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## **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS WILLOW CREEK DEVELOPMENT**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 9<sup>th</sup> day of June, 2015, by Willow Creek Development, Inc. of 2301 Research Park Way, Suite 226, Brookings, South Dakota 57006, South Dakota corporation (hereinafter referred to as "Developer").

The Developer is the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference. Developer intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions as provided herein and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

Developer has or will cause the incorporation, under the laws of the State of South Dakota, as a non-profit corporation, Willow Creek Owners Association, Inc., for the purpose of exercising the functions aforesaid.

Developer hereby declares that all of the property described in Exhibit A and any additional property which is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of (1) preserving and protecting the property for residential purposes only; (2) excluding and preventing nuisances and preventing unreasonable impairment of the attractiveness and value of the property; (3) enhancing, preserving, and protecting the peace and tranquility of a residential community; and (4) assuring each owner the full benefit and enjoyment of his or her home investment with no greater limitations on the free and undisturbed use of his or her home than is necessary to assure the same advantages to the other owners. The easements, restrictions, covenants, and conditions shall run with the real property subjected to this Declaration and shall be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

This Declaration is made pursuant to the provisions and authority of S.D.C.L. Chapter 43-12 entitled Real Property Covenants. This Declaration does not and is not intended to create

a condominium within the meaning of the South Dakota Condominium Act, S.D.C.L. Chapter 43-15A.

## **ARTICLE I DEFINITIONS**

For purposes of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

**Additional Land.** Any land added to the Development pursuant to this Declaration.

**Articles of Incorporation or Articles.** The Articles of Incorporation of Willow Creek Owners Association, Inc., as filed with the Secretary of the State of South Dakota.

**Association.** The Willow Creek Owners Association, Inc., a non-profit corporation, incorporated under S.D.C.L. Chapter 47-22, a South Dakota corporation, its successors or assigns.

**Board of Directors.** The Board of Directors of Willow Creek Owners Association, Inc.

**By-Laws.** The By-Laws governing the conduct of Willow Creek Owners Association, Inc., attached hereto as Exhibit B and incorporated herein by reference, as they may be amended from time to time.

**Class B Control Period.** The period of time during which the Class B member is entitled to appoint a majority of the members of the Board of Directors, as provided in the Association's By-Laws.

**Common Areas and Facilities.** Except as provided herein, Common Areas and Facilities shall mean and refer to the green areas, common areas and personal properties incident thereto and any other properties owned and maintained by the Association, for the common benefit and enjoyment by the residents of the Association, including "Outlot A" of Block 2, Willow Creek Village Addition, the pond and sidewalks located, or to be located, thereon, as well as the sidewalks running between any Lot within the Development or required to be constructed by the City.

**Common Expenses.** The actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve found to be necessary, but not including any expenses incurred during the Class B Control Period for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs, unless approved by Voting Members representing a majority of the total Class "A" vote of the Association.

**Common Expense Allocation.** The share of Common Expenses allocated to each Unit Owner is based on the number of Units owned, or deemed owned, by such Unit Owner as compared to the aggregate number of Units in the Development as provided in this Declaration.

**Condominium Properties.** Any portion of the Properties upon which a condominium project is to be constructed on a separately platted Lot or Lots.

**Developer.** This term shall mean and refers to Willow Creek Development, Inc., a South Dakota corporation, its successors and assigns.

**Development.** This term means the real property described in Exhibit A, and any Additional Land that may be added pursuant to this Declaration.

**Dwelling.** This term shall mean a single residence. With respect to dwellings in Single-Family Properties, each of the Single-Family Properties will be one Dwelling. With respect to any Townhome Properties, each separate residence shall be deemed a Dwelling. With respect to any Condominium Properties, each separate condominium unit shall be deemed a Dwelling. With respect to any Multi-Family Properties, each apartment unit shall be deemed a Dwelling.

**First Mortgagee.** A person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to other mortgages which may affect such Unit.

**Lot.** Any parcel or plot of land designated as a lot shown on any recorded plat or subdivision map of the Development whether recorded or not and whether finally approved or not.

**Member.** A person entitled to membership in the Association as provided herein.

**Multi-Family Properties.** A portion of the Properties upon which multi-family structures are to be constructed, including apartment projects, but excluding Townhome Properties, on a separately platted Lot.

**Occupant.** Any Person occupying any portion of the Properties, whether by lease, license, invitation or otherwise.

**Person.** A natural person, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

**Properties.** The real property described in Exhibit A attached hereto together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

**Rules and Regulations.** The rules and regulations, if any, adopted from time to time by the Board of Directors of the Association, subject to any required vote of the Owners to the extent such rules or regulations are inconsistent with the provisions of this Declaration.

**Single-Family Properties.** Any portion of the Properties that contain, or will contain, a single Dwelling located on a separately platted Lot.

**Site Plan.** The conceptual land use plan attached hereto marked Exhibit C. The Site Plan is subject to amendment at any time by the Developer, in its sole discretion. The Site Plan shows intended development of the Properties.

**Supplemental Declaration.** An amendment or supplement to this Declaration executed by or consented to by Developer which, by way of example and not limitation, subjects additional property to this Declaration, or imposes, expressly or by reference additional restrictions and obligations on the land described therein, by recorded instrument.

**Townhome Properties.** Any portion of the Properties that contain structures that will contain multiple Dwellings, with each Dwelling located on a separately platted Lot.

**Unit.** That part of the Properties intended for development, use and occupancy as a residence, as well as vacant land intended for development as such. The terms shall include all portions of the real estate owned as well as any structure thereon. With respect to Units in Single-Family Properties, each Single-Family Property will be one Unit. With respect to any Townhome Properties, although the structures contemplated contain multiple Dwellings, each Dwelling shall be deemed a separate Unit. With respect to any Condominium Properties and Multi-Family Properties, although the structures contemplated contain multiple Dwellings, each of the Condominium Properties and Multi-Family Properties will be deemed to be five (5) Units.

In the case of a Lot of vacant land or land on which improvements are under construction, the Lot shall be deemed to contain the number of Units designated for residential use for such Lot on the Site Plan approved by the Developer, until such time as a certificate of occupancy is issued on all or a portion thereof by the local governmental entity having jurisdiction. After issuance of a certificate of occupancy on any portion thereof, the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph. If any Lot has not been designated for residential use on the Site Plan approved by the Developer, such Lot will be deemed to contain no Units.

**Unit Owner or Owners.** The person or persons whose estates or interests, individually or collectively, aggregate fee simple and absolute ownership of a Unit.

**Voting Member.** The Member registered to cast the vote for the Unit as provided in the By-Laws. Owners of Multi-Family Properties and Condominium Properties shall not be Voting Members with respect to such properties.

## **ARTICLE II GENERAL DESCRIPTION**

2.1 **The Real Estate.** Subject to amendment from time to time as provided herein, the Properties legally described in Exhibit A include the Units described in Exhibit C. In addition, the Developer anticipates replatting, and adding by Supplemental Declaration, the land to the east and south of the land legally described in Exhibit A. Developer may amend the Declaration at any time to include the Lots and Units to be included in the Development.

2.2 **Common Areas and Facilities.** Every Owner and Occupant shall have a right and non-exclusive easement of use, access, and enjoyment in the Common Areas and Facilities.



This non-exclusive easement of use, access, and enjoyment shall be appurtenant to and pass with the title to his Unit, subject to:

a. this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association.

b. the right of the Association to adopt rules regulating the use and enjoyment of the Common Areas and Facilities.

c. the rights of the Board of Directors to suspend the rights of the Owner and Occupants to use any facilities, or the right of the Board of Directors to permit Non-Owner's use of any facilities situated upon the Common Areas and Facilities upon payment of use fees established by the Board of Directors, and the right of the Board of Directors to impose reasonable membership requirements and charge reasonable admission or other fees to members for use of any facility situated upon the Common Areas.

d. the right of the Association acting through its Board of Directors to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in the By-Laws.

e. the right of the Association, acting through its Board of Directors to dedicate or transfer all or any part of the Common Areas and Facilities pursuant to Article V hereof; provided however, the dedication or transfer of any streets or roads which are necessary for ingress and egress to and from any Unit shall be subject to the Unit Owner's non-exclusive easement.

2.2 **Right-of-Way.** The streets and right-of-ways within the Properties will be dedicated to the local municipality. Until such dedication, the Association will provide repair and maintenance of all streets, utilities and other areas within the platted right-of-way.

### **ARTICLE III ARCHITECTURAL STANDARDS AND USE RESTRICTIONS**

The Properties and all improvements thereon are subject to the architectural standards and use restrictions set forth in this Declaration and the Association's By-Laws, and Rules and Regulations. The Properties shall be governed by the following provisions:

3.1 **Residential Use.** The Properties shall be used for residential purposes only, which purposes shall include parking and recreation, and such other purposes by the Owners and Occupants, and their families, guests and tenants, as may be permitted by the By-Laws or by the Association, through its Board of Directors. Notwithstanding the foregoing, the Developer and any Owner of Multi-Family Properties or Condominium Properties may maintain a business and sales office and/or model units on the portion of the Properties owned by them, and may display commercially reasonable signs offering the same for sale or rent as the case may be. The Association may also maintain an office on the Properties for management purposes.

3.2 **Architectural Requirements and Committee.** Attached as Exhibit D are the general architectural requirements applicable to the Properties, subject to revision from time to time by the Developer ("Architectural Guidelines"). The Developer shall establish an Architectural Review Committee ("Committee"), which will consist of two or more persons appointed by the Developer.

The purpose of the Committee will be to assure that all construction is compatible, consistent and harmonious with the Development's aesthetic and environmental values in an effort to preserve the value of the Development, Units and investment of all Owners. In doing so, the Committee shall endeavor to secure to each Owner the full benefit and enjoyment of his Unit with no greater limitation on the free and undisturbed use of a Unit than is necessary to ensure the same advantages to other Owners.

Before commencing any improvements or to any of the Properties, the Owner shall first submit plans and specifications to the Committee at least thirty days in advance of such construction. Such plans and specifications shall include architectural, engineering and landscape plans as applicable showing the nature, kind, shape, height, materials, colors and location of the proposed improvements. The Committee shall notify the Owner within ten (10) days if it requires additional information or if it requires modification to the plans. If the Committee fails to approve or disapprove plans submitted to it within thirty days after the receipt of the original plans and specifications or such additionally requested information, the plans as submitted shall be deemed approved.

No approval of or consent to any improvement or the plans and specifications thereof or any other matter requiring the approval or consent of the Committee shall be deemed to constitute a waiver of any right to withhold approval or consent as to any similar improvements, plans and specifications or matters subsequently or additionally submitted for approval or consent. The Committee's review, approval and/or consent to any improvement pursuant to this Section is made on the basis of aesthetic considerations only, and the Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modification, nor for ensuring compliance with building codes, land use regulations or any other governmental regulations or requirements. Neither the Developer, the Committee, nor any member of the Developer or Committee shall be liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any portion of the Properties as required under this Section.

3.3 **Obstruction of Common Areas.** There shall be no obstruction of the Common Areas and Facilities, nor shall anything be stored in or on the Common Areas and Facilities without the prior consent of the Board of Directors, except as hereinafter expressly provided. Each Unit Owner or Occupant shall be obligated to maintain and keep in good order and repair his or her own Unit as set forth in Article V herein.

3.4 **Hazardous Uses and Waste.** Nothing shall be done or kept in any Unit or in or on the Common Areas and Facilities which will increase the rate of insurance on the Properties or contents thereof, without the prior written consent of the Board of Directors. No Unit Owner or Occupant shall permit anything to be done or kept in his or her Unit or in or on the Common

Areas and Facilities which will result in the cancellation of insurance on the Properties or contents thereof, or which would be in violation of any law. No waste shall be committed in or on the Common Areas and Facilities.

3.5 **Exterior Exposure of Building.** Unit Owners and Occupants shall not cause nor permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the building, and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Board of Directors. Likewise, no change to the landscape or exterior of any Unit may be made without the prior written consent of the Board of Directors. Satellite dishes 24" in diameter or less are generally allowed, but their placement shall be subject to the consent of the Board of Directors. American or other recreational flags no larger than 3' X 5' in size may be flown from a Unit.

3.6 **Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the sole discretion of the Board of Directors, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the Owner of any portion of the Properties shall be removed upon request of the Board of Directors. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person.

3.7 **Nuisances.** No unlawful, immoral, noxious or offensive activity shall be carried on in any Unit or in the Common Areas and Facilities, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become, in the judgment of the Board of Directors, an annoyance or nuisance to the other Unit Owners or Occupants.

3.8 **Impairment of Structural Integrity of Building.** Nothing shall be done in any Unit, or in, on or to the Common Areas and Facilities which will impair the structural integrity of the buildings or which would structurally change the building except as is otherwise provided herein. No Unit Owner nor Occupant shall overload the elective wiring in the building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board of Directors, an unreasonable disturbance to others.

3.9 **Laundry or Rubbish.** No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas and Facilities. The Common Areas and Facilities shall be kept free and clear of rubbish, debris, and other unsightly materials. Trash, garbage, and other wastes shall be kept only in enclosed sanitary containers, and shall be disposed of in a clean, sightly, healthy and sanitary manner, and as may be prescribed, from time to time, by the rules and regulations of the Board of Directors.

3.10 **Prohibited Activity and Signs.** Business activities that do not increase traffic in the area by more than one vehicle a day, are not visible from the exterior of the Unit, and do not otherwise create a disturbance or project are not prohibited. No other industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational or otherwise

designed for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Properties, nor, except as otherwise provided herein or with the consent of the Board of Directors, shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted by any Owner or Occupant on any part of the Properties or in any Unit therein. The right is reserved by the Board of Directors, its beneficiaries or its agent, to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units and to place such other signs on the Properties as may be required to facilitate the sale of unsold Units. The right is hereby given to the Board of Directors or its representative to place "For Sale" or "For Rent" signs on any Unit or on the Properties for the purpose of facilitating the disposal of Units by any Owner, mortgagee or the Board of Directors.

3.11 **Alterations of Common Areas.** Nothing shall be altered or constructed in or removed from the Common Areas and Facilities except upon the written consent of the Board of Directors.

3.12 **Construction and Display of Model Units.** During the period of construction of the buildings on the Properties, the Developer and its contractors, subcontractors and their respective agents and employees shall be entitled to access, ingress and egress to said building and Properties as may be required in connection with said construction. During the period in which sales of Single-Family Properties, Townhome Properties, and Condominium Properties by the Developer are in progress, the Developer's beneficiaries may occupy or grant permission to any person or entity to occupy, with or without rental, as determined by the Developer or said beneficiaries, one or more Units for business or promotional purposes, including clerical activities, sales offices, model units for display and the like; provided that the activities in the Units so occupied do not interfere with the quiet enjoyment of any other Unit Owner or Occupant.

3.13 **Certain Personal Professional Activities Permitted.** The Unit restrictions in this Article shall not, however, be construed in such manner as to prohibit an Owner from (1) maintaining his or her personal business or professional records or accounts therein; or (2) maintaining his or her personal, professional library therein; or (3) handling his or her personal, business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of this Declaration.

3.14 **Ingress and Egress.** No provision contained herein shall be construed to limit Unit Owners right of ingress to and egress from such Unit, and such right shall remain perpetual and appurtenant the Unit ownership.

3.15 **Use of Common Areas and Facilities.** A Unit Owner or Occupant shall not place any furniture, packages or objects in the Common Areas and Facilities, except in an area designated by the Board of Directors for such purpose.

