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Burleigh County

DECLARATION OF RESTRICTIONS AND OBLIGATIONS

THIS Declaration of Restrictions, Obligations, and Architectural Control is made this 13th day of April, 2021, by Heritage Development, Inc., hereinafter referred to as "Developer".

WITNESSETH

WHEREAS, Developer is the owner of the following described Real Property located in Burleigh County, North Dakota, which is hereinafter referred to as the "Real Property":

HERITAGE RIDGE SECOND ADDITION TO THE CITY OF BISMARCK

- Lots 1 through 13, Block 1;
- Lots 1 through 21, Block 2;
- Lot 1, Block 3;
- Lots 1 through 8, Block 4;
- Lots 1 through 7, Block 5

WHEREAS, this Real Property has been platted into lots which are presently known as "Heritage Ridge Second Addition" to the City of Bismarck, County of Burleigh, North Dakota.

WHEREAS, Developer is about to sell and convey some or all of said lots, located within said plat, and before selling or conveying any of the said lots, desires to subject all of the said lots to certain conditions, restrictions, and obligations for the protection and benefit of Developer and any and all future owners of the said lots.

NOW, THEREFORE, in consideration of the premises, Developer hereby certifies and declares that it has established and does hereby establish the following covenants and restrictions for the protection and benefit of all of the said Real Property, and has fixed and does hereby fix the following additional protective conditions, restrictions, and obligations upon and subject to which each and all of the lots in the said Real Property shall be hereafter held, used, occupied, leased, old and/or conveyed. Each and all of which the said conditions and restrictions shall inure to the benefit of, be binding upon and pass with said Real Property, and each and every lot and/or parcel thereof, and shall inure to the benefit of, apply to, and bind the respective successors in title or interest of Developer.

THE SAID CONDITIONS AND RESTRICTIONS ARE AS FOLLOWS, TO-WIT:

1. PURPOSES: The said lots within the Real Property shall be used for residential purposes as set out on the development plan of Developer, however, Developer may hereafter amend such development plan. In this regard, Developer shall have the absolute right and ability to amend and change the development plan without notice, in the sole discretion of Developer. Every person who purchases a lot in the above-described Real Property waives any and all objection to such development, including any commercial aspects thereof, and consents to such development, as well as all amendments and changes thereto. Such waiver and consent shall bind all transferees and future owners of any lot in the said Real Property.



2. ARCHITECTURAL REVIEW COMMITTEE: There shall be an Architectural Review Committee ("Committee") consisting of three (3) people appointed by Developer. Each person shall be subject to removal at the direction of Developer and all vacancies on the said Committee shall be filled by appointment of Developer. In the event of the failure of Developer to appoint such Committee or to fill any vacancies therein, the owners of a majority in number of the lots in the said Real Property shall have the right by written document to appoint members of the said Committee or to fill any vacancies therein, until such time as Developer shall appoint other members to such Committee. The initial members of the Committee shall be Chad Moldenhauer, Stacy Moldenhauer, and Michelle Holly. At such time as the developer has sold 100% of the Lots in the Property, the Owners of the Lots shall thereafter have the right to appoint the members of the Architectural Review Committee.

3. RESPONSIBILITIES OF ARCHITECTURAL REVIEW COMMITTEE

A. The Committee shall be responsible for reviewing the plans for all proposed new construction, additions, or modifications. The Committee shall be responsible to ascertain that the plans and subsequent construction meet the minimum building requirements set forth in this Declaration. The primary purpose of the Committee shall be to assist property owners in achieving compliance with the building restrictions.

B. Any property owner seeking to construct a new home or other appurtenant structure, add to or modify any portion of the exterior of an existing home, or commence or modify landscaping shall submit the plans to the Committee for review. A modification of the home exterior will include but is not limited to decks, hot tubs, patios, pools, and similar alterations.

C. No construction, change, modification, or alteration for which plans are to be submitted to the Committee pursuant to Paragraph B immediately above, shall commence until a scaled set of plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing by the Committee as to the harmony of external design and location in relation to surrounding structures and topography, size, estimates of cost, and such other factors as the Committee considers necessary, appropriate, and relevant to maintain property values of nearby properties. In the event the Committee fails to approve or disapprove the design and location plan within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and compliance with this section of the Declaration will be deemed to have occurred.

D. Without limiting the generality of the factors to be considered by the Committee, the following restrictions shall apply:

- (1) All roofing material shall be limited to earth toned colored shingles approved by the Committee. Roofs will have a minimum of a 5/12 pitch unless otherwise approved by the Committee.
- (2) All driveways and parking bays shall be constructed of concrete or pavers.

- (3) Heat pumps, propane tanks, solar devices, chimney flues, hot tub pumps, swimming pools pumps and filtration systems, satellite dishes, and similarly exposed mechanical equipment shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety concerns.
- (4) Siding shall be of wood, brick, stone, EIFS, fiber cement, other composite siding or combinations of those materials as approved by the Committee. Colors shall be earth tone in nature and must be approved by the committee.

E. In spite of the above provisions, the Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this Declaration, nor shall the right to enforce any provisions be waived. No member of the Committee shall have any liability, responsibility, or obligation, whatsoever, for any decision or lack of a decision, in the carrying out of duties as a member of the Committee. The Committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the Committee and each of its members on account of any activities of the Committee relating to the owner's property or buildings to be constructed on his or her property.

