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RECORDER'S OFFICE, CASS COUNTY, ND 12/9/2020 2:35 PM
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.
DEBORAH A. MOELLER, COUNTY RECORDER

by Teresa A. Kiley, Dep. **1615282**
Recorded Electronically

**LOST RIVER FIFTH ADDITION DECLARATION
OF COVENANTS AND RESTRICTIONS**

This Declaration is made this December 3, 2020, by Winnie Development II, Inc., hereinafter referred to as "Developer," who desires to provide for the preservation of the values and amenities of the property described in Article II of this Declaration, hereinafter called the "Lost River Fifth Addition Property." To this end, the Lost River Fifth Addition Property is subject to the covenants and restrictions set forth in this Declaration, each and all of which is and are for the benefit of the Lost River Fifth Addition Property and each Owner. This Declaration shall run with the land and be binding on all parties having or acquiring any right, title, or interest in the Lost River Fifth Addition Property or any part thereof, and shall inure to the benefit of each Owner thereof.

The Developer declares that the Lost River Fifth Addition Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions set forth in this Declaration.

ARTICLE I

SUBSEQUENT DECLARATION

This Declaration is a "Subsequent Declaration" as that term is defined by the Lost River Addition Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens and Charges, dated May 29, 2017 and recorded May 31, 2017 as Doc. No. 1511136, hereinafter called the "Lost River Addition Declaration." The Lost River Fifth Addition Property is bound by the terms of Article I, Article II, Article III, Article IV, Article VI, Article VII, Article VIII, Article IX, and Article X of the Lost River Addition Declaration. The Lost River Addition Declaration is incorporated by reference to this Declaration, and all of the terms of this Declaration shall have the same meaning as the Lost River Addition Declaration. This Declaration provides supplemental covenants and restrictions that apply to the Lost River Fifth Addition Property, and is intended to be read in conjuncture with the Lost River Addition Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The Property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is described as follows:

Lost River Fifth Addition, a re-plat of a Part of Lot Two (2), Block Six (6) Lost River Addition to the City of Horace, Cass County, North Dakota.

All of which real property shall be called the "Lost River Fifth Addition Property." Portions of the Lost River Fifth Addition Property that 1) have been or will be dedicated to the public, whether for park space, right-of-way, or other uses, or 2) will be conveyed by the Developer to the Homeowners Association as green space or landscaped areas shall not be subject to this Declaration to the extent the intended use of the dedicated or conveyed property is inconsistent with this Declaration.

ARTICLE III

COVENANTS AND RESTRICTIONS RELATING TO LOST RIVER FIFTH ADDITION LOTS

1. **DWELLING SIZE.** Residential dwellings constructed on the following Lots shall meet the following minimum square footage requirements, unless a variance is issued in writing by the Review Committee:

Dwelling Style & Curb Appeal	Lots 1 through 11, Block 9; Lost River Fifth Addition	Lots 1 through 3, Block 1; Lots 1 through 13, Block 2; Lots 1 through 28, Block 3; Lots 2 through 33, 48 through 59, Block 4; Lost River Fifth Addition	Lots 36 through 47, Block 4; Lots 1 through 11, Block 5; Lots 2 through 23, Block 6; Lots 2 through 25, Block 7; Lost River Fifth Addition
Standard one story (rambler) and one and a half story	1700 sq. ft. total on all level(s) entirely above grade	1500 sq. ft. total on level(s) entirely above grade	1150 sq. ft. total on all level(s) entirely above grade
3 Level Split	2500 sq. ft. (excluding lowest basement level)	2100 sq. ft. (excluding lowest basement level)	1700 sq. ft. total for top three levels
Standard two story	2200 sq. ft. on all levels entirely above grade	2000 sq. ft. total on all levels entirely above grade	1600 sq. ft. on all levels entirely above grade

Bi-Level (including both floors)	Not Allowed	2200 sq. ft. total on both levels	1700 sq. ft. total on both levels
Twin Homes	Not Allowed	Not allowed	1150 sq. ft. total on all levels entirely above grade per side
Percentage of hard surface coverage (brick, rock, dryvit, or of similar type materials) on the front of the structure	15%	10%	10%

**The above stated minimum square footage requirements do not include basements, garages, decks, or porches.

2. **SETBACK PROVISIONS.** All Lots in Lost River Fifth Addition shall have not less than a Five (5) foot side yard setback from any structure to the side property line and shall have not less than a Twenty-five (25) foot front yard setback from any structure to the front property line, except for all Lots in Block 9 of Lost River Fifth Addition, which shall have not less than a Thirty (30) foot front yard setback from any structure to the front property line.

3. **ACCESSORY STRUCTURES.** Each lot will be restricted to construction of a single-family residence with a two or three-stall attached garage. Accessory buildings may be approved provided they are constructed as part of the design style and are constructed with the same exterior materials as the house, and provided that the site plan is harmonious with neighboring properties, in the discretion of the Review Committee.

4. **FENCES/BERMS.** The Review Committee will not allow white or light-colored fences. This provision supplements the Fences/Berms provision contained in Article IV of the Lost River Addition Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens, and Charges.

5. **DECKS AND PATIOS.** All decks and patios shall be constructed with maintenance-free material and no wood decks will be permitted, unless otherwise approved by the Review Committee. Wood decks will be allowed in Blocks Five (5), Six (6), and Seven (7). All wood decks must be regularly maintained and stained at least once every three (3) years.

