

## **AMENDMENT TO RESTRICTIVE COVENANT**

We the undersigned, fee owners of the following described real property: Lots One (1)B through Fifty-nine (59)B and One (1)C through Six (6)C of Nine-Mile Village, in Section Thirty-one (31), Township One Hundred Twenty-Seven North (127N), Range Fifty-five (55), West of the 5<sup>th</sup> P.M., Marshall County, South Dakota, same being the property now platted and described and plat recorded in the Office of the Register of Deeds of Marshall County, South Dakota, in Book Three (3) of Plat on Page Twenty-seven (27) and in Book Three (3) of Plat on Page Fifty-three (53), hereby amend that Restrictive Covenant dated the 2<sup>nd</sup> day of October, 1974, and filed for record in the Marshall County Register of Deeds Office on the 16<sup>th</sup> day of December, 1974, at 11:50 o'clock A.M., and duly recorded in Book W-M of Miscellaneous of Page 292-293 and that amendment dated December 18, 1979, and filed for record in the Marshall County Register of Deeds Office on February 4, 1980 at 1:40 o'clock P.M., in Book ZM, Pages 166-171; that all the undersigned landowners hereby adopt that Restrictive Covenant in its entirety and declare same to be in full force and effect except for the following amendment which we hereto agree to and accept as binding upon all of said property: The restrictive covenants may be amended without the unanimous approval of the owners of the lots. Upon the approval and written consent of the owners of 75% of the lots affected by the covenants, the covenants may be amended. Any such amendment shall be in writing, shall be signed by the approving owners, shall indicate the lots owned by each approving owner, and shall be filed in the office of the register of deeds for Marshall County. A copy of the approved and filed amendment shall be mailed or delivered to at least one owner of each lot, but a failure to give such notice shall not affect the validity of the amendment.

A property owner's association shall be established to carry out any of the functions and services of the covenants, including improvement and future maintenance of any existing developed roads, future roads as accepted by the members, common facilities, improvement of water quality projects, and for any capital improvement to be made to support the operation of the association. The association shall have the power to determine and collect dues and make assessments when appropriate and necessary for

such purposes. Articles of Incorporation will be filed establishing Nine Mile Lake Property Owners' Association which will be a South Dakota nonprofit corporation. Ownership of such property subject to the provisions of these covenants shall qualify and obligate the owner of said property to membership in the corporation. Each member subject to provisions of these covenants shall be entitled to one, and only one, membership in the corporation not withstanding the number of lots owned, and each membership shall be entitled to one, and only one, vote in the election of directors of the corporation and such other matters for which members may vote in accordance with the provisions of law. The affairs of the corporation shall be managed by a board consisting of not less than five (5) nor more than nine (9) directors who will establish by-laws regulating these affairs.

Dated this twelfth (12<sup>th</sup>) day of October, 2009