3.16 **Additions, Alterations or Improvements by Board of Directors.** Whenever, in the judgment of the Board of Directors, the Common Areas and Facilities shall require additions, alterations or improvements costing in excess of \$5,000.00 and the making of such additions,

alterations or improvements shall have been approved by vote of a majority of Voting Members, the Board of Directors shall proceed with such additions, alterations or improvements, and shall assess the Unit Owners of all Units, except Multi-Family Properties and Condominium Properties for the cost thereof as a common charge. Any additions, alterations, or improvements costing \$5,000.00 or less may be made by the Board of Directors without the approval of the Voting Members, and the cost thereof shall constitute a common charge. In all cases, it is understood that the first mortgage lien is superior to common charges for additions, alterations, etc. in excess of \$5,000.00. Any restoration or repair of a Unit hereunder, including exterior color and décor, shall be substantially in accordance with the Declaration and the original décor, plans and specifications. The Board of Directors shall cooperate and confer fully with any neighboring Units in the coordination of exterior color and décor.

3.17 **Additions, Alterations or Improvements by Unit Owners.** No Unit Owner shall make any structural additions, alterations or improvements in or to his or her Unit, without the prior written consent thereto of the Board of Directors. The Board of Directors shall have the obligation to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit, within thirty (30) days after such request. Failure to do so within the stipulated time shall constitute consent by the Board of Directors to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any Unit shall be submitted to the Board of Directors. The Board of Directors shall not be liable to any contractor, subcontractor, materialman or to any person sustaining personal injury or property damage for any claim arising in connection with such addition, alteration or improvement.

3.18 **Fences and Walls.** Except for fences and walls constructed by Developer, there shall be no fences or walls permitted on any Unit or Properties, without the prior written approval of the Board of Directors.

3.19 **Patios and Decks.** The erection, construction, installation or modification of any patio or deck adjacent to a Unit may be permitted if in accordance with this Declaration and upon approval by the Board of Directors.

3.20 **Negligence by Owner.** If, due to the negligent act or omission of a Unit Owner or Occupant, a member of his or her family or household pet, or a guest, other authorized occupant, or visitor of such Unit Owner, damage shall be caused to the Common Areas and Facilities, or to a Unit or Units owned by others or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board of Directors, subject to the rules, regulations and By-Laws of the Association.

3.21 **Joint Facilities.** To the extent that equipment, facilities, and fixtures within any Unit or Units shall be connected to equipment, facilities or fixtures affecting or serving other Units or the Common Areas and Facilities, then the use thereof by the individual Unit Owners shall be subject to the rules and regulations of the Board of Directors. The authorized representative of the Board of Directors shall be entitled to reasonable access to the individual

Units as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and Facilities or any equipment, facilities or fixtures.

3.22 **Leasing.** Every lease of Single-Family Properties, Townhome Properties or Condominium Properties is subject to the following rules and regulations regardless of whether in the written lease.

- a. The lease must be in writing.
- b. The lease must be for the entire Unit.
- c. The lease must be for a minimum period of not less than six months. Renewal can be for any length.
- d. The use of the premises is subject to this Declaration, the Association By-Laws and the Association Rules and Regulations.
- e. Within ten days of occupancy by the tenant (Occupant), the name and telephone number of the Tenant, together with a complete copy of the Lease must be furnished to the Secretary of the Association, along with the registration form required for voting as set forth in the By-Laws.
- f. The Unit cannot be used as a motel or hotel or otherwise for transient tenants.
- g. If any Owner (as Landlord) or tenant (Occupant) is in violation of any of the provisions of this Declaration, or the Association's By-Laws, or Rules and Regulations, the Association may bring an action in its own name or in the name of the Owner or both to have the tenant evicted or to recover damages or both. If the Court finds that the tenant is or has violated any provisions of the Declaration, the By-Laws, or the rules and Regulations, the Court may find the tenant guilty of forcible detainer, despite the fact that the Owner is not a party to the action and/or that the tenant is not otherwise in violation of the tenant's Lease or other rental agreement with Owner. For purposes of granting the forcible entry detainer, pursuant to S.D.C.L. Chapter 21-16, against the tenant, the Court may consider the Owner a person in whose name a contract (the Lease or Rental Agreement) was made for the benefit of another (the Association). This remedy is in addition to any other remedies available at law. If permitted by law, the Association may recover all of its costs, including court costs and reasonable attorney's fees, and these costs shall be a continuing lien on the Unit, the Unit Owner and the Unit Owner's successor and assigns. The Association shall serve the tenant and the Owner written notice of the nature of the violation and allow thirty (30) days to cure the violation before the Association may file for eviction. The time period after service of a notice to quit may run concurrently with the 30-day period to cure, if allowed by law.
- h. By becoming a tenant, each tenant agrees to be bound by the Declaration, the By-Laws and other Rules and Regulations of the Association and accepts the right and powers of the Association to evict the Tenant for any violation.

i. To protect first mortgage lenders, only subsections (d) and (e) of the Section shall apply to a first mortgage lender who has title to the Unit through foreclosure or deed in lieu of foreclosure.

3.23 **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked in the driveway for no longer than three (3) days or only in enclosed garages serving the Units, or in screened or fenced areas on the Unit so as to be concealed from view of neighboring Units, streets or adjacent property, or areas, if any, designated by the Board of Directors. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board of Directors. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas.

3.24 **Occupants Bound.** All provisions of the Declaration, By-Laws, and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Unit. Every Owner shall cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas and Facilities caused by such occupants, notwithstanding the fact that such Occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

3.25 **Quiet Enjoyment.** No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

3.26 **Unsightly or Unkept Conditions.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkept condition on his or her

Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken on any part of the Properties.

3.27 **Antennas.** No exterior antennas, aerials, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, without the prior written consent of the Board of Directors. Satellite dishes 24" in diameter or less are generally allowed, but their placement shall be subject to the consent of the Board of Directors. The Developer and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna or cable system for the benefit of all or a portion of the Properties, should any such master system or systems be utilized by the Association and require any such exterior apparatus.

3.28 **Firearms.** The discharge of firearms within the Properties is prohibited. The term "firearms" includes B-B guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Board of Directors shall not be obligated to take action to enforce this Section.

3.29 **Irrigation.** No sprinkler or irrigation systems of any type which draws water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties unless prior written approval has been received from the Board of Directors. All sprinkler and irrigation systems shall be subject to approval by the Board of Directors. Private irrigation wells are prohibited on the Properties.

3.30 **Tents, Trailers, and Temporary Structures.** Except as may be permitted in accordance with the Architectural Guidelines promulgated for the Properties, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties.

3.31 **Drainage and Septic Systems.** Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person other than Developer may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Developer hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic tanks and drain fields are prohibited on the Properties.

3.32 **Tree Removal.** No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved by the Board of Directors. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the Board of Directors, to replace the removed tree with one (1) or more trees of such size and number, and in such locations, as such committee may determine in its sole discretion.



3.33 **Air Conditioning Units.** Except as may be permitted by the Board of Directors or its designee, no window air conditioning units may be installed in any Unit.

3.34 **Artificial Vegetation, Exterior Sculpture, and Similar Items.** No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Unless expressly allowed hereunder, exterior sculpture, fountains, flags, and similar items must be approved by the Board of Directors.

3.35 **Playground.** Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to use thereof. No playground equipment will be allowed to be installed on individual Units without prior approval of the Board of Directors.

3.36 **Business Use - Sales.** No garage sale, moving sale, rummage sale or similar activity may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board of Directors.

3.37 **Variance.** The Board of Directors may authorize variances from compliance with the Architectural Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to the restrictions set forth in the body of this Declaration; or (c) estop the Board of Directors from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

3.38 **Compliance with Guidelines.** Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Architectural Guidelines promulgated by the Board of Directors or with the standards and procedures of the Association may be excluded by the Board of Directors from the Properties without liability to any person.

3.39 **Parking and Prohibited Vehicles.** Unless otherwise approved by the Board of Directors in accordance with the Architectural Guidelines, no more than one (1) vehicle per bedroom of each Dwelling may be kept on the Properties at any one time outside of the garages.

## ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

4.1 **Membership.** Each Unit Owner of Single-Family Properties and Townhome Properties, as defined in Article I, shall be deemed to have a membership in the Association. Owners of Condominium Properties and Multi-Family Properties will not have a membership in the Association. When more than one person is Owner of a single Unit, all such persons shall be members of the Association, but the existence of multiple owners of a Unit shall not increase the number of votes appurtenant to such Unit. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Unit Owner in a written instrument provided to the Secretary of the Association, subject to the provisions of this Declaration and the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Unit. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

4.2 **Voting.** The Association shall have two (2) classes of membership, Class A and Class B, as follows:

CLASS A: Class A Members shall be Owners of Single-Family Properties and Townhome Properties, apart from the Developer. Class A Members shall be entitled to one equal vote for each Unit in which they hold the interest required for membership under Section 4.1 hereof. There shall only be one (1) vote per Unit. The vote for each Unit shall be exercised by the Voting Member for the Unit, or a proxy, as provided for in the By-Laws.

The Unit's vote shall be suspended if more than one person seeks to exercise it.

CLASS B: The Class B Member shall be the Developer, and such Class B Membership shall exist at all times that Developer owns a Unit or any portion of the Properties. The rights of the Class B Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in this Declaration or the By-Laws. The Class B Member shall be entitled to one vote per Unit owned and in addition, shall be entitled to appoint members of the Board of Directors during the Class B Control Period as specified in Section 3.2 of the By-Laws. After termination of the Class B Control Period pursuant to the By-Laws, the Class B Member shall have the right to disapprove actions of the Board of Directors and any committee as provided in Section 3.3 of the By-Laws.

## ARTICLE V MAINTENANCE

5.1 **By the Owner.** Except to the extent provided in Section 5.2 below, each Owner shall have the obligation to maintain, replace and keep in good repair all portions of his Unit. The Owner shall perform his responsibilities in such manner so as to not unreasonably disturb other persons residing in nearby or adjacent Units. Unit Owners of Townhome Properties and Condominium Properties shall not make any interior or exterior alterations that will have a substantial or detrimental effect on any other Unit. Each Unit is owned subject to, and together

with the mutual easements of support and shelter over and to the party walls provided for party walls by law. In the event, by virtue of reconstruction, repair or removal of structures, affecting elements supported or sheltered by the party wall, the removing Unit Owner shall share, reconstruct and weather proof such party wall so it can perform its function of support and shelter, and if such reconstruction, repair or removal is to be permanent, finish all surfaces exposed to weather in an architecturally finished manner consistent with the rest of the building. The Unit Owner shall have an easement upon or into adjoining Units and/or a right-of-entry as is necessary to perform such work and shall not be liable for trespass for such entry or work.

5.2 **By the Association.** The Association shall maintain, replace and repair, as a Common Expense, the Common Areas and Facilities, including repair and maintenance of all streets, utilities, and other areas within the platted right-of-way of the Properties until dedicated to the local municipality. In the event a maintenance responsibility is not clearly shown by this Declaration, the Board of Directors shall have the authority to determine whether the Unit Owner or the Association shall bear the responsibility. The Association may offer a snow and landscaping or other maintenance services, the terms of which would be determined by the Board of Directors and subject to change or suspension from time to time by the Board of Directors. Unless approved by the Board of Directors, maintenance provided by the Association shall not include routine cleaning.

5.3 **Failure to Maintain.** If the Board of Directors determines that (i) any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair or replacement of items of which he or she is responsible hereunder; or (ii) that the need for maintenance, repair, or replacement in the Common Areas or Facilities is caused through the willful or negligent act of any Owner, his or her family, guests, lessees or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense. Such cost shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Unit as hereinafter provided. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary by the Board of Directors. In the case of (i) above, when the Owner has not discharged his or her responsibility, unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten days. If the Board of Directors determines that an emergency exists, that an Owner has not complied with the demand given by the Association as herein provided, or that the need for maintenance or repair is in or to the Common Areas and Facilities as in (ii) above, then the Association may, but is not obligated to, provide any such maintenance, repair or replacement in the manner described above. The Association or its agents or employees shall have a right of entry upon or into the Unit as necessary to perform such work and shall not be liable for trespass for such entry or work.

5.4 **Rights of the Association.** The Board of Directors shall have, by a two-thirds vote, the power to dedicate portions of the Common Areas and Facilities to any local, state, or

federal governmental entity including, but not limited to, the City of Watertown or Codington County, South Dakota, subject to easement rights of Unit Owners set forth in Article III. The Association may maintain other property which it does not own including, without limitation, property dedicated to the public if the Board of Directors determines that such maintenance is necessary or desirable. With respect to the Common Areas and Facilities and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational or other agreements with trusts, condominiums, cooperatives or neighborhood and other owners or residents associations. Such agreements shall require the consent of two-thirds of all Directors of the Association. See Section 3.21 of the By-Laws.

## **ARTICLE VI INSURANCE AND CASUALTY LOSSES**

6.1 **Association Insurance.** The Association shall obtain and maintain at all times as a Common Expense, insurance as required herein, including a casualty insurance policy or policies affording fire and extended coverage in an amount that at least equals the full replacement value of all structures within the Common Areas and Facilities and a liability insurance policy or policies in an amount not less than \$2,000,000 general aggregate; \$1,000,000 for injury or injuries, including death, arising out of each occurrence, and in addition a \$1,000,000 umbrella policy, or such additional amounts as the Board of Directors may deem advisable from time to time covering the Association, the Board of Directors, Officers and all agents, and employees of the Association. Insurance policies upon the Properties covering the items described in this Article shall be purchased by the Association as Trustee for the benefit of the Association and the Owners and their mortgagees, as their interests may appear.

The policies may contain reasonable deductibles and the amount thereof shall be added to the face amount of the policies in determining whether the insurance equals at least full replacement cost.

In addition to the insurance required hereinabove, the Board of Directors shall obtain, at its discretion, as a Common Expense:

- a. Workmen's compensation insurance if and to the extent necessary to meet the requirements of applicable law.
- b. Public liability and officers and directors liability insurance in such amounts as the Board of Directors may determine appropriate.
- c. At the option of the Association, fidelity bonds covering officers, directors, employees and other persons who handle or are responsible for handling Association funds.
- d. Other insurance as the Board of Directors may determine to be necessary.

6.2 **Premium Payment and Assessment.** Premiums on insurance policies purchased by the Association shall be paid by the Association as a Common Expense of the Association.

6.3 **Association Appointed Agent.** The Association is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

6.4 **Owner Responsibility to Insure.** The insurance of the structure(s), personal liability, personal property and improvements and betterment of or located on or in the Units, including any finishing, excluding any interest in the Common Areas and Facilities, shall be the individual responsibility and cost of the Owners thereof.

Every Unit Owner of Townhome Properties shall be obligated to obtain and maintain insurance covering consequential damages to any other Unit due to occurrences originating within the Owner's Unit caused by negligence of the Owner, Owner's family, guests of Owner or the failure of the Owner to maintain the Unit, or any other casualty within the Unit that causes damage to the other Unit(s).

6.5 **Insurance Deductibles.** If maintenance is required under Article V as a result of an insured loss, the amount of the deductible shall be considered a maintenance expense to be paid by the person or persons (including the Association) who would be responsible for such repair in the absence of insurance.

