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KIDDER COUNTY, Recorded: 11/21/2025 at 10:15 AM
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168291

Fee: \$20.00

RECORDER'S OFFICE, KIDDER COUNTY, ND 11/21/2025 10:15 AM

I certify that this instrument was filed for record this date

BARBARA J. STEINKE, County Recorder

By *Ben Nichols, Deputy*

**FIRST AMENDMENT
RESTRICTIVE COVENANTS
LAKE ETTA ESTATES SECOND SUBDIVISION**

RTM Development, LLC, a North Dakota limited liability company ("Declarant") is the sole owner of the following parcels of real property ("Additional Property"), located in the County of Kidder, State of North Dakota, as follows:

Lake Etta Estates Second Subdivision, located in part of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ and Tract 27-10 within the NE $\frac{1}{4}$, NW $\frac{1}{4}$, and SW $\frac{1}{4}$ of Section 27, Township 139 N, Range 72 W, including the following lots:

Lots 1 through 9, and Lots 9A, 9B, 9C, 9D, 9E, and 9F, contained within Lot 9, Block 1
Lots 1 through 7, Block 2

WHEREAS, the Restrictive Covenants, Lake Etta Estates, attached as Attachment 1, were declared and imposed against certain real property, located in the County of Kidder, State of North Dakota, described below, by a document, which was recorded in the Recorder's Office, Kidder County, North Dakota, as Document 166974 on April 16, 2024,

Lake Etta Estates, located in part of tract 27-10 of the NW $\frac{1}{4}$ Section 27, Township 139 N, Range 72 W, including the following lots:

Lots 1 through 12, Block 1

and,

WHEREAS, pursuant to Paragraph 5.2 of the Restrictive Covenants, Lake Etta Estates, which paragraph reads as follows,

5.2 The provisions of Paragraph 5.1 notwithstanding, until the occurrence of the last to occur of the following events: (a) that date when the Declarant does not then own real property either within, or contiguous to, Lake Etta Estates, or (b) that date which is twenty five (25) years from the date of the recording of these Restrictive Covenants in the

office of the Kidder County Recorder, the Declarant shall retain the right to unilaterally make amendments to these covenants for the purpose of correcting clerical errors, for the purpose of making changes to Declarant's development plans, or for the purpose of updating the covenants to address circumstances which could compromise the reasonable and effective development of the Property.

the Declarant reserved the right to amend the covenants, and

WHEREAS, pursuant to Paragraph 5.3 of the Restrictive Covenants, Lake Etta Estates, which paragraph reads as follows,

5.3. The provisions of Paragraphs 5.1 and 5.2 notwithstanding, Declarant specifically reserves the right, at the option of the Declarant, to add property to the coverage of these Restrictive Covenants. Such expansion shall be evidenced by a document, declared by the Declarant and recorded in the office of the Kidder County Recorder, which identifies such additional property and which references these Restrictive Covenants. The Declarant shall not be limited in the number of additional lots which the Declarant can add to the coverage of these Restrictive Covenants.

the Declarant reserved the right to add property to the coverage of the Restrictive Covenants, Lake Etta Estates, and

WHEREAS, by declaring the application of the Restrictive Covenants, Lake Etta Estates, to the Additional Property described herein, Declarant intends to preserve lot values by assuring harmony, consistency, and quality in improvements, appearance, and use of lots in Lake Etta Estates and the Additional Property in Lake Etta Estates Second Subdivision. Therefore, Declarant (a) does hereby confirm the creation, declaration, and establishment of the Restrictive Covenants, Lake Etta Estates, upon the Additional Property, (b) does hereby confirm the creation, declaration, and establishment of the Restrictive Covenants, Lake Etta Estates Second Subdivision, upon the Additional Property, and (c) does hereby create, declare, and establish this First Amendment, Restrictive Covenants, Lake Etta Estates Second Subdivision upon the Additional Property, which restrictive covenants shall run with the land and shall remain in full force and effect upon all persons claiming under them from the date these restrictive covenants are recorded, unless amended or terminated as set forth herein, and

