

**AMENDED AND RESTATED  
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR  
PRAIRIE WOOD DEVELOPMENT ASSOCIATION, LLC  
(aka Prairie Wood Development Association)  
PHASE I AND PHASE II

**I.**

**GENERAL MATTERS**

The following Amended and Restated Covenants, Conditions and Restrictions for Prairie Wood Development, LLC (also identified as Prairie Wood Development and Prairie Wood Development Association), Phase I (also identified as First Phase or 1<sup>st</sup> Phase) and Phase II, (also identified as Second Phase or 2<sup>nd</sup> Phase) are hereby amended and restated to replace the following previously recorded documents, the terms of which documents listed below are completely amended and restated hereby:

1. The Declaration of Building Restrictions and Protective Covenants dated June 14, 2001 and recorded on June 15, 2001 at 9:05 a.m., in Book 43 of Miscl., on page 402, as Document No: 187629;
2. Prairie Wood Development Second Phase Replat of Out Lot A, Covenants and Restrictions dated November 20, 2001 and recorded on November 20, 2001 at 3:30 p.m.in Book 43 of Miscl., on page 648, as Document No. 188106;
3. Additional to Prairie Wood Development Covenants and Restrictions dated May 9, 2002 and recorded May 9, 2002 at 4:15 p.m. in Book 44 of Misc., on page 85 as Document No. 188614;
4. Prairie Wood Development Association Amended Covenants and Restrictions dated August 24, 2004, and recorded October 1, 2004 at 11:15 a.m. in Book 45 of Miscl., on page 664 as Document No. 191926; and
5. Prairie Wood Development Association Amended Covenants and Restrictions dated May 8, 2008, and recorded September 6, 2011 at 9:55 a.m. as Document No. 200703.

This Declaration of Restrictions shall be applicable to the lots governed thereby, as well as to the streets, open areas, parking areas, boat docks, marina and all designated common areas

for the use of the owners of the property in Prairie Wood Development according to the plat thereof in the office of the County Recorder for Benson County, North Dakota or as such plat may be amended.

Further, the Declarations set forth herein provide limitations, restrictions and use to which the lots or tracts governed hereby and constituting the Prairie Wood Development shall constitute covenants to run with the land as provided by law and shall be binding on all properties therein and all persons claiming ownership thereof and for the benefit and limitations upon all future owners of property in said Development, as well as the successors, heirs, executors, personal representatives, administrators and assigns of any said party. This Declaration of Restrictions is designed for the purpose of keeping said Development desirable, uniform and suitable in architectural design and use as herein specified, and shall be deemed to be incorporated in each and every deed hereinafter executed by the owners of said property, or any subsequent owner of any lots in said Development, whether or not expressly set forth in or referenced in the deed.

## II.

### LEGAL DESCRIPTION

The following property is the parcel which is to be known as Prairie Wood Development and which is governed by these Declarations of Restrictions:

A tract of land situated in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ ), Section Nine (9), Southwest Quarter (SW $\frac{1}{4}$ ), Section Ten (10), Northwest Quarter (NW $\frac{1}{4}$ ), Section Fifteen (15), and the East Half (E $\frac{1}{2}$ ), Section Sixteen (16), Township One Hundred Fifty-two (152), Range Sixty-three (63), and is more particularly described as follows: Beginning at the north  $\frac{1}{4}$  corner of said Section 15; thence N 89°45'13"W along the north line of said Section 15 a distance of 1318.68 feet to the 1/16 corner; thence S 60°44'52"W a distance of 1042.16 feet; thence S 34°20'20"W a distance of 726.65 feet to the west line of said Section 15; thence S 33°54'52"W a distance of 1210.00 feet; thence S 1°24'35"W a distance of 916.44 feet; thence S 39°34'37"W a distance of 1191.71 feet to the 1/16 line in the SE $\frac{1}{4}$  of said Section 16; thence N 89°45'13"W along said 1/16 line a distance of approximately 927.45 feet to the existing shoreline of Devils Lake; thence following said shoreline in a northeasterly direction to a point on the south line of said Section 9, said point being approximately 203.13 feet west of the SE corner of said Section 9, thence continuing along said shoreline to a point on the east line of said Section 9, said point being approximately 253.61 feet north of the SE corner of said Section 9, thence continuing along said shoreline to a point on the east line of the SW of said Section 10; thence S 0°07'57"W along said  $\frac{1}{4}$  line a distance of approximately 1245.09 feet to the point of beginning.