4. BUILDING RESTRICTIONS:

A. Any home constructed shall have a minimum main floor area of the main structure, exclusive of one-story open porches and garages, of not less than one thousand seven hundred (1,700) square feet for a one-story dwelling. In the case of a two story (not including basement) dwelling, the above ground floor living level shall be not less than one thousand two hundred (1,200) square feet and the total finished square footage area, excluding the basement, shall not be less than four thousand (2,400) square feet. No split-level or bi-level dwelling may be constructed on the above-described lots. All buildings are subject to the requirements of the Bismarck City Building Code.

B. The setback line for construction of homes in the development shall be a minimum of 25' in conformity with the Bismarck City Building Code. Setbacks further than 25' must be approved by the Architectural Review Committee and be in harmony with the adjoining homes.

C. No trailer, tent, shack, garage, barn, or other outbuildings shall at any time be used as a residence, temporarily or permanently, on any building site. No modular, manufactured, or mobile homes to be used as a residence, temporarily or permanently, may be placed on any lot.

D. Any construction commenced on any house as provided in this Declaration shall be substantially completed within twelve (12) months from the date the construction is commenced.

E. No sign of any kind shall be displayed to public view on any building site, except for a sign, limited to one, advertising the property for sale. There shall be no restriction on signs used by Developer during the period of development of this addition.



F. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground and no such wires shall be shown on the exterior of any building unless the same shall be underground or in a conduit attached to a building. No television or radio antenna or aerial shall be installed. Television satellite disks may be installed but not to exceed eighteen (18) inches in diameter. No flagpoles may be constructed or placed on the property.

G. No sculptures, railings, monuments, or any other non-vegetation objects shall be placed or erected in the front yards, except mail boxes as approved by the Committee.

H. No fences shall be constructed.

I. No noxious, illegal, or offensive use of property shall be carried on any lot, nor shall anything be done on it that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or noncommercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall the premises be used for any other purpose whatever except for the purpose of providing a private, single family dwelling or residence.

J. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growth or objects shall be maintained or allowed on any lot. All landscaping and buildings shall be kept in a state of repair. All residences shall be painted or stained, from time to time, so as to maintain a reasonable state of repair. All vacant lots shall be mowed at least three (3) times per year, with each mowing to occur by May 30, July 30, and September 30 of each year and shall be maintained in accordance with the rules adopted by the Architectural Review Committee.

K. No boat, boat trailer, house trailer, horse trailer, automobile, recreational vehicle, truck, or other vehicle, or any part thereof shall be stored or permitted to remain on any residential lot unless the same is stored or placed in a garage or fully-enclosed space.

L. No landscaping may be commenced, changed, or modified until a scaled set of plans have been submitted in writing to the Committee for approval. In addition, no trees may be planted in the back yards that will block or negatively impact the views of neighbors. In the event the Committee fails to approve or disapprove the landscaping proposal within thirty (30) days after the plan has been submitted, approval will not be required. Landscaping shall be completed within six (6) months from the date the house is substantially completed.

M. All mailboxes and mailbox holders shall be of a standard design accepted by the Committee and adhering to the applicable specifications of the U.S. Postal Service. All mailboxes shall be located as directed by the U.S. Postal Service. Each lot owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

N. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.



O. No storage shed or unattached garage may be constructed.

P. All attached garages must be at least three (3) stall garages and shall be at least twenty-four (24) feet deep. All garages must have one garage door that is at least sixteen (16) feet wide and a second garage door that is at least nine (9) feet wide, or the garage must have three (3) garage doors that are each at least nine (9) feet wide.

Q. CAMPERS, BOATS, VEHICLES, ETC: No camper, boat, trailer, pontoon or vehicle may be parked in the same place on a driveway or on the street for more than forty eight (48) continuous hours.

5. PARTITION AND SUBDIVISION PROHIBITED: Each of the owners of lots or parcels in said Real Property, whether such ownership is in fee simple or as a tenant-in-common, is hereby prohibited from partitioning or in any other way severing or separating such ownership from any of the other ownerships in said Real Property. None of the lots may be subdivided, except by the Developer.
6. INVALIDITY OF ANY PROVISION: In the event any restriction or obligation herein contained by invalid or held invalid or void by any court of competent jurisdiction, such invalidity or nullity shall in no way affect any other condition or restriction herein contained.
7. NO WAIVER: A waiver of a breach of any of the foregoing conditions or restrictions shall not be construed as a waiver of any succeeding breach of violation thereof or of any other restriction or obligation.
8. LEGAL ACTION IN THE EVENT OF BREACH: As to Developer and the owner or owners of any of said lot or lots, including any bona fide purchaser under contract, the foregoing restrictions and obligations shall operate as covenants running with the land and a breach of any of them or a continuance of any such breach may be enjoined, abated, or remedied by appropriate proceedings by Developer or the Committee, as the case may be, or any lot owner. The Developer and the Committee have the sole discretion to identify and address a breach as well as grant variances and under no circumstances may a legal action be brought against the Developer or the Committee.
9. INTERPRETATION OF RESTRICTIONS: All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Committee and its decision shall be final, binding and conclusive on all of the parties affected.
10. FAILURE TO COMPLY WITH ORDER OF COMMITTEE: In the event of the failure of any individual lot owner to comply with a written directive or order from the Committee then, in such event, the Committee shall have the right and authority to perform the subject matter of such direction or order and the cost of such performance shall be charged to the owner of the lot in question and may be recovered by the Committee in an action at law against such individual lot owner.