6.6 **Damage and Destruction.**

a. Any damage or destruction to the Common Areas and Facilities in excess of \$25,000 shall be repaired and reconstructed unless the Members representing at least seventy-five percent (75%) of the total vote of the Voting Members shall decide within sixty days after the casualty not to repair and reconstruct. If, for any reason, either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such funds or information shall be made available.

b. If the damage or destruction to the Common Areas and Facilities for which insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without necessity of a vote of the Members, levy a special assessment against all Owners.

c. The Board of Directors shall determine in its sole discretion whether to repair and reconstruct Common Areas and Facilities where the estimated cost is \$25,000 or less.

**ARTICLE VII  
ASSESSMENTS BY ASSOCIATION**

**7.1 Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Unit, by 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, (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Unit which are established pursuant to the terms of this Declaration or the By-Laws. All such assessments, together with charges, interest, costs and reasonable attorneys fees actually incurred, in the maximum amount permitted by law, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each such assessment is made, and shall become a lien on the date due, if unpaid. Such amounts shall also be the personal obligation of the person or persons who owned the Unit at the time when the assessment fell due. Each Owner shall be liable for his or her portion of each assessment coming due while he or she is the Owner of the Unit and his or her grantees shall be jointly and severally liable for a portion thereof as may be due and payable at the time of any conveyance. Each Owner's portion of each assessment shall be determined by a formula, in which the fraction's numerator equals the assessment costs multiplied by the number of Units owned or deemed owned by an Owner. The denominator is the total number of Units in the Development. At all times said assessments shall be a continuing lien upon the Unit. Assessments shall be paid in such manner and on such dates as shall be fixed by the Board of Directors. Unless otherwise provided by the Board of Directors, the annual assessments for each Unit's proportionate share of Common Expenses shall be due and payable in advance on or before March 1<sup>st</sup> of each calendar year; provided, however, that in the case of the first payment of assessments to be made by an Owner following the date of commencement of assessments pursuant to Section 7.6 herein, such payment shall be due on or before the 1<sup>st</sup> day of the month following such commencement.

**7.2 Annual Assessments and Charges.**

a. **Computation of Operating Budget and Assessment.** The Board of Directors shall, at the beginning of each calendar year, prepare a budget ("Operating Budget") covering the estimated cost to operate the Association during the coming year. The Board of Directors shall cause a copy of the budget and notice of assessments to be levied against each Unit for the following year to be mailed or delivered to each Voting Member and Unit Owner within thirty (30) days of its approval by the Board of Directors. The budget and the assessment shall become effective unless disapproved at a duly called and constituted meeting of the Association by a vote representing a majority of the total Class A vote and by the Class B Member if such exists; provided, unless a meeting is requested by the Voting Members, as provided in the By-Laws, the budget and assessment may take effect without a meeting of the Voting Members. Notwithstanding the foregoing, however, in the event that the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year and the Board of Directors may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to Unit Owners at least thirty (30) days prior to the proposed effective date thereof.

b. Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget that shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board of Directors shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget with respect both to the amount and timing by equal annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board of Directors and included within the budget and assessment as provided in this Article. A copy of the capital budget shall be distributed to each Unit Owner in the same manner as the Operating Budget.

7.3 Special or Specific Assessments. In addition to the annual assessment the Board of Directors may, at any time, levy a special assessment against all Owners for expenses determined by the Board of Directors to be for the benefit of the Association as a whole; provided, however, prior to becoming effective any special assessments shall be approved by the affirmative vote of at least two-thirds of the votes represented in person or by proxy at a special or annual meeting of the Members duly called for the purpose. The affirmative vote or consent of the Class B Member shall be required before the Association may levy a special assessment, if such membership exists. The Association may levy a specific assessment against any Member individually or against such Member's Unit for whose benefit an expense was incurred which benefited less than the Association as a whole, and for the purpose of reimbursing the Association for the costs incurred in bringing a Member and his Unit into compliance with the provisions of this Declaration, and any amendments thereto, the Articles, the By-Laws or the Association Rules. The assessment may be levied upon the vote of the Board of Directors after notice to the Voting Member and opportunity for hearing in the manner set forth in the By-Laws in Section 3.23. Notwithstanding the foregoing, any special assessment against all Owner's which for expenses which arise as a result of additions, alterations, or improvements to the Common Areas, and are not the result of normal repairs and maintenance, shall only be assessed against the Unit Owners of Single-Family Properties and Townhome Properties.

7.4 Reserve for Contingencies and Replacements. The Board of Directors shall build up and maintain a reasonable reserve for major repairs and replacements ("Replacement and Repair Reserve"). Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against the Replacement and Repair Reserve. If said "Replacement and Repair Reserve" proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board of Directors may, at any time, levy a further assessment which shall be assessed to the Owners in accordance with the assessment procedures set out in these Bylaws. The Board of Directors shall serve notice of such further assessment on all Owners by a statement, in writing, giving the amount and reasons therefor, and payment for such further assessment shall be due no later than thirty (30) days after the delivery or mailing of such notice of further assessment. All Unit Owners shall be obligated to pay the adjusted amount. At the time each Unit is first occupied or thereafter occupied pursuant to a transfer of the ownership of the Unit, the current Unit Owner shall pay (in addition to the first annual assessment) to the Association, or as otherwise directed by the Board of Directors, a non-refundable amount equal to one-sixth (1/6<sup>th</sup>) the first full annual assessment for such Unit Owner, which amount shall be held in a separate account as the "Replacement and Repair Reserve Account" for major repairs or capital improvements. Notwithstanding the foregoing, any reserve funds paid into the Replacement and

Repair Reserve by the Condominium Properties and Multi-Family Properties Owners shall not be for additions, alterations, or improvements to the Common Areas and Facilities, or the replacement and repair of any additions, alterations, or improvements to the Common Areas. Additionally, any further assessment against the Unit Owners if the Replacement and Repair Reserve proves inadequate, not resulting from normal repairs and maintenance, shall not be assessed against the Condominium Properties or Multi-Family Properties Owners if the assessment is for additions, alterations, or improvements to the Common Areas, or the replacement and repair of any additions, alterations, or improvements to the Common Areas.

**7.5 Delinquent Assessments.** All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner of the Unit against which such assessment is made shall be in default.

a. If any installment of an assessment or charge is not received within ten (10) days of its due date, a late charge equal to the greater of \$100.00 or 10% of the amount not received or such higher amount, as may be authorized by law, may be imposed without further notice or warning to the delinquent Owner and interest not to exceed the maximum rate afforded by law shall accrue from the due date.

b. If assessment or other charges or any part thereof due from an Owner remain delinquent for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment or charge is not received within ten (10) days from the date of notice of delinquency, the Board of Directors may accelerate and declare immediately due the Owner's annual assessment for the following fiscal year.

c. If assessments or other charges or any part thereof remain outstanding for more than thirty (30) days after first becoming delinquent, the Association, acting through its Board of Directors, may file a notice of lien against the Unit and may institute suit to collect all amounts due and suspend the Owner's right to use the Common Areas and Facilities (provided, however, the Board of Directors may not restrict ingress or egress to or from a Unit), whether or not a notice of delinquency has been sent as provided above.

**7.6 Date of Commencement of Assessments.** The annual assessments provided for herein shall commence as to each Unit on the earlier to occur of (i) one hundred eighty (180) days after the date on which a building permit is issued for the Unit; (ii) upon completion of the Unit; (iii) at the time the Certificate of Occupancy is issued for the Unit by the appropriate governmental authority; or (iv) 2 years from the date the Unit was first sold by the Developer. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commenced on the Unit.

**7.7 Class B Control Period.** Until termination of the Class B Control Period, in lieu of paying regular assessments on its unsold Units, the Developer shall be obligated for the difference between the amount of the assessments levied on all Units subject to the assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy, or by the contribution of needed



services or materials or a combination of these. The Association is specifically authorized to enter into subsidy contracts or contracts of in-kind contribution of services or materials, or a combination of services or materials with Developer or other entities for the payment of some portion of the Common Expenses.

7.8 **Statement of Account.** Any Owner, Mortgagee, or interested person or lender considering a loan to be secured by a Unit shall be entitled upon written request to a statement from the Association setting forth the amount of assessments due and unpaid including any late charges, interest, fines or other charges against a Unit. The Association may require the payment of a reasonable fee not to exceed \$50.00 as a prerequisite to the issuance of such a statement.

7.9 **Covenant to Pay Assessment.** The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No Owner may waive or otherwise exempt himself from liability for the assessments provided herein including, by way of illustration and not limitation, by non-use of Common Areas and Facilities or abandonment of the Unit.

7.10 **Lien for Assessments.** Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens except (i) all taxes, bonds, assessments or other levies which by law would be superior thereto and (ii) the lien or charge of any first mortgage of record made in good faith and for value. Such lien when delinquent may be enforced by suit, judgment, and foreclosure.

The Association acting on behalf of the Owner shall have the power to bid for the Unit at the foreclosure sale and to acquire, hold, lease, mortgage and convey the same. After foreclosure, the Association as Owner shall have no right to vote, and no assessment shall be levied on the Unit, said assessment to be charged equally to each other Unit in addition to its usual assessment.

Where a First Mortgagee obtains title, pursuant to judicial or non-judicial foreclosure of the mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition and title. Such unpaid share of Common Expenses or assessments shall be deemed to be a Common Expense collectible from the Owners of all the Units including such acquirer, its successors and assigns.

## **ARTICLE VIII AMENDMENT**

8.1 **By the Developer.** So long as Developer owns Properties subject to this Declaration, the Developer may unilaterally amend this Declaration at any time and from time to time if such amendment is:

a. Necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation or judicial determination;

b. Necessary to enable any reputable title insurance company to issue title insurance coverage on the Units;

c. Required by any institutional or governmental lender or purchaser of mortgage loans including, but not limited to, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to enable such lender or purchaser to make or purchase mortgage loans on the Unit;

d. Necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing;

e. Required to add Additional Land to the Development; or

f. The Developer may unilaterally amend this Declaration for any other purpose, provided the amendment has no material, adverse effect upon any right of any Owner.

8.2 **By the Association.** Thereafter or otherwise, this Declaration may be amended only by the affirmative vote or written consent or any combination thereof of Voting Members representing seventy-five percent (75%) of the total Class A votes in the Association and the consent of the Class B Member so long as such membership exists. Notwithstanding the foregoing, no such amendment may revise or alter the limitations of assessments against Owners of Multi-Family Properties and Condominium Properties without written consent from such Owners. To be effective, the amendment must be recorded in the public records of Codington County, South Dakota.

## ARTICLE IX TERM

The covenants and restrictions of this Declaration, as may be amended from time to time, shall run with and bind the Properties and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any portion of the Properties subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years unless an instrument in writing signed by the majority of the then Voting Members has been recorded within the year preceding the beginning of each successive period of twenty years agreeing to terminate the same in which case this Declaration shall be terminated as specified therein.

## ARTICLE X EASEMENTS

10.1 **Easements of Encroachment.** There shall be reciprocal, appurtenant easements of encroachment as between each Unit and such portion or portions of the Common Areas and Facilities adjacent thereto, or as between adjacent Units due to unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in

accordance with the terms of these restrictions) to a distance of not more than three (3) feet as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Areas and Facilities or as between said adjacent Units as the case may be, along a line perpendicular to such boundary at such point; provided, however, no easement for encroachment shall exist if the encroachment occurred due to a willful or knowing conduct.

10.2 **Easements for Utilities, etc.** There is hereby reserved unto Developer, so long as the Developer owns any portion of the Properties subject to this Declaration, to the Association and to the assignees of each, a non-exclusive easement upon, across, over and under all of the Common Areas and Facilities and the Units, for ingress, egress, installation, replacement, repair and maintenance of improvements, utilities and related services, including but not limited to, cable television systems, roads, walkways, bike paths, drainage systems, street lights, security systems, signage, water, sewer, meter boxes, telephones, gas and electricity.

## **ARTICLE XI PROPERTY TAXES**

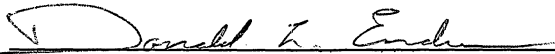
11.1 **By the Association.** The Association shall pay the real estate and property taxes and special assessments on the Common Areas and Facilities. The taxes and special assessments shall be a Common Expense included in the computation of the annual Operating Budget and Assessment. The definition of special assessments, as used in this paragraph, does not include special assessments levied by the Association as defined in Article VII.

11.2 **By the Owner.** The Owner shall pay all real estate and property taxes and special assessments on the Unit as defined herein. In the event the Owner fails or refuses to pay, then the Association may, but is not obligated to, pay the tax or assessment. If the Association chooses to make such payment, the cost shall be added to and become a part of the assessment to which the Owner is subject and shall become a lien against the Unit in the manner set forth in Article VII.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the undersigned Developer has executed this Declaration the date and year first above written.

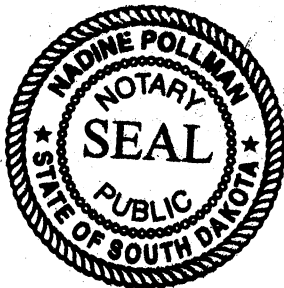
WILLOW CREEK DEVELOPMENT, INC.

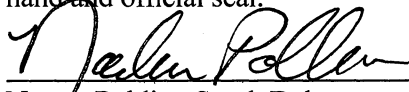
  
By Donald L. Endres  
Its President

STATE OF SOUTH DAKOTA       )  
  : SS  
COUNTY OF CODINGTON       )

On the 9<sup>th</sup> day of June, 2015, before me, the undersigned officer, personally appeared Donald L. Endres, who acknowledged himself to be the President of Willow Creek Development, Inc., a corporation, and that as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as President.

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



  
Notary Public - South Dakota  
My Commission Expires: February 4, 2021

## **EXHIBIT A**

### **Legal Description**

Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

And

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

**EXHIBIT B**

**By-Laws**

**[Attached]**

**BY-LAWS  
OF  
WILLOW CREEK OWNERS ASSOCIATION, INC.**

The following are the By-Laws of Willow Creek Owners Association, Inc., a South Dakota non-profit corporation (the “**Association**”) and are subject to and made a part of the Declaration of Covenants, Conditions and Restrictions (the “**Declaration**”) for Willow Creek Development. The terms used in these By-Laws shall have the same meaning as they have in the Declaration, except as otherwise specified herein.

**ARTICLE I  
MEMBERSHIP**

1.1 Membership. As specified in the Declaration, except with respect to Multi-Family Properties and Condominium Properties, the person or persons defined as “**Unit Owners**” or “**Owners**,” whose estates or interests in a Unit individually or collectively aggregate a fee simple absolute ownership, shall, by virtue of such interest or estate, be Members of the Association. When one or more persons own such an interest or estate in a Unit, all such persons shall be Members. A person shall cease to be a Member at such time as that person has transferred such interest or estate.

1.2 Registration of Owner and Occupant. It shall be the duty of each Owner and Occupant to register with the Secretary of the Association in writing (i) the name and address of such Owner or Occupant, (ii) the nature and satisfactory evidence of such Owner’s or Occupant’s interest or estate in a Unit, (iii) the addresses at which such Owner or Occupant desires to receive notice, if entitled to such notice, of any duly called meeting of the Members, and (iv) except with respect to Owners or Occupants of Multi-Family Properties and Condominium Properties, the name of the Owner or Occupant who shall be authorized to cast the vote (“**Voting Member**”). If all of the registered Owners of a Unit do not agree as to the Owner or Occupant authorized to cast the vote when more than one vote is cast for their Unit, then the vote associated with the Unit shall not be recognized. If an Owner or Occupant does not register as provided in this paragraph, the Association shall be under no duty to recognize the rights of such person hereunder, but such failure to register shall not relieve any Owner or Occupant of any obligation, covenant, or restriction under the Declaration or these By-Laws. If there is more than one Owner or Occupant of a Unit, each must execute the registration as provided in this paragraph.