This property has been platted and is now known as follows:

**Phase I is now legally described as:**

Lots 1-37, Block 1, and 1-35, Block 2, Prairie Wood Development, located in parts of Sections Nine (9), Ten (10), Fifteen (15) and Sixteen (16), Township One Hundred Fifty-two (152) North of Range Sixty-three (63) West as shown in Book F of Plats on page 87 as filed in the Benson County Recorder's Office.

**Phase II is now legally described as:**

Lots 1-20, Block One (1), Prairie Wood Development, Replat of Outlot A, located in Government Lots 2 and 3 and the NE1/4 of the SE1/4 and the SE1/4 NE1/4 of Section Sixteen, Township 152 North or Range 63 West as shown in Book F of Plats on page 88 as filed in the Benson County Recorder's Office.

The common area owned by the association for the benefit of the members is described as follows:

Lots Ten (10) and Thirty (30) of Block One (1) in Prairie Wood Development located in parts of Sections Nine (9), Ten (10), Fifteen (15) and Sixteen (16), Township One Hundred Fifty-two (152) North of Range Sixty-three (63) West as shown in Book F of Plats on page 87 as filed in the Benson County Recorder's Office

AND

Lot Nine (9), Block One (1), Prairie Wood Development, Replat of Outlot A, located in Government Lots 2 and 3 and the NE1/4 of the SE1/4 and the SE1/4 NE1/4 of Section Sixteen, Township 152 North or Range 63 West as shown in Book F of Plats on page 88 as filed in the Benson County Recorder's Office.

In addition, the following property which has been acquired for use as a marina and will be treated as common area for the development, which property is described as follows and is referenced on the survey attached hereto and incorporated by reference herein:

A parcel of land situation in Government Lot 2 and in the South ½ of the SE¼ of Section 10, Township 152 North of Range 63 West of the 5<sup>th</sup> Principal Meridian, Benson County, North Dakota being more particularly described as follows:

Beginning at the SE corner of Prairie Wood Development; thence N 00° 7' 57" E along the East line of Lot 1, Block One of said Development a distance of 1245.09 feet to the Meander Line of Devils Lake; thence N 43° 54' 42" E along said Meander Line a distance of 81.16 feet; thence continuing along the Meander Line N 72° 49' 14" E a distance of 257.49 feet; thence S 00° 07' 57" W a distance of 1312.29 feet; thence S 50° 00' 00" W a distance of 170.00 feet; thence S 00° 07' 57" W a distance of 470.00 feet to the South line of Section 10; thence N 89° 45' 13" W along said South line a distance of

172.00 feet to the point of beginning. Said parcel of land contains 11.2 acres with approximately 3.6 acres in Government Lot 2 and 7.6 acres in the South 1.2 of the SE 1.4, more or less and is subject to a 33 feet township road easement along the South boundary line and a 40 feet Greater Ramsey Water District rural water main easement lying 20 feet on each side of the water main centerline as presently constructed.

### **III.**

#### **GENERAL COVENANTS**

1. All lots governed hereby shall be residential lots with the exception of those lots designated for common use and owned by the association. Only single-family or two-family dwellings shall be erected on said residential lots. Where two parties own a lot and desire to build a single-family looking dwelling to be used by both parties, they must seek and receive board approval of the plans before any building is started and the building must be completed in accordance with the approved plans.
2. In the event that a lot owner is desirous of moving in a structure that is older than the stated covenants would allow, a variance of the covenants and restrictions stated herein may be obtained by a vote of the association after submitting plans and specifications for the structure and a completion timeline to the board for distribution to all members.
3. Each structure must be located on an enclosed permanent foundation and constructed pursuant to the state building code and to prevent nuisance animals from taking up residence beneath the structure.
4. No basement, tent, shack, garage, or other outbuilding shall be erected to be used as a residence.
5. No building shall be within 20 feet from the lot line nearest the access road, nor within 6 feet to any side lot line, unless said adjoining Lot is owned by the same person(s). For the purpose of this covenant, eaves and steps shall not be considered part of the building, provided, however, this covenant shall not be construed to permit any portion of the building on a lot to encroach upon an adjoining lot owned by another person(s).

