

**AMENDMENT TO AND RESTATEMENT OF  
DECLARATION OF RESIDENTIAL COVENANTS,  
CONDITIONS AND RESTRICTIONS**

This Amendment by Restatement of Declaration of Residential Covenants, Conditions and Restrictions is made by the undersigned owners constituting two-thirds or more of the owners of the residential subdivision known as NorthPark Addition to the City of Wahpeton, County of Richland, State of North Dakota, platted as NorthPark Addition, All of Lots One (1) through Thirty-two (32) of Block Three (3) to the City of Wahpeton, Richland County, North Dakota, sometimes hereinafter referred to as "Subdivision", this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**RECITALS**

**WHEREAS**, the undersigned are the owners of more than two-thirds of the property located in NorthPark Addition to the City of Wahpeton;

**WHEREAS**, the undersigned owners have determined that a substantial revision (amendment) by restatement to repeal and supersede the Declaration of Residential Covenants, Conditions and Restrictions dated December 7, 1998 and recorded February 1, 1999 as document number 292409 in the office of the County Recorder in and for Richland County, North Dakota is necessary and proper for the further development of NorthPark Addition to the City of Wahpeton;

**WHEREAS**, the City of Wahpeton, a North Dakota Municipal Corporation, and undersigned individuals have acquired more than sixty-six and two-thirds percent (66 <sup>2</sup>/<sub>3</sub>%) of the NorthPark Addition and is in the process of marketing the aforementioned platted real property for individual and multi-family quality residential properties;

**WHEREAS**, the undersigned owners desire the subdivision to constitute a residential community with use, and rights and obligations towards the ownership, operation and maintenance of said lots and property, and that all such properties be benefitted and burdened by the same land use restrictions and control;

**WHEREAS**, the total development of this subdivision as a residential community will take several years; and

**WHEREAS**, the undersigned owners desire to provide for minimum and maximum building restrictions to promote and assure the Subdivision is a quality residential community.

**IN CONSIDERATION** of the premises, the undersigned property owners hereby amend and restate in their entirety the Declaration of Residential Covenants, Conditions and Restrictions dated December 7, 1998 and recorded February 1, 1999 as Document Number 292409 in the office of the Richland County Recorder, and all amendments thereto (including but not limited to: Amendment on September 27, 1999 recorded as Document Number 295059;

Amendment on December 18, 2000 recorded as Document Number 299260; Amendment on December 2, 2004, recorded as Document Number 316359; Amendment on May 16, 2006 recorded as Document Number 321775; and Amendment on September 18, 2006 recorded as Document Number 323423) which are repealed and superseded in their entirety by the recording hereof and subject the following lots and properties in the addition known and platted as **NORTHPARK ADDITION TO THE CITY OF WAHPETON, RICHLAND COUNTY, NORTH DAKOTA**, to the following covenants, charges, assessments, conditions and restrictions subject to the limitations contained in this declaration:

All of Lots One (1) through Thirty-two (32) of Block Three (3) to the City of Wahpeton, Richland, County, North Dakota.

**RESTATEMENT OF DECLARATION OF RESIDENTIAL COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**SECTION I.  
DEFINITIONS**

- A. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions herein set forth in this entire document, as may from time to time be amended.
- B. "Developer" shall mean and refer to the City of Wahpeton, its successors or assigns.
- C. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot, and excluding those having such interest merely as security for the performance of an obligation.
- D. "Landscape" or "Landscaping" shall mean planting of trees, hedges or shrubbery AND/OR the construction of a fence or wall, all for the improvement of the aesthetic value of the subdivision and maintenance of the integrity and privacy of the individual lots.
- E. "Subdivision" shall mean NorthPark Addition, All of Lots One (1) through Thirty-Two (32) of Block Three (3) to the City of Wahpeton, Richland County, State of North Dakota.

**SECTION II.  
PROPERTY SUBJECT TO THIS DECLARATION**

The covenants, conditions and restrictions contained within this declaration apply to all of that real property in NorthPark Addition, All of Lots One (1) through Thirty-Two (32) of Block Three (3) to the City of Wahpeton, Richland County, State of North Dakota.

