

**FIRST AMENDMENT TO THE  
AMENDED AND RESTATED BY-LAWS OF  
SPEARFISH CANYON OWNERS ASSOCIATION, INC.  
AS APPROVED JULY 8, 2006**

By approval of both the membership and the Board of Directors, at the annual meeting of members held July 14, 2007, and subsequent meeting of the Board of Directors, the following amendments to the Amended and Restated By-Laws of Spearfish Canyon Owners Association, Inc., as previously approved July 8, 2006, are adopted:

1. Article 3 of the Amended and Restated By-Laws was amended as follows:

**ARTICLE 3  
POWERS AND DUTIES OF BOARD OF DIRECTORS**

1. **General:** The Board of Directors shall have the powers necessary to administer the affairs of the corporation.

2. **Specific Powers and Duties:** Without limiting the general powers set forth in Section 1 of this Article, the Board of Directors shall have the following powers and duties, subject only to requirements of the laws of the State of South Dakota:

- A. To administer and enforce the Covenants, Conditions, Restrictions and Reservations for Homestake Cabin Lot Sales in Spearfish Canyon, more fully set forth in a Declaration dated June 1, 1990, recorded June 20, 1990 as Document #90-2494; Declaration recorded August 8, 1990 as Document #90-3272; Declaration recorded October 1, 1990 as Document #90-4112; Declaration recorded September 6, 1990 as Document #90-3751; Declaration recorded November 20, 1990 as Document #90-4850; Declaration recorded December 28, 1990 as Document #90-5478; Declaration recorded October 23, 1990 as Document #90-4403; Declaration recorded December 4, 1992 as Document #92-5977; Declaration recorded February 26, 1992 as Document #92-846, all recorded in the office of the Lawrence County, Register of Deeds.

- B. To establish, amend and enforce compliance with reasonable rules and regulations necessary and reasonable to carry out the provisions and purposes of the Articles of Incorporation and the Declaration of Covenants, Conditions, Restrictions and Reservations. A copy of any rules and regulations adopted by the Board of Directors will be delivered or mailed to each member promptly after adoption.

The balance of this Article remains, and is unchanged.

2. Article 12 was amended in its entirety as follows:

**ARTICLE 12**  
**SUPPORT AND ENFORCEMENT OF BYLAWS, COVENANTS, CONDITIONS,**  
**RESERVATIONS, RESTRICTIONS AND RULES**

1. **Application:** The Bylaws of the Association, and all Covenants, Conditions and Restrictions apply to all described lands formerly owned or leased from Homestake Mining Company. Other private owners and those on U.S. Forest Service leased land, as well as other interested individuals, groups or governmental subdivisions, may indicate their support and approval of the purposes of the association, by joining and paying dues to the association, even though the Covenants, Conditions and Restrictions may not be applicable to them.

2. **Complaint Procedure:** A complaint alleging any violation of the Covenants, By-Laws, Articles or rules of the corporation may be made to any member of the Board of Directors, informally or in writing. Alternatively, any board member having personal knowledge of a violation may initiate a complaint on the director's own initiative.

3. **Informal Complaint:** Any complaint filed pursuant to Section 1 shall be referred to the President, who shall conduct an informal investigation and attempt to achieve resolution and compliance, informally.

4. **Formal Complaint:**

A. If informal resolution has been unsuccessful, and if the President believes that the complaint was justified, or, if following informal resolution, the violation occurs again, a written complaint shall be filed with the Board.

B. The Secretary of the Board shall give written notice to the alleged violator specifying the nature of the violation alleged to exist; the action required to abate the violation; and, a period of time not less than ten (10) days during which the violation may be abated without further sanction, if the violation is a continuing one, or a statement that any similar violation may result in the imposition of a sanction after notice and hearing, if the violation is not corrected.

C. If the violation continues beyond the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Secretary will serve the violator with written notice of hearing to be held by the Board. The notice will contain the following:

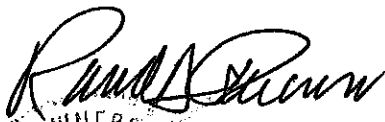
- (a) The nature of the alleged violation;
- (b) The time and place of the hearing, which time shall be not less than ten (10) days from the date of notice;
- (c) The invitation to attend the hearing and produce any evidence on the owner's behalf; and,
- (d) The proposed sanction to be imposed.

D. The hearing will be held pursuant to the notice, affording the owner a reasonable opportunity to be heard. Proof of notice and the invitation to be heard will be placed in the minutes of the meeting. This proof will be deemed adequate if the copy of a notice, with a statement of the date and manner of delivery, is entered by the officer, director or agent who delivered the notice. The notice requirement will be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. Written and oral evidence may be presented. The presenting party will provide copies of any written evidence to the other party or parties. The decision of the Board will be final, unless appealed to Circuit Court.

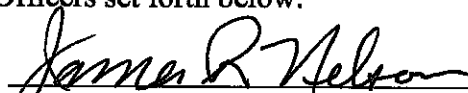
5. **Enforcement.** All bylaws, rules, covenants and restrictions may be enforced by the Association Board. Enforcement of bylaws, rules, covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any bylaw, rule, covenant or restriction, either to restrain or enjoin violation or to recover damages, and against any lot to enforce any lien created by the bylaws or covenants; and the failure or forbearance by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any bylaw, covenants or restrictions cannot be adequately remedied by action at law or by recovery of damages. The remedies provided for in this declaration shall be cumulative and not exclusive.

The Association shall have the right to pursue legal or equitable action to enforce any bylaw, rule, covenant or restriction, to take action to perfect a lien or to enforce any other economic responsibility of any owner or member or obligation of maintenance or performance by any owner or member. Should the Association be the prevailing party in any such action, then and in that event, the owner or member against whom such action or enforcement proceeding is maintained shall be responsible to reimburse and indemnify the Association for any and all reasonable and necessary attorney's fees, costs, expenses, expert fees, witness fees, investigation and research fees or anything of such nature or similar thereto as the Association shall expend, in addition to the remedy or relief as granted therein. All such expenses shall become the financial responsibility of the owner or member to the Association and shall be enforceable in any manner authorized by South Dakota Law.

The First Amendment to the Amended and Restated Bylaws of Spearfish Canyon Owners Association were unanimously adopted at a meeting of the Board of Directors and the Members held on July 14, 2007, at the Fire Hall in Spearfish Canyon, Spearfish South Dakota, as evidenced by the signatures of the duly constituted Officers set forth below.



RICHARD PLUIMER, Secretary  
(Seal)

  
JAMES NELSON, President