

**SPEARFISH CANYON OWNERS ASSOCIATION  
REVISED CANYON DESIGN GUIDELINES  
SEPTEMBER, 2018**

**Authority:** The Spearfish Canyon Design Guidelines (hereinafter "Design Guidelines") are established by authority of the Declaration of Covenants as attached to each Deed describing the Homestake lots sold and transferred under the Homestake Mining Company/US Forest Service Land Exchange Agreement of 1990 (hereinafter "Land Exchange").

Covenants, Article I, Para. AA: Spearfish Canyon Architectural Rules shall mean the rules established by the Spearfish Canyon Architectural Review Committee which rules shall become part of this Declaration enforceable in the same manner as this Declaration. In the event of conflict between the Spearfish Canyon Design Guidelines and the Spearfish Canyon Architectural Rules (see Para. BB), the Design Guidelines shall prevail.

**General:** The fundamental source document that provides the foundation for the Architectural Rules and Design Guidelines is contained in the Declaration of Covenants as Article III. Section I., Para. (c) Architectural Control, which is included herein in its entirety for purposes of clarity and understanding by members submitting permit applications for changes to their property(ies).

No improvements, alterations, repairs, excavation, grading, landscaping, or other work which in anyway alters the exterior appearance of any property within Spearfish Canyon, or the improvements located thereon, from its natural or improved state existing on the date a Tract Declaration for such property was first recorded, shall be made or done without prior approval of the Architectural Review Committee. No building, fence, wall, residence, or other structure shall be commenced, erected, improved, altered or made or done without the prior written approval of the Architectural Review Committee. All subsequent additions, changes or alterations to any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of lots or parcels shall be subject to the prior written approval of the Architectural Review Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Review Committee shall be made without prior written approval by the Architectural Review Committee.

The Design Guidelines are intended to be a companion document to the Architectural Review Committee (hereinafter "ARC") Rules. Building design themes for the single-family home and other structures (garage or other accessory buildings) or landscape plan(s) shall respond appropriately to the surrounding natural environment and to the neighboring environments. A fundamental concept is to maintain and provide as natural a setting as

possible, retaining the natural beauty and serenity of Spearfish Canyon to the degree possible (including protection of water quality/quantity of Spearfish Creek), considering each lot is unique. The ARC will make the final determination as to compliance, as specified in Article N, ARCHITECTURAL REVIEW COMMITTEE, Section 1. Of the Declaration of Covenants. Article N, Section 2. describes an appeal process available to owner, lessee, or other resident aggrieved by an ARC decision.

Considering the fact that each Spearfish Canyon lot is unique in its several characteristics, the ARC, with the Board President's approval, shall have the authority to grant waivers of requirements that allow flexibility to address these unique property characteristics. The ARC may not, however, waive fundamental requirements of the Declaration of Covenants or County or State regulations. The ARC may petition the Spearfish Canyon Owner's Association (hereinafter "SCOA") Board for guidance when necessary.

The Design Guidelines establish concepts and rules for the construction of new or renovated structures, maintenance and repairs to buildings, lot slope and drainage characteristics (with emphasis on well and septic system placements), and landscaping. It also provides protection for Spearfish Creek and access thereto.

The Design Guidelines are in addition to the requirements of the Lawrence County Planning and Zoning ordinances and permits, and County and State regulations for wells and septic systems.

The Land Exchange led to approval of a Planned Unit Development (hereinafter "PUD") by the Lawrence County Planning & Zoning Commission and subsequent approval by the Lawrence County Commissioners (Feb 1990 LCC minutes). The review by Homestake Mining Company (hereinafter "Homestake") of this PUD, included conditions designed to assure public access to Spearfish Creek throughout Spearfish Canyon, including East Spearfish Creek to Hanna and Main Spearfish Creek along Highway 85 for approximately four miles. As stated in these minutes, Homestake, as a general rule, had historically disallowed buildings or other alterations along and within a 25-foot strip abutting and parallel to Spearfish Creek bank. Homestake stated the intent to maintain that "setback" along Spearfish Creek for the properties to be transferred under the Land Exchange. Any property not transferred (platted into a private lot) would go to the USFS. Homestake had previously approved a few structures within this 25-foot setback, but had appropriately platted those specific lots with specific setbacks before sale, and those would continue to be honored. However, new construction, alteration, or modification of those lots would be required to comply with the Design Guidelines. Therefore, to assure

