

COPY

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3744-81

NATHANIEL R. RECORDER
CASSIUS CO. IOWA
FEES

RESTRICTIVE COVENANTS

This declaration is made this 8th day of May, 1981 by JON D. LUCKSTEAD and BETTY L. LUCKSTEAD, husband and wife, and JOHN F. BIECHLER and AGNETTA BIECHLER, husband and wife, hereinafter called the "Owner".

WITNESSETH:

WHEREAS, the owner of the real property described in Division I of this declaration, is desirous of subjecting the real property described in Division I to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, each and all of which is and are for the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any owner thereof:

NOW, THEREFORE, the owners hereby declare that the real property described in and referred to in Division I hereof is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, reservations and easements hereinafter set forth.

DIVISION I

DEFINITION OF TERMS

"Building Site" shall mean any lot or portion thereof, or a parcel of land upon which a commercial, manufacturing or industrial building or buildings and appurtenant structures may be erected in conformance with requirements of these covenants.

"Improvements" shall mean and include a commercial, manufacturing or industrial building or buildings, out buildings appurtenant thereto, ancillary structures or systems, parking areas, loading areas, fences, masonry walls, hedges, lawns, mass plantings and any structures of any type or kind located above ground.

"Street Building Line Setback" shall mean the minimum distance which commercial, manufacturing, or industrial buildings and out-buildings or any structures of any type or kind located above ground shall be set back from the property line or lines abutting any street or streets.

"Side Building Line Setback" shall mean the minimum distance which commercial, manufacturing, or industrial buildings and out-buildings or any structures of any type or kind located above ground shall be set back from the boundary or property line dividing two adjoining building sites.

"Rear Building Line Setback" shall mean the minimum distance which commercial, manufacturing, or industrial buildings and out-buildings or any structures of any type or kind located above ground shall be set back from the boundary or property line not fronting a street or not dividing adjoining building sites.

DIVISION II

PROPERTY SUBJECT TO THIS DECLARATION

The real property which has, and shall be conveyed, transferred, occupied, and sold subject to the Conditions, Covenants, Restrictions, Reservations and Easements set forth herein is located in the County of Dubuque, State of Iowa, and is familiarly known as "Tamarack SE Dubuque County, Iowa" and is more particularly described as follow, to-wit:

Lot 1 - 3 inclusive, in Tamarack SE, a subdivision of Lot 1 of Lot 1 of the SE 1/4 of Section 14, Township 88 North, Range 1 East of the 5th Principal Meridian in Dubuque County, Iowa.

DIVISION III

GENERAL PURPOSES OF CONDITIONS

The real property described in Division I hereof is subject to the Conditions, Covenants, Restrictions, Reservations and Easements hereby declared to insure proper use and appropriate development and improvements of each building site thereof and to provide adequately for a high type and quality of improvement in said property.

DIVISION IV

GENERAL RESTRICTIONS

A. No noxious or offensive trade or activity shall be carried on, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to the said Tamarack SE Subdivision hereby restricted, whether said annoyance or nuisance be by reason of unsightliness or the excessive vibration, glare and heat, fire hazards or industrial wastes.

B. Without otherwise limiting the provision of Paragraph A herein, or any of the other terms and conditions of these restrictions, the buildings or premises, except as otherwise provided in these restrictive covenants, may be used for any use permitted under Section M-1 Industrial District, Dubuque County Zoning Ordinance adopted February 11, 1971, as the same now exists or as the same has been or may hereinafter be amended.

C. Setback distances shall be as follows, except as otherwise provided herein:

1. Street building line set back distances:

a. along platted roads and streets 50 feet from right of way,

b. along other and/or future streets such distance from the right of way line as shall be specified in the individual deed to the property, but under no circumstances less than 10 feet.

2. Side and rear building line setback distances shall be not less than 20 feet on all lots.

3. Setback distances may be changed, in writing, by Jon D. Luckstead, or his designated assignee, in his sole discretion, as he deems the change to be in the best interest of the owners and the subdivision.

D. No building or structure above ground shall extend beyond the building lines prescribed above and it is hereby declared that the yards or areas created by the observance of the

building of setback lines established above may be used or developed either for attractive open landscape and green areas or for off-street, stabilized parking areas. All landscaping shall be properly maintained in a sightly and well-kept condition. Parking areas shall be likewise maintained in a well-kept condition. Materials may not be stored in the open in street building line setback areas, but may be stored in all other setback areas, provided attractive, permanent screening is constructed.

E. The owner or user of any building site or lot shall provide for adequate, stabilized parking for employees. This parking area shall be located upon the owner's or user's lot or building site. Similar off-street parking spaces for visitors shall also be provided upon said lot or site.

