

**DECLARATION OF RESTRICTIONS
AND COVENANTS TO RUN WITH THE LAND
ALSO KNOWN AS FLYNN BUSINESS PARK**

This Declaration Of Restrictions And Covenants To Run With The Land is made this 24 day of February, 2000, by North Sioux City Economic Development Corp. as fee owner of that real property in Union County, South Dakota, legally described as:

Flynn Tract 2 of Lot A in the NE 1/4, SE 1/4 and NW 1/4 of Section 10, Township 89 North, Range 48 West of the 5th P.M., Union County, South Dakota, according to the recorded plat thereof.

WHEREAS, North Sioux City Economic Development Corp. intends to develop and market the above described property and subject the above described property to certain exceptions, covenants, agreements, easements, restrictions, conditions and changes as set forth herein.

NOW THEREFORE, this indenture corporation:

North Sioux City Economic Development Corp. does hereby impose and charge the property described herein with certain exceptions, covenants, agreements, easements, restrictions, conditions and charges as set forth herein, hereby specifying that said declaration shall constitute covenants to run with the land and shall be binding on all parties and persons claiming from them and for the benefit of and limitations upon all future owners of said real property.

1. Easement Reserved.

Easements and right-of-ways for utilities, storm sewer, rail spurs, rail sidings and drainage purposes and functions are hereby expressly reserved to the City of North Sioux City, its successors and assigns over the areas as shown in Exhibit "A" for that use, including, but not limited to those easements hereinafter granted.

Such easements may be used for the constructions, installation and maintenance of underground electric or communication cables, storm sewage or sanitation sewers, pipelines for supplying gas, water, or heat, including mains and service pipes.

Construction of above ground electric or communication lines is expressly prohibited, unless written authorization is given by North Sioux City Economic Development Corp.

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Chg.-Pd. pa



20-061577
STATE OF SOUTH DAKOTA, UNION COUNTY, SS
Recorded this 12th day of April, 2000
at 10:00 o'clock A M., IN BOOK 37
of Missy Page 103
Jana Tork Register of Deeds

Larry Nelson 22nd #67

The purchasers of lots and tracts within this development shall at their own cost and expense keep and preserve that portion of the easement and right-of-ways within their property lines at all times in good condition of repair and maintenance.

2. Covenants.

- A. Land Use - This property shall be used only for those purposes as permitted by the zoning ordinances of the City of North Sioux City and the environmental laws of the State of South Dakota.
- B. Type of Construction - The exterior walls of all buildings shall be fire resistant and shall be constructed of concrete, masonry, brick, cinder block, or steel materials. The kind, type, and use of materials shall be subject to all applicable ordinances of the City of North Sioux City.
- C. Approval of Plans - Before commencing the construction or alteration of any landscaping, sidewalks, sign age, exterior features and facilities, buildings, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to any site or lot, the property owner shall first submit site plans and plans and specifications therefore to North Sioux City Economic Development Corp. for its written approval. Site plans shall include a drainage plan for removal and/or storage of rainwater for all sites with a maximum rate run off of .2 cfs/acre.
- D. Signs/Antennas - The standards for erection and maintenance of on-premises signs and antennas shall be subject to all applicable ordinances of the City of North Sioux City. North Sioux City Economic Development Corp. reserves the right to establish construction and location standards for the real property described herein.

3. Minimum Yard Requirements.

The following minimum yards, measured in feet, shall be required for the real property described herein.

- A. Building improvements made on lots or parcels abutting State Highway 105 shall have a minimum yard requirement of seventy-five (75) feet from the lot line abutting state Highway 105 whether the same constitutes a front or side yard.

- B. Building improvements made on lots or parcels abutting primary streets or roads shall have a minimum yard requirement of forty (40) feet from the lot line of the primary streets or roads whether the same constitutes a front or side yard.
- C. Minimum side and rear yards and all yards abutting other public streets, shall be twenty-five (25) feet from the respective lot lines unless a greater size is required by A. or B. above.
- D. The maximum lot coverage for all buildings shall not be more than forty (40) percent of the total lot area.
- E. Yards shall be improved and maintained in a manner consistent with good drainage practices, the installation and maintenance of healthy turf grass, and minimal weed growth and maintained in a neatly mowed condition.
- F. Trees, shrubs and plants (exclusive of grass) shall be planted for a minimum value of one percent (1%) of the construction cost of the structure. Minimum plant sizes shall be one and one-half (1 1/2) inch caliber for deciduous trees, six (6) feet high for evergreen and in three (3) gallon containers for shrubs.

