



Doc#:2007-00843
Recording Fee: \$ 0
Date:02/14/2007 Time:09:22
Lawrence County
Register of Deeds
Sheryl L. Sherm, Deputy

COZ NO. 260

AN ORDINANCE AMENDING LAWRENCE COUNTY ZONING ORDINANCE
NUMBER ONE FROM
A-1 - GENERAL AGRICULTURE TO PF - PARK FOREST DISTRICT

BE IT ORDAINED: By Lawrence County, South Dakota, that the boundaries of A-1 -
GENERAL AGRICULTURE DISTRICT as established by the Lawrence County Zoning
Ordinance One, be amended so as to remove the following described real property, to-
wit:

NE1/4 Section 1, and the N1/2SE1/4 Section 1, Township 6 North, Range 1 East, (01-
006-01), B.H.M., LAWRENCE CO., SD

**from the A-1 - GENERAL AGRICULTURE DISTRICT
and include it in the PF - PARK FOREST DISTRICT**

This amendment will become effective on the twentieth (20th) day following publication.

[Signature]
Lawrence County Auditor
(Seal)



[Signature]
Lawrence County Commission Chair

First Reading: 01/04/2007
Second Reading: 02/13/2007
Adoption Date: 02/13/2007

[Signature]
Lawrence County State's Attorney

[Signature]

**ORDER DECLARING
SPEARFISH RURAL FIRE PROTECTION DISTRICT
INCORPORATED**

WHEREAS, an election was held among the registered voters in the Spearfish Rural Fire Protection District to determine whether or not a Fire Protection District should be incorporated.

WHEREAS, this vote was held on April 11, 2017.

WHEREAS, the vote has been cast and canvassed showing the whole number of ballots cast was 496 (four hundred ninety Six), together with the number of 459 (four hundred fifty-nine) voting for and the number of 37 (thirty seven) voting against incorporation;


WHEREAS, The Territory organized as a district is as follows: The location of Spearfish Rural Fire Protection District is defined as: Lawrence County: Sections 1 through 12 inclusive in Township 5 North, Range 1 East of the B.H.M.; Sections 1 through 36 inclusive in Township 6 North, Range 1 East of the B.H.M.; Those portions of Sections 7 through 36 inclusive within Lawrence County in Township 7 North, Range 1 East of the B.H.M.; Sections 2 through 11, and Sections 14 through 16 inclusive in Township 5 North, Range 2 East of the B.H.M.; Sections 1 through 36, inclusive in Township 6 North, Range 2 East of the B.H.M., Sections 1 through 36 inclusive within Lawrence County in Township 7 North, Range 2 East of the B.H.M.; Sections 5 through 11, and Sections 14 through 23 inclusive, and Sections 26 through 35 inclusive in Township 6 North, Range 3 East of the B.H.M., excluding any properties located in a municipality, all in Lawrence County, South Dakota

WHEREAS, the Board of County Commissioners are satisfied with the legality of such election.

WHEREAS, it appearing that a majority of the voters at the election have voted in favor of incorporation of such territory.

NOW THEREFORE BE IT ORDAINED by the Lawrence County Board of Commissioners that the Spearfish Rural Fire Protection District is hereby incorporated pursuant to SDCL 34-31A.

DATED this 25th day of April, 2017.


Randall Rosenau, Chairman
Lawrence County Commission



ATTEST:

CONNIE ATKINSON, Auditor

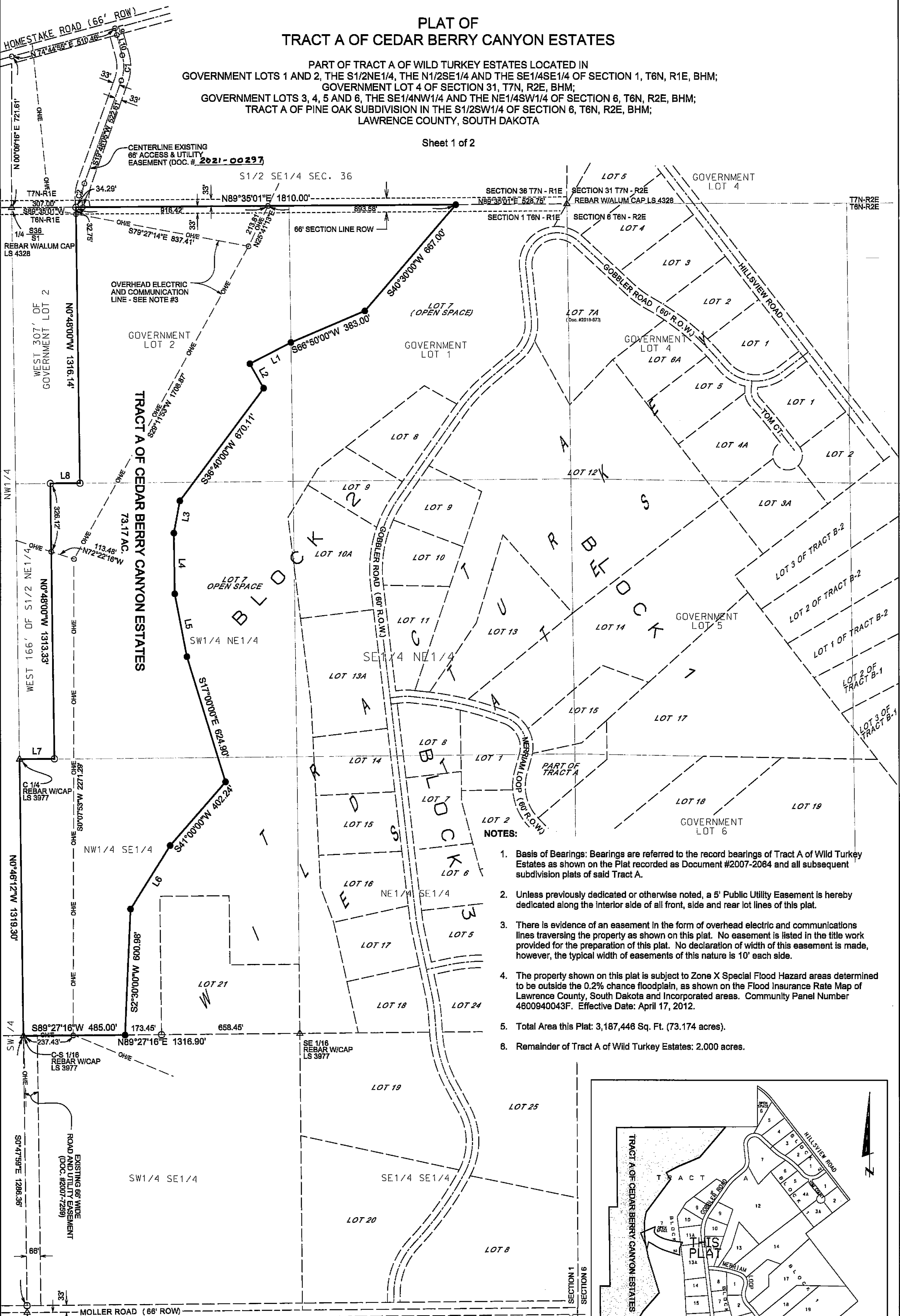


Doc #: 2017-01743
Date: 04/26/2017 10:10:00
Sheree L. Green
Register of Deeds
Lawrence Co. - Fee \$0.00