SCOA retains the expressed intent of the Land Exchange, the following guidelines apply:

The paragraph on Declaration of Covenants, Article III, Section 1., Para (c) Architectural Control, stated on page 1 of these Design Guidelines shall apply to those SCOA lots as platted by Homestake for the sales under the Land Exchange. A 25-foot setback from the Spearfish Creek stream bank will be required except in those cases on specific lots wherein Homestake platting allowed for a lesser setback. All or part of this setback may be within or outside of the lot boundaries. This restriction is subject to the general guidelines regarding ARC waiver process as described earlier in these Design Guidelines.

All land not within the Homestake platted lot lines is USFS land. No work on, or alterations of, USFS lands abutting SCOA properties is authorized without USFS approval, such as in the form of a permit from USFS. USFS land may include that which abuts or is between SCOA lot lines, or may extend between private property boundaries and Spearfish Creek.

**Definitions:** Single-family shall mean a group of one or more persons, each related to the other by blood, marriage, or legal adoption.

**Land Use:** Each lot within the jurisdiction of SCOA shall be used only for one single-family detached dwelling and accessory buildings limited to garages and storage buildings. Such accessory buildings may include rooms or lofts designed for augmented sleeping areas, but must not become a second residence for continuous habitation or contain plumbing. These limitations must be consistent with the SCOA Declaration of Covenants. The Declaration of Covenants and the Lawrence County ordinances provide that only one single-family detached dwelling is allowed on the Homestake lots.

To assure the Declaration of Covenants are followed, water and sewer installations are not permitted in detached accessory buildings (also known as secondary structures). Only new construction or renovation, repair or remodeling of existing structures shall be permitted. No manufactured home, mobile home or building or recreational vehicle maybe used as a residence or transferred onto any lot.

**Gross Square Footage (GSF)**

**Definition for SCOA purposes:** The sum of all areas of all above-ground floors of a building included within the **outside face** of its exterior walls, including all vertical penetration areas, for circulation and shaft areas that connect one floor to another.

**Construction of New and/or Modified Structures.** For SCOA purposes, new and/or modified residential structures shall be a minimum of 800 Gross Square Feet (“GSF”) above ground. New and/or modified residential structures with a full basement shall be

an absolute maximum of 3,000 Gross Square Feet above ground. Basement areas must not exceed the Gross Square Feet of the above ground building. New and/or modified residential structures without a basement shall be an absolute maximum of 3,500 Gross Square Feet above ground. The Gross Square Footage of a residence is exclusive of the garage, patios and decks. The square footage of screened in porches is included in the GSF.

**Basis for Measurement:** Gross Square Feet for SCOA purposes is computed by physically measuring the **outside faces** of exterior walls, disregarding the architectural and structural projections such as cornices, pilasters, buttresses, etc. that extend beyond the exterior building wall faces. If the building is not yet constructed, scaling measurements from design plans will accomplish the total square footage as well. Also included are so called “bonus rooms” above garages or other rooms within the structural trusses used to construct the building. Within the building, count vertical circulation space, whether floored or not, such as vertical mechanical, electrical and elevator shafts at each floor.

**Height:** The maximum height of all buildings shall not exceed thirty (30) feet or two stories, whichever is less. Considering the unique slope and grade of many of the SCOA lots, the ARC will attempt to work with owners on solutions with unique lot characteristics.

The owner of any lot shall be held responsible for continuous compliance with these Design Guidelines, the SCOA Articles, By-laws, and Declaration of Covenants, including times where the owner may rent, lease or provide use of the owner’s dwelling to a tenant.

**Setback:** Setback from lot lines and water courses shall comply with Lawrence County Planning and Zoning ordinances, unless specifically provided herein, as well as compliance with the SCOA and USFS Land Use rules.

There shall be a twenty-five foot (25') setback from all front, side and rear lot lines and public rights of way for all lots, including all Federal, State and County rights of way. All lots must comply with abutting USFS-owned land rules and the Spearfish Creek setback. The Spearfish Creek Setback shall be twenty-five feet (25') from the Spearfish Creek water line, with that line being established by USGS recorded median annual July flow levels for the Cheyenne Crossing USGS gauge (0643077) or Maurice (06430900) gauge. The ARC will provide assistance in setting this setback line.