WHEREAS, the Restrictive Covenants of Lake Etta Estates Second Subdivision were recorded in the Recorder's Office, Kidder County, North Dakota, as Document 167279 on August 21, 2024, and

WHEREAS, the Declarant has caused a Plat of Irregular Description to be recorded as Document 167874 on May 29, 2025, which Plat creates Lots 9A, 9B, 9C, 9D, 9E, and 9F, as separate parcels within Lot 9, Block 1, and

WHEREAS, these restrictive covenants are established for, and shall inure to the benefit of, the Declarant, and Declarant's assigns and successors in interest, as the present and future owners of Lake Etta Estates and the Additional Property in Lake Etta Estates Second Subdivision, and

WHEREAS, any violation, attempt to violate, or omission to perform any of the covenants as hereinafter set forth shall entitle, and it shall be lawful for, any person owning real property in Lake Etta Estates and the Additional Property in Lake Etta Estates Second Subdivision, to institute and prosecute proceedings at law or in equity for any failure to abide by, or to comply with, the covenants, and

THEREFORE, The Declarant does hereby declare and impose upon the Additional Property in Lake Etta Estate Second Sudivision, the restrictions and obligations set forth in the Restrictive Covenants, Lake Etta Estates, and the restrictions and obligations set forth in the Restrictive Covenants, Lake Etta Estates Second Subdivision, except to the extent that the application of said Restrictive Covenants is modified by the following terms of this First Amendment, Restrictive Covenants, Lake Etta Estates Second Subdivision.

1. MEMBERSHIP

1.1. The owners of the Additional Property in Lake Etta Second Subdivision shall be members of the Lake Etta Home Owners Association (herein Association) and, except as other set forth herein, shall be subject to the rights and obligations of members, including but not limited to the obligation to pay assessments; provided, it is acknowledged that, until the Declarant turns authority over to the Association, the Declarant, in addition other rights retained by the Declarant, shall have the authority to act as the Association for all purposes.

2. LOTS 1 through 8, BLOCK 1, LAKE ETTA SECOND SUBDIVISION.

2.1. These lots will be subject to the same restrictions as set forth in the Restrictive Covenants, Lake Etta Estates, except that shops shall also be allowed on these lots. It is specifically provided that the shops, which may be placed on Lot 8, Block 1, shall be subject to the terms and conditions set forth in Paragraph 3, immediately following, pertaining to the shops on Lot 9, Block 1.

3. LOT 9, BLOCK 1, LAKE ETTA SECOND SUBDIVISION

3.1. The Declarant intends to construct six shops on Lot 9, Block 1, with each shop to be constructed upon separately identified parcels, namely Lots 9A, 9B, 9C, 9D, 9E, and 9F, Block 1, separate from the Common Area of Lot 9, Block 1, which Common Area is defined to be the remainder of Lot 9, excluding the six separate parcels. Declarant intends to sell the six parcels and, at the time of each sale, the grantee shall receive fee title to the individual parcel and an undivided one-sixth interest to the Common Area of Lot 9. To the extent that the shop building extends beyond the boundaries of the applicable parcel, as a result of the initial construction of the shop building by the Declarant, the shop parcel owner shall have an easement allowing the shop building to encroach into the Common Area. Although each shop building shall be a separate structure on each separate parcel, the owners of the shop parcels shall be responsible for an equal share of a One Hundred Dollar (\$100.00) annual assessment for Lot 9, Block 1, to the Association.