PLAT OF
TRACT A OF CEDAR BERRY CANYON ESTATES

PART OF TRACT A OF WILD TURKEY ESTATES LOCATED IN
GOVERNMENT LOTS 1 AND 2, THE S1/2NE1/4, THE N1/2SE1/4 AND THE SE1/4SE1/4 OF SECTION 1, T6N, R1E, BHM;
GOVERNMENT LOT 4 OF SECTION 31, T7N, R2E, BHM;
GOVERNMENT LOTS 3, 4, 5 AND 6, THE SE1/4NW1/4 AND THE NE1/4SW1/4 OF SECTION 6, T6N, R2E, BHM;
TRACT A OF PINE OAK SUBDIVISION IN THE S1/2SW1/4 OF SECTION 6, T6N, R2E, BHM;
LAWRENCE COUNTY, SOUTH DAKOTA

Sheet 1 of 2



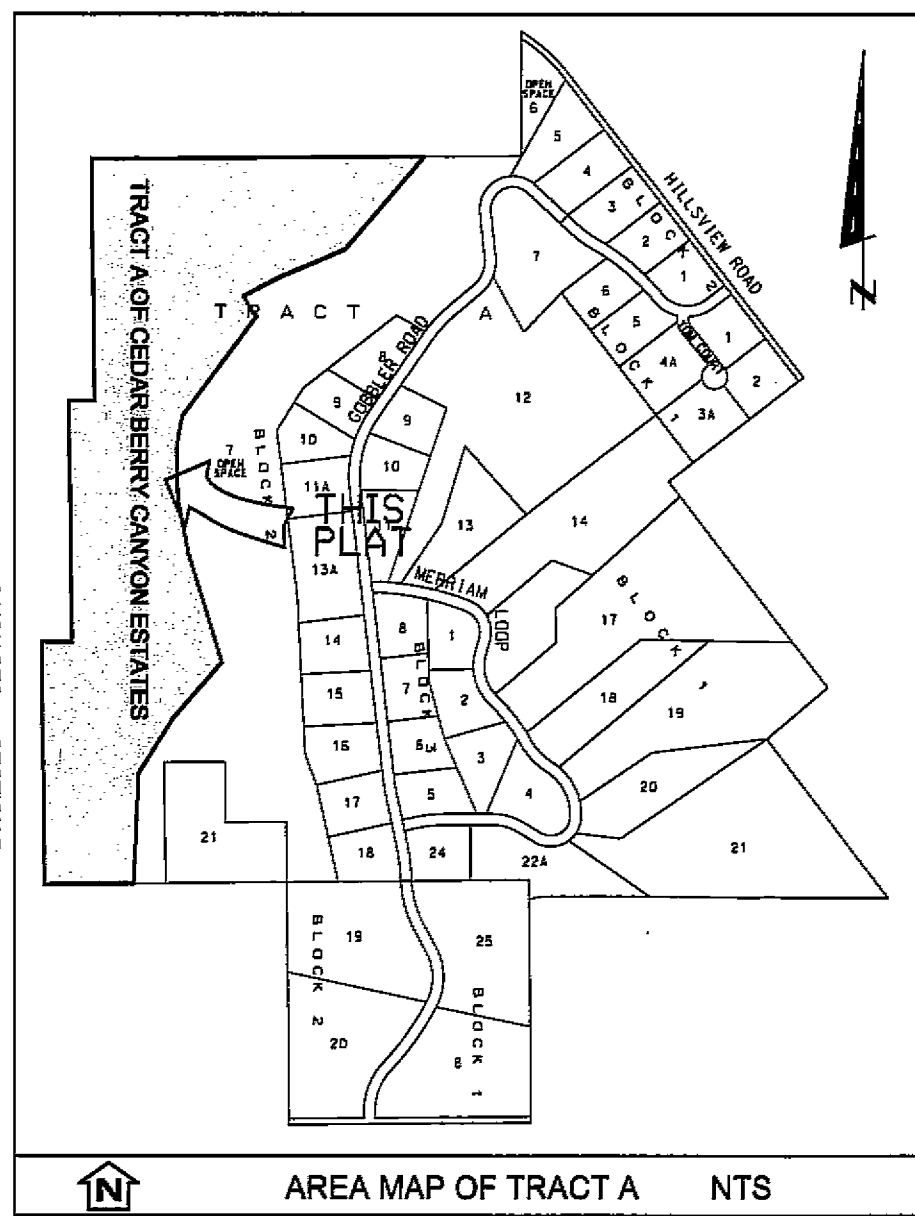
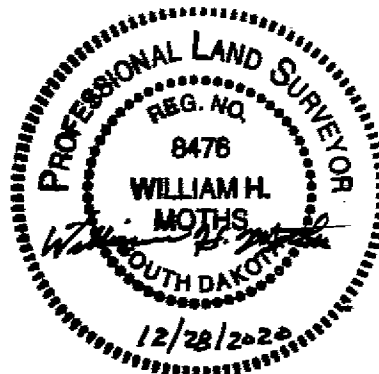
NOTES:

1. Basis of Bearings: Bearings are referred to the record bearings of Tract A of Wild Turkey Estates as shown on the Plat recorded as Document #2007-2084 and all subsequent subdivision plats of said Tract A.
2. Unless previously dedicated or otherwise noted, a 5' Public Utility Easement is hereby dedicated along the interior side of all front, side and rear lot lines of this plat.
3. There is evidence of an easement in the form of overhead electric and communications lines traversing the property as shown on this plat. No easement is listed in the title work provided for the preparation of this plat. No declaration of width of this easement is made, however, the typical width of easements of this nature is 10' each side.
4. The property shown on this plat is subject to Zone X Special Flood Hazard areas determined to be outside the 0.2% chance floodplain, as shown on the Flood Insurance Rate Map of Lawrence County, South Dakota and Incorporated areas. Community Panel Number 4800940043F. Effective Date: April 17, 2012.
5. Total Area this Plat: 3,187,446 Sq. Ft. (73.174 acres).
6. Remainder of Tract A of Wild Turkey Estates: 2,000 acres.

Line Table				
Name	Length	Direction		
L1	220.00	S 62°30'00" W		
L2	133.55	S 29°30'00" E		
L3	155.86	S 10°28'53" W		
L4	280.00	S 0°46'12" E		
L5	304.85	S 11°00'00" E		
L6	356.78	S 32°00'00" W		
L7	166.00	N 89°28'31" E		
L8	141.00	N 89°28'38" E		
L9	33.00	S 15°15'05" E		
L10	100.00	S 15°15'05" E		

Curve Table					
Name	Radius	Arc Length	Delta	Chord Length	Chord Direction
C1	200.00	122.36	35°03'15"	120.46	S 2°16'33" W
C2	198.00	114.78	33°12'53"	113.18	S 3°11'39" W

- FOUND #5 REBAR W/ALUM CAP - LS 3328
- RECOVERED OR SET #5 REBAR W/ALUM CAP - LS 8476
- △ FOUND MONUMENT AS NOTED
- DIMENSION TERMINATOR - NO MONUMENT SET



Prepared By:

Surveyed By: WHM Date: August 2020
Drawn By: WHM Date: 10/30/2020
Checked By: WHM Date: 12/23/2020
Project Number: L11-18-040/4172

INTERSTATE ENGINEERING
P.O. Box 226
120 Industrial Drive, Suite 2
Spearfish, SD 57783
Office: (605) 642-4772
Fax: (605) 642-4773
www.interstateeng.com

PLAT OF
TRACT A OF CEDAR BERRY CANYON ESTATES

PART OF TRACT A OF WILD TURKEY ESTATES LOCATED IN
GOVERNMENT LOTS 1 AND 2, THE S1/2NE1/4, THE N1/2SE1/4 AND THE SE1/4SE1/4 OF SECTION 1, T6N, R1E, BHM;
GOVERNMENT LOT 4 OF SECTION 31, T7N, R2E, BHM;
GOVERNMENT LOTS 3, 4, 5 AND 6, THE SE1/4NW1/4 AND THE NE1/4SW1/4 OF SECTION 6, T6N, R2E, BHM;
TRACT A OF PINE OAK SUBDIVISION IN THE S1/2SW1/4 OF SECTION 6, T6N, R2E, BHM;
LAWRENCE COUNTY, SOUTH DAKOTA

Sheet 2 of 2

CERTIFICATE OF OWNERSHIP
State of Montana County of Ravalli

I, Mark L. Anderson, Executive Vice President of Farmers State Bank, hereby certifies that Farmers State Bank is the owner of Tract A of Wild Turkey Estates as shown and described hereon, that the plat was done at the request and direction of Farmers State Bank for the purposes indicated hereon and that development of this land will conform to all existing applicable zoning, subdivision, erosion and sediment control regulations. Farmers State Bank hereby dedicates the easements shown or noted hereon to their specified use.