1.3 Non-Transfer of Membership. The interest of a Member in the funds and assets of the Association cannot be assigned, pledged, encumbered, or transferred in any manner, except as an appurtenance to the Unit.

**ARTICLE II  
ASSOCIATION MEETINGS OF MEMBERS**

2.1 Place. All meetings of the Members of the Association shall be held at the office

of the Association or at such other place in Codington or Brookings County, South Dakota, as may be designated by the Board of Directors in any notice of a meeting of the Members.

2.2 Annual Meetings. The annual meeting of Members shall be held on the second Tuesday in October in every year unless the Members at any annual or special meeting designate a different date for the annual meetings. Any matter which is properly brought before an annual meeting of the Members, and is a proper subject for discussion or decision by the Members, may be passed upon at the meeting.

2.3 Special Meetings. Special meetings of the Members may be called by the President. Special meetings of the Members must be called and scheduled to be held by the President or Secretary within 30 days of the written request by a majority of the members of the Board of Directors or of Voting Members possessing the right to vote at least one-fourth of the total votes of all Voting Members. The requests shall state the purpose or purposes of the meeting requested. The business transacted at a special meeting shall be confined to the purposes stated in the notice thereof.

2.4 Notice of Meetings. At least 10, but no more than 30, days in advance of any annual or regularly scheduled meeting of the Members, and at least 7 days in advance of any special meeting of the Members, the Secretary shall send to each Voting Member, designated as such pursuant to Section 1.2 on the date specified by the Board of Directors (the "**Record Date**") ,notice of the time, place, and complete agenda of the meeting, by United States mail, to the address of the respective Units or to such other address as any Voting Member may have designated in writing to the Secretary. Such Voting Members shall be entitled to notice of any duly called meeting of the Members, provided that the Board of Directors may not specify a Record Date which is more than 35 days prior to the date of an annual meeting or more than 20 days prior to the date of a special meeting.

2.5 Waiver of Notice. Any Voting Member may, in writing, waive notice of any meeting, before or after the meeting. Attendance shall be deemed a waiver of notice.

2.6 Quorum. The presence of Voting Members, in person or by proxy, who have the authority to cast a majority of the total votes of all Voting Members of the Association shall be necessary to constitute a quorum at all meetings of the Members for the transaction of any business, except that of adjourning the meeting to reconvene at a subsequent time. In the event a quorum shall not be present at any meeting of the Members, the meeting may be adjourned from time to time, without notice other than announcement at the meeting of adjournment, until a quorum shall be present, at which time any business may be transacted which might have been transacted at the meeting as initially called had a quorum been present. The quorum, having once been established at a meeting, shall continue to exist for that meeting notwithstanding the departure of any members previously in attendance or by proxy.

2.7 Association May Not Vote. The Association may not cast any vote or be counted in determining a quorum as to any Unit of which the Association is an Owner.



2.8 Voting Register. At the beginning of each meeting of the Members, the Secretary shall present to the meeting a written list of the Units, the respective name or names of the Voting Members.

2.9 Order of Business. The order of business at annual meetings of the Members, and at such other membership meetings of the Members as may be practical, shall be as follows:

- (a) Designation of President as chairman of the meeting.
- (b) Proof of notice of the meeting as required by Section 2.4.
- (c) Presenting of Voting Register, proxy certification and establishment of a quorum.
- (d) Reading of minutes of the preceding meeting of the Members.
- (e) Reports of Officers.
- (f) Reports of Committees.
- (g) Election of Members of the Board of Directors.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

2.10 Reports. The Treasurer shall be required to prepare an annual report on behalf of the Association to be provided to each Owner prior to each annual meeting of the Members. The report shall contain at a minimum the following:

- (a) A statement of any capital expenditures in excess of two percent (2%) of the current budget or One Thousand Dollars (\$1,000.00), whichever is greater, anticipated by the Association during the current year or succeeding two fiscal years.
- (b) A statement of the status and amount of any reserve or replacement fund, and any portion of the fund designated for any specified project by the Board of Directors.
- (c) A copy of the statement of financial condition for the Association for the last fiscal year.
- (d) A statement of the status of any pending suits or judgments in which the Association is a party.

(e) A statement of the insurance coverage provided by the Association.

(f) A statement of any unpaid assessments by the Association on individual Units, identifying the Unit and the amount of the unpaid assessment.

(g) A statement as to real estate taxes and assessments paid for the Common Areas and Facilities as defined in the Declaration.

A copy of the foregoing report shall be delivered or sent by United States mail to Voting Members entitled to notice of an annual meeting of the Members at the address of their respective Units at least seven (7) days in advance of any annual meeting of the Members, and shall be made available to all Members at such annual meeting. A copy of the report shall also be provided to the Owners of record of the Multi-Family Properties and Condominium Properties.

2.11 Voting Rights. The voting rights of the Members and Developer are set forth in Article IV of the Declaration, as well as the By-Laws.

2.12 Voting by Proxy. A Voting Member may cast the vote to which the Voting Member is entitled and be counted as present at any meeting of the Members by written proxy naming another person or persons entitled to act on that Voting Member's behalf, and delivered to the Secretary before the commencement of any such meeting. All proxies granted by a Voting Member shall be revocable by the Voting Member by written notice or by personally attending and voting at a meeting of the Members and shall be invalid after one year from the date thereof.

2.13 Vote Required. The majority vote of Voting Members constituting a quorum shall decide all matters properly brought before such meeting, except where a different vote is specifically called for in the Articles of Incorporation, the Declaration, these By-Laws or the laws of South Dakota.

2.14 Action Without Meeting. Any action which might be taken at a Members' meeting may be taken upon the written consent of all Voting Members.

### **ARTICLE III**

#### **BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS**

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. Except with respect to Directors appointed by the Class B Member, who shall be the Developer and whose rights are identified in the Articles of Incorporation, the Declaration of Covenants, Conditions, and Restrictions, and these By-Laws, the directors shall be Members or spouses of such Members; provided, however no person and his or her spouse may serve on the Board at the same time. In the case of an

Owner which is an entity, the person designated in writing to the Secretary of the Association as the representative of such entity shall be eligible to serve as a director.

**3.2 Directors During Class B Control Period.** Subject to the provisions of Section 3.6 below, the directors shall be selected by the Class B Member acting in its sole discretion and shall serve at the pleasure of the Class B Member until the first to occur of the following:

(a) when seventy-five percent (75%) of the Units contemplated by the Developer for the Development have certificates of occupancy issued thereon and have been conveyed to persons other than the Developer or builders holding title solely for purposes of development and sale;

(b) December 31, 2025;

(c) When, in its discretion, the Class B Member so determines.

**3.3 Right to Disapprove Actions.** Section 3.3 may not be amended without the express, written consent of the Class B Member as long as the Class B Membership exists. So long as the Class B Membership exists, the Class B Member shall have a right to disapprove actions of the Board and any committee, as is more fully provided in this Section. This right shall be exercisable only by the Class B Member, its successors, and assigns who specifically take this power in a recorded instrument. The right to disapprove shall be as follows:

(a) The Class B Member shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee thereof by certified mail, return receipt requested, nationally recognized overnight courier or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with Section 3.8, 3.9 and 3.10, of these By-Laws. The Class B Member shall be given the opportunity at any such meeting to set forth in reasonable particularity, the agenda to be followed at said meeting; and

(b) The Class B Member shall have the right to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, any committee thereof, or the Association. The Class B Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the members of the subject committee and/or the Board. The Class B Member shall have, and is hereby granted, a right to disapprove any such action, policy, or program authorized by the Board of Directors or any committee thereof and to be taken by the Board of Directors, such committee, the Association, or any individual member of the Association, if approval by the Board of Directors, committee, or Association is necessary for such action. This right may be exercised by the Class B Member, its representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. This

right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board of Directors or the Association. The Class B Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.4 **Number of Directors.** The number of Directors in the Association shall be not less than three (3), nor more than seven (7), as provided in Section 3.6 below. The initial Board shall consist of three (3) members as identified in the Articles of Incorporation.

3.5 **Nomination of Directors.** Except with respect to Directors selected by the Class B Member, nominations for election to the Board of Directors may be made by a Member or a Nominating Committee, if appointed. If appointed by the Board of Directors, the Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three (3) or more Members of the Association, with at least one (1) representative from each class of Member. All interested candidates shall have a reasonable opportunity to communicate their qualifications to the Voting Members and to solicit votes.

3.6 **Election and Term of Office.** Notwithstanding any other provision contained herein:

(a) Within thirty (30) days after the time Class A Members, other than a builder holding title solely for purposes of development and sale, own at least twenty-five percent (25%) of the Units permitted by the Site Plan for the property described in Exhibit C to the Declaration or whenever the Class B Member earlier determines, the Association shall call a special meeting at which Voting Members representing the Class A Members shall elect one (1) of the three (3) Directors, who shall be an at-large Director. The remaining two (2) Directors shall be appointees of the Class B Member. The director elected by the Voting Members shall not be subject to removal by the Class B Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in subsection (b) below, whichever is shorter. If such Director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) Within thirty (30) days after the time Class A Members, other than a builder holding title solely for purposes of development and sale, own at least fifty percent (50%) of the Units permitted by the Site Plan for the property described in Exhibit C to the Declaration or whenever the Class B Member earlier determines, the Board shall be increased to five (5) Directors. The Association shall call a special meeting at which Voting Members representing the Class A Members shall elect two (2) of the five (5) directors, who shall serve as at-large directors. The remaining three (3) directors shall be appointees of the Class B member. The directors elected by the Voting Members shall not be subject to removal by the Class B Member acting alone and shall be elected for a term of

two (2) years or until the happening the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, a successor shall be elected for a like term.

(c) Within thirty (30) days after termination of the Class B Control Period, the Association shall call a special meeting at which Voting Members representing the Class A Members shall elect three (3) of the five (5) directors, who shall serve as at-large directors. The remaining two (2) directors shall be appointees of the Class B Member. The directors elected by the Voting Members shall not be subject to removal by the Class B Member acting alone and shall serve until the first annual meeting following the termination of the Class B Control Period. If such annual meeting occurs within thirty (30) days after termination of the Class B Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) At the first annual meeting of the membership after the termination of the Class B Control Period, the directors shall be selected as follows: All directors shall be elected by the Voting Members representing the Class A Members. Three (3) directors shall be elected for a term of two (2) years and two (2) directors shall be elected for a term of one (1) year. Setting the initial term of each director shall be at the sole discretion of the Nominating Committee, or if one was not appointed, then the Class B Member. At the expiration of the initial term of office of each member of the Board of Directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years.

Each Voting Member shall be entitled to cast one (1) vote with respect to each vacancy to be filled from each slate on which such Voting member is entitled to vote. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected. The directors elected by the Voting Members shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

**3.7 Removal of Directors and Vacancies.** Any director elected by the Voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. A director who was elected at large solely by the votes of Voting Members other than the Developer may be removed from office prior to the expiration of his or her term only by the votes of a majority of Voting Members other than the Developer. Upon removal of a director, a successor shall then and there be elected by the Voting Members entitled to elect and the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other

charge due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability or resignation of a Director, a vacancy may be declared by the Board, and it may appoint a successor.

3.8 **Organizational Meetings.** The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

3.9 **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of the time and place of the meeting shall be communicated to directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding the meeting.

3.10 **Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association, or by any three (3) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first-class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (c) by e-mail with confirmation of receipt. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or e-mail shall be delivered, telephoned or e-mailed at least seventy-two (72) hours before the time set for the meeting.

3.11 **Waiver of Notice.** The transactions of any meeting of the Board of Directors, however, called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 **Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are

present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13 **Compensation.** No director shall receive any compensation from the Association for acting as such unless approved by Voting Members representing a majority of the total Class A vote of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

3.14 **Conduct of Meeting.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

3.15 **Open Meetings.** Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Voting Members, but Voting Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Voting Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of Directors and reconvene in executive session, excluding Voting Members, to discuss matters of a sensitive nature such as pending or threatened litigation, personnel matters, etc.

3.16 **Action Without a Formal Meeting.** Any action to be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

3.17 **Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are not by the Declaration, Articles or these By-Laws directed to be done and exercised exclusively by the Voting Members of the membership generally.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, in way of explanation, but not limitation:

(a) preparation and adoption, in accordance with Article VII of the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses;

(b) making assessments to defray the Common Expenses establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Unit's proportionate share of the Common Expenses shall be due and payable annually as provided in the Declaration;

(c) providing for the operation, care, upkeep, and maintenance of all of the Common Areas and Facilities;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Common Areas and Facilities and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Areas and Facilities in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;



(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

(m) making available to any prospective purchaser of a Unit, any Owner of a Unit, any First Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing the Unit and all other books, records, and financial statements of the Association; and

(n) permitting utility suppliers to use portions of the Common Areas and Facilities reasonably necessary to the ongoing development or operation of the Properties.

3.18 **Management.** The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 3.17. The Developer, or an affiliate of the Developer, may be employed as managing agent or manager.

3.19 **Accounts and Reports.** The following management standards of performance will be followed unless the Board, by resolution, specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finding's fees, service fees, prizes, gifts or otherwise; any thing of value received shall benefit the Association.

(e) Any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) an annual report consisting of at least the following shall be made available to all Owners and Voting Members within one hundred twenty (120) days after

the close of the fiscal year; (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year.

3.20 **Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, or restoration of the Common Areas and Facilities without the approval of the Voting Members of the Association. The Board of Directors shall also have the power to borrow money for other purposes; provided, the Board of Directors shall obtain Voting Member approval in the same manner provided in Section 7.3 of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

3.21 **Rights of the Association.** With respect to the Common Areas and Facilities and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, and other Owners, both within and without the Properties. Such agreements shall require the consent of two-thirds (2/3) of all Directors of the Association.

3.22 **Indemnification.** The Association shall have power to indemnify every officer, director, employee, agent, and committee member of the Association in such manner and in such amounts as may be permitted pursuant to South Dakota laws, Section 47-22-65.1 to 47-22-65.8, inclusive, as such statutes may be amended from time to time, provided, however, no such indemnification by the Association shall exceed the amounts authorized by such statutes. To the extent permissible under South Dakota law, the officers, directors, employees, agents, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. To the extent permissible under South Dakota law, the officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and to the extent permissible under South Dakota law, the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, employee, agent, or committee member, or former officer, director, employee, agent, or committee member, may be entitled. The Association shall, as a Common Expense, maintain adequate insurance to fund this obligation, if such insurance is reasonably available.

3.23 **Enforcement.** The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or any person's right to use the Common Areas and Facilities for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Unit. In the event that any occupant, guest or invitee of a Unit violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed,

the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegated agent shall serve the alleged violator with written notice describing: (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that a proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested within the allotted ten (10) day period, the hearing shall be held in executive session affording the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of the vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation as to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

3.24 **Reserve Fund.** Unless and until the Board and no less than 75% of the Voting Members vote otherwise, there shall exist the Reserve Fund for Contingencies and Replacements as set forth in the Declaration.