6. Garages, storage sheds, and gazebos shall be permitted, so long as they are in compliance with covenants and restrictions.
7. A party purchasing a lot(s) will have a period of two (2) years from the time construction is initiated to complete the exterior structure of a dwelling on the property purchased. The determination of whether the exterior structure of a dwelling has been completed will be in the sole and absolute discretion of the board of directors of the Association.
8. No noxious or offensive trade shall be carried on upon any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood. The determination of whether anything is an annoyance or nuisance shall be determined by the board of directors of the Association. No trade or activity shall be conducted in violation of any zoning covenants.
9. All driveways must be of sufficient area to park at least two cars entirely off the access road. Visitors must park in public areas or in front of the lot(s) owned by the person(s) hosting said visitor.
10. All septic systems are the obligation and responsibility of the lot owner and must be in compliance with the rules and regulations of the North Dakota State Health Department. No outbuildings shall be allowed to be used as a part of the septic system.
11. Electricity has been provided to each lot. Electrical lines are to be underground, and the digging, trenching, and burying of the wires, as well as the installation of the meters for each individual lot(s), is the responsibility of the owner of each lot(s).
12. Water is provided to the development at this time from Greater Ramsey Water District. Curb stops on each lot to be provided by the developer. It is each lot owners responsibility and cost to have water installed/ hooked-up on their lot and the monthly cost to be determined by Greater Ramsey Water District.
13. The Prairie Wood Road is a Township Road, governed by the township, located within Benson County.
14. Except for barbed wire or woven fence, fences shall be permitted.
15. No animals, livestock, or poultry of any kind shall be raised, bred or kept, except dogs, cats, and other common household pets, as long as they are not kept, bred, or maintained for commercial purposes. In no event shall more than two dogs or two cats be maintained at one time. Any dog must remain on its owner's property or be under its owner's control at all times. A dog shall be considered a nuisance if the board of directors of the

Association has received two or more complaints on that particular dog. Nuisance dogs shall be removed from the subdivision, and shall not be permitted to return.

16. The owner or person(s) in possession of each lot, whether vacant or improved, shall keep the same free of weeds and debris.
17. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
18. The easement for lake access, as shown in the recorded plat of Phase I for Lots 10 and 30 of Phase I, and Lot 9 of Phase II, will be subject to the proportional undivided interest of the owners of the lots in those respective subdivisions. Said interest will be proportionate to the number of lots in the respective subdivisions, and the owners will pay a proportionate share of the taxes, insurance, assessments, and maintenance costs attributable to said lake access. Use of said lake access shall be limited to the owners of the lots and their personal guests.
19. Specific rules and regulations may be adopted for the marina. Each lot shall be governed by those rules and regulations including, but not limited to, the requirements associated with payment of the fees therefore. As to owners of lots prior to the recording of this document, their contribution to the marina and ability to use the same was voluntary.

#### **IV.**

#### **PHASE SPECIFIC COVENANTS**

In addition to the restrictions that govern all property subject hereto, there are specific covenants and restrictions governing each phase which are particular to that phase. Those covenants and restrictions are as follows:

##### **A. PHASE I.**

Phase I is now legally described as Lots 1-37, Block 1, and 1-35, Block 2, Prairie Wood Development, located in parts of Sections Nine (9), Ten (10), Fifteen (15) and Sixteen (16), Township One Hundred Fifty-two (152) North of Range Sixty-three (63) West as shown in Book F of Plats on page 87 as filed in the Benson County Recorder's Office. Lots 10 and 30 are owned by the Association.

