



2024/07/01 03:28:43 PM

Prepared By: Jay R. Gellhaus
Gellhaus & Gellhaus, P.C.
PO Box 73
Aberdeen, SD 57402-0073
(605) 225-6522

MARIANN MALSON, REGISTER OF DEEDS
BROWN COUNTY, SOUTH DAKOTA

Recording Fee: \$ 30.00
Return To: BROWN COUNTY ZONING

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WOEHL PROPERTIES, LLC

THIS DECLARATION, made this 1st day of July, 2024 by Woehl Properties, LLC, hereinafter referred to as "DEVELOPER," is the current owner of the following described real estate: to wit

Lots 1 through 16 of Howling Woods Subdivision in the SW
¼ of Section 22, Township 123 North, Range 64 West of the
5th P.M., Brown County, South Dakota

and files and records the within Declaration of Covenants, Conditions and Restrictions on the following described real estate.

WHEREAS, the Developer has carefully planned a development with the intention of creating a quality residential development. It is the intent of the Developer to create the within Covenants, Conditions and Restrictions (CC&R's) to create conditions which will enhance the value, desirability, and attractiveness of the development in accordance with the cohesive plan of the development. These CC&R's, are not designed to unduly restrict or limit buyers or builders but rather protect the development from homes that may reduce or detract from the value of other homes within the development.

WHEREAS, the owner for itself, its successors and assigns, does hereby make, publish, covenant and agree that the real estate set forth herein shall be subject to the following Covenants, Conditions and Restrictions (CC&R's), running with the land and binding upon all purchasers, owners, mortgages, and holders of said premises, their heirs, personal representatives, administrators, successors and assigns, unless modified in whole or in part as set forth herein.

NOW, THEREFORE, in order to adopt a comprehensive plan for the development, the above-described real estate shall be subject to and imposed upon the following Covenants, Conditions and Restrictions (CC&R's) as follows:

1. That Woehl Properties, LLC, its successors and assigns, reserves the right to amend, change, alter and vacate these Covenants, Conditions and Restrictions

(CC&R's) on any lot(s) or parcel of real estate until the formation of a Home Owner's Association. That upon the formation of the Home Owner's Association as set forth herein, said Home Owner's Association shall also have the right to amend, change, alter and vacate these Covenants, Conditions and Restrictions (CC&R's) on any lot(s) or parcel of real estate upon majority vote.

2. An easement over, above and under the ground for all utility installation, maintenance, operation and repairs is reserved by the Developer perpetually covering the strip of land as shown as easements (10-foot easement on the rear/back of each lot, and a 5-foot easement on each side of each lot) on the recorded plat thereof. Within said easement area(s), no structure, planting (except grass) or other materials shall be placed or permitted to remain which may damage or interfere with the installation, maintenance and repair of such utility. That the Developer (and if said lot is sold with the purchaser) may modify by written agreement any easement location on said lot, which shall be recorded in the original or in any subsequent deed or conveyance.
3. That each lot owner shall maintain the drainage as determined or established by the developer or developer's agents. The developer or developer's agents may establish elevations when requested which shall be maintained by the lot owner in order to provide for proper drainage of water within the development.
4. No lot shall at any time be replatted or subdivided into a smaller lot, or replatted in any manner other than the lot shown on the recorded plat, unless the Developer expressly consents.
5. All homes shall be of quality material and workmanship on permanent foundations, with not less than two (2) attached garage stalls per home. Within the platted area, no single-family home shall be permitted on any lot where the ground floor area, exclusive of the garage and porches, shall be less than 1500 square feet (except for homes which are multi-level, bi-level or 2 story). All homes consisting of garages within a home sometimes referred to as a "barndo" may be allowed with prior approval of the developer. The Developer reserves the right to increase the square footage of homes on lots designated by the Developer. No home, building or structure shall be placed, erected or altered upon any lot until construction plans, specifications and plot plan (including finished grade elevations), have been approved by the Developer. That all homes shall be stick or steel built. That unless previously approved by Developer or Home Owner's Association upon creation, all homes shall be built on site and no manufactured, pre-built or movable structure home shall be moved onto any lot.
6. The water supply for each lot shall be served through a Web Water centralized meter system. Web Water will bill the association monthly for water consumption. The association will assess/rebill each lot owner on a monthly basis for their assessment consumption pursuant to an allocation amount for

each lot. Any water consumption over the allocated amount per lot will incur an additional surcharge payment over the allocated use amount for each lot. Web Water usage shall not be allowed for lawn and garden irrigation or usage.

7. That every lot owner shall comply with the following design and construction requirements as follows:
 - a. Windows and sliding doors may be colored, anodized, or painted aluminum, vinyl, or wood. Raw (mil-finished) Aluminum shall not be approved.
 - b. That swimming pools, hot tubs, decks, trampolines and other playground equipment shall be located in the back of the home and within the lot building setback limits.
 - c. That the Developer has established design and construction requirements for the development and all owners shall comply with all of the design and construction requirements created by the Developer. That Developer reserves the right to amend, change, alter and modify the design and construction requirements from time to time.
 - d. That no lot shall be allowed to have an above-ground propane tank. All propane tanks shall be buried and out of sight. All property owners shall be required to install and maintain their own septic system and drain field on their own property and not combine this system with any land owner.
8. No dwelling, structure, fence or building shall be located on any lot closer than forty-five (45) feet to the curbed frontage (front lot line) and no dwelling or other building shall be located nearer to the interior lot line than that allowed by the building ordinance of the Brown County, and, whenever allowed or permitted by the city ordinance, eaves, steps and open porches shall not be considered as a part of the building structure.
9. No structure, trailer, tent, garage, moved-in house, mobile home, or other building shall be used on any lot at any time as a home. Separate garages or outbuildings to serve the principal home may be permitted. All garages or outbuildings shall be placed on a solid foundation (not pillars or base-course gravel). No more than two (2) flagpoles of twenty-five (25) feet shall be allowed. Exterior antennas or dishes for wireless cable TV transmission or digital satellite systems may be allowed, as long as they are appropriately screened, or concealed from view from adjacent property owners.
10. Lot maintenance is essential; owners shall maintain and cut the lot lawn upon five-inch growth and not allow weeds to infiltrate the lot. Owner shall keep and

maintain the home and lot in good repair and in a respectable condition. Developer/Association may assess a fee upon mowing of un-kept lots.

