

CITY OF BUFFALO, IOWA
RESOLUTION # 35 - 96

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
DECLARATION OF USE RESTRICTIONS FOR FLOOD PRONE
PROPERTIES ACQUIRED BY THE CITY OF BUFFALO, IOWA,
AS A HAZARD MITIGATION GRANT PROJECT

WHEREAS, the City of Buffalo, Iowa, has acquired property
described as:

Lots 5 and 6 in Block 3 in Heckle and Kautz's First
Addition to West Buffalo, now in the Town of Buffalo,
Scott County, Iowa, except the Northerly 57 feet thereof,
particularly described as follows: Commencing at the
Northeasterly corner of said Lot 6; thence Southwesterly
along the Northerly line of said lots 6 and 5 to the
Northwesterly corner of said lot 5; thence southeasterly
along the West line of lot 5, 57 feet; thence
Northeasterly parallel with the Northerly line of Lots 5
and 6, 92 feet to the Easterly line of lot 6; thence
Northwesterly along the Easterly line of Lot 6 and, 57
feet to the place of beginning.

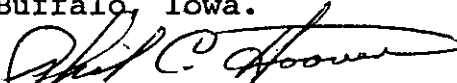
on August 11, 1995, pursuant to Warranty deed recorded in the
office of the Scott County recorder and;

WHEREAS, the warranty deed states that the above described
property is subject to "open spaces" land use pursuant to Federal
statutes sub-part N. from the 44 CRF No. 206.434(d) as an amendment
to the Stafford Act 1983 and;

WHEREAS, the particular restrictions contemplated by "open
spaces" land use statutes described above were not set out on the
deed and are required to be set out by the City in order to obtain
reimbursement by certain Federal Funds,

NOW THEREFORE BE IT RESOLVED that the Mayor is authorized to
and shall execute a DECLARATION setting out the particular
restrictions, a copy of said DECLARATION being attached hereto as
exhibit "A".

PASSED APPROVED AND ADOPTED this 07 day of October,
1996, by the City Council of Buffalo, Iowa.



Phil Hoover, Mayor

ATTEST:



Carol Bernauer
City Clerk

**DECLARATION OF USE RESTRICTIONS FOR FLOOD
PRONE PROPERTIES ACQUIRED BY THE CITY OF BUFFALO,
IOWA, AS A HAZARD MITIGATION GRANT PROJECT**

THIS DECLARATION, made this 07 day of October, 1996, by **THE CITY OF BUFFALO, IOWA**, (hereinafter called "the City").

WITNESSETH THAT:

WHEREAS, the Flood Disaster Protection Act of 1973, as amended by the Disaster Relief and Emergency Assistance Act of 1988 (The Stafford Act), which identified the use of disaster relief funds under Section 404 for the Hazard Mitigation Grant Program (HMGP), including the acquisition and relocation of flood damaged property; and,

WHEREAS, The Hazard Mitigation and Relocation Assistance Act of 1993 (The Volkmer Bill) further expanded the use of HMGP funds under Section 404, to "BUYOUT" flood damaged property which was damaged during the Great Flood of 1993; and,

WHEREAS, Section 404 of the Act provides a process for a Community to make application for funding to be used to purchase flood damaged buildings, demolish and remove the buildings, and convert the land use into perpetual open space; and,

WHEREAS, The Federal Emergency Management Agency provides the authority for a Community to negotiate for the purchase of flood damaged real estate, and subsequent transfer to public ownership by the Community, under certain conditions as specified in covenants and restrictions made part of the Deed; and,

WHEREAS, The City has, pursuant to the aforesaid, acquired and is now the owner of the land hereinafter described as:

Lots 5 and 6 in Block 3 in Heckle and Kautz's First Addition to West Buffalo, now in the Town of Buffalo, Scott County, Iowa, except the northerly 57 feet thereof, particularly described as follows: Commencing at the Northeasterly corner of said Lot 6; thence Southwesterly along the Northerly line of said lots 6 and 5 to the Northwesterly corner of said lot 5; thence southeasterly along the West line of lot 5, 57 feet; thence Northeasterly parallel with the Northerly line of Lots 5 and 6, 92 feet to the Easterly line of lot 6; thence Northwesterly along the Easterly line of Lot 6 and, 57 feet to the place of beginning.

shall be held, occupied, sold and conveyed subject to the following restrictions:

1. The premises shall remain in public ownership;
2. The premises shall only be used for purposes consistent

with sound land management and use, as that term is defined in Title 44, Code of Federal Regulations, Section 206, as it now appears or may hereafter be amended;

3. The premises shall only be used for open space purposes;
4. The premises may be leased for agricultural uses, provided no buildings or structures are erected; and
5. There shall not be erected on the premises any structures or other improvements unless such structures (restrooms excepted) are open on all sides and are functionally related to open space use.
6. The premises shall not be eligible for any future disaster assistance, for any purpose, from any Federal agency.
7. Any breach or threatened breach of the above conditions may be enjoined upon application by the United States of America.

The above conditions and restrictions, along with the right to enforce same are deemed to be covenants running with the land in perpetuity and are binding on subsequent successors, grantees, or assigns.

IN WITNESS WHEREOF, The City has caused this instrument to be executed as of the date first above written.



Phil Hoover, Mayor

Attest:



Carol Bernauer, City Clerk

STATE OF IOWA)
) ss:
COUNTY OF SCOTT)

On the 08 day of October, 1996, before me, a Notary Public in and for the State of Iowa, personally appeared and to me personally know, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Buffalo, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. 34 - 96 adopted by the City Council on the 07 day of October, 1996, and that Phil Hoover and Carol Bernauer acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Robert L Jackson
Notary Public in and for Scott
County, Iowa

