

AMENDMENT NO. 2 TO  
WYNSTONE DEVELOPMENT  
DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
AND TO  
WYNSTONE HOMEOWNERS ASSOCIATION BY-LAWS

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**THIS AMENDMENT NO. 2** to Wynstone Development Declaration of Covenants, Conditions and Restrictions and to Wynstone Homeowners Association By-Laws made effective this 10<sup>th</sup> day of March, 2003, by the Members of Wynstone Homeowners Association, with regard to that certain real estate legally described as:

Wynstone Phase 1 in part of Section 1 and accretion thereto and part of Section 2 and accretion thereto all in Township 29 North, Range 7 East of the 6th Principal Meridian and in part of Minor Tract 2 of Section 25, Township 30 North, Range 7 East of the 6th Principal Meridian and part of Section 36 and accretion thereto in Township 30 North, Range 7 East of the 6th Principal Meridian, all in Union County, South Dakota, which includes the following:

Lots 1-24, inclusive, Wynstone First Addition of Wynstone Phase 1,

Lots 25-30, inclusive, Wynstone Second Addition of Wynstone Phase 1,

Lots 31-37, inclusive, Wynstone Third Addition of Wynstone Phase 1,

Lots 38-44, inclusive, Wynstone Fourth Addition of Wynstone Phase 1,

Lots 45-54, inclusive, Wynstone Fifth Addition of Wynstone Phase 1,

Lots 55-60, inclusive, Wynstone Sixth Addition of Wynstone Phase 1,

Lots 61-67A, 67B, and 67C, inclusive, Wynstone Seventh Addition of Wynstone Phase 1,

Lots 68-73A, 73B, 73C and 73D, inclusive, Wynstone Eighth Addition of Wynstone Phase 1,

Lots 75-84, inclusive, Wynstone Ninth Addition of Wynstone Phase 1 (Lot 74 of Wynstone Ninth Addition of Wynstone Phase 1 is excluded),

Lots 85-94, inclusive, Wynstone Tenth Addition of Wynstone Phase 1,

Lots 95-104, inclusive, Wynstone Eleventh Addition of Wynstone Phase 1, and

Lots 105-114, inclusive, Wynstone Twelfth Addition of Wynstone Phase 1,

all of which real estate shall hereinafter be referred to as the "**Property**".

Wynstone Development Corporation, "**Declarant**", filed for record on May 15, 1997 in Book 34 Misc., Page 126 of the public records of Union County, South Dakota, that certain Declaration of Covenants, Conditions, and Restrictions dated May 15, 1997 ("**Declaration**") along with the By-Laws of Wynstone Homeowners Association ("**By-Laws**"). Declarant also filed for record on September 27, 2000 in Book 37 Misc., Page 268 of the public records of Union County, South Dakota, that certain Amendment No. 1 to Wynstone Development Declaration of Covenants, Conditions, and Restrictions and to Wynstone Homeowners Association By-Laws. ("**Amendment No. 1**").

At a Special Meeting of the Members of Wynstone Homeowners Association, held on March 10, 2003, by a vote of a two-thirds majority of a quorum of Members present, in person or by proxy, as to the amendments to the By-Laws and by a vote of a two-thirds majority of the Lots as to the amendments to the Declaration, the Wynstone Homeowners Association amended the Declaration and By-Laws as follows:

- I. Article IV Covenant For Quarterly and Special Assessments is amended by restating in its entirety Section 2 Purpose of Assessments as follows:
  2. Purpose of Assessments. The quarterly assessment levied by the

Association shall be used as provided for in the annual budget adopted by the Board and approved by the Members of the Association at its annual meeting, which shall include but not be limited to the payment of the following items:

- a. any real estate taxes and assessments levied by any taxing authority on the Common Areas;
- b. cost of utilities;
- c. cost of insurance;
- d. maintenance, repair and improvement of the Common Areas which shall include all roads, gates, ponds, fountains, bridges, walkways, sidewalks, parks, trails, signage, lighting, buildings and equipment;
- e. snow and ice removal and general lawn and landscaping maintenance to the Common Areas;
- f. acquisition of personal property items such as lawn, snow, and playground equipment;
- g. funding of an adequate reserve fund which fund shall be maintained for purposes adopted by the Board which purposes may include maintenance, repair, and replacement of the roads and sidewalks and/or emergency uses, e.g. storm cleanup; and
- h. capital improvements as provided in the annual budget.

II. Article VI Residential Areas Covenants of the Declaration is amended by restating in its entirety Section 10 Vehicle Parking as follows:

- 10. Vehicle Parking. No vehicles or trailers of any kind shall be temporarily or permanently parked within the Property without being garaged unless:
  - a. such parking is by bona fide temporary guests of the Owner or
  - b. such parking is temporary and the vehicles are in good repair, are operable and are currently licensed.