## **ARTICLE IV OFFICERS**

4.1 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

4.2 **Election, Term of Office and Vacancies.** The officers of the Association shall be elected annually by the Board of Directors at the Directors' first meeting, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.3 **Removal.** Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

4.4 **Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5 **Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 **Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by an officer or by such other person or persons as may be designated by resolution of the Board of Directors.

## **ARTICLE V COMMITTEES**

5.1 **General.** Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors.

5.2 Covenants Committee. In addition to any other committees which may be established by the Board pursuant to Section 5.1 herein or the Declaration, the Board of Directors may appoint a Covenants Committee consisting of at least five (5) and no more than seven (7) members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.23 of these By-Laws.

## **ARTICLE VI MISCELLANEOUS**

6.1 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution of the Board of Directors, the fiscal year shall be the calendar year.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with South Dakota law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3 Conflicts. If there are any conflicts between the provisions of South Dakota law, the Declaration, the Articles of Incorporation and the By-Laws (in that order) shall prevail.

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, Member of the Association, or by the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in the Unit at the office of the Association or at such other place as the Board shall prescribe.

(b) Rules for Inspection. The board shall establish reasonable rules with respect to: notice to be given to the custodian of the records; hours and days of the week when such an inspection may be made; and payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

6.5 Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid;

(a) if to a Member or a Voting Member, at the address which the member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6 Amendment. Prior to the conveyance of the first Unit, Developer may unilaterally amend these By-Laws. After such conveyance, the Developer may unilaterally amend these By-Laws at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) required by an institutional or governmental lender or purchaser of mortgage loans to enable such lender or purchaser to make or purchase mortgage loans on the Units; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner consents thereto in writing. So long as it still owns property described in Development, the Developer may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

Thereafter and otherwise, these By-Laws may be amended only by the affirmative vote or written consent or any combination thereof, of Voting Members representing seventy-five percent (75%) of the total Class A votes in the Association and the consent of the Class B Member, so long as such membership exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records for Codington County, South Dakota.

If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

6.7 Dissolution. The Association may be dissolved with the assent given in writing and signed by Voting Members representing seventy-five percent (75%) of the total Class A votes in the Association and the consent of the Class B Member, so long as such Membership exists. Upon dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was

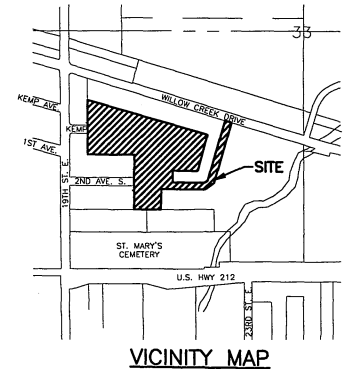
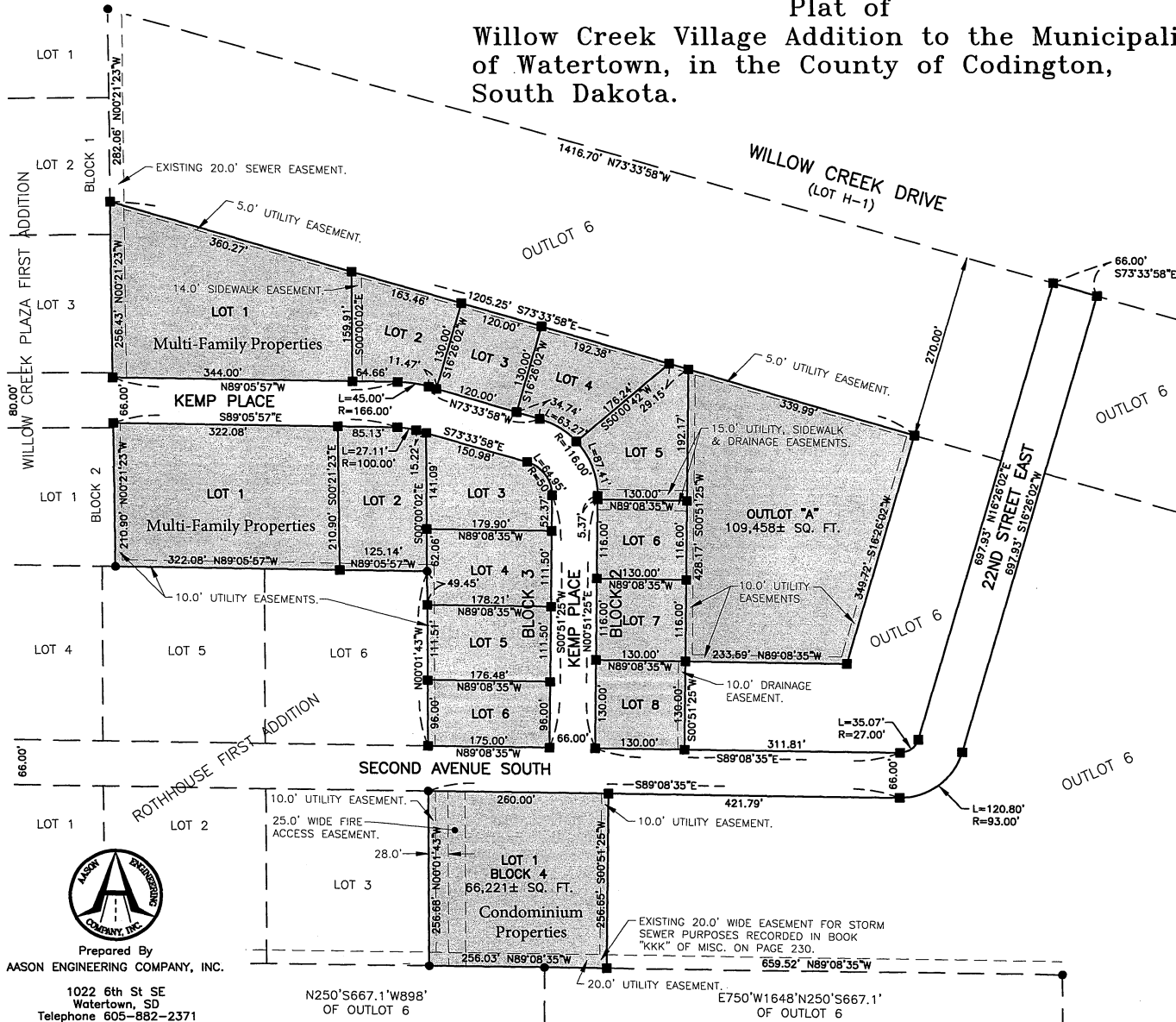
created. In the event such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association or trust or other organization to be devoted to such similar purpose.

**EXHIBIT C**

**Plat/Site Plan of Initial Units  
[Attached]**



Plat of  
Willow Creek Village Addition to the Municipality  
of Watertown, in the County of Codington,  
South Dakota.



August 26, 2014  
Scale: 1"=150'  
Monument Recovered  
½"x18" Rebar w/ Plastic  
Cap Stamped #11310 Set  
--- Easement Line  
--- Existing Right of Way  
& Lot Line

NOTE: Bearings are based on an  
assumed datum.

Entire Tract contains 16.36± Acres of  
which 3.86± Acres is being dedicated as  
Public Road Right of Way.

This plat is a re-plat of and shall vacate a portion of the  
following described property: Outlot 6 of the plat entitled:  
"Outlots No. 4, 5 and 6 in the South-West Quarter of  
Section 33, Town 117, Range 52, Codington County, South  
Dakota." Recorded in Book "AP" of Plats on Page 338.

**AREAS - BLOCK 2**  
LOT 1 = 71,724± SQ. FT.  
LOT 2 = 19,844± SQ. FT.  
LOT 3 = 15,600± SQ. FT.  
LOT 4 = 19,822± SQ. FT.  
LOT 5 = 22,086± SQ. FT.  
LOT 6 = 15,600± SQ. FT.  
LOT 7 = 15,600± SQ. FT.  
LOT 8 = 16,900± SQ. FT.

**AREAS - BLOCK 3**  
LOT 1 = 67,911± SQ. FT.  
LOT 2 = 26,409± SQ. FT.  
LOT 3 = 20,636± SQ. FT.  
LOT 4 = 19,965± SQ. FT.  
LOT 5 = 19,774± SQ. FT.  
LOT 6 = 16,871± SQ. FT.

Registered Land Surveyor

Registered Land Surveyor

**EXHIBIT D**

**Architectural Guidelines  
[Attached]**

## ARCHITECTURAL GUIDELINES

Dated June 9, 2015

Applies to

Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

And

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

1. Minimum square footages\*:

|                  |               |
|------------------|---------------|
| Ranch            | 1,200 sq. ft. |
| Story and a Half | 1,800 sq. ft. |
| Two Story        | 2,000 sq. ft. |

\*Square footage pertains to the interior square footage of each separate dwelling, regardless of whether contained in one structure, such as a twin home, but shall not apply to Multi-Family Properties or Condominium Properties.

2. Roof Pitch: 6/12 or greater alternative pitches subject to approval by Architectural Review Committee.
3. Garage: Minimum of two car, attached, for Single Family Properties and Townhome Properties.
4. Driveway: Maximum width equals garage width for Single Family Properties and Townhome Properties.
  - No parking pads on side of house
  - No boats, RVs, trailers parked on site in excess of 3 consecutive days and in keeping with the Declaration of Covenants.
5. Windows: Energy efficient, minimum of insulated glass
  - Slider windows, not approved (except garages)

- Casements, approved
  - Double Hung, approval by submission only
6. Shingles:
- Certainteed or comparable, approved:
    - Independence
    - Hallmark
    - Grand Manor
  - Alternative roofing materials subject to approval by Architectural Review Committee
7. Bathrooms: Minimum one full and one half bath for Single Family Properties and Townhome Properties.
8. Exterior finishes:
- Vinyl, not allowed
  - Steel, not allowed
  - Cedar and Redwood, approved (maximum 8" lap)
  - Hard board sidings , approved (maximum 8" lap)
  - Hard board sidings – prefinished, approved case by case
  - Brick or natural stone, minimum of 500 sq. ft. per house, front
9. Fences: (including dog kennels) not allowed except for fences and walls constructed by Developer
10. Small Lawn Sheds: not allowed
11. Trash Can Enclosures: not allowed
12. Mail boxes must be brick or natural stone
13. Landscaping:
- Sodding and sprinklers to be completed by contractor within 12 months of occupancy
    - Trees – minimum of 1 approved street tree per 30' of front foot, exclusive driveway, within 12 months of occupancy
  - Trees, shrubs, other – minimum of 3 trees front yard, 3 trees backyard within 24 months of occupancy
14. Exterior colors: Must be approved by Developer (only earth tones allowed)
15. Plans (including site plan): Must be filed and approved by Developer
16. All final grading will be reviewed by Developer's engineers.
17. Homeowner must comply with all government imposed regulations on building in this area.

The architectural guidelines are intended to serve as general guidelines for the building of residential housing within property governed by the Willow Creek Owners Association, Inc. but are subject to revision and to waivers of any particular guideline on a case by case basis, by the Architectural Review Committee of the Willow Creek Owners Association, Inc., if one has been appointed, or if not, then by the Developer. In any event, the architectural plans for each structure are subject to the final approval by the Developer.

Prepared by:  
Carey A. Miller  
Woods, Fuller, Shultz & Smith P.C.  
300 South Phillips Avenue, Suite 300  
P.O. Box 5027  
Sioux Falls, SD 57117-5027  
(605) 336-3890

**SUPPLEMENT AND FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
WILLOW CREEK DEVELOPMENT**

This SUPPLEMENT AND FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 30<sup>th</sup> day of October, 2019, by Willow Creek Development, Inc., a South Dakota corporation, of 2301 Research Park Way, Suite 222, Brookings, South Dakota 57006 (the "Developer").

**RECITALS:**

A. Pursuant to a Declaration of Covenants, Conditions and Restrictions dated June 9, 2015, and filed for record with the Codington County Register of Deeds, as Instrument Number 201502459 in Book 4T Declarations / Covenants at Page 5107 on June 10, 2015, Developer submitted the following real property located in Watertown, Codington County, South Dakota (the "Development") to certain restrictions:

Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

B. Pursuant to Section 8.1.e. of the Declaration, Developer desires to supplement the Declaration to add Additional Land to the Development as originally described on Exhibit A to the Declaration.

**NOW, THEREFORE,** Developer hereby supplements and amends the Declaration as follows:

1. Supplement to Add Additional Land. The Declaration is hereby supplemented to add the following Additional Land to the Development:

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

Lots 1 and 2, Block 2, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

2. Additional Land Subject to Declaration. The Additional Land described in paragraph 1 above is now fully subject to the provisions of the Declaration.

3. Revisions to Exhibits. In connection with the addition of the Additional Land to the Development, the Exhibits to the Declaration are revised and amended as follows:

Exhibit A to the Declaration is replaced in its entirety with attached Exhibit A-1. Each reference to Exhibit A in the Declaration will be deemed to mean Exhibit A-1 attached hereto.

Exhibit B to the Declaration remains unchanged and will be binding upon all Unit Owner or Owners in the Development.

Exhibit C to the Declaration is replaced in its entirety with attached Exhibit C-1. Each reference to Exhibit C in the Declaration will be deemed to mean Exhibit C-1 attached hereto.

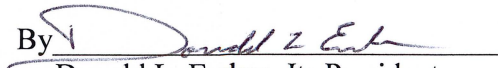
Exhibit D to the Declaration is replaced in its entirety with attached Exhibit D-1. Each reference to Exhibit D in the Declaration will be deemed to mean Exhibit D-1 attached hereto.

4. Binding Effect. The Declaration and its Exhibits, as supplemented and amended above, remain in full force and effect.



Dated effective the date and year first above written.

WILLOW CREEK DEVELOPMENT, INC.

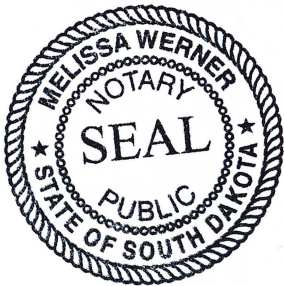
By   
Donald L. Endres, Its President

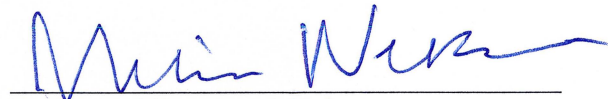
STATE OF SOUTH DAKOTA )  
: SS  
COUNTY OF BROOKINGS )

On this the 30<sup>th</sup> day of October, 2019, before me personally appeared Donald L. Endres, known to me to be the President of Willow Creek Development, Inc., the corporation that is described in and that executed the within instrument and acknowledged to me that such corporation executed the same.