Owner: Farmers State Bank
103 Main Street
Victor, MT 59875

By: Mark L. Anderson
Mark L. Anderson, Executive Vice President

APPROVAL OF ACCESS BY STREET AUTHORITY
State of South Dakota County of Lawrence

Approval of the access, if any, to an abutting political subdivision highway or street:

Alan G. Bonnema 1-6-2021
Highway or Street Authority Date

Pursuant to SDCL § 11-3-12, the County/State shall not be required to open, improve, or maintain any such dedicated right-of-way, streets, alleys, ways, commons or other public ground solely by virtue of having approved a plat or having partially accepted any such dedication, donation or grant.

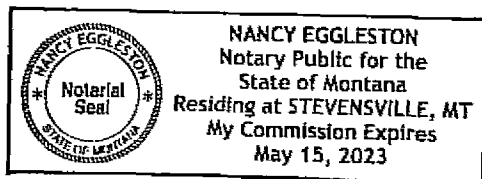
No certification, approval or endorsement contained herein shall be construed as acceptance of any public right-of-way, dedicated street, alley, or road depicted or described herein, as part of the State or Lawrence County highway system.

ACKNOWLEDGMENT OF OWNERSHIP
State of Montana County of Ravalli

On the 4th day of January, 20 21, before me, a Notary Public, personally appeared Mark L. Anderson, known to me to be the person described in, and who executed the foregoing certificate.

My Commission Expires: May 15, 2023

Nancy Eggleston
Notary Public



CERTIFICATE OF COUNTY TREASURER
State of South Dakota County of Lawrence

I, Debora Tridle, Lawrence County Treasurer, do hereby certify that the 2020 taxes, which are liens upon the lands platted hereon, as shown by the records of my office have been fully paid.

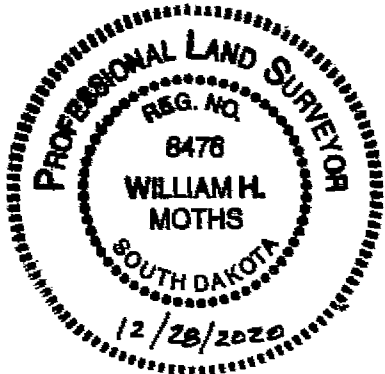
Debbie Marshall 1-19-21
County Treasurer Date



SURVEYOR'S CERTIFICATE

I, William H. Moths, a Registered Land Surveyor in the State of South Dakota, on the basis of my knowledge, information and belief, certify to the above named Owner(s), that at the request of said Owner(s), the survey represented by this plat was made under my supervision, on the ground, to the normal standard of care of Professional Land Surveyors practicing in the State of South Dakota. This survey does not constitute a title search to determine ownership or easements of record as performed by myself or by Interstate Engineering.

William H. Moths DECEMBER 28, 2020
William H. Moths RLS #8476 Date



OFFICE OF COUNTY DIRECTOR OF EQUALIZATION
State of South Dakota County of Lawrence

I, Timothy J. Hodson, Lawrence County Director of Equalization, hereby certify that I have received a copy of this plat.

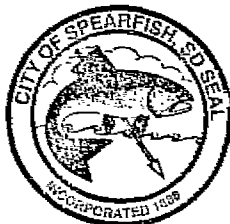
Timothy Hodson by Nicole Devine 1-19-2021
County Director of Equalization Date



OFFICE OF THE ADMINISTRATIVE OFFICIAL
State of South Dakota County of Lawrence City of Spearfish

This plat is approved by the Administrative Official on this 19th day of January, 20 21 in accordance with the administrative approval authority granted in City of Spearfish Resolution 2018-23.

Timothy V. Hansen Michelle Denner
Administrative Official Finance Officer



OFFICE OF REGISTER OF DEEDS
State of South Dakota County of Lawrence

Filed for record this 19th day of January, 20 21 at 1:29 o'clock P. M., and recorded as Document # 2021-393

Register of Deeds: David D. Hansen Fee: \$ 60.00
by Keri Podoll, deputy



Prepared By:

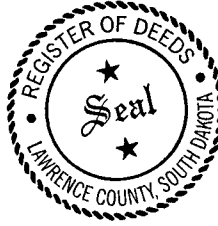
Surveyed By: WHM Date: August 2020
Drawn By: WHM Date: 10/30/2020
Checked By: WHM Date: 12/23/2020
Project Number: L11-18-040 / 4172



P.O. Box 228
120 Industrial Drive, Suite 2
Spearfish, SD 57783
Office: (605) 842-4772
Fax: (605) 842-4773
www.interstateeng.com

Document #2021-393

Page 2 of 2



Doc #: 2021-05574
Date: 6/28/2021 9:55:54 AM
Davida D. Hansen
Lawrence County Register of Deeds
Fee: \$ 30.00

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
CEDAR BERRY CANYON ESTATES**

Prepared by:

Cedar Berry Canyon LLC
6009 E. Powderhouse Cir.
Sioux Falls, SD 57110-7468
605-391-7127



Doc #: 2021-05574
Page 1 of 22

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CEDAR BERRY CANYON ESTATES

WHEREAS, Declarant is the owner of certain real property in Lawrence County, South Dakota, known as Cedar Berry Canyon Estates, and legally described as follows:

Tract A of Cedar Berry Canyon Estates, Part of Tract A of Wild Turkey Estates located in Government Lots 1 and 2, the S½NE¼, the N½SE¼, and the SE¼SE¼ of Section 1, T6N, R 1E, BHM; Government Lot 4 of Section 31, T7N, R2E, BHM; Government Lots 3, 4, 5, and 6, the SE¼NW¼ and the NE¼SW¼ of Section 6, T6N, R2E, BHM; Tract A of Pine Oak Subdivision in the S½SE¼ of Section 6, T6N, R2E, BHM; Lawrence County, South Dakota;

WHEREAS, Declarant intends to develop 21 Lots, more or less, which shall be subject to these covenants, conditions, and restrictions and the Articles of Incorporation and Bylaws of the Homeowner's Association provided for herein; and,

WHEREAS, Declarant intends to sell Lots within the Property and by this Declaration imposes on the lots within the Property covenants, conditions, and restrictions under a general scheme or plan for the benefit of the owners;

NOW, THEREFORE, the undersigned hereby declares that all of the properties (hereinafter referred to as the "Property") described above shall be held, sold and conveyed subject to the following easements, covenants, conditions and restrictions, which are for the purpose of protection the value and desirability of Cedar Berry Canyon Estates, and which shall run with the real property and be binding on all parties having any right, title or interest in the described property, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I Definitions

Section 1. "Association" shall mean and refer to Cedar Berry Canyon Estates Homeowners Association and its successors or assigns.

