

**GARDEN ESTATES DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

**PRELIMINARY STATEMENT**

WHEREAS the undersigned are the owners of certain real property located within Yankton County, South Dakota, and described as follows:

Tracts two (2) and three (3) Law Addition, City and County of Yankton, SD as per plat recorded in Book S21, page 91.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot." The undersigned, who is referred to herein as "Declarant," desires to provide for the preservation of the values of and amenities of such community and for the maintenance of the character and residential integrity of the Lots.

NOW, THEREFORE, the Declarant hereby declares that each and all the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Lots. These restrictions, covenants and conditions shall run with such real estate and shall be binding upon all parties having or acquiring any right, title and interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot, as and shall be subject to all and each of the following condition and other terms.

**ARTICLE 1  
RESTRICTIONS AND COVENANTS**

- a. Each Lot shall be used exclusively for single-family residential purposes and shall be of new construction which may include twin homes and duplexes.
- b. Declarant's goal is to provide lots for the construction and sale of affordable housing in the City of Yankton. All building plans for initial construction shall be filed with and approved by Declarant in writing before construction begins. Declarant reserves the right, in its sole discretion, to reject any plans that do not meet its goal of providing affordable housing as from time to time determined by South Dakota Housing and rules and regulations governing South Dakota tax increment financing districts.
- c. A minimum of a two-car attached garage not less than four hundred eighty-four (484) square feet shall be placed on each Lot for each residential unit. No detached garages shall be allowed.
- d. All foundations must be constructed of concrete or concrete blocks.
- e. All exterior colors must be natural colors. Declarant shall approve in advance in writing the initial exterior color palette.
- f. Roof materials shall be asphalt type shingle of at least twenty-five (25) year warranty. No metal, shake, or flat roofs of any kind shall be allowed.
- g. Each home shall contain not less than thirty (30) square feet of exterior brick or stone, approved in writing by the Declarant, on the front of the home.
- h. All driveways must be constructed of concrete and have a minimum width of eighteen (18) feet.
- i. Any exterior air conditioning condenser units shall be placed in the rear yard or side yard.
- j. Grass seeding or sodding must be completed within nine (9) months of occupancy.

- k. Each lot owner agrees to plant street trees (one per lot) at least six (6) feet in height and one and one half (1 1/2) inches in diameter at four feet above grade in accordance with the species and the time schedule on file in the Department of Parks and Recreation. If the applicable ordinance regarding street trees changes, the planting requirement shall also change to the most current version of the code at the time occupancy occurs. The installation of the street trees as referenced in this section will be required upon occupancy of the property and must comply with the City of Yankton's approved directory of trees. An exception to requiring this planting may be temporarily granted if occupancy takes place between November 1st and April 30th. If so, this requirement will be suspended until May 31st.
- l. No exterior antenna of any sort, including satellite receiving stations (discs) larger than one meter in diameter shall be permitted on any Lot. No antenna shall be permitted in the front yard or on the front roof of any structure. Any antenna shall be erected so as not to be seen by adjacent lots to the extent possible.
- m. All trash disposal and recycling containers shall be stored inside the garage or in another location not visible from any adjacent streets.
- n. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot.
- o. All outbuilding or exterior structures such as sheds and dog houses shall be allowed in the rear yard and must conform to the same exterior appearance, design and color as the principal structure on the Lot. No outbuilding or exterior structure shall be larger than twelve (12) by eight (8) feet, and ten (10) feet high at its highest point.
- p. Fences may be erected in yards, provided they meet the following minimum standards:
  - i. No fence shall be erected or maintained in such a manner as to unreasonably obstruct the view of others, or their access to light and air.
  - ii. The poles supporting the fence must be on the inside of the fence or along the center line of the fence.
  - iii. Approved fencing materials include wood, wrought iron, coated chain link or vinyl, all of one uniform neutral color.
- q. Only dogs and cats shall be allowed in the yard of any property. No shelter for any animal shall be erected, altered, placed, or permitted to remain on any Lot, except that a dog house not to exceed twenty-five (25) square feet shall be permitted. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view from the street in front of the house. Dog kennels must be screened from the front view of the neighboring homes.
- r. Vacant lots shall be maintained in accordance with City Ordinances.
- s. Vacant Lots shall not be used for dumping of any wasted materials, grass or yard materials, or dirt storage of any kind. These lots shall be clean in appearance and maintained per city ordinance.
- t. No structure of a temporary character, trailer, basement, outbuilding, storage shed or shack shall be erected upon or used on any Lot at any time. No structure or dwelling shall be moved to any Lot without the prior written approval of the Declarant.
- u. Building completion and successful receipt of a city occupancy permit is required within 36 months of Lot purchase from Declarant. If this has not occurred, Declarant, at their discretion, shall be allowed to repurchase the Lot at the original price without regard to any other expenses, including real estate taxes. Extensions may be requested from the Declarant and may be granted based upon individual circumstances.

**ARTICLE II  
GENERAL PROVISIONS**

- a. Any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions, and covenants now and hereinafter imposed by the provisions of this declaration either to prevent or restrain any violation or to recover damages as a result of such violation. Failure by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- b. The covenants, restrictions and conditions of this declaration shall run with and bind the land for a term of twenty (20) years from the date this declaration is recorded. This declaration may be amended by Declarant or its assigns with full and absolute discretion for a period of ten (10) years from the date of the original declaration. This declaration may also be amended at any time by an instrument signed by ownership representing not less than seventy-five (75) percent of the Lots covered by this Declaration.
- c. Invalidation of any covenant by judgement or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused these Declaration to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

YANKTON THRIVE INCORPORATED

By: \_\_\_\_\_

Its: \_\_\_\_\_

Company/Individual: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_