**Approved Material and Finishes:** Exterior building materials shall blend and be compatible with natural landscapes. Exterior treatments and colors shall be of muted tones. Compliance with FIREWISE Guidelines shall be considered in selection of materials, finishes and chimney construction.

Approved materials for exposed exterior wall surfaces include:

- Peeled logs
- Log siding
- Drop or lap siding
- Edge peeled slabs

- Wide clapboards or rough lumber
- Native stone
- Concrete masonry with limited exposure
- Other materials as submitted by owner and approved by the ARC

Approved roof covering materials include:

- Heavy type composition shingles (fire resistant)
- Formed metal roofing (approve color)
- Other materials as submitted by owner and approved by ARC.

Roofs shall have a minimum 4/12 pitch.

Chimneys shall be built of stone or face brick over concrete chimney block with a clay flue liner. Metal multiple-walled chimneys may be used where they penetrate a roof area, or on an exterior wall when the chimney is encased to match adjacent materials.

Screened hoods will be installed and maintained over all chimney exits.

**Machinery and Equipment:** In addition to lawn mowers, log-splitting devices and snow removal equipment allowed on Spearfish Canyon lots and exceptions as set out in Article III, Section 1., Para (j) of the Declaration of Covenants, the ARC may approve installations of emergency or alternate power generation and water pumping systems for individual lots.

Designs for the systems, their placement on the lots, and their installation should be submitted for review and approval by the ARC to ensure all safety, environmental and unique concerns are addressed. Any other machinery or equipment must have ARC approval or ARC waiver.

**Landscaping:** A fundamental rule of all landscaping will be to avoid conditions of slope or grade which would result in drainage or erosion that would have negative impact on Spearfish Creek water quality and quantity, or damage to adjacent owners' lots or USFS lands. No constructed drainage of any kind into Spearfish Creek is allowed (ditching, French Drains, etc.). Natural spring flow or drainage from ARC approved landscaping is acceptable.

Landscaping should also have, as an overall goal, attention to the use of FIREWISE Guidelines for structure protection from wildfire, as well as acceptable practices for the construction of the structures on the lot. The ARC, the SCOA FIREWISE Committee, and the Spearfish Canyon Volunteer Fire Department are sources for advice in structure and landscape planning.

No open fires are allowed in Spearfish Canyon, other than by USFS permit. No incinerators are allowed in Spearfish Canyon. Outdoor cooking, heating, decorative equipment, fireplaces, charcoal or gas cookers, chimineas, fire pits, or any other similar equipment must have fire screens over the chimneys or open flame areas and must not have open flame extending above the screens.

Landscaping should also be planned to preserve the natural conditions of Spearfish Canyon, the forest and Spearfish Creek. Naturalistic planting of native plants and grasses is encouraged. Any flower that will grow and survive is acceptable.

Tree pruning, thinning and removal, as well as clearing of underbrush should be done with FIREWISE criteria used for guidance. Planting of trees in the 25-foot setback from Spearfish Creek should avoid Spruce or Pine planting since both types are large water absorbers and diminish the quantity of Spearfish Creek flow. Aspen, Birch or other deciduous tree-types typical of Spearfish Canyon growth are preferred.

Extensive mowed lawn areas are discouraged, especially on any slope where natural drainage is into Spearfish Creek or its tributaries, including springs flowing into Spearfish Creek. Use of fertilizers in these drainage areas is also discouraged, due to the harmful effect to Spearfish Creek and its natural plant growth. If any area of an owner's lot requires fertilizer or weed control, the owner should contact the ARC or the SCOA Environmental Committee for information on approved products and proper application.

Areas disturbed by construction shall be vegetated with ground cover of natural grasses or shrubs to obscure the scars due to construction and to prevent noxious weed intrusion.

The retaining walls, fences and gates must be approved by the ARC in regard to design and the materials planned for use.

**Off-Street Parking:** Each lot shall have a minimum of four (4) parking spaces provided for auto mobiles, pickup trucks, or other vehicles. These spaces may be in garages, carports, driveways or other designated parking areas on the lot.