Section 2. "Declarant" shall mean and refer to Cedar Berry Canyon LLC, and its successors and assigns.

Section 3. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.



Section 4. "Developer" shall mean and refer to Cedar Berry Canyon LLC and its successors or assigns.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map(s) or plat(s) of the Property except Public Roads and Common Area.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association, as provided herein or in the Bylaws of the Association that is created or to be created.

Section 7. "Road" shall mean and refer to any road serving two (2) or more Lots shown upon any recorded subdivision map(s) or plat(s). These Roads shall be designated on the subdivision map(s) or plat(s). Roads shall not include shared driveways or private driveway easements.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons entities, of a fee simple title to any Lot which is a part of the Property, including contract purchasers, but excluding in all cases any party owning an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded Contract of Sale, and the Contract specifically provides, then the purchaser (rather than the fee Owner) will be considered the Owner.

Section 9. "Property" shall mean and refer to that certain real property described above, and such additions hereto as may hereafter be brought within the jurisdiction of this Declaration.

Section 10. "Real Estate Contract" shall not include and Earnest Money Receipt and Agreement and the terms "Contract Seller" and "Contract Purchaser" shall not include the parties to any such Earnest Money Receipt and Agreement.

ARTICLE II

Association Membership and Voting Rights

Section 1. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The operation of the Association shall be governed by the Bylaws. The Board of Directors duly elected by the Association shall have authority to adopt, amend and enforce compliance with reasonable rules and regulations necessary and reasonable to carry out the provisions and purposes of the Articles of Incorporation and this Declaration. A copy of any rules and regulations adopted by the Board of Directors will be delivered or mailed to each member promptly after adoption. The Board of Directors is empowered and has the right to implement, provide, perform, and to enforce any or all of the following within the Development



(the following listing is not intended to limit the general powers of the Board granted by law): (1) all of the provisions in this Declaration, the Articles of Incorporation, and the Bylaws the Association; (2) the aforementioned rules and regulations; (3) penalties for violations of rules, regulations and failure to pay assessments; (4) constructions, improvements, and maintenance to any Association property necessary; (5) contract with third parties for necessary services.

Section 3. The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B: Class B Member(s) shall be the Declarant and shall be entitled to thirty (30) votes for each Lot owned. The Class B membership shall cease and be converted to Class A memberships at such time as Declarant owns no Lots in the Property.

Section 4. *Suspension of Membership.* During any period in which a Member shall be in default in the payment of any annual or special assessment, the voting rights of the Member in default may be suspended by the Board of Directors until such assessment has been paid. Such rights of a Member may also be suspended after notice and hearing, for a period not to exceed one hundred eighty (180) days, for any and each violation of any rules and regulations established by the Board of Directors.

Section 5. *Right to Enter; Costs Assessed.* The Association may, in the interest of the general welfare of all Members and after reasonable notice, enter upon any Lot or the exterior of any dwelling at reasonable daylight hours for the purpose of inspecting, removing or correcting any violations or breach of any attempted violation of any of the covenants or restrictions contained in this section, or for the purpose of abating anything herein as a prohibited use or a nuisance or failure to properly maintain a Lot, and no such entry or inspection shall be considered a trespass or otherwise be considered a wrongful action; provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association. The Board of Directors of the Association may adopt such mandatory penalties as they deem appropriate for violation of any section hereof and upon violation and notice thereof being given to the violator and failure to cure the same within five days thereof, said penalty shall be assessed. All penalties or any cost for removal or correction shall be added to and become a part of the general or special assessment to which such Lot is subject.



ARTICLE III
Covenants for Assessments

Section 1. *Creation of the Lien and Personal Obligation of Assessments.* The Declarant, for each improved Lot owned within the Property, hereby covenants, and each Owner of any Lot by the execution of a Real Estate Contract or the acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all Association regular assessments or charges.

The general or special assessments, together with interest thereon, at the statutory rate for money due and owing from time to time from, and after the date the same becomes due and payable, together with costs of collection, shall be a charge on each Lot subject to assessment and shall be continuing lien against which such assessment is made. Each assessment, together with interest thereon, and costs of collection, in addition to becoming a lien against each Lot, shall also be a joint and several personal obligation of the person, group of persons or entity who was the owner of such Lot at the time when the assessment became due and payable, or who acquired ownership thereafter.

Section 2. *Purpose of Assessments.* The assessment levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Property. Such funds may, without intent reflect any limitation, be used for the payment of insurance and the payment of the general administrative expenses incurred in the management of the Association's business, and shall specifically include enforcing the provisions of this Declaration and any rules made hereunder and to enjoin and/or seek damages from any Owner for violation of such provisions of rules and, if appropriate, to manage any wells or water systems.

Section 3. *General Assessments.* The general assessment on all Lots shall be effective on the first day of January each year and is a lien on the property. Failure to make timely payments, as set by the Board of Directors, results in a lien attaching to the Lot which may be enforced by the Board as provided herein. Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall not exceed six hundred dollars (\$600) per Lot.

From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership. From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of the total membership who are voting in person or by proxy, at a meeting duly called for this purpose. The Board of Directors may fix the annual assessment in an amount not in excess of the maximum.



Section 4. *Notice and Quorum for any Action Authorized under Section 3.* Written notice of any meeting called for the purpose of taking any action authorized under section 3 of this Article shall be sent to all Members not less than Seven (7) days nor more than twenty (20) days in advance of the meeting. At the first such meeting called, the presence of Members appearing in person or by proxies entitles to cast sixty percent (60%) of all the votes of the total membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. *Special Assessments.* Special assessments are other than annual assessments and may be assessed by the Board of Directors for capital improvements or capital replacements, if appropriate, to manage any wells or water systems, and other special needs as determined by the Board.

Section 6. *Rate of Assessment.* Both annual and special assessments must be fixed at a rate for all Lots as determined by the board of Directors and may be collected on a monthly basis or other periodic basis as determined by the Board of Directors of the Association.

Section 7. *Dates of Commencement of Annual Assessments; Due Dates.* The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of title to the first Lot sold. As to each particular Lot involved, the liability for the annual assessment shall begin on the first day of the calendar month following the date of any deed or contract of sale for the Lot, or on the first day of the calendar month following occupancy of the premises, whichever is earlier. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the end of each calendar year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. *Effect of Non-Payment of Assessments: Remedies of the Association.* Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of one percent (1%) per month. The Association may bring legal action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. Foreclosure of the lien shall be accomplished by use of the procedure applicable in the case of the foreclosure of a mortgage. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot.



Section 9. *Subordination of the Lien to Mortgages.* The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (and shall be subordinate to the lean of any second mortgage give to secure payment of the purchase price) now or hereafter placed on any Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability from any assessments thereafter becoming due or from lien thereof.

Section 10. *Maintenance of Roads.* The Roads shall be maintained by a Lawrence County Road District and shall not by maintained by the Association.

Section 11. *Maintenance of Common (Open) areas.* The common (open) areas, including the entry areas and signs shall be governed by the Association. The Association shall perform or contract for the performance of maintenance of the common areas and entry areas. The common (open) areas are available for the use and benefit off all lot owners of Cedar Berry Canyon Estates. All costs associated with the operation and maintenance of the common areas and entry areas (and signs) shall be assessed and prorated between the lot owners as determined by the Board of Directors.

All real property taxes on the open areas shall be the obligation of the Association and each individual lot owner of the plat. An undivided interest in the common or open areas shall be included in each conveyance document to purchasers of any Lot in Cedar Berry Canyon Estates.