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

(seal)



  
Notary Public – South Dakota  
My Commission Expires:

**My Commission Expires**  
**8/08/2025**

## **Exhibit A-1**

### **Legal Description**

Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

Lots 1 and 2, Block 2, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

**Exhibit B**

**See By-Laws  
in Declaration**

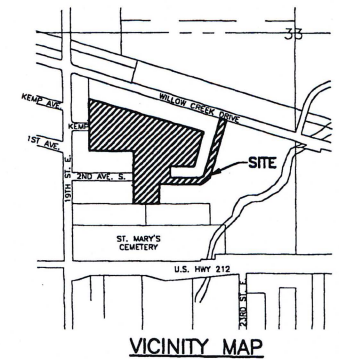
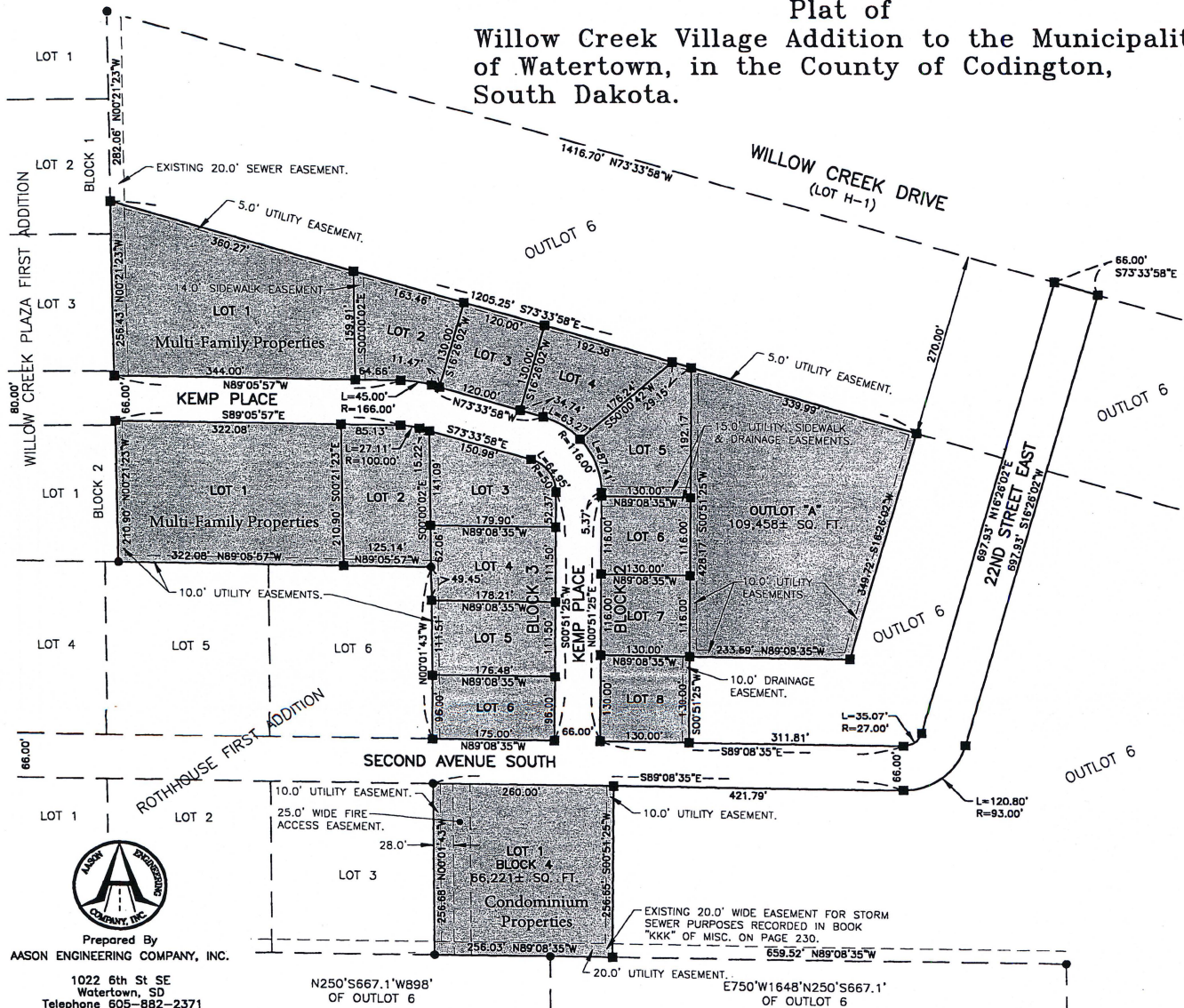
## **Exhibit C-1**

### **Plats Showing Units**

#### **Attached:**

1. Plat of Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota identifying:
  - Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
  - Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
  - Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.and
  - Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
2. Plat of Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota, a re-plat vacating Lots 2 to 8, Block 2 shown on Plat No. 1 above, identifying:
  - Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
3. Plat of Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota, identifying:
  - Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.and
  - Lots 1 and 2, Block 2, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

**Plat of  
Willow Creek Village Addition to the Municipality  
of Watertown, in the County of Codington,  
South Dakota.**



150 0 150

August 26, 2014  
Scale: 1"=150'  
Monument Recovered  
1/2"x18" Rebar w/ Plastic  
Cap Stamped #11310 Set

● Easement Line  
■ Existing Right of Way  
& Lot Line

NOTE: Bearings are based on an assumed datum.

Entire Tract contains 16.36± Acres of which 3.86± Acres is being dedicated as Public Road Right of Way.

This plat is a re-plat of and shall vacate a portion of the following described property: Outlot 6 of the plat entitled: "Outlots No. 4, 5 and 6 in the South-West Quarter of Section 33, Town 117, Range 52, Codington County, South Dakota." Recorded in Book "AP" of Plats on Page 338.

**AREAS - BLOCK 2**  
LOT 1 = 71,724± SQ. FT.  
LOT 2 = 19,844± SQ. FT.  
LOT 3 = 15,600± SQ. FT.  
LOT 4 = 19,822± SQ. FT.  
LOT 5 = 22,086± SQ. FT.  
LOT 6 = 15,600± SQ. FT.  
LOT 7 = 15,600± SQ. FT.  
LOT 8 = 16,900± SQ. FT.

**AREAS - BLOCK 3**  
LOT 1 = 67,911± SQ. FT.  
LOT 2 = 26,409± SQ. FT.  
LOT 3 = 20,636± SQ. FT.  
LOT 4 = 19,965± SQ. FT.  
LOT 5 = 19,774± SQ. FT.  
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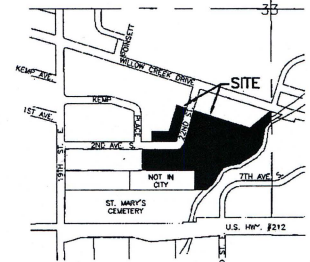
**Prepared By  
AASON ENGINEERING COMPANY, INC.**  
1022 6th St SE  
Watertown, SD  
Telephone 605-882-2371

Registered Land Surveyor



Registered Land Surveyor

**PLAT OF  
WILLOW CREEK VILLAGE FOURTH ADDITION  
TO THE MUNICIPALITY OF WATERTOWN,  
IN THE COUNTY OF CODINGTON, SOUTH DAKOTA.**



**VICINITY MAP:**  
N.T.S.

**LEGEND:**

- SET 5/8" REBAR W/CAP #10959
- FOUND MONUMENT
- AC. ACRES
- R/W RIGHT-OF-WAY
- N.T.S. NOT TO SCALE

**SURVEYOR'S NOTES:**

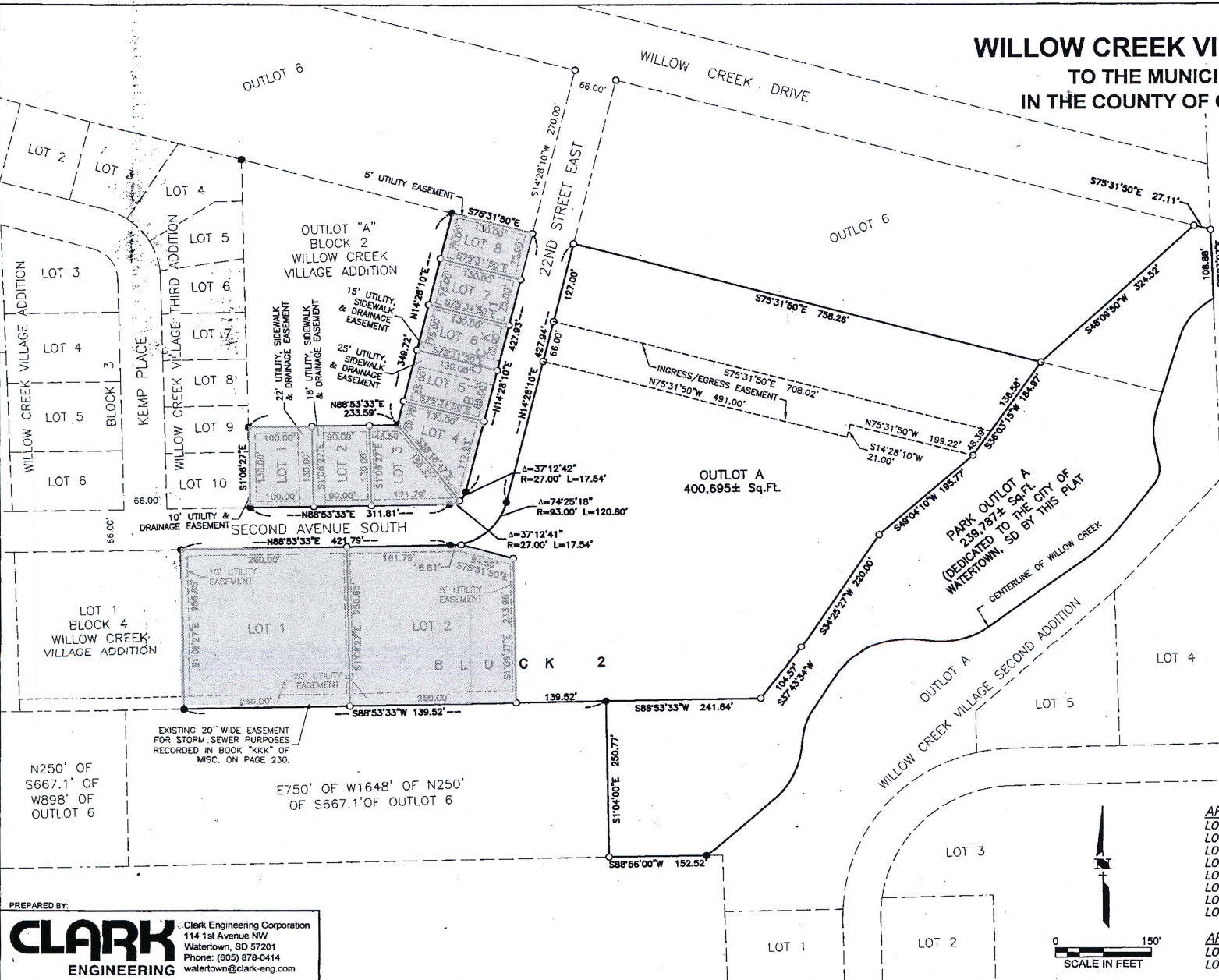
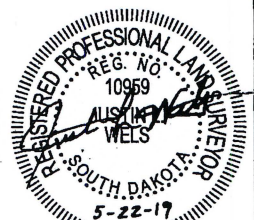
- Bearings based on UTM Zone 14.
- All utility easements shown are 10' wide along Right of Ways and rear yards, unless otherwise noted.
- All utility easements shown are 5' wide along side yards, unless otherwise noted.
- Tract contains 861,600± Sq.Ft./19.78± AC.
- This plat is a re-plat of and shall vacate a portion of the following described property: Outlot 6 of the plat entitled: "Outlots No. 4, 5 and 6 in the South-West Quarter of Section 33, Town 117, Range 52, Codington County, South Dakota." Recorded in Book "AP" of Plats on Page 338.

**AREAS - BLOCK 1**

LOT 1: 13,000± Sq.Ft.  
LOT 2: 11,700± Sq.Ft.  
LOT 3: 12,043± Sq.Ft.  
LOT 4: 11,540± Sq.Ft.  
LOT 5: 11,050± Sq.Ft.  
LOT 6: 9,750± Sq.Ft.  
LOT 7: 9,750± Sq.Ft.  
LOT 8: 9,750± Sq.Ft.

**AREAS - BLOCK 2**

LOT 1: 66,730± Sq.Ft.  
LOT 2: 65,805± Sq.Ft.



PREPARED BY:  
**CLARK** ENGINEERING  
Clark Engineering Corporation  
114 1st Avenue NW  
Watertown, SD 57201  
Phone: (605) 878-0414  
watertown@clark-eng.com

## Exhibit D-1

### Architectural Guidelines

Applies to each residential dwelling in the entire Development, even if two dwellings are contained in one structure, such as a twin home, but shall not apply to multi-family properties or condominium properties.

1. Minimum Square Footages\*:

|                  |               |
|------------------|---------------|
| Ranch            | 1,200 sq. ft. |
| Story and a Half | 1,800 sq. ft. |
| Two Story        | 2,000 sq. ft. |

\*Square footage pertains to the interior square footage of each separate dwelling, even if contained in one structure, such as a twin home, but shall not apply to multi-family properties or condominium properties.

2. Roof Pitch: 6/12 or greater alternative pitches subject to approval by Architectural Review Committee.
3. Garage: Minimum of two car, attached, for Single Family Properties and Townhome Properties.
4. Driveway: Maximum width equals garage width for Single Family Properties and Townhome Properties.

No parking pads on side of house

No boats, RVs, trailers parked on site in excess of 3 consecutive days and in keeping with the Declaration of Covenants

5. Windows: Energy efficient, minimum of insulated glass

Slider windows, not approved (except garages)

Casements, approved

Double Hung, approval by submission only

6. Shingles:

Certainteed or comparable, approved:

o Independence

o Hallmark

o Grand Manor

Alternative roofing materials subject to approval by Architectural Review Committee



7. Bathrooms: Minimum one full and one half bath for Single Family Properties and Townhome Properties.
8. Exterior Finishes:
  - Vinyl, not allowed
  - Steel, not allowed
  - Cedar and Redwood, approved (maximum 8" lap)
  - Hard board sidings, approved (maximum 8" lap)
  - Hard board sidings - prefinished, approved case by case
  - Brick or natural stone, minimum of 500 sq. ft. per house, front
9. Fences (including dog kennels): not allowed except for fences and walls constructed by Developer.
10. Small Lawn Sheds: not allowed
11. Trash Can Enclosures: not allowed
12. Mail Boxes: must be brick or natural stone
13. Landscaping: Sodding and sprinklers to be completed by contractor within 12 months of occupancy
  - Trees - minimum of 1 approved street tree per 30' of front foot, exclusive driveway, within 12 months of occupancy
  - Trees, shrubs, other - minimum of 3 trees front yard, 3 trees backyard within 24 months of occupancy
14. Exterior colors: Must be approved by Developer (only earth tones allowed)
15. Plans (including site plan): Must be filed and approved by Developer
16. Grading: All final grading will be reviewed by Developer's engineers.
17. Homeowner must comply with all government imposed regulations on building in this area.

The architectural guidelines are intended to serve as general guidelines for the building of residential housing within property governed by the Willow Creek Owners Association, Inc., but are subject to revision and to waivers of any particular guideline on a case by case basis, by the Architectural Review Committee of the Willow Creek Owners Association, Inc., if one has been appointed, or if not, then by the Developer. In any event, the architectural plans for each structure are subject to the final approval by the Developer.

Prepared by:  
Carey A. Miller  
Woods, Fuller, Shultz & Smith P.C.  
300 South Phillips Avenue, Suite 300  
P.O. Box 5027  
Sioux Falls, SD 57117-5027  
(605) 336-3890

**SUPPLEMENT AND SECOND AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
WILLOW CREEK DEVELOPMENT**

This SUPPLEMENT AND SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 10<sup>th</sup> day of June, 2022 by Willow Creek Development, Inc., a South Dakota corporation, of 2301 Research Park Way, Suite 222, Brookings, South Dakota 57006 (the “Developer”).