1. All lots herein shall be known, described and used solely as residential lots, and no dwelling shall be constructed, erected, or located on any of the herein described lots in other than single family or two family dwellings.
2. Two dwellings may be allowed on Lots 2-37 as long as the dwellings are constructed, erected or located in compliance with all restrictions, covenants, and board approval included herein.
3. No structure shall be constructed, erected or located on any of the above-described lots unless the design and location are in harmony with existing structures. Double-wide mobile homes not older than five years, and on a permanent foundation will be permitted. Foundations will be determined by the North Dakota building codes. In any case, no dwelling shall have less than 900 square feet of floor space, excluding breezeways, decks, patios, porches and garages.
4. The easement for lake access as shown on the recorded plat (Lots 10 and 30) shall be subject to the proportional undivided interest of those owners of lots within said plat and owners of lots of any subsequent additional to said plat. Said interest will be proportionate to the number of lots in the Subdivision, and owners thereof shall pay a proportionate share of taxes, insurance, assessments and maintenance costs attributable to said lake access. Use of said lake access shall be limited to owners of lots within the recorded plat and any subsequent additions to said plat and their personal guests.

## **B. PHASE II.**

Phase II is now legally described as Lots 1-20, Block One (1), Prairie Wood Development, Replat of Outlot A, located in Government Lots 2 and 3 and the NE1/4 of the SE1/4 and the SE1/4 NE1/4 of Section Sixteen, Township 152 North or Range 63 West as shown in Book F of Plats on page 88 as filed in the Benson County Recorder's Office. Lot 9 is owned by the Association.

1. All lots herein shall be known and used solely as residential lots and no dwelling shall be constructed, erected or located on any lots other than single-family or two-family dwellings.
2. Mobile homes, both single and double wide used solely for habitation are allowed as long as they are at least 14 feet wide and no older than eight years, have a modern, pitched, and shingled roof and must have board approval.
3. The easement for lake access as shown on the recorded plat (Lot 9) shall be subject to the proportional undivided interest of those owners of lots within said plat and owners of lots of any subsequent additional to said plat. Said interest will be proportionate to the number of lots in the Subdivision, and owners thereof shall pay a proportionate

share of taxes, insurance, assessments and maintenance costs attributable to said lake access. Use of said lake access shall be limited to owners of lots within the recorded plat and any subsequent additions to said plat and their personal guests.

## V.

### GOVERNANCE MATTERS

The Homeowners Association is a formal entity and will operate as such. In addition to the Governance Matters set forth below, a Membership Control Agreement and Operating Agreement have been entered into by the homeowners which contain further specifics as to the governance of the Association. Those documents bind the owners and members as well.

1. The official name shall be Prairie Wood Development Association, LLC. This is referred to in these covenants and restrictions as "the Association."
2. These covenants and restrictions will be enforced, regulated, and interpreted by the board of directors.
3. The board of directors shall consist of five (5) individuals who own property within Phase I or Phase II. The board of directors shall be elected by the owners of the property in Phase I and Phase II. There will be one vote per lot, and no lot may have more than one vote, even if there are multiple owners. If one lot has two owners, there is only one vote. The developer who owns numerous lots, Glenna Gjestvang, or her heirs or assigns has only one vote even though more than one lot is owned.
4. The board of directors shall consist of the president, vice president, and secretary/treasurer, who shall be from either Phase I or Phase II, and one board member from Phase I, and one board member from Phase II. Officers of the board will be elected by the members of the Association.
5. The administration of Phase I and Phase II, as well as the enforcement of these covenants and restrictions, shall be done by the board of directors. The board will have the full authority to act in accordance with all local, state, and federal laws. Violations brought to their attention will be acted on promptly. If the board cannot resolve the issue, the person(s) owning any lot in said development has the right to have this issue resolved in a



court of law and will be responsible for any costs thereby incurred by the association if the person(s) suing is not successful.

6. It is the duty of the owner of each lot to pay their share of the common expenses, expenses of administration, maintenance and repair of the common elements, water, trash removal, mosquito spraying, electricity for the common areas or uses of the association, and repair and maintenance of the common areas or elements of the association, any insurance, and any fixed charges allocated or assessed to each property unit, and any other expenses set forth in these covenants and restrictions. Payment shall be in such amounts and at such times as determined by the board of directors. The assessment for each lot shall be determined by the board of directors taking into account the benefit received by each lot assessed.
  
7. Should any owner in either Phase I or Phase II fail or refuse to make any payment in the amount determined by the board of directors, the amount will constitute a lien on the interest of such owner as set forth in the deed of conveyance to that owner, together with the owner's interest in the general common elements, and upon the recording of the notice by the board of directors with the proper official of Benson County, North Dakota, the lien shall become effective with said recording and shall constitute a lien upon such unit owner's interest in their property.

