

## RESTRICTIVE COVENANT

This Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Between:

TOWN OF DAYSLAND  
A Municipal Corporation, in the Province of Alberta  
(hereinafter called the "Grantor")

OF THE FIRST PART

AND

TOWN OF DAYSLAND  
A Municipal Corporation, in the Province of Alberta  
(hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS the Grantor is registered owner of lands located in the Town of Daysland described more particularly in **Schedule "A"** hereto and hereinafter referred to as the "Burdened and Benefited Lands".

AND WHEREAS the Grantor has effected a subdivision to create lots for sale and wishes to restrict the development upon those lots to a certain standard.

AND WHEREAS the Grantor wishes to ensure that the owners of Burdened Lands restrict the use of the Burdened Lands to benefit and protect the Benefited Lands.

AND WHEREAS the Grantor wishes to create a reciprocal Restrictive Covenant burdening each lot in the Burdened Lands for the benefit of each lot in the Benefited Lands.

NOW THEREFORE pursuant to s. 48 of the *Land Titles Act*, this Agreement witnesses that in consideration of ONE (\$1.00) DOLLAR now paid to the Grantor (receipt and sufficiency of which is acknowledged), and in consideration of the mutual Restrictive Covenant grants herein provided;

1. The Grantor, being the registered owner of the “Burdened Lands” more particularly described in **Schedule “A”** hereto, on their own behalf and on behalf of their administrators, successors and assigns, does hereby covenant and agree with:
  - a. the Grantee as owner of the Benefited Land; and their administrators, successors and assigns as Grantee (the “Grantee”) for themselves and their respective successors in title that the Burdened Lands, and each shall be and are hereby bound with and burdened by the following Restrictive Covenants, which shall be and are hereby annexed to and binding upon the Burdened Lands and each parcel within the Burdened Lands, namely:
    - i. The lots shall be used for no purpose other than single detached residences accommodating a single household or such single detached residential use together with a small-scale home business compatible with the residential nature of the area, together with:
      1. a minimum of an attached double garage;
      2. a minimum of two trees;
      3. a wood or wood product six foot high fence of neutral color in the rear yard only;
      4. a driveway of cement, paving stone or exposed aggregate product; and
      5. a full basement equal to the square footage of the main floor of the house with a minimum of eight foot walls
    - ii. No pre-existing mobile home or manufactured home shall be moved on to the lots.
    - iii. No modular homes are permitted unless:
      1. the modular home is new and not previously used;
      2. the width of the modular home is at least half the length of the building;
      3. the modular home is set on a basement, crawl space, or slab-on-grade; and

4. the modular home appears indistinguishable in design and quality from a site-built house.
  - iv. No residence shall be smaller than a finished main floor area (excluding garages) of 1,200 square feet.
  - v. No scrap or scavenged material shall be used in the construction on any part of a house, accessory building, fences or other improvement which is visible from off-site.
  - vi. No waste, garbage, stockpiles, unlicensed vehicles or other items likely to devalue adjacent properties are permitted within the yards of the lots.
  - vii. No exterior construction to a house or garage nor any yard landscaping on a lot shall be carried on for longer than two years from the start of construction.
  
2. The foregoing Restrictive Covenants shall be binding upon and enure to the benefit of any person to whom the Burdened Lands or any parcel of land within the Burdened Lands are conveyed such that the stipulations, reservations and provisions described herein shall run with the Burdened Lands and each parcel comprising the Burdened Lands, and shall enure to the benefit of the Grantee and any subsequent owner of the Benefited Lands or any parcel of land within the Benefited Lands.
  
3. The provisions of this Restrictive Covenant as they apply to the Burdened Lands:
  - a. do not absolve any owner of the Burdened Lands or any parcel within the Burdened Lands from complying with any easement or other instrument affecting the Burdened Lands;
  - b. do not absolve any owner of the Burdened Lands or any parcel within the Burdened Lands from complying with any federal or provincial legislation or regulation, and any amendments thereto;
  - c. do not absolve any owner of the Burdened Lands or any parcel within the Burdened Lands from complying with the Land Use Bylaw or any other bylaw of the Town of Daysland; and

- d. are not intended to conflict with but, rather, be further to those prescribed for the Burdened Lands under the Land Use Bylaw and any other Statutory Plan of the Town of Daysland, and any amendments thereto, affecting the Burdened Lands.
4. The Restrictive Covenants herein set forth are severable and the invalidation of one or more than one of them shall not invalidate any other Restrictive Covenant set forth and such Restrictive Covenants shall be independent to the extent that the lack of enforcement or one or more of them shall in no way be construed as a waiver of any of the other Restrictive Covenants set forth herein.
5. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.
6. It is further declared and prescribed that:
  - a. The foregoing Restrictive Covenants are intended to run with the titles to the lots in the Burdened Lands and to bind the purchasers to the Burdened Lands and their successors in title including but not restricted to tenants and to purchasers under agreement for sale;
  - b. Each of the lots in the Benefited Lands shall be the dominant lands to each and every other of the lots in the Burdened Lands for the purpose of enforcing the foregoing Restrictive Covenants.
  - c. Each of the lots in the Burdened Lands shall be the servient lands to each and every other of the lots of the Benefited Lands for the purpose of having enforced against it any Restrictive Covenant.
  - d. The owner of any one of the lots in the Benefited Lands may enforce the foregoing Restrictive Covenant against the owner (including registered owner, purchaser under agreement for sale and tenant) of any of the Lots in the Burdened Lands, and such enforcement may be done without the consent and participation of the remainder of the owners of the remaining lots in the Benefited Lands.

- 7. This Restrictive Covenant shall be registered or recorded by way of caveat against the title to the Burdened Lands at the Land Titles Office.
  
- 8. Notwithstanding anything to the contrary contained or implied above, the Town shall not be liable to the purchasers of any of the lots or their successors in title or interest for the enforcement of any of the covenants contained herein, or in the event that this document or any or all of the foregoing Restrictive Covenants is or are adjudged by a court of law to be unenforceable.

IN WITNESS WHEREOF the parties have executed this Restrictive Covenant on the day and year first above written.

**TOWN OF DAYSLAND**  
(Grantor and Grantee)

Per: \_\_\_\_\_

(c/s)

Per: \_\_\_\_\_



**Form 27  
Land Titles Act  
(Section 131)**

**AFFIDAVIT IN SUPPORT OF EXECUTION**

I, \_\_\_\_\_, as the agent for the Town of Daysland, MAKE OATH AND SAY THAT:

1. I am the agent for the above-named Caveator.
2. I believe that the said Caveator has a good and valid claim upon the said lands, and I say that this caveat is not being filed for the purpose of delaying or embarrassing any person interested in or proposing to deal therewith.

SWORN BEFORE me at the Town of )  
Daysland, in the Province of Alberta, )  
this \_\_\_\_ day of \_\_\_\_\_, 2009. )  
 )  
 )  
 )

\_\_\_\_\_  
Signing Authority, Town of Daysland

\_\_\_\_\_  
A Commission for Oaths in and for the  
Province of Alberta