**RECITALS:**

A. Pursuant to a Declaration of Covenants, Conditions and Restrictions dated June 9, 2015, and filed for record with the Codington County Register of Deeds, as Instrument Number 201502459 in Book 4T Declarations / Covenants at Page 5107 on June 10, 2015, as amended by a Supplement and First Amendment to the Declaration of Covenants, Conditions and Restrictions dated October 30, 2019, and filed for record with the Codington County Register of Deeds, as Instrument Number 201904755 in Book 4T Declarations / Covenants at Page 7914 on November 8, 2019, Developer submitted the following real property located in Watertown, Codington County, South Dakota (the “Development”) to certain restrictions:

Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Outlot “A,” Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

Lots 1 and 2, Block 2, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

C. Pursuant to Section 8.1.e. of the Declaration, Developer desires to further supplement the Declaration to add Additional Land to the Development and to update the Site Plan originally included as Exhibit C to the Declaration.

**NOW, THEREFORE,** Developer hereby supplements and amends the Declaration as follows:

1. Supplement to Add Additional Land. The Declaration is hereby supplemented to add the following Additional Land to the Development:

Lots 1, 2, 3, 4, 5, and 6, Block 1, Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Block 2, Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

2. Additional Land Subject to Declaration. The Additional Land described in paragraph 1 above is now fully subject to the provisions of the Declaration.

3. Revisions to Exhibits. In connection with the addition of the Additional Land to the Development, the Exhibits to the Declaration are revised and amended as follows:

Current Exhibit A-1 to the Declaration is now replaced in its entirety with attached Exhibit A-2. Each reference to Exhibit A in the original Declaration will now be deemed to mean Exhibit A-2 attached hereto.

Exhibit B to the original Declaration remains unchanged and will be binding upon all Unit Owner or Owners in the Development.

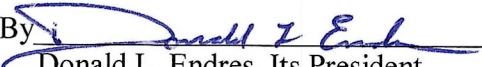
Current Exhibit C-1 to the Declaration is now replaced in its entirety with attached Exhibit C-2. Each reference to Exhibit C, and each reference to the Site Plan as defined in the original Declaration, will be deemed to mean Exhibit C-2 attached hereto.

Current Exhibit D-1 to the Declaration is now replaced in its entirety with attached Exhibit D-2. Each reference to Exhibit D in the original Declaration will be deemed to mean Exhibit D-2 attached hereto.

4. Binding Effect. The Declaration and its Exhibits, as supplemented and amended above, remain in full force and effect.

Dated effective the date and year first above written.

WILLOW CREEK DEVELOPMENT, INC.

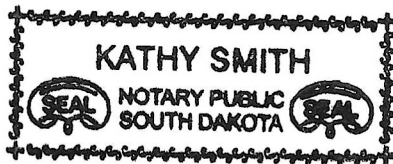
By   
Donald L. Endres, Its President

STATE OF SOUTH DAKOTA )  
: SS  
COUNTY OF BROOKINGS )

On this the 10<sup>th</sup> day of June, 2022, before me personally appeared Donald L. Endres, known to me to be the President of Willow Creek Development, Inc., the corporation that is described in and that executed the within instrument and acknowledged to me that such corporation executed the same.

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

(seal)



  
Notary Public – South Dakota  
My Commission Expires: 04-28-2026

**Exhibit A-2**  
(which replaces original Exhibit A and Exhibit A-1)  
**Legal Description**

Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1 and 2, Block 2, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

Lots 1, 2, 3, 4, 5, and 6, Block 1, Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Block 2, Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

**Exhibit B**

**See By-Laws  
in Declaration**

**Exhibit C-2**  
(which replaces original Exhibit C and Exhibit C-1)  
**Plats Showing Units/ Site Plan**

**Attached:**

1. Plat of Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota identifying:
  - Lot 1, Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
  - Lots 1, 2, 3, 4, 5 and 6, Block 3, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
  - Lot 1, Block 4, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

  - Outlot "A," Block 2, Willow Creek Village Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
2. Plat of Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota, a re-plat vacating Lots 2 to 8, Block 2 shown on Plat No. 1 above, identifying:
  - Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Willow Creek Village Third Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
3. Plat of Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota, identifying:
  - Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

and

  - Lots 1 and 2, Block 2, Willow Creek Village Fourth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.
4. Plat of Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota, identifying:
  - Lots 1, 2, 3, 4, 5, and 6, Block 1, Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

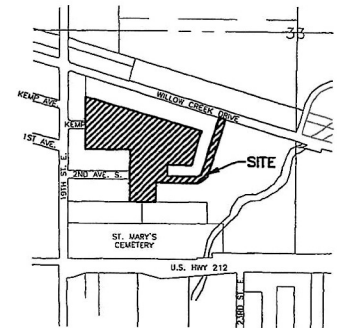
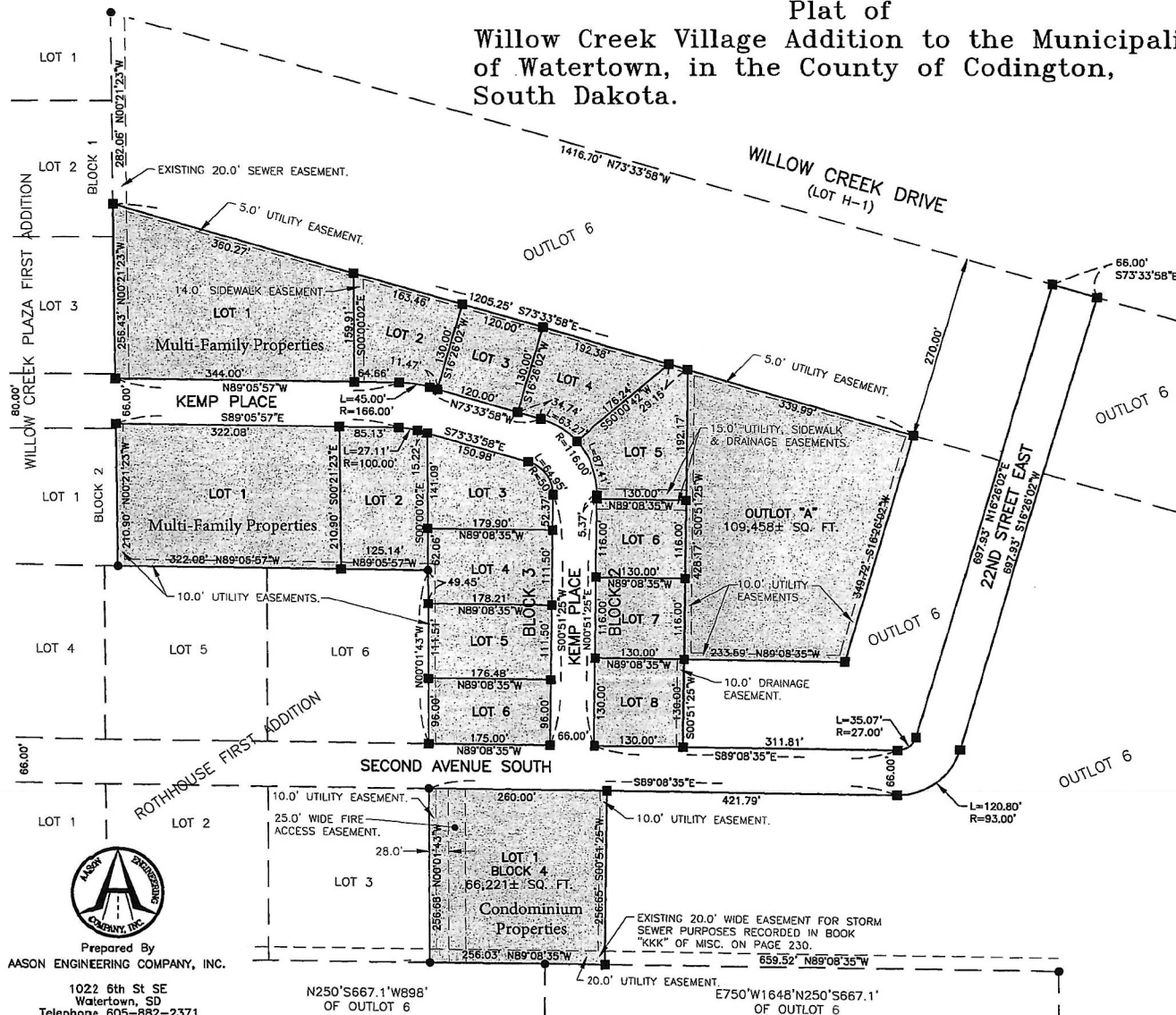


and

- Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Block 2, Willow Creek Village Fifth Addition to the Municipality of Watertown, in the County of Codington, South Dakota.

5. Willow Creek Owners Association, Inc. Area Map and Unit Breakdown (“Site Plan”)

Plat of  
Willow Creek Village Addition to the Municipality  
of Watertown, in the County of Codington,  
South Dakota.



VICINITY MAP

150 0 150

- August 26, 2014  
Scale: 1"=150'  
Monument Recovered  
1/2"x18" Rebar w/ Plastic  
Cap Stamped #11310 Set  
--- Easement Line  
--- Existing Right of Way  
& Lot Line

NOTE: Bearings are based on an assumed datum.  
Entire Tract contains 16.36± Acres of which 3.86± Acres is being dedicated as Public Road Right of Way.

This plat is a re-plat of and shall vacate a portion of the following described property: Outlot 6 of the plat entitled: "Outlots No. 4, 5 and 6 in the South-West Quarter of Section 33, Town 117, Range 52, Codington County, South Dakota." Recorded in Book "AP" of Plats on Page 338.

AREAS - BLOCK 2  
LOT 1 = 71,724± SQ. FT.  
LOT 2 = 19,844± SQ. FT.  
LOT 3 = 15,600± SQ. FT.  
LOT 4 = 19,822± SQ. FT.  
LOT 5 = 22,086± SQ. FT.  
LOT 6 = 15,600± SQ. FT.  
LOT 7 = 15,600± SQ. FT.  
LOT 8 = 16,900± SQ. FT.

AREAS - BLOCK 3  
LOT 1 = 67,911± SQ. FT.  
LOT 2 = 26,409± SQ. FT.  
LOT 3 = 20,636± SQ. FT.  
LOT 4 = 19,965± SQ. FT.  
LOT 5 = 19,774± SQ. FT.  
LOT 6 = 16,871± SQ. FT.

Registered Land Surveyor



Prepared By  
AASON ENGINEERING COMPANY, INC.

1022 6th St SE  
Watertown, SD  
Telephone 605-882-2371

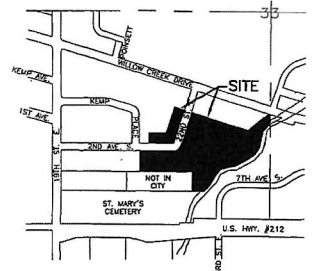
N250°S667.1°W89.8'  
OF OUTLOT 6

E750°W1648°N250°S667.1'  
OF OUTLOT 6

Registered Land Surveyor



**PLAT OF  
WILLOW CREEK VILLAGE FOURTH ADDITION  
TO THE MUNICIPALITY OF WATERTOWN,  
IN THE COUNTY OF CODINGTON, SOUTH DAKOTA.**



VICINITY MAP:  
N.T.S.

LEGEND:

- SET 5/8" REBAR W/CAP #10959
- FOUND MONUMENT
- AC. ACRES
- R/W RIGHT-OF-WAY
- N.T.S. NOT TO SCALE

SURVEYOR'S NOTES:

- Bearings based on UTM Zone 14.
- All utility easements shown are 10' wide along Right of Ways and rear yards, unless otherwise noted.
- All utility easements shown are 5' wide along side yards, unless otherwise noted.
- Tract contains 861,600± Sq.Ft./19.78± AC.
- This plat is a re-plat of and shall vacate a portion of the following described property: Outlot 6 of the plat entitled: "Outlots No. 4, 5 and 6 in the South-West Quarter of Section 33, Town 117, Range 52, Codington County, South Dakota." Recorded in Book "AP" of Plats on Page 338.

AREAS - BLOCK 1

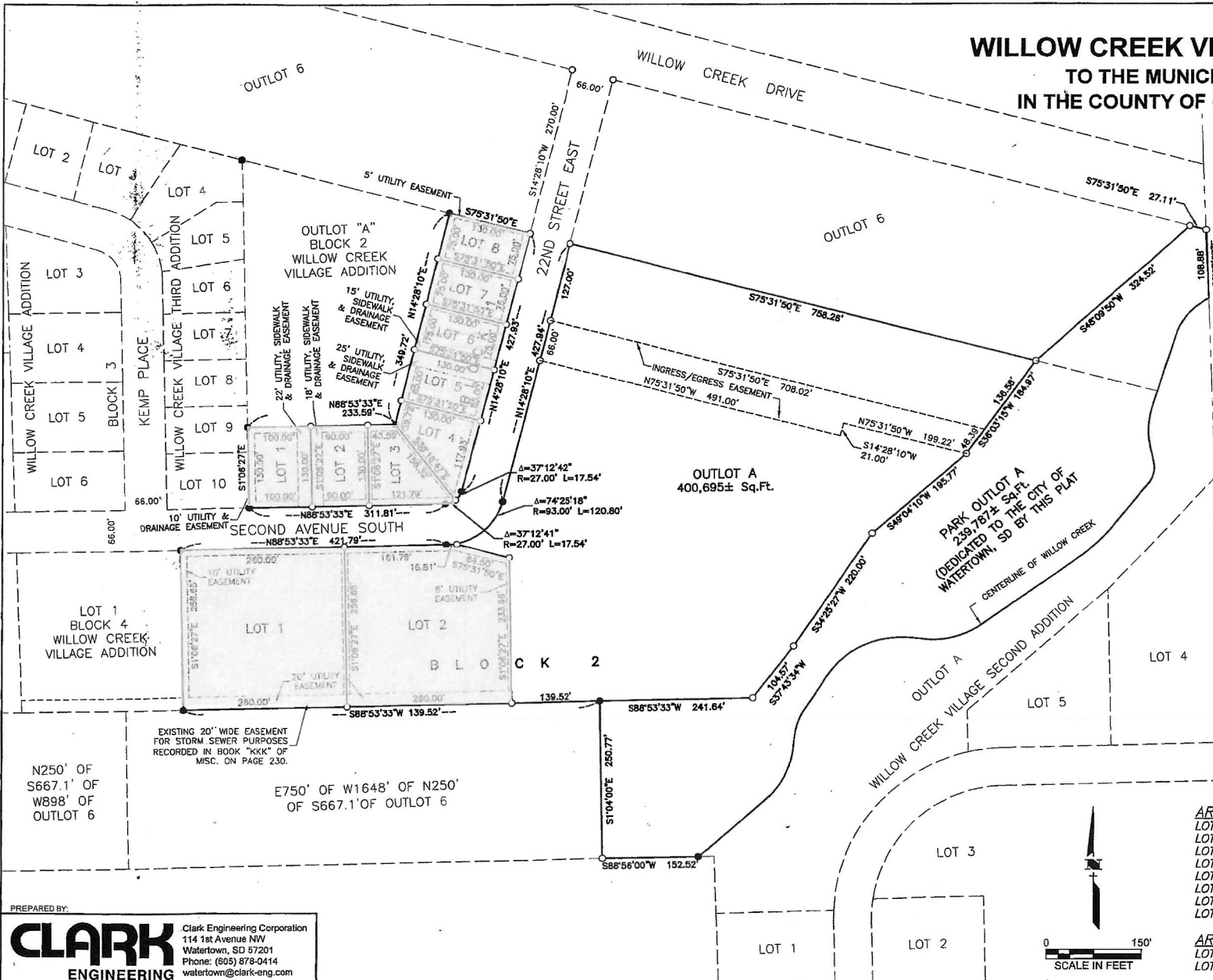
- LOT 1: 13,000± Sq.Ft.
- LOT 2: 11,700± Sq.Ft.
- LOT 3: 12,043± Sq.Ft.
- LOT 4: 11,540± Sq.Ft.
- LOT 5: 11,050± Sq.Ft.
- LOT 6: 9,750± Sq.Ft.
- LOT 7: 9,750± Sq.Ft.
- LOT 8: 9,750± Sq.Ft.

