such trash, garbage or other waste shall be kept within sanitary containers, and shall be stored either underground or within garages, or within a screened device for that purpose.

(3) Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than six square feet advertising a residence for sale or rent, or signs used by the Developer or a Contractor to advertise the property during the construction and sales period. Exception: Permanent identification signs may be constructed by the Developer at the perimeter of the area, and signs of a temporary nature may be placed by the Developer to advertise the Development during the development and sale of the Property.

(4) Removal of Soil and Grade Level. No soil shall be removed from the Addition resulting from any excavation without first obtaining the written approval of the Developer. There shall be no material change in the grade levels as they now exist without approval of the Committee.

(5) The yard of each residential structure shall be landscaped and seeded or sodded within one year of the erection of the dwelling. Lawns will consist of natural turf only and all trees planted thereon shall be at least one and one half inches in diameter at time of planting, Evergreen trees at least 18" in height, and all Elm, Poplar, and similar "weed" type trees are prohibited.

(6) Pools. Plans and specifications for swimming pools must be submitted to the Committee for review and approval in writing.

(7) Fences. Front yards shall not be fenced. Rear yards of Lots adjacent to the public golf course may be fenced provided that any fence constructed in the rear yard setback area must not exceed 42 inches in height and the fence installed shall be vinyl coated chain-link fence black or brown in color. (See Exhibit 1 - Attached hereto) All other fences in approved areas must be approved by the Committee.

(8) Runoff and erosion shall be controlled on site during construction with erosion control barriers. All disturbed ground areas of a building site shall be sodded, seeded, covered with plants or mulched with approved landscape materials.

(9) All dwellings and structures, drives and walkways, fencing, landscaping including trees and turf shall be properly maintained. If property is not properly maintained, written notice will be given by the Committee and a reasonable time period will be allowed within which repairs must be made.

6.5 Invalidation. Invalidation of any one or more of these covenants by judgment or court order or any other reason shall in no way affect any of the other provisions, which shall remain in full force and effect.

ARTICLE VII

General Provisions

7.1 Term. 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 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the Lots within the Addition has been recorded in Minnehaha County, South Dakota, Register of Deeds office agreeing to change said covenants in whole or in part.

7.2 Enforcement. Upon the sale of all the lots subject to this Declaration, Developer shall have no duty to enforce or ensure compliance with the covenants and restrictions contained herein. Any person or persons with any interest in the property affected by this Declaration may enforce the terms and conditions contained herein. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

7.3 Failure to Enforce: The failure to enforce any of the Covenants herein set forth as to any violation by the Developer, its agent(s) and/or assignees, or any property Owner, of any term, condition or covenant contained herein shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or different term, condition or covenant herein. Moreover, no such failure to enforce shall entitle any Owner to claim, sue for, or receive any damages or other payment from developer. In addition, if Developer is named by any Owner in any legal action, Developer shall be entitled to recover from said Owner reasonable attorney fees in defending said action.

7.4 Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Dated as of the year date and year first above written.

Signature Page Follows

SPRUCE GLEN, INC.

Chad L. Hansen, Treasurer

STATE OF SOUTH DAKOTA)
)§§
COUNTY OF MINNEHAHA)

On this ____ day of _____, _____, before me, the undersigned officer, personally appeared Chad L. Hansen, known to me to be the Treasurer of Spruce Glen, Inc., the corporation that is described in and that executed the within and foregoing instrument and acknowledged to me that such corporation executed the same.

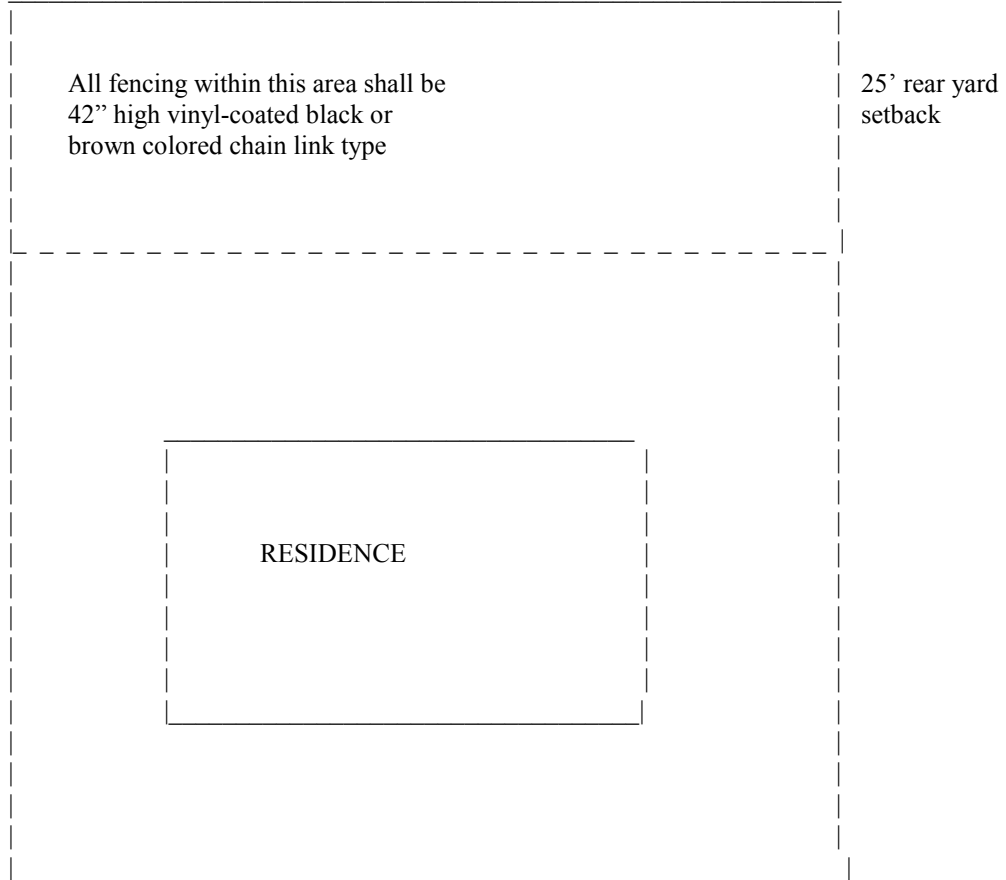
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public - South Dakota
Commission expires: _____

(SEAL)

EXHIBIT 1
SPRUCE GLEN, an Addition to
Dell Rapids, Minnehaha County, South Dakota

GOLF COURSE



STREET

ACKNOWLEDGMENT OF RESERVATIONS AND COVENANTS

The undersigned hereby acknowledge having received and read the Declaration of Reservations and Restrictive Covenants and Conditions and understand that the real estate described below is conveyed subject to the provisions of said Declaration. By accepting title to the real estate I/we are agreeing to abide by all of the provisions of said Declaration including, but not limited to, the provisions 5.2 and 6.3(i) which provisions require that all plans, and color samples or roofing and siding be submitted to the Architectural Review Committee prior to commencing any construction.

RE: Lot _____, Block _____ of Spruce Glen, an Addition to Dell Rapids, Minnehaha County, South Dakota.

Date _____

Date _____