F. No building, fence wall, sign, advertising device, roadway, loading facility, outside storage facility, parking area, site grading, planting, landscaping, facility for industrial waste or sewage disposal, nor any other improvements, shall be commenced, erected or constructed, nor shall any addition thereto, or change or alteration therein, be made (except to the interior of a building), nor shall any change in the use of any lot or site be made, until the Plans and Specifications therefor, showing the nature, kind, shape, height, materials, color scheme, lighting and location on the lot or site of the proposed improvements, grading, landscaping or alteration and the proposed use or change in the use of the lot or site shall have been submitted to and approved in writing by Jon D. Luckstead or his designated assignee and a copy of such Plans and Specifications as finally approved are deposited with Jon D. Luckstead or his designated assignee shall have the right to refuse to approve any such Plans and Specifications or proposed use of the lot or site for any reason which Jon D. Luckstead, or his designated assignee, in his sole discretion, may deem to be in the best interest of the owners or lessees, or prospective owners or lessees, of any other lots or sites within Tamarack SE Subdivision.

G. The construction of any building or other improvement as described in paragraph F herein upon any lot or site shall be completed within one (1) year of the date of the written approval of the Plans and Specifications therefor by Jon D. Luckstead, or his designated assignee.

H. Each owner of a lot or site shall provide, on his property, necessary and adequate parking facilities and private driveways as are approved by Jon D. Luckstead, or his designated assignee, in accordance with paragraph F herein.

I. Construction and alteration of all improvements on any lot or site shall be in accordance with the requirements of all applicable building, zoning and other ordinances, regulations and laws.

J. Each owner of a lot or site shall at all times keep his premises, buildings, improvements and appurtenances in a safe, clean, neat and sanitary condition and shall comply with all laws, ordinances and regulations pertaining to health and safety. Each owner of a lot or site shall provide for the removal of trash or rubbish from his property.

K. During the construction of any improvements upon any lot or site, it shall be the responsibility of each lot or site owner to insure that construction sites are kept free of unsightly accumulations of rubbish, scrap materials and building materials, and that building materials, trailer shacks and the like are kept in a neat and orderly manner.

L. A scale drawing, in color, of any sign, billboard, trademark or advertising device to be used on any lot or site, or on the exterior of any building or structure, shall be submitted to Jon D. Luckstead, or his designated assignee, in triplicate, for written approval by Jon D. Luckstead, or his designated assignee.

M. No loading dock shall be located on any side of a building facing a roadway unless prior written approval has been obtained from Jon D. Luckstead, or his designated assignee.

N. No materials, supplies or products shall be stored or be permitted to remain on any lot or site outside of a permanent structure, unless in a screened storage area as approved by Jon D. Luckstead, or his designated assignee. Minimum screening to be six (6) feet in height or rising two (2) feet above the stored materials, supplies or products, whichever is higher.

O. No building shall be painted, repainted, stuccoed or be surfaced with any material unless approved, in writing, by Jon D. Luckstead, or his designated assignee.

P. No unused or disabled motor vehicle, machinery or junk materials shall be kept upon any lot or site nor shall any vehicle built for, adapted to, or modified for, racing purposes be kept or stored upon any lot or site.

Q. No owner or occupant of any lot or site shall cause or permit to be caused any excessive noise, odors, harmful sewage or vibrations that could be deemed objectionable to other occupants or that would conflict with the purposes or restrictions applicable to Tamarack SE Subdivision nor shall any lot or site owner or occupant create or maintain a nuisance.

R. Each of the conditions, covenants, restrictions, reservations and easements set forth above shall continue and be binding upon the owners and upon their successors and assigns and upon each of them and all parties and all persons claiming under them for a period of twenty (20) years from the first day of _____, 1981, and automatically shall be continued thereafter for successive periods of twenty (20) years each; provided, however that the owners of 75 percent of the fee simple of the property subjected to these restrictive covenants, based on the number of square feet owned as compared to the total area restricted, may release all or any part of the land so restricted from any one or more of said restrictions or may modify any one or more of said restrictions at the end of the first 20-year

period, or any successive 20-year period thereafter by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing the same for record in the Office of the Recorder of Dubuque County, Iowa, at least one (1) year prior to expiration of this first twenty (20) year period or of any successive 20-year period thereafter; provided also however, that at any time these covenants or any part thereof may be eliminated or modified upon written approval of the owners of 90 per cent of the fee simple of the property subjected to these covenants, based on the number of square feet as compared to the total area restricted, such written instrument to be properly recorded in the office of the Recorder of Dubuque County, Iowa, before same become binding and in force and effect. A recordable certificate by an abstractor doing business in Dubuque County, Iowa, as to the record ownership of the property hereby restricted, and a recordable certificate by the registered or certified surveyor or engineer authorized to practice in the State of Iowa as to the square footage owned by the record owners as shown by said abstractor's certificate shall be deemed conclusive evidence of ownership of property and square footage thereof so owned and hereby restricted with regards to compliance with the provisions of this section.

S. The covenants set forth herein shall run with the land and bind the present owners, their successors and assigns and all parties claiming by, through or under them shall be taken to hold, agree, and covenant with the owners of said building sites, their successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of building sites, and the construction of improvements thereon, but no restrictions herein set forth shall be personally binding on any corporation, persons, or person except in respect to breaches committed during its, their, or his seisen of, or title to said land, and the owner, their successors or assigns, or the owner or owners of any of the above land shall have the right to sue for and obtain an injunction prohibitive or mandatory, to prevent the breach of or to enforce the observance of the restrictions about set forth, in addition to ordinary legal action for damages, and the failure of the owner, their successors and assigns, and the owner of any lot or lots or building sites hereby restricted to enforce any of the restrictions hereby set forth at the time of its violation, shall in no event be deemed to be a waiver of the right to do so as to any subsequent violations. The violation of these restrictions shall not defeat nor render invalid the lien of any mortgage (or deed of trust) made in good faith and for value.

T. Invalidation of any one of these covenants or any part thereof by judgments of court order shall in no wise effect any of the other provisions which shall remain in full force and effect.

U. The owners, their successors and assigns, hereby reserve the right in future sales of lots or sites in Tamarack SE Subdivision, to prescribe and require such additional covenants, conditions, restrictions, reservations, and easements with respect to the lots or sites so sold as they may deem proper. It is the intention that all of the lots or sites in Tamarack SE Subdivision shall be subject to the conditions, covenants, restrictions, reservations, and easements set forth herein, but that they are minimum standards and that at the time of sale of certain specific lots or sites the same may be subjected to

additional conditions, covenants, restrictions, reservations, and easements. It is specifically contemplated that in order to achieve the purposes herein indicated the owners, their successors and assigns, may, in individual deeds or conveyances, impose specific requirements which are not included herein and/or which are more restrictive or stringent in any particular than they may be in this instrument.

DIVISION V

A. Any building site contained in these restrictive covenants that becomes connected to a septic tank, shall have a septic tank of not less than 1,000 gallon capacity, however, the Dubuque County Board of Health or other applicable regulatory agency shall have final determination on the size of a septic tank. No septic tank shall be constructed until percolation tests acceptable to the Dubuque County Board of Health have been performed. The overflow from the septic tank shall empty into a underground drain field area of not less than 800 sq. ft. in area. The system shall be maintained in good working condition, and in no case shall the effluent be permitted to terminate at or above ground level. Location of the said sewage disposal system shall be assigned by the owner, or their duly appointed agent. Said system shall be maintained in such a condition as not to create a nuisance, health hazard or endanger the safety of any water supply. All septic tanks and drain field construction shall be inspected prior to cover up by a representative of the owner or their duly appointed agent, and the Dubuque County Board of Health.

B. Whenever any building site contained in these restrictive covenants shall be required in accordance with rules and regulations governing waste treatment and disposal, as proclaimed by the Iowa State Department of Health, the Iowa State Department of Environmental Quality, the U.S. Environmental Protection Agency, the Dubuque County Board of Health, and any other regulatory agencies, to become part of a central sewer system, the owners, their successors and assigns, shall design, construct, connect to, and maintain a central sewer system and the owners of each building site already constructed shall within 60 days connect with the central sewer system when same become available and thereafter each owner of a site shall cease use of a septic tank, and all future sites shall be served by such central sewer system.

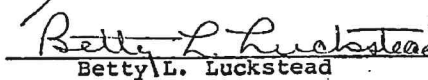
C. There is hereby reserved and granted to the owner and the owners of each of the sites now in existence, or as hereinafter established, a perpetual easement over, through and across the lots, for the installation and maintenance of all necessary sewer lines, together with the rights of ingress and egress therefrom, for the purpose of installing and maintaining all necessary sewer lines, so each lot or site is able to connect to the central sewer system whenever same is located and constructed on the property contained in these restrictive covenants.

D. When a lot or site becomes connected to said central sewer system the owners of such lot or site shall assume the cost and maintenance expense of the central sewer system on the basis of Federal Guidelines - Equitable Recovery of Industrial Waste Treatment Cost, as provided by the Federal Pollution Control Act, as amended.

Executed at Dubuque, Iowa, this 8th day of May, 1981.


Jon D. Luckstead


John F. Biechler

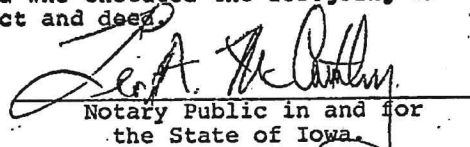

Betty L. Luckstead


Agnetta Biechler

OWNERS

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STATE OF IOWA : ss.
DUBUQUE COUNTY
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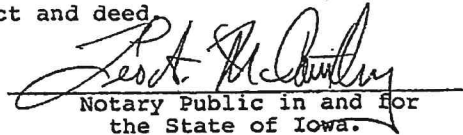
On this 8th day of May, 1981, before me the undersigned a Notary Public in and for the State of Iowa, personally appeared JON D. LUCKSTEAD and BETTY L. LUCKSTEAD, to me known to be the identical persons named in and who executed the foregoing instrument as their voluntary act and deed.


Notary Public in and for
the State of Iowa.



-----x
STATE OF IOWA : ss.
DUBUQUE COUNTY
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On this 8th day of May, 1981, before me the undersigned a Notary Public in and for the State of Iowa, personally appeared JOHN F. BIECHLER and AGNETTA BIECHLER, to me known to be the identical persons named in and who executed the foregoing instrument as their voluntary act and deed.


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