No recreational vehicles, trailers, campers, camper trailers, boats and other watercraft, and boat trailers shall be allowed upon any Lot unless the activity

associated with such recreational vehicle, trailer, camper, camper trailer, boat and other watercraft, or boat trailer is currently "in season" or unless such recreational vehicle, trailer, camper, camper trailer, boat and other watercraft, or boat trailer is parked within the garage serving said Lot. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted upon the Lots except within enclosed garages. Any vehicle or item parked in violation of this Section 10 or in violation of parking rules promulgated by the Association may be towed and stored by said Association, all at the expense of the subject owner.

III. Article VI Residential Areas Covenants of the Declaration is amended by restating in its entirety Section 16 Antennas as follows:

16. Antennas. Satellite dishes not exceeding eighteen inches in diameter may be placed upon any Lot within the Property except in the front yard area of the Lot, for purposes of receiving television signals. No exterior antennas or aerials shall be permitted.

IV. Article VI Residential Areas Covenants of the Declaration is amended by restating in its entirety Section 17 Air Conditioning Units as follows:

17. Air Conditioning Units. No window air conditioning units shall be installed in any dwelling upon the Property.

V. Article VI Residential Areas Covenants of the Declaration is amended by restating in its entirety Section 19 Fences as follows:

19. Fences. All proposed fences and walls and kennels must be approved in writing by the Architectural Review Committee prior to installation. Fences and walls shall be an extension of the house. They shall not function as property line markers, but define exterior spaces as well as screen undesirable uses or views.

Front yard fences and walls are not allowed unless they are an integral part of the house architecture.

Kennels shall be located out of view from the road or street or shall be landscaped in a fashion as to shield from view.

Under no circumstances shall untreated wood fences/walls, railroad tie retaining walls, and free standing wire fences be permitted. However,

snow fences shall be permitted from November 1 to May 1 subject to prior review and written approval by the Architectural Review Committee as to the location of such snow fence.

Any wall and/or fence and/or dog kennel should be constructed of materials and colors consistent with the house or materials to compliment the house. No chain-link fences are allowed with the exception of tennis courts and swimming pools and kennels, and unless landscape screening is provided. Chain link fence around pools or tennis courts or dog kennels shall be vinyl coated of dark green or black color.

All fencing shall have the framing on the lot side of the fence. Fences shall not be erected in utility, drainage or landscape easements.

Complete rear yard fencing is not permitted as the desirability of open space and the unity of the surrounding areas is an important part of the design of Wynstone Development. Fences are discouraged in side yards, except small enclosures for mechanical equipment or trash containers, and, when approved, shall not extend beyond the sight line of adjacent houses.

**VI.** Article VII of the By-Laws is amended by restating in its entirety Section 4 as follows:

Section 4. It shall be the duty of the Board of Directors:

- a. To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting of the Members when such is requested in writing by one-fourth (1/4) of the voting Membership, as provided in Article XII, Section 2.
- b. To supervise all officers, agents and employees of this Association and to see that their duties are properly performed.
- c. As more fully provided in Article IV of the Declaration:
  - (1) To fix the amount of the applicable assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period;
  - (2) To prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member;
  - (3) To send written notice of each assessment to every Owner subject thereto.

- d. To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.
- e. To adopt an annual budget which proposed budget shall be submitted to the Members at the annual meeting of the Association. Subject to the approval by the Members, the budget shall be incorporated in and become a part of the Association budget which shall be managed and administered by the Board.

**VII.** Article X of the By-Laws is amended by restating in its entirety Section 6

as follows:

Section 6. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, provided however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association, provided that such checks and notes shall also be signed by the President or the Vice President. The Treasurer shall keep proper books of account. The Treasurer shall assist the Board in preparing an annual budget and an annual balance sheet statement, which budget and balance sheet statement shall be presented to the Membership at its regular annual meeting.

Wynstone Homeowners Association represents and warrants, by its signature below, that it is signing this instrument on behalf of the Members representing at least two-thirds of the Lots who approved the above-stated amendments to the Declaration including the By-Laws.

**IN WITNESS WHEREOF**, we have hereunto set our hands on the day and year first above written.

Wynstone Homeowners Association

By: \_\_\_\_\_  
James M. Miller, President

By: \_\_\_\_\_  
Cody M. McCullough, Secretary

[WYNSTONE HOMEOWNERS ASSOCIATION]

STATE OF SOUTH DAKOTA :  
 :SS  
COUNTY OF UNION :

On this \_\_\_\_ day of July, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared James M. Miller and Cody M. McCullough, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of said corporation executing the within and foregoing instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said James M. Miller and Cody M. McCullough, as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

(SEAL)

\_\_\_\_\_  
Notary Public in and for said State  
My commission expires: