

**OXBOW HOMEOWNERS' ASSOCIATION
AMENDED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATIONS, EASEMENTS, LIENS, AND CHARGES**

This Amended Declaration is made March 7, 2016, by the Oxbow Homeowners' Association, hereinafter referred to as the "Association," which desires to provide for the preservation of the values and amenities of the property described in Article II below, hereinafter called the "Property." To this end, the Property is subject to the covenants, conditions, restrictions, reservations, easements, liens, and charges set forth in this Declaration, each and all of which are for the benefit of the Property and each Owner. These covenants, conditions, restrictions, reservations, easements, liens, and charges shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the Property herein described, or any part thereof, and shall inure to the benefit of each Owner thereof.

NOW THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, reservations, easements, liens, and charges (sometimes referred to as "Covenants and Restrictions") set forth in this Declaration.

**ARTICLE I.
DEFINITIONS**

The following words, when used in this Declaration or any supplemental Declaration, unless the context shall prohibit, shall have the following meanings:

Section 1. **Association** shall mean the Oxbow Homeowners Association, its successors and assigns.

Section 2. **Declaration** shall mean the covenants, conditions, restrictions, reservations, easements, liens, and charges set forth in the Declaration, as may from time to time be amended.

Section 3. **Family** shall mean one or more related persons living in a residential building as a single housekeeping unit.

Section 4. **Improved Lot** shall mean any Lot, as described below, containing a structure or residence complying with the planning and specification requirements imposed by the Architectural Control provisions contained within this Declaration, including any properly enacted amendments, modifications and revisions.

Section 5. **Lot** shall mean and refer to any plot of land shown upon any recorded plat of the Property. If a Lot as shown on the plat or a portion thereof is added to an adjacent Lot, then the same shall be considered as one Lot for purposes of this Declaration.

Section 6. **Owner** shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot that is a part of the Property, including contract

sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 7. **Property** shall mean that real property described more specifically in Article II below.

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:

Lot 1 in Block 1, and Lots 2 – 33, inclusive, in Block 2, and Lots 1 – 18, inclusive, Lots 22 – 51, inclusive, and Lot 53 in Block 3 of Oxbow Second Addition to the City of Oxbow, A Part of the South ½ of Section 24, Township 137 North, Range 49 West, and a Part of Government Lot 3 of Section 19, Township 137 North, Range 48 West, Cass County, North Dakota.

ARTICLE III. HOMEOWNERS' ASSOCIATION

Section 1. **Oxbow Homeowners' Association**. There is hereby established the Oxbow Homeowners' Association ("Association") for the Property that shall be comprised of the Oxbow Jobs Development Authority until the time that residences have been constructed and completed on seventy percent (70%) of the Lots, or until the time the Oxbow Jobs Development Authority divests itself of responsibility for the Property. When such control is relinquished, the responsibility for governing the Association shall be vested in a Governing Board comprised of at least 5 Owners, who shall be elected by a majority of all Improved Lot Owners in the subdivision. For purposes of voting, each Owner of an Improved Lot(s) of the Property shall have one vote, irrespective of the number of Lots owned by the Owner. When two or more persons or entities share Ownership of one Improved Lot, such Owners shall cast only one vote which will represent their shared interest in the Improved Lot. After relinquishing control, the Oxbow Jobs Development Authority shall no longer have a vote, regardless of the fact that it may own improved Lots. The elected Association shall, at that time, adopt a meeting schedule and rules of operation. It shall be conclusively presumed that there has been no complete construction upon seventy percent (70%) of the Lots or that the Oxbow Jobs Development Authority has not divested itself of responsibility for the Property unless there is a sworn affidavit of record stating that one or the other of said factual circumstances exists.

Each Governing Board Member shall serve a four (4) year term. The first Governing Board shall be composed of five members who received the highest number of votes. Thereafter, in each subsequent election, the members elected shall be the member or members who receive the highest number of votes in each election held for members whose terms are expiring. In order to establish staggered terms, the first Governing Board members shall be divided into three (3) groups, based upon the number of votes received in the initial election. Two members shall be appointed to Group One, two members shall be appointed to Group Two, and one member shall be appointed to Group

Three. Group One shall serve an initial term of two (2) years and shall consist of the two members who receive the lowest number of votes at the initial election. Group Two shall serve an initial term of three (3) years and shall consist of the two members who receive the next lowest number of votes at the initial election. Group Three shall serve an initial term of four (4) years and shall consist of the member who receives the highest number of votes in the initial election. In the event of a tie which would result in a group containing an improper number of members, the Board shall, as a whole, break the tie and place the tying members in the appropriate groups. Thereafter, at the Owners' annual meeting, the Owners shall elect members to fill expiring terms, each member to hold office for a term of four (4) years until the member's successor has been elected and qualified. No member shall serve on the Governing Board for more than two (2) consecutive four-year terms, excluding the initial term of the members of the first Governing Board. A member who has served two (2) consecutive four-year terms must remain off of the Governing Board for a period of two (2) years before seeking election to the Governing Board for another term.

Section 2. **Elections.** Unless modified by the Association's bylaws, elections shall occur at the Owners' annual meeting. Voting shall occur by ballot. Ballots shall be delivered, along with instructions for submission via first class mail, email, or hand delivery, to all Improved Lot Owners not less than thirty (30) days in advance of the meeting. Ballots shall contain the names of all candidates who have been nominated in accordance with the established guidelines, and/or a description of any matter being addressed in the voting.

In the event that an Improved Lot Owner is unable to attend the annual meeting, the Improved Lot Owner may vote in absentia by delivering his ballot in a sealed envelope to the Association's Secretary via first class mail, email, or hand delivery as provided in the instructions included with the ballot. Delivery must be made no later than seven (7) days before the annual meeting.

Section 3. **Proxies.** Improved Lot Owners may appoint a proxy to vote in their place. To appoint a proxy, the Improved Lot Owner shall file with any Association officer or board member, a written statement, signed by the Improved Lot Owner, which identifies the proxy. A proxy shall be effective for one year from the date of filing, unless terminated or otherwise revoked by the Owner. Prior to the proxy's casting of a vote, an Improved Lot Owner may revoke a proxy in a writing delivered to any Association officer or board member or by attending a meeting and voting in person. The Association shall not be held liable in the event that a proxy votes in a manner inconsistent with the proxy's instructions.

Section 4. **Budget.** Each year, the Association shall approve an estimated budget for the upcoming year and prepare a statement showing actual revenues and expenses for the previous year. The proposed budget and statement shall be presented to and approved by the Association at each annual meeting. Owners may reject a proposed budget by affirmative vote of 80% of voting Owners. In the event that a proposed budget is rejected by Owners, the Association shall draft and approve a revised estimated budget and present the same to the Owners. If the revised estimated budget is also rejected by an affirmative vote of 80% of voting Owners, the last approved budget shall carry over into the next operating year.

ARTICLE IV. ARCHITECTURAL CONTROL

Section 1. **Oxbow Architectural Review Committee.** There is hereby established the Oxbow Architectural Review Committee ("Review Committee") for the Property that shall be comprised of the committee of five (5) individuals appointed by the Oxbow Jobs Development Authority until the time that residences have been constructed and completed on seventy percent (70%) of the Lots, or until the time the Oxbow Jobs Development Authority divests itself of responsibility for the architectural control. It shall be conclusively presumed that there has been no complete construction upon seventy percent (70%) of the Lots or that the Oxbow Jobs Development Authority has not divested itself of responsibility for architectural control unless there is a sworn affidavit of record stating that one or the other of said factual circumstances exist. When such control is relinquished, the responsibility to appoint the Review Committee shall be vested in the Members of the Association's Governing Board of Directors. The Committee shall, at the initial meeting, adopt a meeting schedule and rules of operation. The Review Committee shall meet at least once annually.

Section 2. **Procedure for Submissions of Plans and Specifications.** Two (2) copies of plans, for which receipt must be acknowledged in writing, will be submitted to the Review Committee electronically. Approval or disapproval of those plans will be made in writing within thirty (30) days after the receipt of those plans. Approval shall not be arbitrarily withheld or delayed, it being the intention of the Review Committee to grant or withhold the approval for the purpose of establishing a quality, restricted residential district, free from objectionable or value-destroying features and in conformity with the governing zoning codes, building codes, and other applicable regulations then in force. In the interests of fairness and promoting the best use of land, the Review Committee may, in its discretion and by an affirmative vote of at least four (4) of the five (5) members, approve plans that do not strictly conform with the requirements herein, so long as the plans substantially conform with said requirements and do not defeat the underlying purpose of establishing a quality, restricted residential district, free from objectionable or value-destroying features and in conformity with the governing zoning codes, building codes, and other applicable regulations then in force.

A Review Committee decision to approve or disapprove submitted plans may be overturned by a petition signed by not less than eighty (80%) percent of the Improved Lot Owners and submitted to both the Review Committee and the Lot Owner who submitted the plans within seven (7) days after the Review Committee releases its written decision. Accordingly, each written decision of the Review Committee must notify the recipients that the Review Committee's decision does not become final until the 7-day petition period has lapsed without objection from at least eighty (80%) percent of Improved Lot Owners.

Section 3. **Construction Time and Requirements.** Construction of all primary structures shall be substantially completed within eighteen (18) months after issuance of any building permit for the structure. No outside storage of building materials shall be permitted on any Lot after the eighteen (18) month construction period. For Lots that have not yet been improved upon, a building permit must be obtained and construction must be started on a primary structure on

the Lot within two (2) years after the Review Committee declares the Lot to be buildable or the Fargo-Moorhead Diversion Authority assigns the Lot to an Owner, whichever occurs first.

Section 4. **Architectural Control.** No building, fence, wall, landscaping feature, pool, hot tub, deck, patio, play structure, driveway, sidewalk, or any other structure shall be commenced, erected, or maintained on the Lots, nor shall any exterior addition to or change or alteration thereto be made to any buildings on the Lots until the plans and specifications for the same have been submitted to and approved in writing by the Review Committee.

Section 5. **Plans.** Notwithstanding any requirement stated herein, the requirements set forth in the City of Oxbow Land Development Code will apply.

A. Plans submitted for approval shall include the following:

- i. Two complete sets of electronically submitted house plans, two site plans and a completed application form.
- ii. The house plan should indicate construction materials and specifications, roofing material, exterior finishes, and colors.
- iii. The site plan should indicate the basement outline with projections shown as a dotted line. The garage footprint and exterior steps should be indicated. The main floor proposed grade and the basement floor grade should be clearly shown. The site plan should indicate the exact location and height of the primary building and any other structures on the Lot to show compliance with setback requirements.
- iv. The site plan should indicate sidewalk, walkway, window wells and driveway locations and sizes. The plan should also indicate whether any sidewalks, walkways, or driveways will be concrete, pavers, or a combination of the two.
- v. The site plan should indicate any planned landscaping, including the location, type, and size of any trees and bushes and gardens, if such plans have been made. If landscaping plans have not been made at the time of submission of the site plan, subsequent landscaping plans must be submitted for approval at the later date when they are made before any landscaping work may be started. After the initial landscaping plans have been approved, changes involving plant replacement of like plants do not need to be submitted for approval as long as they adhere to the requirements set forth in this Declaration and comply with all City regulations. Any

other subsequent landscaping changes must be submitted and approved prior to the start of any work.

- B. Accessory structures such as pools, decks and play structures should be indicated on the site plan. If plans to build accessory structures arise after the time of submission of the site plan, subsequent accessory structure plans must be submitted for approval at the later date when they are made before any accessory structure may be added or built.
- C. Each Lot will be restricted to construction of one single family residence. When viewed from the street, at least twenty percent (20%) of the facade must be brick, stone, stucco or other masonry siding, or some other form of contrasting siding such as accent trim, shakes, etc.
- D. Vinyl lap siding is not an approved construction material and shall not be permitted on any buildings. Appropriate siding includes steel, steel box, cement board (i.e. HardiePlank), composite wood siding, vinyl shake accents, redwood or cedar lap siding, and masonry siding. Seamless siding is encouraged.
- E. New and replacement windows shall be steel or vinyl clad and not a combination of the two. Wood clad windows are not permitted. Replacement windows shall be of the same dimensions, design and color as the original windows being replaced unless Owner receives the written approval of the Review Committee.
- F. When viewed from the street, the garage doors may not encompass more than sixty five percent (65%) of the building's façade. The garage door shall not be made of Masonite material. All garages must be attached to the residence. Minimum garage size will vary based upon Lot and block as indicated below.
- G. No lean-to, car-port, or vehicle storage building detached from the residence will be permitted.
- H. Any sump pump discharge shall be drained into the lakes or drains in the rear of the property, except in winter when sump pump discharge may be drained into the city sewer system. Sump pump drainage extending into the lakes and drains shall be buried underground, below water level or to the surface drains, by a contractor approved by the Oxbow Golf Course.
- I. Minimum square footage requirements of house plans apply. Square foot calculations will not include basements, open porches, and decks or garages. Square footage requirements are as follows:

Lots 6 – 10, inclusive, and Lots 39 – 43, inclusive, in Block 3 of Oxbow Second Addition to the City of Oxbow, A Part of the South ½ of Section 24, Township 137 North, Range 49 West, and a Part of Government Lot 3 of Section 19, Township 137 North, Range 48 West, Cass County, North Dakota.

2,500 square feet for a standard one story rambler.

3,000 square feet for a standard two story, with at least 1,500 on the first floor.

No bi-levels or multi-levels are allowed.

No split-levels are allowed.

No twin homes are allowed.

Each single family residence shall be constructed with a minimum three car attached garage. The total garage space shall be at least 864 square feet in size with room to park at least three cars.

Lots 4 – 5, inclusive, Lots 11 – 14, inclusive, Lots 22 – 30, inclusive, Lots 36 – 38, inclusive, and Lots 44 – 47, inclusive, and Lot 53 in Block 3 of Oxbow Second Addition to the City of Oxbow, A Part of the South ½ of Section 24, Township 137 North, Range 49 West, and a Part of Government Lot 3 of Section 19, Township 137 North, Range 48 West, Cass County, North Dakota.

2,000 square feet for a standard one story rambler.

2,500 square feet for a standard two story, with at least 1,250 square feet on the first floor.

No bi-levels or multi-levels are allowed.

No split-levels are allowed.

No twin homes are allowed.

Each single family residence shall be constructed with a minimum three car attached garage. The total garage space shall be at least 864 square feet in size with room to park at least three cars.

Lots 2 – 26, inclusive, in Block 2, and Lots 1 – 3, inclusive, Lots 15 – 18, inclusive, Lots 31 – 35, inclusive, and Lots 48 – 51, inclusive, in Block 3, of Oxbow Second Addition to the City of Oxbow, A Part of the South ½ of Section 24, Township 137 North, Range 49 West, and a Part of Government Lot 3 of Section 19, Township 137 North, Range 48 West, Cass County, North Dakota.

1,800 square feet for a standard one story rambler.

2,200 square feet for a standard two story, with a minimum of 1,100 on the first floor.

No bi-levels or multi-levels are allowed.

No split-levels are allowed.

No twin homes are allowed.

Each single family residence shall be constructed with a minimum three car attached garage. The total garage space shall be at least 864 square feet in size with room to park at least three cars.

Lots 27 – 33, inclusive, in Block 2 of Oxbow Second Addition to the City of Oxbow, A Part of the South ½ of Section 24, Township 137 North, Range 49 West, and a Part of Government Lot 3 of Section 19, Township 137 North, Range 48 West, Cass County, North Dakota.

1,600 square feet for a standard one story rambler.

2,000 square feet for a standard two story, with a minimum of 1,000 square feet on the first floor.

1,400 square feet per level for a bi-level, for a total minimum of 2,800 square feet.

2,400 square feet for a split-level.

Each single family residence shall be constructed with a minimum two car attached garage. The total garage space shall be at least 550 square feet in size with room to park at least two cars.

Lot 1 in Block 1 of Oxbow Second Addition to the City of Oxbow, A Part of the South ½ of Section 24, Township 137 North, Range 49 West, and a Part of Government Lot 3 of Section 19, Township 137 North, Range 48 West, Cass County, North Dakota.

1,500 square feet for a standard one story rambler.

1,900 square feet for a standard two story, with a minimum of 1,000 square feet on the first floor.

1,400 square feet per level for a bi-level, for a total minimum of 2,800 square feet.

2,400 square feet for a split-level.

Each single family residence shall be constructed with a minimum two car attached garage. The total garage space shall be at least 550 square feet in size with room to park at least two cars.

- J. No residence shall exceed two stories in height when viewed from the street.
- K. Roof slopes of at least 5 in 12 are required.
- L. Unless otherwise set forth herein, no fences are allowed unless as approved in writing by the committee for safety around an in-ground pool. Any approved fence must comply with the requirements contained in the City of Oxbow's Land Development Code.

ARTICLE V. RESTRICTIONS

The Property shall be subject to the following restrictions:

Section 1. **Animal Kennels.** Outdoor animal kennels are only allowed for pet dogs that comply with Section 2. The dog kennels allowed by this Section shall not be breeding kennels. Kennels shall not exceed two hundred (200) square feet in size; the entirety of one of the two long sides of the kennel must be attached to the house or garage, except that no kennel shall be attached to the front side of a house or garage; and shall comply with all applicable setback requirements.

Section 2. **Animals.** Other than household pets kept for non-commercial uses, no animals, livestock, poultry, or insects of any kind shall be raised, bred, or maintained on any of the Lots. Pets are restricted to Owner's Lot, either by kennel, leash, or electronic fencing, must not be a nuisance, must be picked up after, and will not be allowed to stray to adjacent Lots. No pets which are determined to be vicious, potentially dangerous or dangerous by the City of Oxbow, Cass County North Dakota, the State of North Dakota or any other political subdivision shall be kept, maintained or raised on any of the Lots.

Section 3. **Antennas.** To the extent permitted by applicable law, the installation of antennas, satellite dishes, or other devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be subject to the prior written approval

of the Review Committee. No antenna, satellite, microwave dish, or other device for the transmission or reception of television or radio signals shall be constructed, installed, erected, used, or maintained on any Lot without the prior written approval of the Review Committee, except that small television satellites not more than three (3) feet in diameter and mounted onto a roof or wall do not require the prior written approval of the Review Committee. Any such antennas must still be installed in accordance with the guidelines set forth by the Review Committee.

Section 4. **Appearance During Construction.** All Lots are to be kept clean during construction. All garbage is to be stored out of sight. All lots must have drainage wattles installed to eliminate runoff to the street and the water behind the lots.

Section 5. **Basketball Equipment.** No basketball equipment, including, but not limited to, basketball backboards, shall be attached to any building on a Lot. Free-standing basketball backboards and portable basketball equipment are allowed.

Section 6. **Building Location.** No building shall be erected on any Lot unless the side Lot clearances, rear and the front line setbacks are in compliance with the City of Oxbow zoning ordinances for residential zoning districts. Steps shall also be constructed in such a way so as to comply with such zoning ordinances and restrictions, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 7. **Building Type.** All Lots are zoned residential and will only be used for single family purposes. No improvements or structures whatsoever, other than a private dwelling house, in-ground swimming pool, may be erected, placed, or maintained on any Lot on the Property.

Section 8. **Burning.** No burning of garbage, trash, trees, leaves, branches, construction materials, or similar items will be permitted. Fire pits are allowed provided they comply with all applicable City of Oxbow ordinances and laws.

Section 9. **Business.** No commercial business of any kind shall be conducted on any Lot with the exception of an in-home business of the Owner for which parking is adequate.

Section 10. **Clotheslines.** Clotheslines are not allowed.

Section 11. **Decks.** All construction of and any changes to decks shall require the approval of the Review Committee prior to installation. All decks shall be attached to the primary dwelling. Deck railings are permitted when required by law. Materials for deck railings must be approved by the Review Committee prior to installation and must comply with the City of Oxbow's Land Development Code.

Section 12. **Destruction of Dwelling.** In the event a dwelling or other building on any Lot is destroyed by fire or other casualty, it must be rebuilt in accordance with the plans and specifications utilized by the Review Committee at the time of original construction or, if changes to the original plan are desired, the new plans and specifications must be reviewed and approved by the Review Committee. Any new construction must comply with the City of Oxbow zoning

ordinances and the restrictions set forth herein.

Section 13. **Dirt Removal.** No topsoil or excavation material may be removed from the Property. When there occurs an excess of soil or excavation material as a result of basement excavation or Lot grading, permission to remove that material must be obtained from the Association. Otherwise, the Association will direct as to where the excess excavation or soil, if any, is to be disposed. Topsoil is not allowed to be disturbed until a permit is issued for the primary structure.

Section 14. **Diseases and Insects.** No Owner shall permit anything or condition to exist upon any Lot that shall induce, breed, or harbor infectious plant diseases or noxious insects.

Section 15. **Division and Combination of Lots.** No Lots shall be subdivided. No Lots shall be combined to make a larger Lot for one house. Every house shall be confined to one Lot and shall comply with the setback requirements for that one Lot.

Section 16. **Energy Conversion Systems.** Solar conversion systems, including, but not limited to, solar panels, and wind energy conversion systems, including, but not limited to, windmills and wind turbines are prohibited.

Section 17. **Garbage.** No garbage or trash shall be placed or kept on any Lot except in covered containers of a type, size, and style which are approved by the Review Committee. In no event shall such containers be maintained so as to be visible from neighboring property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

Section 18. **Gardens.** Gardens shall not exceed two hundred (200) square feet in size or visually impair line of sight. Gardens must be located in the rear yard and must be at least fifteen (15) feet from the rear Lot line and at least fifteen (15) feet from the side Lot line.

Section 19. **Grading.** Where lot grading adjoins golf course grading, the two should meld together as seamlessly as possible. Where the rear or side yard of a lot abuts the golf course, the closest fifteen (15) feet of the lot shall be graded at slopes no steeper than the adjoining golf course grades. If retaining walls are to be incorporated and used as part of the lot features, the retaining wall shall be constructed no closer than fifteen (15) feet from golf course property and the grades between the property line and retaining wall shall match the adjoining golf course grades as seamlessly as possible.

Section 20. **Lakes.** Lakes owned by the Oxbow Country Club or the City of Oxbow shall not be used for a homeowner's private recreation, including, but not limited to, swimming, boating, fishing, or ice skating, unless prior written authorization is received by the Oxbow Country Club or the City of Oxbow, whichever entity owns the lake in question. In addition, water from the lakes owned by the Oxbow Country Club or the City of Oxbow shall not be pumped out by a homeowner to irrigate private property or for any other reason.

Section 21. **Landscaping**. All sodding and seeding shall be completed within eighteen (18) months from the time the home is ready for occupancy. Any significant changes to the landscaping plans as indicated on the site plan must be approved by the Review Committee before the changes are made. Landscaping that obstructs the line of sight of a neighbor's view of the golf course shall not be allowed. Any and all plants located in within fifteen (15) feet of any roadway must not exceed thirty-six (36) inches in height.

Section 22. **Lot Drainage Control**. All Lots shall be graded to the finished design grades as designed by the engineering firm appointed by the Oxbow Jobs Development Authority or by the Architectural Review Committee. Positive drainage is required to divert water away from structures and to prevent standing water on any portion of the Lot.

Section 23. **Mailboxes**. No mailboxes or newspaper boxes will be allowed as central mailboxes will be provided in this development.

Section 24. **Maintenance Beyond Property Line**. No Owner shall maintain, improve, landscape, plant upon, or otherwise exercise control over any property owned by the Oxbow Country Club, including, but not limited to, the golf course and the strip of land owned by the Oxbow Country Club that extends from the homeowner's rear lot line to the water or golf course.

Section 25. **Mining**. No derrick or other structure designed for use in exploring for oil or natural gas shall be erected, placed, or permitted upon any part of the Lots nor shall any oil, natural gas, petroleum, asphalt, or hydrocarbon products or minerals of any kind be produced or extracted anywhere in the Lots. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted on any Lot or any part of the properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on part of the Lots.

Section 26. **Nuisance**. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Such restrictions shall include, but not be limited to, using the Lot as a dumping ground for rubbish, garbage, trash, or other waste materials, the placing thereon of unsightly piles of dirt, lumber or other material except during construction, and then only during the course of construction. Such restrictions shall also include allowing noxious weeds to occur on the Lot either during or after the period of construction of the home.

Section 27. **Outdoor Playsets, Sandboxes**. Outdoor playsets, sandboxes and other similar outdoor items are allowed if securely affixed to the ground and located no more than fifty (50) feet from the rear of the primary building and at least fifty (50) feet from the side Lot lines. This provision does not apply to sheds.

Section 28. **Patios**. All construction of and any changes to a patio shall require the approval of the Review Committee prior to installation.

Section 29. **Pools**. No above-ground pools are allowed. Underground pools are permitted in accordance with the City of Oxbow's Land Development Code.

Section 30. **Power and Telephone Lines.** For all Lots, temporary overhead distribution and service lines are permitted until permanent underground facilities are installed. Overhead lines shall otherwise be prohibited except during emergencies and repairs.

Section 31. **Private Sewer and Water.** No private septic tanks, drain fields, or private wells shall be permitted on any Lot. All Lots in the subdivision will be served by the City of Oxbow's sewer and water utility.

Section 32. **Propane Tanks.** No above-ground combustible liquid or gas tanks shall be allowed on the Lots other than 20 pound tanks for gas grills.

Section 33. **Radon System Requirements.** The following construction requirements are intended to resist the entry of poisonous radon into dwelling units. All buildings shall have an ABS or PVC gastight vent pipe, a minimum of three (3) inches in diameter, embedded vertically into the sub-slab aggregate or other permeable material before the slab is cast. Alternatively, the pipe shall be inserted directly into an interior perimeter drain tile loop or through a sealed sump cover where the sump is exposed to the sub-slab aggregate or connected to it through a drainage system. The pipe shall be extended up through the building floors, terminate at least twelve (12) inches above the surface of the roof in a location at least ten (10) feet away from any window or other opening into the conditioned spaces of the building that is less than two (2) feet below the exhaust point and at least ten (10) feet from any window or other opening in adjoining or adjacent buildings. All pipe components must allow moisture to positively drain beneath the slab or soil-gas-retarder. A layer of gas-permeable material shall be placed under all concrete slabs and other floor systems that directly contact the ground and are within the walls of the living spaces and conditioned crawl spaces of the building, in order to facilitate the installation of an active sub-slab depressurization system if needed. Hollow block masonry foundation walls are not permitted.

Section 34. **Rooftop Equipment Prohibited.** No heating, ventilating, air conditioning, or evaporative cooling units or equipment related thereto may be mounted, installed, or maintained on the roof of any building on a Lot.

Section 35. **Sheds.** No sheds are allowed.

Section 36. **Signs.** No billboards or advertising signs of any kind or character shall be erected, placed, permitted or maintained on any Lot. This provision is waived when it is necessary to promote the sale of the property. Political signs are permitted prior to an election. The Association may erect, place, and maintain such sign structure or structures as it deems necessary for the operation or identification of the subdivision. A name and address sign used solely for the purpose of identification of the dwelling house occupants may be placed on the building by its occupants, provided the sign is no more than two (2) feet square maximum and the design of the sign is approved by the Review Committee prior to installation.

Section 37. **Storm Water.** Each Lot shall be kept and maintained to be in compliance with current storm water regulations until such time when the Lot is sodded or seeded.

Section 38. **Structural Changes.** No house or structure shall be moved onto any of the

Lots, unless it is a new structure built to meet all of the current codes and specifically approved in writing by the Review Committee, and no structure once erected shall at any time be altered or changed so as to permit its use to be in violation of these restrictions and conditions.

Section 39. **Temporary Residence.** No trailer, basement, tent, shack, garage, barn, or other outbuilding erected on the Lot shall at any time be used as a residence, nor shall any residence of a temporary character be permitted.

Section 40. **Trampolines.** Trampolines are allowed if securely affixed to the ground and located no more than fifty (50) feet from the rear of the primary building and at least 50 feet from the side Lot lines. All trampolines must be dismantled and stored inside during the winter.

Section 41. **Utility and Drainage Easements.** The easements for the installation and maintenance of utility and drainage facilities are shown on the registered plat of the Property. Within the area of the utility and drainage easements, no structures, plantings, fencing, or other materials shall be placed, erected, or permitted to remain that may damage or interfere with the installation and maintenance of utilities or that may change or alter the direction of flow of water through drainage channels or swales in the easements. The easement areas of each Lot and all improvements on it shall be maintained continuously by the Owner except for the improvements for which the public authority or utility company is responsible.

Section 42. **Vehicle Parking.** All vehicles shall be removed from the public street and parked in garages or driveways overnight. No vehicle shall at any time be parked on the grass. No vehicle shall at any time be parked in such a way as to block a sidewalk, mailbox, or trash pick up services. All motor vehicles parked on or about a Lot or public street shall be currently licensed and shall be maintained in an operable condition at all times, temporary mechanical difficulties and breakdowns excepted.

Section 43. **Vehicle Storage.** No commercial vehicles, motor homes, boats, travel trailers or trucks, personal water craft, snowmobiles, recreational vehicles, flatbed trailers, storage trailers, storage containers, car trailers, or construction equipment shall be parked or stored on any public street or on any Lot, except within an enclosed garage on the Lot, for longer than is reasonably necessary to load or unload the vehicle. After said vehicle is loaded or unloaded, it must be parked and stored in an enclosed garage on a Lot or removed from the Property, with the exception that said vehicle may be temporarily parked on a driveway on a Lot for a short period of time not to exceed twenty four (24) hours in a forty eight (48) hour time period. Construction equipment may be parked on or about a Lot or adjacent public street during daylight hours for the period of the normal course of construction.

Section 44. **Waiver of Liability.** All claims for damages, if any, arising out of the construction, maintenance and repair of the utility or drainage facility or on account of temporary or other inconvenience caused thereby against the utility or the public authority or any of its agents or servants are waived by the Owners.

Section 45. **Floodproof Basements.** All basements must meet the floodproofing requirements set forth in the City of Oxbow's current Flood Damage Prevention Ordinance.

Section 46. **Yard Maintenance.** Lot Owners shall keep their Lot free of all tall grass, undergrowth, dead trees and limbs, trash, and rubbish. All grass shall be kept mowed to maintain a uniform appearance and shall not exceed four (4) inches in height. If the Owner fails to do so, the Association, at the Owner's expense, will correct such conditions.

ARTICLE VI. MAINTENANCE

Section 1. **Owner Lots.** Each Owner shall be responsible for the maintenance of the Owner's Lot and Lot buildings.

Section 2. **Neighborhood Monuments.** The Association shall be responsible for any and all maintenance of neighborhood monuments.

Section 3. **Improper Maintenance and Use of Lots.** In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property that are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner that violates this Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under the Association documents, the Association may make a finding to such effect, specifying the particular condition or conditions that exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Association may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen (14) day period of time the requisite corrective action has not been taken, the Association shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by an Assessment Lien.

ARTICLE VII. ASSOCIATION SERVICES AND DUES

Section 1. **Oxbow Country Club Social Membership.** As a member of the Association, each Owner shall be granted a standard social membership by the Oxbow Country Club, with all the rights, privileges, and obligations associated with said membership. The social membership shall extend to those members of Owner's family as outlined in the Oxbow Country Club policies.

Section 2. **Right to a Full, Regular Oxbow Golf Membership.** In addition to the social membership granted in Section 1 of this Article, each Owner who has maintained a social membership with the Oxbow Country Club pursuant to this Declaration will have the option to upgrade his or her membership to become a full, regular member of the Oxbow Country Club, even if the Board of Directors of the Oxbow Country Club has determined that Club membership is full, provided that in order to take advantage of this option and become a full, regular member of the Oxbow Country Club, the Owner must pay the normal dues and satisfy any other requirements imposed upon other full, regular members of the Oxbow Country Club at the time of admission to

the Club, including possible stock purchase, annual dues, monthly assessments, annual assessments, etc. Owners who have been excepted from the social membership requirement, as described in Section 5 of this article, and have therefore not elected to become a social member of the Oxbow Country Club, shall not be granted the automatic right to become a full, regular member of the Oxbow Country Club as provided in this section.

Section 3. **Services Provided by Association.** The City of Oxbow will maintain and repair the streets, parks, and other common areas within the Property at its own cost. Any common areas not maintained and repaired by the City will be maintained and repaired by the Association.

Section 4. **Dues.** In consideration of the social membership granted in Section 1 of this Article and the services provided by the Association as described in Section 3 of this Article, each Owner shall pay annual dues to the Association. The annual dues shall include the social membership fee and apportioned costs to cover the Association's operating and maintenance needs. The annual dues will be established by the Oxbow Job Development Authority, or the Oxbow Homeowners Association after the OJDA turns over control to the Association. Dues will be adjusted each year based upon the social membership rate of the Oxbow Country Club and the Association's operating and maintenance needs. If for some reason a member of the Association is expelled from the Oxbow Country Club for violating Club rules, that member shall still be responsible for paying the social membership fee included in the annual dues.

Section 5. **Exceptions to Required Social Membership.** The above-described social membership and annual dues shall apply to all Lot Owners, except that Owners of Lots subject to the Cass County Joint Water Resources District's land acquisition for the proposed FM Diversion Authority's ring dike shall be excepted from the Oxbow Country Club membership and social membership fee requirements described in Sections 1 and 3 of this Article. In the event that a current Owner of an excepted Lot sells the excepted Lot, said Lot and any subsequent Owners shall then be subject to the Oxbow Country Club membership and social membership fee requirements described in Sections 1 and 3 of this Article. No Lot Owner shall be excepted from the dues imposed to cover the Association's operating and maintenance needs.

ARTICLE VIII. GENERAL PROVISIONS

Section 1. **Enforcement.** If any party shall violate or attempt to violate any of the covenants or restrictions contained in this Declaration, it shall be lawful for any Owner to prosecute proceedings at law or in equity against the party violating or attempting to violate any such covenants or restrictions and either prevent the party from so doing or to recover damage for such violation.

Section 2. **Right To Enforce.** Failure to enforce any of the covenants, conditions, restrictions, easements, liens, and charges now or hereafter imposed pursuant to the covenants or restrictions should not be deemed a waiver of the right to do so thereafter, nor shall it be construed as an act of acquiescence or approval on the part of the Owner.

Section 3. **Association Assessments.** The Association, its successors and assigns shall have the right to assess the Lots within the Property annual general assessments or charges and special assessments for capital improvements to be used exclusively to promote the improvement, maintenance, and operation of the signage, neighborhood monuments, parks, and entrance to the Property. Each Lot, whether improved or unimproved, shall be assessed the same uniform rate for all Lots.

Section 4. **Duration.** The covenants, restrictions, and conditions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, devisees, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners has been recorded, agreeing to modify said covenants and restrictions in whole or in part.

Section 5. **Severability.** The invalidation of any one of these covenants or restrictions by Judgment or Court Order shall in no way affect any other provisions that shall remain in full force and affect.

Section 6. **Amendments.** This Declaration may be amended by the Oxbow Job Development Authority, until it divests itself of the responsibility for architectural control, by an affirmative vote of at least six (6) of the seven (7) OJDA members. It shall be conclusively presumed that the OJDA has not divested itself of the responsibility for architectural control unless there is a sworn affidavit of record so stating.

Thereafter, when responsibility for governing the Association has vested in the elected Governing Board, this declaration may be amended as follows:

- (1) To amend the procedure for submission of plans and specifications as described in Article IV, Sections 2 and 5(A), of this Declaration, an affirmative vote of at least four (4) of the five (5) members of the Association's Governing Board is required;
- (2) To amend any of the requirements or procedures set forth in Article III of this Declaration, an affirmative vote of two thirds ($\frac{2}{3}$) of the voting Owners of Improved Lots is required;
- (3) For all other amendments, including any amendments to the requirements or procedures set forth in Articles I, II, IV (excluding Section 2), V, VI, VII, VIII, or IX of this Declaration, an instrument signed by the Owners of not less than eighty percent (80%) of the Improved Lots is required.

Any instrument amending, modifying, or canceling this Declaration must be properly filed and recorded before it shall become effective.

ARTICLE IX. MISCELLANEOUS

Section 1. **Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Covenants and Restrictions or the intent of any provision thereof.

Section 2. **Gender.** The use of the masculine in these Covenants and Restrictions shall be deemed to include the feminine, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 3. **Waiver**. No restrictions, condition, obligation, or provision in these Covenants and Restrictions shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

IN WITNESS WHEREOF, the undersigned has caused this Amended Declaration to be executed the day and year first above written:

OXBOW JOBS DEVELOPMENT AUTHORITY

By: _____
Jim Nyhof, Chair

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

On this ____ day of _____, 2016, before me personally appeared Jim Nyhof, known to me to be the chair of the OXBOW JOBS DEVELOPMENT AUTHORITY, that is described in and who executed the within and foregoing instrument and acknowledged to me that he executed the same.

(SEAL)

Notary Public, Cass County, ND
My Commission Expires