4. Parking Facilities.

Owners or occupants of any real property described herein shall provide sufficient off-street parking so that no employees or visitors will be parked on any roads or thoroughfares. In no case shall any storage, servicing or dismantling of automobiles or other vehicles or loading or unloading operation be permitted in the employee parking area. All employee parking areas shall be of asphalt or concrete paved surfaces, marked in accordance with AASHTO standards. Areas designated for trucks, or trailers shall be all weather type construction as designated on the approved plans.

5. Loading Areas.

All loading and unloading for commercial and industrial operations and storage shall be performed in areas designated for that purpose as shown on the submitted and approved drawings. No loading or unloading shall be permitted in the parking or lawn areas or in a location which will interfere with the ingress or egress thereto. Loading areas shall be of asphalt. Building areas and docks shall be constructed so as to prevent any part of a vehicle from extending beyond the lot line while at the dock.

6. Outside Storage.

Outside open storage is allowed in the rear yard when the area is properly screened from view from all sides by means of an opaque fence or wall, which shall be a minimum of 6 feet high, and which shall be maintained in good condition.

7. Maintenance of Undeveloped Area.

That portion of any real property described herein that is not improved with buildings, parking facilities, loading facilities, and lawn areas shall be seeded to cover plantings which grows to a height not to exceed approximately eighteen (18) inches, and which at all times shall be attractively maintained. No part of any of the land area shall be planted in cultivated row crops. This restriction shall not apply to North Sioux City Economic Development Corp. or any of its tenants.

8. Fences.

All fencing or screening, for security or for other purposes, shall be attractive in appearance and shall be of all metal industrial type or galvanized or nonferrous material. No fence, masonry wall, hedge, or mass planting shall be permitted to extend beyond the building set back lines as set forth above except with the prior written approval of North Sioux City Economic Development Corp.

9. Replatting or Sub-Dividing.

The owner of any lot or parcel within the real property described herein shall never at any time, replat, subdivide, or re-subdivide any lot into a smaller lot or parcel or in any other manner change this plat without obtaining the prior written approval of North Sioux City Economic Development Corp.

10. Waste.

No garbage or decomposable waste shall be placed in storage upon any lot or tract except in tightly covered metal or plastic containers. All of the refuse shall be placed in containers or enclosures in a manner not constituting a nuisance by reason of wind-litter, rodent attraction, disorderly appearance, or abnormal fire hazards, in locations shown on the approved plans. The owner shall be responsible for the removal of garbage and other refuse from the premise in a timely manner, at least once a week. No burning of garbage or materials is allowed.

11. Repurchase.

If, after the expiration of two (2) years from the date of

execution of a Warranty Deed conveying title to any lot or tract within this development to a grantee, said grantee or assigns shall not have presented plans or specifications to North Sioux City Economic Development Corp. for its approval for the construction of a permanent building upon the property purchased, North Sioux City Economic Development Corp. shall have an option to repurchase said lot or tract for the original purchase price, minus any liens of record, and shall have the right to enter into possession of said property upon payment being made therefore. Actual construction shall commence within two and one-half (2 1/2) years from the date of execution of the Warranty Deed and shall be substantially completed within three and one-half (3 1/2) years. This option may be enforced by an action for specific performance by North Sioux City Economic Development Corp. This option to repurchase may be exercised in writing within ninety (90) days after the expiration of the two and one-half (2 1/2) year period following the execution of the Warranty Deed referred to above if construction has not commenced. If construction has not been substantially completed at the end of the three and one-half (3 1/2) years, North Sioux City Economic Development Corp. may exercise its option at any time up to four years from the execution of the Warranty Deed. Upon exercise of the option all improvements become the property of North Sioux City Economic Development Corp. Closing of the repurchase shall take place within sixty (60) days of the exercise of the option to repurchase and shall be at a location selected by the North Sioux City Economic Development Corp. The North Sioux City Economic Development Corp. may, at its sole discretion, for good cause, extend in writing the time allowed to begin construction.

12. Exceptions and Modifications.

North Sioux City Economic Development Corp. shall be authorized to make such exceptions to, or modifications of, these protective covenants as unusual circumstances or special situations may warrant; provided, however, that such exception or modification shall not invalidate these covenants in principal or general objectives.

13. Durations.

This declaration and the covenants contained therein are intended by the owner to run with the land and shall be binding upon all the property described herein and the owners thereof (and successors, heirs and assigns, and all other persons claiming under them) for a period of twenty-five (25) years from the date of recording after which time this declaration shall be automatically extended for successive periods of ten (10) years unless and until an instrument signed by a majority of the then owners of the land have been recorded agreeing to change said covenants in whole or in part.