11. Fencing on the property shall be black, brown, green or tan in color, and made of wood or vinyl material. All fencing should be between four (4) feet and six (6) feet in height, with or without brick pilasters or columns. All fencing shall have a minimum set back of twenty-five (25) feet behind the curbed frontage. Developer may authorize additional privacy fencing, or allow additional fencing on a case-by-case basis.
12. No lot may be used or maintained as a dumping ground for rubbish, trash, and yard waste. All garbage shall be kept in containers and all equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
13. That all recreational vehicles, trailers, fold-down campers, snowmobiles, boats, mowers, water craft, ATVs, vehicles, and trailers, shall be kept or stored within or next to an attached garage and/or other outbuilding on lot owner's property in a neat and tidy manner. All recreational equipment, construction equipment, vehicles, and trailers shall be properly licensed for each year and in good operational condition.. (No vehicle, truck or trailer exceeding a gross weight of seventeen thousand five hundred pounds (17,500) shall travel upon, be parked or kept on any of the development. Commercial vehicles used in connection with moving, or delivery of goods to a residence shall be permitted.)
14. No animals, livestock, or reptiles of any kind shall be raised, bred or kept on any lot, except dogs, cats, chickens with a coop no larger than 12x16 with a 20x30 run, and other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.
15. There shall be permitted, no more than one residence to each lot. Dogs, cats and other common household pets must be tied, fenced, leashed or kept in a run or kennel when outside. At all times, animals shall be contained on the owner's property. Dog kennels that are constructed with chain-link fencing shall be attached to the house. All other chain-link kennels are generally discouraged and require pre-approval of Developer.
16. That a business operated out of a residence may be permitted so long as it is done entirely within the residence, not cause increased traffic or congestion within the development and there shall be no outward indication, signs or otherwise, indicating such business enterprise. It shall be permissible to display on any lot a professional sign of not more than six (6) square feet advertising the property for sale or rent.
17. It is the Developer's intent to create a development for single family homes within the above-described real estate. If the residence is owner occupied, no

person shall be allowed to reside at any residence unless said person is of lineal consanguinity (the relationship between persons who are directly descended or ascended from one another) to the owner(s). Under a tenancy situation, no more than two unrelated persons shall be allowed to occupy a residence. All individuals residing at said residence shall have lineal consanguinity to the owner. Nothing in this paragraph shall affect a situation involving a step person or guardian relationship.

18. Developer shall be responsible to build, repair, and maintain the gravel roadway system for the development until April 30th, 2025. Each lot owner shall be required to pay 1/16 of the cost of roadway maintenance, repairs, and expenses incurred after May 1st, 2025.

DEVELOPER / ASSOCIATION RIGHTS

19. Developer shall have authority to make any and all improvements in the development until a lot is sold to a third party. After the Developer has sold seventy-five percent (75%) of the total number of lots within the development, a Home Owner's Association may be formed. The Home Owner's Association Board shall consist of three (3) members. The Association shall consist of two (2) members that reside within the development and the developer or an individual appointed by the Developer shall be appointed as the third (3rd) member of said Association. The Developer shall retain the power to appoint a representative to the Association Board until the Developer has sold all of the lots within the development or the Developer voluntarily surrenders its appointment to the Board of the Association. Each lot owner within the Association shall have authority to vote for two members of the Board of the Association to serve for a two (2) year term. The individuals who receive the most votes shall be elected to the Board of the Association. Upon the creation of the Association, the original Board may establish rules and procedures to be followed by the Association.
20. Enforcement of these declarations shall be by proceeding at law or in equity against the owner/persons violating or attempting to violate any declaration, either to restrain such violation and or recover damages from the violation hereof. Any failure of any owner of lots or Board of the Association to attempt to enforce these covenants for any period of time shall in no event be deemed a waiver of the right to do so. Any delay or waiver of any declaration shall not be deemed to be continuing waiver, or acquiescence for additional or separate violations. Any invalidation of any one of these declarations by judgment or Court order, shall in no way effect any other provision of these declarations, but all such remaining declarations shall remain in full force and effect to the fullest extent permitted by law.

21. That the Association Board may make periodic assessments upon owner's of the lots within the development to cover the reasonable costs and expenses of the Board in enforcing, modifying or vacating any of the CC&R's. All assessments shall be an equal amount per lot and shall become a lien on the property and may be collected in the same manner as a mechanic's/materialmen's lien. The committee Board shall not be paid any compensation for their service however, such Board member may be reimbursed reasonable out-of-pocket expenses incurred in the performance of their duties as Board members.

Dated this 15th day of July, 2024.

WOEHL PROPERTIES, LLC

By: Troy Woehl
Troy Woehl – President

STATE OF SOUTH DAKOTA

:SS

COUNTY OF BROWN

On this the 15th day of July, 2024, before me, the undersigned officer, personally appeared Troy Woehl, and that he, as such President being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

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

Ron Keller

Notary Public – South Dakota

My Commission Expires: 11/2/2027

(SEAL)