Section 12. *Declarant's Reserved Rights For Non-Assessment; Road or Improvement District Assessments.* Notwithstanding the provisions as hereinabove set forth, Declarant, or its assigns or successors in interest, excluding Owners, shall not be required to pay general assessments or special assessments or other charges or fees, including without limitation any assessments or fees imposed by any Road District or Improvement District, for any Lot or real property in which it has an interest. The foregoing limitations shall not apply to any Lot within the Property formally platted and filed with the Lawrence County Register of Deeds in which the Declarant, or its assigns or successors, excluding Owners, possesses an interest, but only from and after the date and time the Lot has been occupied for residential purposes.

ARTICLE IV Wells and Water System

The Developer anticipates drilling one or more wells to provide water to the Property. The ownership and use of such well or wells and of the related water system shall be subject to this Article.

Section 1. The water system shall consist of any pumping systems, common storage tank and common water lines which transport water from the water well or storage tank to the boundary of each subject Lot. Each Lot shall be solely responsible for constructing and maintain all pipes and other necessary improvements to connect the water system to the improvements on such Lot as is set forth herein.

Section 2. The owner of the wells and water system shall provide water service from the wells and water system under terms and conditions of this Article.

Developer shall be the initial owner of the wells and water system. However, Developer reserves the right at any time, in Developer's sole discretion and without the necessity of consent from any party, to assign ownership of the wells and water system to a third party entity or assign ownership of the same to the Association. If Developer assigns ownership of the wells and water system to a third party entity, such third party entity may, in its sole discretion and without the necessity of consent from any party, to assign ownership of the wells and water system to a different third party entity or assign ownership of the same to the Association. If Developer or a third party entity assign ownership of the well and distribution system to the Association, the Association shall assume sole responsibility to maintain and manage the wells and water system pursuant to this Article and may not further assign ownership of the wells and water system to a third party. Declarant reserves the right to use the wells and water system for personal use without cost, so long as applicable rules and regulations for minimum water availability are maintained.

Section 3. Each Lot Owner shall receive water service from the wells and water system under terms and conditions of this Article.

Section 4. Each Lot Owner shall provide all labor and materials necessary for connecting to the water system. The Owner shall install a curb stop/shut off valve at or near the Lot line at such location as is designated by Declarant or Declarant's assigns. This water service line, including the connection to the water main and construction of the curb stop, shall meet South Dakota State Plumbing Code Specification.

Section 5. Each Lot Owner shall provide at Owner's cost a water meter approved by Declarant or Declarant's assigns which shall be installed in a protected place in Owner's home so that all water to be used by the Owner will be measured by the meter. The Owner further agrees to install a remote read-out. The meter shall remain the property of the Owner and the Owner shall be responsible for all maintenance or replacement of the meter if necessary.

Section 6. The Owner shall pay water charges to the Declarant or Declarant's assigns as follows:

- a. Initially, for all water used by a Lot, such Lot Owner shall pay to Declarant or Declarant's assigns a monthly charge at the following rates:

A flat \$100 per month usage fee, plus the sum of \$5.00 per 1,000 gallons or fraction thereof for the first 15,000 gallons used per month, and the sum of \$25.00 per 1,000 gallons or fraction thereof for usage in excess of 15,000 gallons per month.

Upon giving thirty (30) days written notice, by mailing to the Member, Declarant or Declarant's assigns may raise or lower the water rates herein.

- b. The above rates shall be in effect for the first month in which a residence is constructed on a Lot and water is consumed in the residence.
- c. Prior to the date upon which a residence is constructed on a Lot and water is consumed therein, such Lot Owner shall pay a \$250 per lot per year non-users water fee to be used by the Declarant or Declarant's assigns to defray the fixed cost of operation and maintenance of the water system. This sum of \$250 shall be paid by the Owner on the date Owner takes title of the Lot for the time period through January first of the next succeeding year on a prorated basis. The Owner shall pay this non-user fee annually thereafter in the month of January for each year after receiving appropriate billing from Declarant or Declarant's assigns.
- d. No lot shall be allowed to connect to the wells or water system until all non-user fees have been paid in full.
- e. The non-user fee for the year in which the residence is actually connected to the water system shall be prorated.

Section 7. Declarant or Declarant's assigns shall provide the necessary forms to be enclosed with each Owner's monthly water service payment. Declarant or Declarant's assigns shall have the right to go upon the premises of each Owner at any time with reasonable written notice to check the meter reading and to make sure that the meter is functioning properly. Declarant or Declarant's assigns will bill Owners monthly according to their meter reading and current rate chart.

Section 8. Declarant or Declarant's assigns shall have the right to discontinue water service to the Owner's residence if the Owner has not paid the water charges owing under the terms of this Agreement by the fifteenth day of any month. Declarant or Declarant's assigns shall also have the right to discontinue water service to the Lot if the Owner uses the water from the well and water system through any means, without the water first going through the water meter installed, for the purposes of measuring water usage by the Lot.



In the event the Owner has not paid the water charge owing by the fifteenth day of any month, Declarant or Declarant's assigns may give the Owner written notice of this fact, which notice shall allow the Owner to pay the unpaid water charges within ten (10) days of the date of the written notice, plus interest at the maximum statutory rate on the unpaid charges. In the event the Owner fails to pay said delinquent water charges within said ten (10) day time period, Declarant or Declarant's assigns shall have the right to terminate water service to the Owner's residence. Water service to the Owner's residence shall not be turned back on until the Member has paid all delinquent water fees, plus interest, and also paid a \$250.00 connection fee. In addition, if Declarant or Declarant's assigns incurs any costs or expenses in terminating water to the Owner's residence as a result of the Owner's failure to pay the fees required herein, the Member shall be responsible to reimburse Declarant or Declarant's assigns for any additional costs or charges incurred by Declarant or Declarant's assigns in terminating and reinstating water service.

Section 9. Declarant or Declarant's assigns shall have the right to determine the type of materials used and the method of installation and connection of the Owner's service line from the water system to the Owner's residence.

Section 10. Declarant does not in any way guarantee to any Owner the quality or quantity of water available through the water system, nor the life of the wells which Declarant or Declarant's assigns have and from which it will be depending on for supply. If the quantity of water should, at any time for any reason not be sufficient for the anticipated desires of those connected to the system, Declarant or Declarant's assigns reserve the right to establish and enforce restrictions and regulation with regard to the quantity and type of water which a Lot is allowed to use. Notice of these restrictions and regulation shall be given by posting a written notice of the regulations with regard to the quantity and type of water which the Lot is allowed to use. Notice of these restrictions and regulations shall be given by posting a written notice of the regulations at the entrance to the Development and shall go into effect immediately upon posting. Any failure on the part of any Owner to obey the rules and regulations is considered a default and authorizes Declarant or Declarant's assigns to discontinue water service to the residence at which the violation has been committed.

Section 11. Declarant or Declarant's assigns shall have the right to temporarily discontinue the flow of water in the main in order to repair, maintain, improve or replace the main or portions of the water system.

Section 12. Each Lot shall use water for residential purposes only and the acceptance of water service from Declarant or Declarant's assigns shall not give the Owner any rights whatsoever to use water for commercial purposes, unless Declarant or Declarant's assigns have, in advance, and in writing, given permission for the Owner to use said water for commercial purposes. No waste of the water shall be allowed. No more than a total of one-third of an acre may be irrigated, whether for lawn or garden purposes. No sale or transfer of any system water shall be permitted apart from the sale of the Lot. Declarant or Declarant's assigns may designate



days or time during which irrigation or other outdoor watering will be prohibited so as to avoid water shortages.

Section 13. Each Lot shall be obligated to maintain the service line from the residence or any other structure to the location where the Lot service line is connected to the water system. If any leaks develop in the line, the Owner shall promptly repair the service line. In the event that the Owner fails to repair this service line, Declarant or Declarant's assigns shall have the authority to discontinue the service to the residence.