3.2. In addition to the annual assessment set forth in Paragraph 3.1 above, the Association shall separately manage and administer the maintenance of the Common Area of Lot 9, Block 1, until the Developer has sold and conveyed title to all six separate parcels.. In that capacity, the Association shall arrange for the maintenance of the Common Area, for the payment of real property taxes upon Lot 9, Block 1, and for such other expenses related to the maintenance of Lot 9, Block 1, in such a manner as determined to be reasonable by the Association. In order to defray such maintenance expenses, the Association shall separately and equally assess the shop parcel owners for all such expenses. Initially, the shop parcel owners shall each be assessed Fifty Dollars (\$50.00) per year; provided, the Association shall retain the right to increase the amount of the assessment, as needed, to cover the actual expenses. In addition, the Association shall assess each separate parcel for one-sixth of the real property taxes and any special assessments for Lot 9, Block 1. When the Developer has sold and conveyed title to all six separate parcels, the Association shall continue to manage the payment of real property taxes and any special assessments for Lot 9, Block 1, with assessment of one-sixth of the amount of real property taxes and any special assessments to each separate parcel, but the responsibility for the maintenance of the Common Area of Lot 9, Block 1, shall then be vested in the owners of the six separate parcels. Decisions to perform maintenance on the Common Area shall require the affirmative vote of four (4) separate parcel owners; provided, any such decisions which will result in an expense to a separate parcel owner in excess of \$1,000.00 shall require a unanimous vote. If a separate parcel owner fails to pay the applicable share of a maintenance expense, the Association, upon request from one or more of the other separate parcel owners, may issue a special assessment for the maintenance expense and shall have the authority to enforce the failure to pay the special assessment.

3.3. The shop owners shall be individually responsible for all maintenance and repair to each shop owner's building, including but not limited to exterior and interior components of each building, utilities, and insurance. All buildings shall be maintained and repaired so that each building is kept in a clean and safe condition.

3.4. In addition to other restrictions and obligations in the Restrictive Covenants, Lake Etta Estates, the building owners shall also be subject to the following restrictions:

3.4.1. No personal property, including but not limited to vehicles, trailers, and equipment, shall be allowed to be stored outside of a building for more than 24 hours.

3.4.2. The area around each building shall kept clean and free of debris.

3.4.3. Nothing shall be stored or placed outside of a building in a manner which will impede or limit the ability to have obstacle-free ingress and egress to the shop buildings.

4. LOTS 1 through 4, BLOCK 2, LAKE ETTA SECOND SUBDIVISION

4.1. These lots will be subject to the same restrictions as set forth in the Restrictive Covenants, Lake Etta Estates.

5. LOT 5, BLOCK 2, LAKE ETTA SECOND SUBDIVISION.

5.1. This lot shall be owned by the Declarant, which reserves the right to sell Lot 5, Block 2, or, at the sole option of the Declarant, to transfer title to Lot 5, Block 2, to the Association.

5.2. The Declarant shall have the right to develop and improve Lot 5, Block 2, in such manner as the Declarant, in the sole discretion of the Declarant, determines to be appropriate, without the limitations on construction, maintenance, and use imposed by the Restrictive Covenants.

5.3. Any expenses of development, repair, and maintenance of improvements on Lot 5, Block 2, shall be paid through assessments levied by the Lake Etta Home Owners Association.

5.4. No Association assessments shall be imposed against Lot 5, Block 1.

6. LOTS 6 and 7, BLOCK 1, LAKE ETTA SECOND SUBDIVISION

6.1. Lots 6 and 7, Block 1, shall be owned by the Declarant, which reserves the right to sell the lots.

6.2. The Declarant shall have the right to develop and improve Lots 6 and 7, Block 2, in such manner as the Declarant, in the sole discretion of the Declarant, determines to be appropriate, without the limitations on construction, maintenance, and use imposed by the Restrictive Covenants.

6.3. Until otherwise declared by the Declarant, no Association assessments shall be imposed against Lots 6 and 7, Block 1. However, at such time as these lots become subject to assessments, the rate of assessment shall be three times (3X) the rate of assessment for Lots 1 through 9, Block 1, and Lots 1 through 4, Block 2.

7. CALCULATION OF TIME

7.1. For purposes of the calculation of time in Paragraph 2.1, 5.1, 5.2, and 6.1, Restrictive Covenants, Lake Etta Estates, which are confirmed and declared to be applicable to Restrictive Covenants, Lake Etta Estates Second Subdivision, as amended herein, the time applicable to those paragraphs shall be the time of the original recording of the Restrictive Covenants, Lake Etta Estates.