**SECTION III.  
CONSTRUCTION AND IMPROVEMENTS**

All of the property subject to this Declaration shall be single family residential lots subject to the following conditions and exceptions:

A. LOTS: Except as otherwise provided, each lot shall be restricted to construction of one (1) single-family residence with an attached garage; twin homes or two-family residences may be constructed upon two contiguous lots. Except for lots upon which twin homes or two-family homes have been constructed, there shall be no subdivision of lots or transfer of partial lots nor shall construction of one (1) improvement be located upon more than one (1) lot, except for Lots Five (5), Six (6), Eight (8), Twenty-five (25) and Twenty-six (26) which are subject to subparagraphs 1 through 8 of this section, but are not subject to the restrictions of one single family residence with an attached garage to each lot and are further not subject to the restrictions of no subdividing of lots or transfer of partial lots or the construction of one improvement to be located upon more than one (1) lot.

1. **Finished Living Area:** Finished living area is considered to be the total floor area for residential use, measured from the outside face of the exterior walls, including halls, lobby, stairways, and enclosed balconies above grade. Open terraces, patios, enclosed porches, atriums, balconies, garages, breezeways, tool sheds, basement rooms, and similar areas are not considered habitable rooms, living accommodations, or living areas, for purposes of defining finished living area.

2. **Maximum Building Size:** Improvements located upon lots affected by these covenants shall be a maximum of two (2) stories and not more than thirty-five (35) feet in height to the roof peak.

3. **Building Type:** No solar homes, geodesic dome homes, log homes, mobile homes, manufactured homes, or earth shelter home designs shall be permitted.

4. **Siding:** Siding shall be of appropriate material but in no event shall it be any kind of log siding or asphalt siding.

5. **Roof Pitch and Material:** The roof pitch shall be at least four (4) to twelve (12), with no rolled roofing material allowed.

6. **Foundation:** Each house is to be located upon a permanent foundation and constructed in accordance with the provisions of the applicable city codes governing construction of footings and foundation.

7. **No Used Homes:** No dwelling constructed in any other location shall be moved on to any lot within this area except a new home, specifically constructed to be moved to a new site shall be allowed. All homes to be moved onto a lot must be located and designed in

accordance with these covenants and have been issued two (2) certificates of inspection by the City's building official prior to placement.

8. Garages: All residences shall include an attached car garage.

B. BUILDING SIZE AND TYPES: The final requirements for the ground floor space, not including basements, porches, decks or garages apply:

1. One (1) Story residents shall be a single family dwelling with a main floor which complies with the City's zoning ordinances.

2. Two (2) Story, Bi-Level/Split-Entry, and Split-Level/Tri-Level, respectively, shall be a single-family dwelling with a main floor finished which complies with the City's zoning ordinances.

3. Twin home or two-family dwellings shall for each unit comply with the main floor requirements of a single family dwelling.

C. SET-BACK REQUIREMENTS:

1. No Subdividing: Except for instances where two contiguous lots have twin homes or two-family dwellings, no lots may be subdivided nor may a partial transfer of a lot be made.

2. Orientation of Improvements: All improvements, consisting of the residence and garage, shall be orientated towards 12<sup>th</sup> Street North except improvements on Lots One (1) and Thirty-two (32) which may be oriented towards 18<sup>th</sup> Avenue and 19<sup>th</sup> Avenue. All driveways located upon lots shall enter and exit only onto the street in the same direction as the respective improvement situated upon the lot is required to be orientated. No driveway shall be more than twenty-six (26) feet wide.

3. Front Yard: Building construction shall be set back from the front of the lot a distance of twenty-five (25) feet.

4. Side Yard: There shall be two side yards on each lot, neither of which shall be less than six (6) feet in width.

5. Rear Yard: There shall be a rear yard on each lot with each rear yard being no less than twenty (20) feet in length measured from the back of the residence or garage to the back boundary of the lot.

D. DRAINAGE CONTROL: In order to provide grading which will divert water away from buildings and prevent standing water and soil saturation detrimental to structures and lot use, the following grade standards have been set.