Section 14. No Lot Owner shall at no time assert any claim hereunder against Declarant or Declarant's assigns for loss or damage which may result from the inadequacy or non-availability of water as to both pressure or quantity or quality or from leaks or any other defects in the well or water system.

Section 15. A Lot Owner may only drill a private well if Declarant or Declarant's assigns consents in writing. Such consent shall not be unreasonably withheld, but valid reasons include concerns about the impact of such private well on the pressure, quality, or flow of Declarant's well and water system.

ARTICLE V Declaration of Protective Covenants

Section 1. *General Provisions.* The provisions of this Declaration are declared to create mutual, equitable covenants and servitudes for the benefit of the Declarant and each Owner or contract purchaser of a Lot or building site, who shall be subject to said Declaration. This Declaration may be enforced by any proceeding at law or in equity against any person or persons in violation or attempting to violate any covenants, conditions, or restrictions, either to restrain violation and/or to recover damages. The failure of the Declarant or any Owner or contract purchaser to enforce any covenant or restriction, or exercise any rights herein contained shall in no event be deemed a waiver of the right to do so thereafter. All costs incurred in enforcement shall be at the expense of the violator or violators.

Section 2. *Building Limits.* All dwellings or garages, or any part thereof, or any other structure shall be erected in conformity with all City of Spearfish and Lawrence County building codes. The Board may also require construction or maintenance of any structures comply with Fire Mitigation Plans adopted by the Board.

No lines or wires for the transmission of current or for telephone use shall be constructed, placed or permitted to be placed upon any Lot or building site outside the buildings thereon unless the same shall be underground or in conduit attached to a building.



Section 3. *Structures.*

- a. **Materials.** All buildings shall be of new materials, new construction, and set on a permanent foundation. The Board may require or prohibit the use of certain materials in compliance with Fire Mitigation Plans adopted by the Board. No houses shall be moved onto any Lot from any other location. Homes constructed of pre-fabricated wall and roof section are allowed. Mobile, single or double-wide homes are not permitted.
- b. **Codes.** All structures must comply with the latest editions of the local, state, or national building codes, rules and regulations, including but not limited to the following:
 - a. U.B.C Standards of the Uniform Building Code
 - b. U.S.F.A United States Fire Administration
 - c. N.E.C.A National Electrical Code Administration
 - d. South Dakota State Plumbing Code
 - e. I.B.C. Standards of the International Building Code
- c. **Architectural Design.** Each residential structure shall have a composition, metal, or tile pitched roof. The Board may also require the design and location of all structures shall comply with Fire Mitigation Plans adopted by the Board. The intent of this paragraph is to maintain interesting and pleasing architectural designs.
- d. **Dwellings; Residential Use; Limited Home Occupation Uses.** No more than one single-family dwelling may be constructed on any Lot. Each Lot may be used only for residential purposes. However, Owners may use a portion of their home for limited business purposes. Businesses requiring or which operate upon regular scheduled appointments shall not be allowed. No extraordinary traffic is allowed. No commercial business activity other than an in-home occupation use in conformance with this section may be conducted upon any Lot within the Property. However, nothing in this section shall be construed to relieve any person from compliance with any and all applicable laws. No business or commercial building may be erected on any Lot. No temporary buildings, structures or trailers may be erected, placed or maintained on any Lot except as expressly permitted by, and in compliance with, the Development Standards. Nothing herein contained shall be deemed to limit the Developer's rights as set forth herein. No offensive noises, vibration, smoke, dust, odors, heat or glare shall be permitted to emanate from any Lot, and no exterior storage or display of any business materials or advertising is permitted. Customer traffic on a non-incidental basis is prohibited, but catalog, postal and/or telephone sales are permitted.



Employee numbers must be limited so as not to annoy or disrupt subdivision residents. The following business activities are prohibited: repair, engine rebuilding or reconditioning of automobiles and/or the sale of engine fuels, motor oils, lubricants, grease, tires, batteries and accessories or body and paint work; and, any other occupation which is determined as noxious, offensive, or annoying by the Board.

- e. Exterior Color. The color combinations of exterior materials must be subtle and tasteful to blend with the environment. Earthen tones are required except that black and white are allowed. Extreme contrast in color of paints, stains, and masonry are discouraged. Exterior colors not permitted include: blue, yellow, pink, lavender, orange or any other bright or pastel color. All color schemes must be approved in writing by the Board of Directors or its representatives.
- f. Exterior. All unfaced visible surfaces of concrete masonry or concrete foundation walls and piers, must receive a stucco, mortar-wash, paint, rock, stone or brick finish and shall blend unobtrusively with adjacent materials.
- g. Residence Size. No residential structures shall be constructed or erected with less than 1,300 square feet on the main floor. Anything less is not allowed without prior written approval of the Board of Directors of the Association and such approval shall be based on the site location of the proposed structure, aesthetics, and compliance with covenants.
- h. Garage. All dwellings shall have a minimum of a two-car garage either attached or detached to the dwelling which shall be finished on the exterior in the same manner as the dwelling.
- i. Out Buildings. Outbuildings shall be of new construction and the exterior building materials shall conform to the exterior building materials of the dwelling house. The minimum square footage of any outbuilding shall be 500 square feet. All structures shall be completed within one (1) year from start of construction.
- j. Fencing. Fencing is discouraged but not prohibited on the Property. All fencing shall be treated wooden buck n' rail fencing comparable to the fencing at the entryways or treated wooden post and rail fencing not exceeding five feet in height. No privacy fencing is allowed. Each Owner shall be liable to comply at the Owner's sole cost with the provisions of SDLC Chapter 43-23 with respect to any Partition Fence located on the Owner's Lot, and neither the Declarant nor the Association shall be responsible to construct, maintain, or repair any Partition Fences on Lots the respective entity does not own.



- k. Harmony With Natural Surroundings. Building materials on new construction shall be frame, stone or brick construction and in color harmony with the natural surroundings and compatible with other houses in the area. Use of unpainted metal siding or roofing is prohibited on any structure.

During the period of construction, mobile homes and trailers may not be used as temporary structures.

Section 4. *Landscaping.* All Lots must be landscaped around the dwelling house no later than one (1) year after completion of construction. The Board may require that landscaping comply with Fire Mitigation Plans adopted by the Board.

Section 5. *Setbacks.* All buildings and construction of any kind must be set back at least 25 feet from the common boundary line of the adjacent lots and 30 feet from the nearest road easement. The setback restrictions shall not apply on common boundary lines between Lots and open space areas (common areas) and common boundary lines of lots and exterior boundary lines of the platted subdivision. The Board may require larger setbacks to comply with Fire Mitigation Plans adopted by the Board.

Section 6. *Easements.* Private driveway easements may be created between Lot Owners, otherwise, no Lot shall be used for an access easement of any kind other than those on record and filed with the Lawrence County Register of Deeds as of the date of recording of this Declaration, nor shall any Lot have any roadway constructed for any purpose other than a driveway to a residence located on the Property. However, each Lot shall be subject to an easement for the use and maintenance of the existing utility lines and existing water lines from the reservoirs and pumps to each lot.

Section 7. *Vehicle Parking.* Boats, campers used on a truck, self-propelled camper trailers, utility trailers, and camper trailers used for travel and off-premises recreational purposes shall be stored in a permanent structure. Further, the Association may limit or eliminate the parking privilege for any other vehicle if it is brightly colored, large, conspicuous, or otherwise creates a distraction from the natural beauty in the Association's judgment. However, such vehicles may be temporarily placed on a Lot for reasonable purposes for no more than seven (7) consecutive days, it being understood the term "consecutive days" shall not permit successive periods of use between short periods of non-use, and the overall pattern of such use shall be relevant in determining compliance with this restriction.