To evidence such lien for unpaid assessments, the board shall prepare a written notice setting forth the amount, the name of the owner of the lot, and a description of said lot. This notice will be signed on behalf of the board by an officer of the board and shall be recorded in the office of the Benson County Recorder. The lien shall attach from the date of the recording. Such lien may be enforced by foreclosure by the Association of the defaulting owner's lot in the same manner as mortgages on real property. The lien shall be in favor of the Association and for the benefit of all members of the Association.

8. The Association, through its board of directors, may acquire and hold, for the benefit to the lot owners, real property, or tangible and intangible personal property, and may dispose of the same by sale or otherwise, and the beneficial interest in such item of property shall be owned by the lot owners in the same proportion as their respective interest in the general common elements, and shall not be transferable, except with a transfer of a lot unit. A transfer of a lot unit shall transfer to the transferee ownership of

the transferor's beneficial interest in such real or personal property without any reference to the real or personal property, deed or a bill of sale. Each owner may use such real and personal property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other owners. The sale of a lot unit under foreclosure shall entitle the purchaser to the beneficial interest in the real and personal property associated with the foreclosed lot.

9. A regular annual meeting of the Association shall take place on a weekend in May or June of each year at such time and location as determined by the board of directors. Notice of the time and location of the meeting shall be provided to the owner of record of each lot, which notice will be sent to the record owner by mail and/or email at the address of the record owner on file with the secretary of the Association. This notice will be mailed no later than fourteen (14) days prior or emailed no less than ten (10) days prior to the meeting each year.
10. At each annual meeting, the members of the board of directors who are up for election shall be elected. The term of the officers, president, vice president, and secretary, shall be three (3) years. The term for the director from Phase I and the director from Phase II shall be two (2) year terms. If no director positions are open for election, no elections shall be held at such annual meeting.
11. There are no proxies allowed. This means that in order to vote, a party must be present in person. The board may submit matters to the owners by written ballot to be returned, in the discretion of the board of directors. If a matter is submitted by mailed ballot, instructions and rules will be forwarded with that ballot.
12. In the event of a resignation, or for any other reason there is a vacancy on the board of directors, the board shall appoint a member of the Association to complete the vacant term on the board.
13. A special meeting of the Association can be called by the board of directors, or by ten percent (10%) of the members of the Association. The date, location, and time of the meeting will be provided to the members of the Association no later than one (1) week prior to the special meeting by the same method for the annual meeting.

14. Any lots governed hereby shall be a part of the limited liability company that is the homeowners' association if not voluntarily prior to the recording of this Declaration, then as to any lot transferred hereafter. This includes the governing documents for that entity.

**VI.**

**AMENDMENT**

These covenants and restrictions will remain in full force and effect until amended, modified, revoked, or rescinded by a majority of the owners of the Association

**THIS IS NOTICE THAT, PURSUANT TO NORTH DAKOTA LAW, THE FOREGOING AMENDED AND RESTATED COVENANTS SHALL BE AN ENFORCEABLE EQUITABLE SERVITUDE UPON THE LOTS AND SHALL INURE TO AND BIND ALL EXISTING LOT OWNERS WHO HAVE ACQUIESED IN THE ADOPTION OF THE FOREGOING AMENDED AND RESTATED COVENANTS FROM THE DATE HEREOF AND SHALL FURTHER BE AN ENFORCEABLE EQUITABLE SERVITUDE UPON THE LOTS AND SHALL INURE TO AND BIND ALL SUBSEQUENT OWNERS WHO ACCEPT A DEED TO ANY OF THE LOTS FOLLOWIING THE ADOPTION AND RECORDING OF THIS AMENDMENT IN THE OFFICE OF THE COUNTY RECORDER WITHIN AND FOR BENSON COUNTY, NORTH DAKOTA.**

**THESE AMENDED AND RESTATED COVENANTS WERE APPROVED BY THE CURRENT OWNERS AND MEMBERS AT THE 2013 ANNUAL MEETING HELD \_\_\_\_\_, 2013.**

PRAIRIE WOOD DEVELOPMENT  
ASSOCIATION, LLC, a North Dakota  
limited liability company

\_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: President

\_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: Secretary