1. Grade:

(a) Front Yard: With respect to the front yard a straight-line grade shall be maintained from eight (8) inches (no more, no less) below the top of the improvement foundation to the top of the drain.

(b) Side Yard: With respect to the side yard a straight-line grade shall be maintained from eight (8) inches (no more, no less) below the top of the improvement foundation to the side of the property line.

(c) Rear Yard: With respect to all rear yard grades, a straight-line grade shall be maintained from eight (8) inches (no more, no less) below the top of the improvement foundation to the rear boundary of the lot.

2. Occupancy: No basement shall be constructed for temporary residential purposes and no basement shall be used for residential purposes unless and until the primary structure has been completed. All exteriors of dwellings, including garages, and yards, shall be substantially completed within six (6) months after the completion of the foundation. No outside storage of building material shall be permitted on any lot six (6) months after the completion of the foundation.

No private dwelling house erected on any lot shall be occupied in any manner during the course of construction, nor at any time prior to full completion of the exterior. No temporary house, temporary dwelling, temporary garage, temporary out-building, trailer homes, or other temporary structure shall be placed or erected upon any lot except as necessary for construction storage of tools and materials by and for the contractor constructing the house.

E. LANDSCAPING AND YARD MAINTENANCE:

1. Exterior Maintenance: Each lot shall at all times be maintained in a neat condition and appearance.

2. Lawns: All yards shall be fully sodded or seeded as soon after completion of construction as weather permits.

3. Fences and Walls: No fence or wall shall be allowed over two (2) feet six (6) inches in height from the front property line to the building set-back line. No fence or wall shall be allowed over six (6) feet in height in any rear yard or side yard. The top grade of each fence or wall shall be on a straight line, point to point, with the finished side of the fence or wall facing out from the subject property improvements.

4. Unobstructed View: Tanks of any kind, solar devices, clotheslines, swing sets, towers, structures, dishes, or free standing antennas, wood piles and storage piles shall not be permitted in front or side yard areas and shall not be exposed to view from the roads and streets.

And no garbage cans, ashes, or refuse or trash receptacle shall be allowed on a lot exposed to view, except as required to facilitate garbage pick up. EXCEPTION: Decks and patios are allowed in the back and sideyard area only provided such construction meets the set back requirements as outlined in Section C. Decks and patios are prohibited in the front yard area.

5. Accessory Structures: Accessory structures are not permitted in the front yard or side yard. The height of such accessory structure shall be limited to twelve (12) feet. No construction of an accessory structure shall be commenced until the residence to be located upon the same lot shall be completed. Accessory structures shall be roofed and sided in a manner so as to be harmonious with the primary structure of the lot.

6. Driveways: All driveways shall be constructed only of concrete, blacktop or paving brick and no other material, except gravel driveways shall be allowed until such time that the street servicing the lot is blacktopped.

7. Signs: No commercial signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than nine (9) square feet advertising the property for sale or rent, or signs used by the Developer to advertise the property during construction and sales.

#### **SECTION IV. MISCELLANEOUS**

A. UTILITIES: Temporary telephone, electrical and cable television overhead lines shall be permitted until permanent underground facilities are installed. Otherwise, all overhead lines shall be prohibited except during emergencies and repairs. Utility easements shall be provided for each lot.

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

#### **SECTION V. GENERAL PROVISIONS**

A. SEVERABILITY: Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provision which shall remain in full force and effect.

B. DURATION: The covenants and restrictions of this declaration shall run with and bind the land for a term of thirty (30) years from the date this declaration was recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

C. AMENDMENT: This declaration may be amended at any time by an instrument signed by two-thirds (2/3) of the owners of the property located in NorthPark Addition, All of Lots One (1) through Thirty-two (32) of Block Three (3) to the City of Wahpeton, Richland

County, State of North Dakota. Any amendment must be recorded in the office of the Richland County Register of Deeds.

D. ENFORCEMENT: The Association, any owner or the Developer shall have the right to enforce, by any proceeding at law or inequity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration and of any supplementary declarations. Failure to enforce any covenant and restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.