Section 8. *Signs.* No signs, billboards, posters or other advertising devices of any kind or character may be erected or displayed upon any of the Lots except for Declarant's subdivision promotion signs and small signs displayed to identify the occupants of a dwelling or offering a property for sale. The maximum size of all signs shall be not larger than 2 feet by 3 feet.

Section 9. *Temporary Structures.* No structure of a temporary character, including but not limited to trailers, mobile home (single wide or double wide), set together or expanding trailer houses, modular homes, tents, shacks, barns, or outbuildings other than as above described, shall be constructed, placed or occupied on any Lot at any time. Residential structures shall not be occupied until the exterior is completed, painted, or stained, and the water supply and sewer systems completed with the written approval of the local health authority. No building or structure of any type may be moved onto the property.

Section 10. *Trash and Debris.* No uncovered trash, debris or wastes shall be permitted to accumulate so as to offend the senses on any Lot or in any easement adjacent thereto, but shall be promptly and efficiently disposed of. No dumping ground or burial pit shall be used on any part of the property.

Section 11. *Excavations.* Mining, quarrying, oil drilling, or excavation developments of any kind shall not be allowed on any Lot except for such excavation as may be necessary in connection with the construction or placement of improvements thereon in accordance with this Declaration.

Section 12. *Septic Systems.* Only engineered septic systems shall be installed within the subdivisions. In addition, no sewage disposal systems shall be installed, maintained, or used upon a Lot without being constructed in accordance with any governmental bodies having jurisdiction.

Section 13. *Prosecution of Construction Work.* Any dwelling or structure erected or placed on any Lot in this subdivision shall be completed as to external appearance, including finished painting, within one (1) year after date of commencement of construction and shall be connected to an acceptable sewage disposal system. For good cause shown, the Association may extend this term.

Section 14. *Noxious Use of Property.* No trade, craft, business, profession, commercial or manufacturing enterprises or business or commercial activity of any kind, including day schools, nurseries shall be conducted or carried on upon any Lot, or shall any goods, equipment, vehicles stored, dismantled, or repaired on any Lot or on any road within the Property, nor shall anything be done on any Lot which may be or may become an annoyance or nuisance to the neighborhood. No Lot shall be used for any other purpose whatsoever except for the purpose of a private dwelling or residence. Notwithstanding the foregoing, home occupations that are conducted entirely inside the residential structure, and are not an annoyance or nuisance to the neighborhood may be conducted on the premises-for example, but not limited to, computer business or professional businesses.

Section 15. *Animals.* No animals or livestock such as swine, goats, or horses, of any kind shall be raised, bred or kept on any Lot. No more than a reasonable number of household pets may be kept, if they are not kept, bred or maintained for any commercial purposes. Household pets such as dogs and cats are restricted to their owner's property. No more than 10



hens will be allowed on a Lot and only if property consists of 3 or more acres and if allowed by County regulations. Hens must be kept in enclosed area with a coop that is made with materials matching house. Coops are to be located as inconspicuous as possible and must be located between the back of the house and back property line. Coops to be located no less than 30' from side property line.

Section 16. *Garbage Cans and Refuse Disposal.* Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment shall be kept in a clean and sanitary condition. No garbage or trash shall be maintained on any Lot as to be visible from neighboring property or any road way. All garbage and trash will be placed in tight garbage cans of the type in normal use in this locality, and shall be disposed of at least every (7) days. No refuse pile, garbage or unsightly objects are allowed on any Lot.

Section 17. *Noxious Weeds.* No noxious weeds shall be allowed to accumulate on the premises, and Owners shall engage in reasonable weed control programs. Owners shall not permit overgrowth of grass or weeds, regardless of whether the Lot is or is not occupied. The Board may also require that Owners comply with any control programs advised by Fire Mitigation Plans adopted by the Board.

Section 18. *Maintenance of Lots and Improvements.* All Lots and improvements thereon shall be kept and maintained by the Owner thereof, in a clean safe, attractive, and sightly condition and in good repair. No noxious or offensive activity shall be carried on upon any Lot. The Board may require Owners comply with maintenance and tree thinning provisions of Fire Mitigation Plans adopted by the Board.

Section 19. *Safety or Security Lighting.* No light shall be emitted from any Lot which is unreasonably bright. No dusk to dawn security/mercury lights on tall poles will be allowed.

Section 20. *Offensive Sound, Odor, or Lights.* No sound shall be emitted from any Lot which is unreasonably loud or annoying. No odor shall be emitted from any Lot which is noxious or offensive to others. No snowmobiles, motor bikes and other off-road vehicles may be used on the Property, except as required to access or exit the site. No outdoor lights shall be allowed which are unreasonably bright, annoying, or distracting.

Section 21. *Subdividing of Lots.* No Lot, or other property area created under any Supplemental Declaration may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership.

Section 22. *Adjoining Lot Ownership.* Two or more adjoining Lots, or other parcels of property of the same land classification which are under the same ownership may be combined and developed as one parcel. Setback lines along the common boundary line of the combined parcels may be removed with the written consent of the Board of Directors, if the Board of Directors finds and determines that any improvements to the structures within these setback lines will not cause unreasonable diminution of the view from the other property. If setback lines



are removed or easements changed along the common boundary lines of combined parcels, the combined parcels shall be deemed one parcel and may not thereafter be split and developed as two parcels.

Section 23. *Utility Lines.* All utilities upon any Lot for the transmission of utilities, telephone service, the reception of audio or visual signals or electricity, and all pipes for water, gas, sewer, drainage, or other purposes, shall be installed and maintained below the surface of the ground. Satellite TV and computer dishes are acceptable but may not be placed in front yards unless no other location is feasible.

Section 24. *Firearms.* The discharge of firearms is strictly prohibited.

Section 25. *Hunting.* No hunting is allowed in the Property.

Section 26. *Antennae and Satellite Dishes.* Television and radio antennae and satellite dishes are to be located as inconspicuously as possible. They shall be located at the side or rear of the home.

Section 27. *Fireplaces (Outdoors) and Fires.* No outdoor incinerators, open fires or related structures or devices shall be operated except as permitted by applicable local, State, or Federal Laws and by any Fire Mitigation Plans adopted by the Board.

Section 28. *Rental.* There are no restrictions on rental, and Sturgis Rally Rentals and nightly rentals (such as VRBO or AirBnB) are allowed. An Owner who leases his Lot to any Person shall be responsible for assuring compliance by his lessee with all of the provisions of this Declaration, the Articles, Bylaws, or Development Standards, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by his lessee thereof.

Section 29. *Design Review ("the Committee").*

a. **Constitution of Committee.** There is hereby constituted a Design Review Committee. The Board shall act as the Design Review Committee, but the Board of Directors may appoint a separate Design Review Committee in its sole discretion, with such powers and discretions as the Board may delegate from time to time. The Design Review Committee shall establish reasonable procedural rules, regulations, restrictions, architectural standards, design guidelines and development standards (collectively the "Development Standards"), which the Design Review Committee may, from time to time in its sole discretion, amend, repeal or augment. The Development Standards may include, among other things, those restrictions and limitations set forth above.