Seasonal and recreational vehicle parking is limited by the Covenants. (See Article III, Section 1., Para (o) of the Declaration of Covenants).

Construction vehicles related to an approved construction permit are allowed during the period of construction.

Inoperable vehicles are prohibited from being stored on a lot and must be removed. Extensive repair or maintenance activities for inoperable vehicles is not permitted. Only normal periodic repairs or maintenance activities shall be allowed and must be promptly completed.

**Sanitation:** All wells and sanitary sewage systems or changes thereto shall be approved and in compliance with all state and county statutes, rules and regulations. (Also, see Article III, Section I, Para. (h) and (q) of the Declaration of Covenants).

Owners shall provide the following documents to the ARC evidencing compliance with the Lawrence County and State of SD requirements:

- Well site approval when received;
- Well completion and filing documentation when received;
- Any changes to the well site placement during drilling;
- Perking test results when received;

- Sanitary system design and location when established;
- Sanitary system completion to design and the approval documentation as soon as received;
- Complete plumbing system design for well and sanitary system connections to structures. This should include location of well pit (if utilized), surge tank and septic system tank; and,
- Any changes to either well or sanitary sewer system design, placement on the lot or plumbing must be submitted to and approved by the ARC per the paragraph designated General on page 1 of these Design Guidelines.

**Incorporation of additional bedrooms/lofts/habitable areas to the single-family homes and/or accessory structures:**

The primary drivers of septic system design are the number of bedrooms (vice bathrooms); and, installation of kitchen disposal units.

The addition of one or two rooms to the primary single-family home, and/or addition of habitable sleeping space to secondary structures will require an ARC permitting process similar to initial building approval as well as a septic system inspection and approval for the single-family home. Such requirements shall include:

- All requirements as noted under paragraph General on page 1 of these Design Guidelines;
- A septic system analysis by a County/State approved septic system Engineer and redesign/approval as necessary to assure the septic system is adequate for the increased septic load represented by the increased bedroom(s)/habitation area(s); and
- All documentation as required for buildings and septic systems will be submitted as described under Sanitation in these Design Guidelines.

**Signs:** In general, signage is to be kept to a minimum, except the following:

- Signs required by legal proceedings;  
Signs for identification of individual residences are limited to one for each lot, being a maximum of two square feet in size and shall be of a muted color;
- Street and fire number (911) signs as provided and installed by the Spearfish Canyon Volunteer Fire District. These are the official 911 addresses for Spearfish Canyon;
- Temporary signs of builders or realtors which shall not exceed three square feet and must be removed as soon as related activity is complete. Owner or realtor rental signs are not allowed; or,
- The ARC may approve such other signs as necessary or useful. For example, an approved sign post with multiple owner names at a common driveway access may help in emergency or firefighting activities.

**Fire Protection:** All owners shall insure that the fire hazards on their property are well contained so as to avoid creating a hazard to neighboring properties or the forest. All County and State building code requirements for fire safety must be met for new construction.

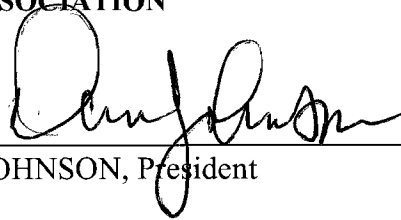
FIREWISE Guidelines should be followed to the degree possible as well as Fire Safety Methods recommended by USFS, the State of South Dakota, Lawrence County and the Spearfish Canyon Volunteer Fire District. The SCOA FIREWISE Committee has FIREWISE Guidelines and will provide guidance and recommendations for implementation.

**Fees:** The current fee, as established by the SCOA Board, will be assessed by the ARC for processing permits necessary to satisfy these Guidelines. These include fees for initial permits, as well as those the ARC may choose to assess for changes or modifications of the original permit.

**Permit Timelines:** The ARC will establish with the owner (and/or builder), at the time a permit application is received by the ARC, an expected response date to the owner.

Adopted this 18<sup>TH</sup> day of September, 2018.

SPEARFISH CANYON OWNER'S  
ASSOCIATION



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DAVID JOHNSON, President

Attest:



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Carol Reausaw, Secretary