

CONSTITUTION AND DECLARATION OF  
SANDSTONE HILLS HOMEOWNER'S ASSOCIATION

THIS CONSTITUTION AND DECLARATION is hereby made by the undersigned, hereinafter referred to as declarant, the singular to include the plural, who have this day voluntarily associated themselves for the purpose of forming a nonprofit homeowners' association of the residents of the subdivision known as the SANDSTONE HILLS HOMEOWNER'S ASSOCIATION, more specifically described as follows, to-wit:

Tract A of Sandstone Hills Addition to the  
City of Spearfish, Lawrence County, South  
Dakota

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Block 1: Lot 26;  
Block 3: Lots 1 through 8, inclusive;  
Block 4: Lots 1 through 8, inclusive;  
Block 6: Lot 20;  
Block 10: Lots 1 through 12, inclusive;  
Block 11: Lots 1, 3 through 23, inclusive.

WHEREFORE, THE UNDERSIGNED DECLARE AND CERTIFY AS  
FOLLOWS:

ARTICLE I.

NAME

That the name of the homeowners' association is the  
SANDSTONE HILLS HOMEOWNER'S ASSOCIATION.

ARTICLE II.

AGENT AND OFFICE

That Joe B. Jorgensen, whose address is 1905 Stagebarn Circle, Spearfish, South Dakota 57783, is hereby appointed as the initial agent of the association and that the principal office of the association is located at 1905 Stagebarn Circle, Spearfish, South Dakota 57783.

ARTICLE III.

PURPOSE

That the association is formed as a nonprofit association to provide for the maintenance and upkeep of common areas; further, to maintain architectural control of improvements; further for any other lawful business.

ARTICLE IV.

MEMBERS

Every tract or lot owner shall be a member of the association and shall have one (1) vote per lot, except that declarant shall have five (5) votes for each lot owned by declarant. Membership runs with and is appurtenant to a lot and each lot owner has an easement and right of enjoyment of any common area or property owned by the association. Subsequent owners of the property will acquire seller's rights in the association, subject to payment of association assessments and service charges. Where more than one person holds an interest in a lot, all such persons as they may among themselves determine who may cast the vote and in no event shall more than one vote be cast with respect to any one lot. No member may be expelled from the association or be denied voting rights. No interest held as security for the performance of an obligation shall be entitled to any membership rights.

ARTICLE V.

BOARD OF DIRECTORS

The affairs of the association shall be managed by a board of not less than two (2) directors, who shall be elected by the members of the association for staggered terms of three (3) years, shall serve without compensation, and who shall adopt bylaws for the association. The initial board of directors, who shall serve until their successors are elected and qualify are:

<u>Name</u>	<u>Address</u>
Joe B. Jorgensen	1905 Stagebarn Circle Spearfish, South Dakota 57783
James A. Benning	215 Union Spearfish, South Dakota 57783

ARTICLE VI.

APPURTENANCES

The undersigned hereby declare that the above described property shall be held, sold and conveyed subject to this constitution and declaration, which shall run with the real property and shall be binding on all parties having any right, title or interest in the property or any part thereof, their heirs, successors and assigns.

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ARTICLE VII.

POWERS AND OPERATION

The association shall have the power to fix and collect annual or special assessments; to acquire, deal in or dispose of real or personal property in connection with the affairs of the corporation; borrow money with the assent of two-thirds (2/3) of the membership; and to dedicate, sell or transfer all or any part of the property.

Section 1. Annual Assessments. Not less than two (2) weeks before the annual meeting the board of directors shall determine the annual assessments required to operate the association during the twelve (12) months beginning on the 1st day of January. After approval, the treasurer shall notify, by mail or by hand delivered notice, each member, before March 31st, of the assessments, which shall be paid in semi-annual installments on April 31st and October 31st. Supplemental annual assessments may be levied under the same procedure with membership approval required only if the total annual assessment shall be a charge upon the land as well as a personal obligation of the person who was an owner at the time the assessment fell due. Lots owned by the developer are not subject to assessment.

Section 2. Special Assessments. In addition to annual assessments, the association may levy, from time to time, special assessments for capital improvements or equipment, provided that the special assessment shall be first approved by two-thirds (2/3) vote at a meeting of the members.

Section 3. Notice and Quorum. Notice of meetings shall be given by mail or hand delivered not less than two (2) weeks in advance of a meeting to each member residing in the subdivision and by mail to each nonresident owner of unimproved lots. The quorum shall be three (3) members or votes or proxies. If a required quorum is not present, a subsequent meeting shall be called one (1) week later and the required quorum at the subsequent meeting shall be two (2) members or proxies. Proxies may not be valid for beyond eleven (11) months nor binding on subsequent owners of the grantor's lot.

Section 4. Uniform Rate of Assessments. All assessments must be uniformly fixed for all single family lots. Multi-family lots shall be assessed at one-half the rate of a single family lot per multi-family unit times the number of units.

Section 5. Nonpayment of Assessments. Any assessment not paid on or before the due date shall bear interest from the due date at the rate established for judgments under the laws of the State of South Dakota, which is currently twelve percent (12%) per annum. Assessments are both a personal obligation of

the member and a charge against the member's lot, subordinate to the lien of any first mortgage. Mortgagees are not required to collect assessments. The owner is personally obligated to pay the same and the association shall have the right to take such action as is necessary to enforce payment of the assessments, but failure to pay assessments shall not constitute a default under an insured mortgage. The association shall, upon demand and for a reasonable charge, furnish to any owner a certificate stating the status of payment of assessments.

#### ARTICLE VIII.

##### ENFORCEMENT AND AMENDMENT

The association and individual owners shall have the right to incorporate or annex additional area into this association, to enforce the provisions of this constitution and declaration, and to amend this constitution and declaration, in full or in part, by an instrument signed by declarant or by not less than two-thirds (2/3) of other lot owners. Any amendment or annexation shall be filed for record with the Lawrence County Register of Deeds.

#### ARTICLE IX.

##### ANNUAL MEETINGS

The annual meeting of the members of the association shall be held not later than the 28th day of February, yearly.

#### ARTICLE X.

##### DISSOLUTION

If the association is dissolved, its assets shall be dedicated to a public body or conveyed to a nonprofit organization with similar purposes.

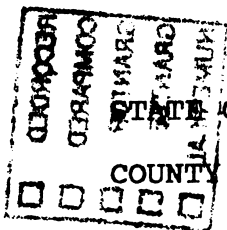
IN WITNESS WHEREOF, the undersigned, the declarants and owners, have hereunto set their hands and seals effective the 26<sup>th</sup> day of April, 1996.

SANDSTONE HILLS, L.L.C.

By: Joe B. Jorgensen  
Joe B. Jorgensen  
Its President

and

By: James A. Benning  
Its Secretary/Treasurer



STATE OF SOUTH DAKOTA )  
  ) ss.  
COUNTY OF LAWRENCE )

On this, the 26<sup>th</sup> day of April, 1999,  
before me, the undersigned officer, personally appeared Joe B. Jorgensen and James A. Benning, who acknowledged themselves to be the president and secretary/treasurer, respectively, of Sandstone Hills, L.L.C., a South Dakota limited liability company, and that they, as such president and secretary/treasurer, being authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as president and secretary/treasurer, respectively.

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

Kimberly A. Halsworth  
Notary Public

My commission expires: November 30, 2002.  
(Seal)  
161,084

This document was prepared by:  
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1996, April 29  
11:49 A.M.  
Judy G. Mowbray  
REGISTER OF DEEDS  
LAWRENCE COUNTY  
SOUTH DAKOTA  
5 pages