Plans and specifications shall be approved by the Design Review Committee as to style, exterior design, appearance and location, and are not approved for engineering design or for compliance with zoning and building ordinances, and by approving such plans and



specifications neither the Design Review Committee, the members thereof, nor the Developer assumes any liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. Neither the Committee, any member thereof, nor the Developer shall be liable to any owner or other Person for any damage, loss or prejudice suffered or claimed on account of (1) the approval or disapproval of any plans, drawings and specifications, whether or not defective, or (2) the construction or performance of any work whether or not pursuant to approved plans, drawings and specifications.

b. Submission to Committee. No soil may be removed or excavated, nor any naturally occurring grade altered, nor any home, or outbuilding shall be commenced for construction or erection on any Lot within the Property until the submission requirements in the following Section have been fulfilled and the Committee has issued written approval of plans based upon the submission data. All changes or additions to the approved plans before, during, or subsequent to their initial construction must be approved by the Committee, before the alteration may be implemented.

c. Submission Requirements. Prior to disturbing any soil or initial construction of a home or outbuilding, the Owner must submit the following data to the Committee:

(1) A plan for the improvement, which shall include the following information: square footage, floor plan, drawings of exterior elevations of the structure, and specifications describing external colors and materials including roofing material. Plans shall include landscaping, outdoor lighting, swimming pools, tennis courts, and the like. Distances and locations of all planned improvements in relation to the other improvements shall be included; the intent being that the improvements must be appropriately integrated.

(2) A site plan of the Lot showing the location of all proposed structures and septic system (if applicable).

(3) A plan for the proposed excavation(s) that shall include plans to control and mitigate any erosion that may subsequently occur to the excavation(s).

(4) Any other information as may be required by the Committee in order to ensure compliance with the requirements contained herein.

d. Approval Standards and Procedures. The Committee shall consider the submission data in light of the requirements, restrictions, intent, and spirit of this Declaration. Approval shall be based upon, among other things: compliance with the terms provided for in this Declaration; compliance with Fire Mitigation Plans; reasonable aesthetic appeal (including colors, materials, and designs); the compatibility of the proposed improvement with the following: proposed location of the improvement in relation to the topography,



roads, adjacent Lots, and other existing or approved improvements, and/or the use of the Lot within the intent and spirit of all provisions in this Declaration.

e. Decisions of Committee. The approval or consent of the Committee or its representative on matters properly coming before it shall be conclusive and binding on all interested Persons.

ARTICLE VI Fire Protection Plan

The Board may from time to time adopt one or more Fire Protection Plans intended to reduce the effects of wildfire on the Property, and the provisions of such Plans shall be binding on all Owners to the extent determined by the Board. The Board may augment any Protective Covenant herein to be consistent with the provisions of such Plans. Any Owner who purchases any of the Property is specifically advised such Plans shall be binding on the Owner to the extent determined by the Board whether or not such Plans are of record.

ARTICLE VII Rights of Declarant

All other provisions of this Declaration notwithstanding, the Association, its Board of Directors, and the Members shall not without prior written approval of Declarant: (1) Amend or totally abandon the covenants and restrictions established by this Declaration; or, (2) Amend or totally abandon the Articles or the Bylaws of the Association; or, (3) Impose general assessments or special assessments or other charges or fees upon the Declarant or upon any real property in which Declarant has an interest. No such action shall be valid without the prior written approval of the Declarant. Further, Declarant reserves the right to prepare and file from time to time such Supplemental Declaration(s) as may be necessary or appropriate to conform these Covenants to governing ordinances as may be necessary, if at all, as required by Lawrence County, South Dakota. Declarant's rights as set forth in the foregoing section and all other provisions as herein contained requiring the consent or approval of Declarant shall terminate upon the date the Declarant no longer has an interest in any of the Property.

ARTICLE VIII General Provisions

Section 1. *Applicability.* This Declaration shall run with the land and shall be binding on all parties and persons claiming under them.

Section 2. *Enforcement.* The Association, or any Owner, shall have the right to enforce, by any proceeding at law, or in equity, all covenants, conditions, restrictions, reservations, liens and charges not or hereafter imposed by the provisions of this Declaration. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages. The Court may award attorney's fees to the Association or by an Owner to



enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The Declarant or any Owner or contract purchaser of a Lot shall have the right to enforce these covenants, conditions and restrictions by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition, or restriction, to restrain violation, to require specific performance and/or to recover damages, and against the land to enforce any lien created herein. The failure of the Declarant or any Owner to enforce any covenant, condition or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. *Severability.* Invalidation of any one of these covenants or restrictions by judgement or Court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4. *Amendment.* The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or any Owner, their respective legal representatives, successors and assigns for a term of 10 years from the date of recordation of the Declaration, after which the said covenants shall be automatically extended for successive periods of 10 years each. However, this Declaration may be amended at any time, except where permanent easements or other permanent rights or interests are herein created, or rights or interests are created in third persons, by an instrument signed by Owners of two-thirds of the Lots described within the Property, and placed of record wherein this Declaration is recorded. No such amendment shall be effective unless written notice of the proposed amendment is sent to every Owner 30 days prior to action being taken on the proposed amendment. No change of circumstances or conditions shall operate to amend any of the provisions of this Declaration, which may be amended only in the manner hereinabove provided. None of the provisions of this Declaration shall be construed as a condition subsequent or as creating a possibility of reverter.

Section 5. *Purpose of Covenants.* The purpose of these Covenants is to promote the general health, safety, and welfare of all landowners and to avoid substandard construction which could be aesthetically displeasing or adversely affect future resale options.

Section 6. *Incorporation By Reference on Resale.* In the event any Owner sells or otherwise transfers his or her Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants and restrictions set forth in this Declaration, although the failure to do so shall not be deemed to defeat, alter, or terminate these covenants and restrictions as set forth in this Declaration as to said Property transferred.

Section 7. *Notices.* Any notice required to be sent to any Member or Owner of a Lot or any First Mortgagee of a Lot under the provisions of this Declaration shall be deemed to have been given when mailed by first class mail, postage prepaid, to such Member, Owner or mortgagee at the address as it appears on the records of the Association at the time of such



mailing. It shall be the duty of each Member, Owner, or Mortgagee to provide written notice of address or change of address to the Association.

Section 8. *Binding Effect and Compliance.* Each Owner, the Owner's heirs and assigns or any person acquiring any rights or privileges therefrom shall be fully bound by and shall comply with the provisions of these declarations, by the decisions of the Declarant, by the By-Laws and Articles of Incorporation of the Association, rules, regulations, decisions and resolutions of the Board of Directors or their authorized agent of the Association and any amendments hereinafter duly adopted to these covenants or said By-Laws or Articles of Incorporation, and failure to comply with such provisions, decisions or resolutions shall be grounds for action as so authorized, action to recover sums due or for damages, or action for injunctive relief.

Section 9. *Invalidity and Severability of Provisions.* Each and every covenant, restriction, provision, section and paragraph of this Declaration is deemed severable and in the event that any one or more of the same are declared to be invalid or unenforceable, all remaining provisions shall remain in full force and effect.



IN WITNESS WHEREOF, the undersigned Declarant has hereunto set its hand and seal the day and year first above written.

Cedar Berry Canyon LLC

By:

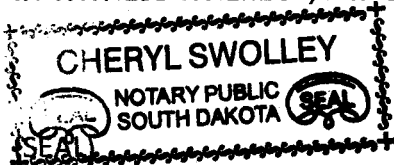


Betsy deWit, Member

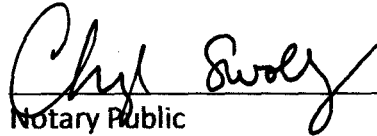
State of South Dakota)
)ss.
County of Lawrence)

On this 20 day of June, 2021, before me, the undersigned officer, personally appeared Betsy deWit, who acknowledged herself to be a Member of Cedar Berry Canyon LLC, a South Dakota limited liability company, and that she, as such Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as the authorized Member.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



My Commission Expires: 9-5-2024


Notary Public