AREAS - BLOCK 2

- LOT 1: 66,730± Sq.Ft.
- LOT 2: 65,805± Sq.Ft.



SHEET 1 OF 3



PREPARED BY:

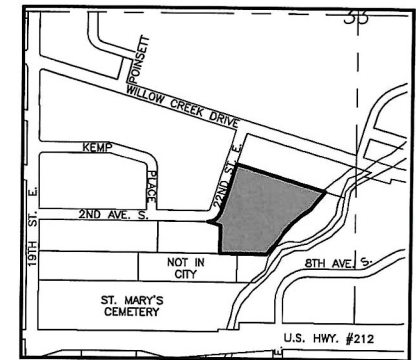
**CLARK**  
ENGINEERING

Clark Engineering Corporation  
114 1st Avenue NW  
Watertown, SD 57201  
Phone: (605) 879-0414  
watertown@clark-eng.com

# PLAT SHOWING WILLOW CREEK VILLAGE FIFTH ADDITION TO THE MUNICIPALITY OF WATERTOWN, IN THE COUNTY OF CODINGTON, SOUTH DAKOTA

THIS PLAT IS A REPLAT AND SHALL VACATE OUTLOT A IN BLOCK 2 OF WILLOW CREEK VILLAGE FOURTH ADDITION TO THE MUNICIPALITY OF WATERTOWN, IN THE COUNTY OF CODINGTON, SOUTH DAKOTA.

AND FURTHERMORE, THIS PLAT SHALL VACATE THE INGRESS/EGRESS EASEMENT ACROSS OUTLOT A IN BLOCK 2 OF WILLOW CREEK VILLAGE FOURTH ADDITION TO THE MUNICIPALITY OF WATERTOWN, IN THE COUNTY OF CODINGTON, SOUTH DAKOTA.



**BASIS OF BEARINGS**  
UTM ZONE 14

## LEGEND

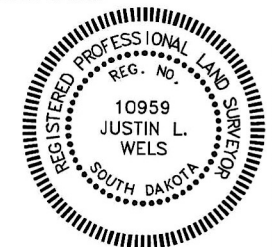
- MONUMENT FOUND
- 5/8" REBAR w/CAP LS 10959

## PROPOSED EASEMENTS

UTILITY EASEMENTS AS SHOWN ARE 10' WIDE ALONG RIGHT OF WAYS AND REAR LOT YARDS, AND 5' WIDE ALONG SIDE YARDS, UNLESS OTHERWISE NOTED.

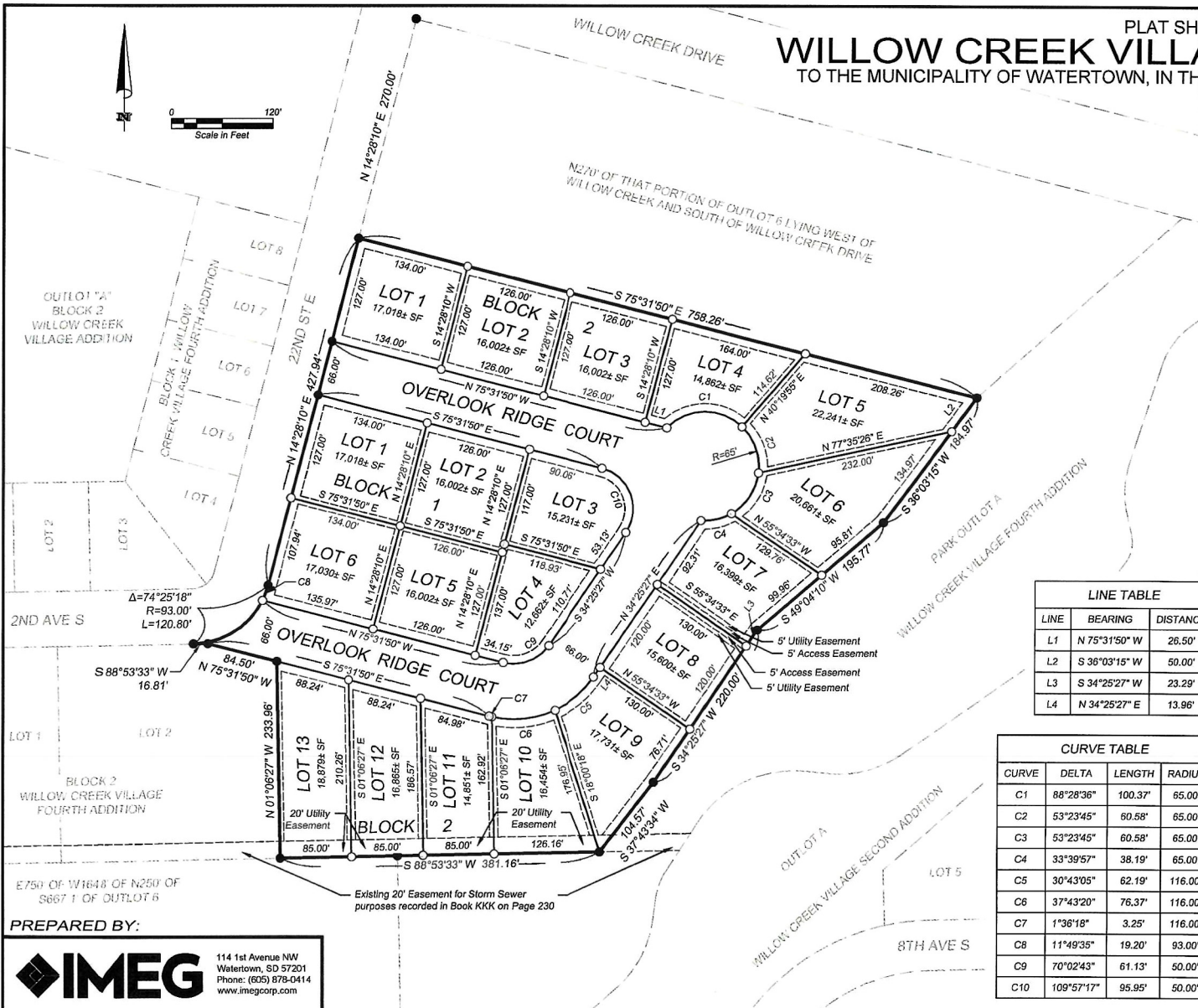
## AREA

THIS TRACT CONTAINS 9.20± ACRES OF WHICH 1.91± ACRES IS DEDICATED PUBLIC ROAD RIGHT OF WAY.



| LINE TABLE |               |          |
|------------|---------------|----------|
| LINE       | BEARING       | DISTANCE |
| L1         | N 75°31'50" W | 26.50'   |
| L2         | S 38°03'15" W | 50.00'   |
| L3         | S 34°25'27" W | 23.29'   |
| L4         | N 34°25'27" E | 13.96'   |

| CURVE TABLE |            |         |         |
|-------------|------------|---------|---------|
| CURVE       | DELTA      | LENGTH  | RADIUS  |
| C1          | 88°28'36"  | 100.37' | 65.00'  |
| C2          | 53°23'45"  | 60.58'  | 65.00'  |
| C3          | 53°23'45"  | 60.58'  | 65.00'  |
| C4          | 33°39'57"  | 38.19'  | 65.00'  |
| C5          | 30°43'05"  | 62.19'  | 116.00' |
| C6          | 37°43'20"  | 76.37'  | 116.00' |
| C7          | 1°36'18"   | 3.25'   | 116.00' |
| C8          | 11°49'35"  | 19.20'  | 93.00'  |
| C9          | 70°02'43"  | 61.13'  | 50.00'  |
| C10         | 109°57'17" | 95.95'  | 50.00'  |



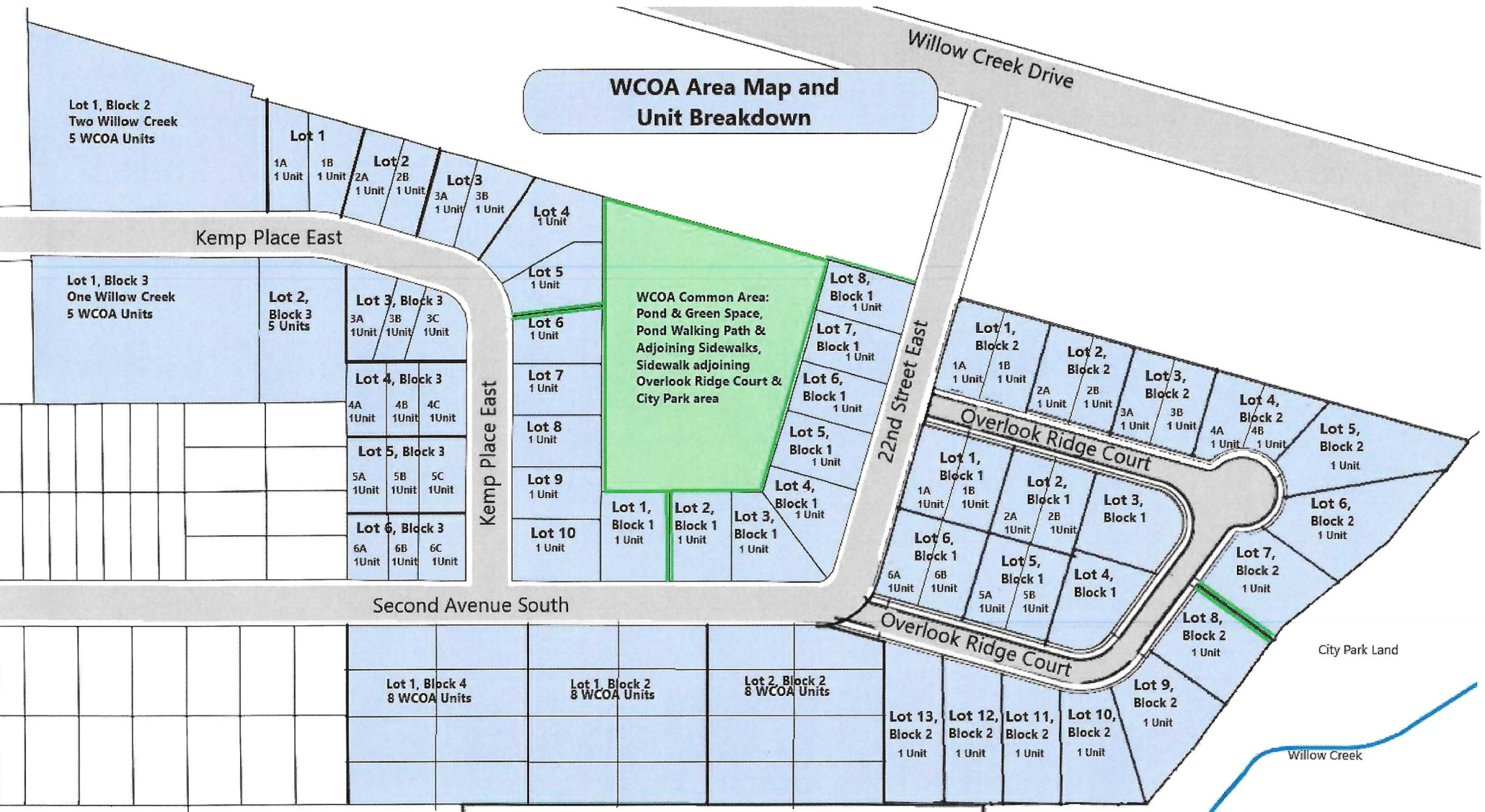
PREPARED BY:



114 1st Avenue NW  
Watertown, SD 57201  
Phone: (605) 878-0414  
www.imegcorp.com



# WCOA Area Map and Unit Breakdown



**Exhibit D-2**  
(which replaces original Exhibit D and Exhibit D-1)  
**Architectural Guidelines**

Applies to each residential dwelling in the entire Development,  
even if two dwellings are contained in one structure, such as a twin home, but  
shall not apply to multi-family properties or condominium properties.

1. Minimum Square Footages\*:

|                  |               |
|------------------|---------------|
| Ranch            | 1,200 sq. ft. |
| Story and a Half | 1,800 sq. ft. |
| Two Story        | 2,000 sq. ft. |

\*Square footage pertains to the interior square footage of each separate dwelling,  
even if contained in one structure, such as a twin home, but shall not apply to  
multi-family properties or condominium properties.

2. Roof Pitch: 6/12 or greater alternative pitches subject to approval by  
Architectural Review Committee.
3. Garage: Minimum of two car, attached, for Single Family Properties and  
Townhome Properties.
4. Driveway: Maximum width equals garage width for Single Family Properties  
and Townhome Properties.

No parking pads on side of house  
No boats, RVs, trailers parked on site in excess of 3 consecutive days and  
in keeping with the Declaration of Covenants

5. Windows: Energy efficient, minimum of insulated glass

Slider windows, not approved (except garages)  
Casements, approved  
Double Hung, approval by submission only

6. Shingles:

Certainteed or comparable, approved:

- o Independence
- o Hallmark
- o Grand Manor

Alternative roofing materials subject to approval by Architectural Review  
Committee

7. Bathrooms: Minimum one full and one half bath for Single Family Properties and Townhome Properties.
8. Exterior Finishes:
  - Vinyl, not allowed
  - Steel, not allowed
  - Cedar and Redwood, approved (maximum 8" lap)
  - Hard board sidings, approved (maximum 8" lap)
  - Hard board sidings - prefinished, approved case by case
  - Brick or natural stone, minimum of 500 sq. ft. per house, front
9. Fences (including dog kennels): not allowed except for fences and walls constructed by Developer.
10. Small Lawn Sheds: not allowed
11. Trash Can Enclosures: not allowed
12. Mail Boxes: must be brick or natural stone
13. Landscaping: Sodding and sprinklers to be completed by contractor within 12 months of occupancy
  - Trees - minimum of 1 approved street tree per 30' of front foot, exclusive driveway, within 12 months of occupancy
  - Trees, shrubs, other - minimum of 3 trees front yard, 3 trees backyard within 24 months of occupancy
14. Exterior colors: Must be approved by Developer (only earth tones allowed)
15. Plans (including site plan): Must be filed and approved by Developer
16. Grading: All final grading will be reviewed by Developer's engineers.
17. Homeowner must comply with all government imposed regulations on building in this area.

The architectural guidelines are intended to serve as general guidelines for the building of residential housing within property governed by the Willow Creek Owners Association, Inc., but are subject to revision and to waivers of any particular guideline on a case by case basis, by the Architectural Review Committee of the Willow Creek Owners Association, Inc., if one has been appointed, or if not, then by the Developer. In any event, the architectural plans for each structure are subject to the final approval by the Developer.