

**FIFTH AMENDMENT TO
DECLARATION OF INDUSTRIAL STANDARDS AND
PROTECTIVE COVENANTS FOR MCCARA FIRST ADDITION**

The Moorhead Economic Development Authority pursuant to Article II, Section d of the Declaration of Industrial Standards and Protective Covenants for McCARA First Addition hereby amends the Declaration of Industrial Standards and Protective Covenants for McCARA First Addition as follows:

ARTICLE II. GENERAL PROVISIONS

IIa) Review Procedure

No building, fence, wall, sign, advertisement, road, loading facility, storage facility, parking area, site grading, landscaping, disposal facility, or any other improvement to the Park shall be constructed on or added to, excepting changes made inside a proposed or existing building, without the approval of the Authority. Complete detailed plans and specifications for the proposed improvements, showing the nature, kind, shape, dimensions, materials, colors, lighting, siting, grading and landscaping or alterations to existing facilities shall be submitted to the Authority, before construction begins. The Authority shall approve or disapprove said plans within thirty (30) days from the date complete specifications and plans are received by the Authority. In the event no actions is taken on said plans by the Authority within said thirty (30) day period, said plans will be deemed to have been approved by the Authority. If approval is granted, a copy of the plans and specifications shall be retained on file by the Authority.

IIb) Inspection

The Authority shall have the right, at any reasonable hour upon twenty-four hours' notice, to enter and inspect any property for compliance with these covenants.

IIc) Variances

Variances from these covenants may be allowed by the Authority at its discretion. Variance applications shall be submitted to the Authority and shall include plans and specifications as described in paragraph b. above. The Authority's written approval shall be obtained prior to commencing work on the project.

IIId) Occupancy Permits

If a building site subsequently to be occupied by an owner or tenant other than the original owner or tenant, for whom the building, parking, and traffic pattern was designed and approved, the prospective new owner or tenant must submit an application for an

CLAY COUNTY, MINNESOTA, I certify this instrument was filed for record
APRIL 13, 1998 at 4:00 P M, as document # **510000**
Bonnie Peters
CLAY COUNTY RECORDER DEPUTY
Chg-2 Moorhead City Econ Dev.

occupancy permit prior to occupancy, which occupancy permit must be approved by the Authority. The application must include detail on the requested use of the building site, along with information on the frequency of expected traffic and anticipated parking requirements. The purpose of such occupancy permit is to assure that the building site will handle the new occupancy requirements. The Authority may require modification of improvements before issuing such permit. No new occupancy may take place without such permit.

Article IV. DEVELOPMENT STANDARDS

IVh) Telephone and Electrical Services:

All electrical service lines and telephone lines to buildings shall be underground. Transformers and switches placed above grade shall be screened from view with landscaping. Expenses for underground service and landscaping shall be born by the property owner. The property owner shall obtain and submit to the Authority as-built plans showing location of underground utilities on his property.

IVj) Solar

To preserve solar access uses, no structure or landscaping element shall be approved that will interfere with direct sun rays on the adjacent property owners, existing rooftop, or approved plans for a rooftop, as cast by the sun on December 21st between the hours of 9:00 a.m. and 3:00 p.m. The Authority may waive such requirement if the adjacent property owner(s) agrees in writing to waive such solar protection. In addition, the Authority may also waive such requirement if it is demonstrated by the applicant that such a restriction will place an undue hardship on his proposal.

ARTICLE V. PLANS AND BUILDINGS

Va) Architectural Standards:

Buildings shall be designed to be aesthetically pleasing and the proposed exterior treatment shall be submitted to and approved by the Authority.

Vb) Used Structures

Previously used structure may not be moved onto the property as part of any development. However, new structures which are pre-manufactured and designed for transportation to the use site will be allowed following approval of the Authority.

Vc) Approval of Authority

No improvements shall be erected, placed or altered on any building site until the building or other alteration plans, specifications, including elevations and/or architect's rendering, and a plat plan showing the location of such improvement on the particular building site, including parking, loading and landscape plans, have been submitted to and approved by the Authority as to conformity and harmony with existing structures in the development, and as to location of the improvement on the building site, giving due regard to the anticipated use thereof as may affect adjoining structures, use and operations, and as to location of the improvements with respect to topography, grade, and finished ground elevation and as to fulfilling the purposes and Criteria for Standards herein contained; provided, however, that the Authority or any members thereof, its agents or employees, shall not be liable to anyone, in damages or otherwise, who has submitted plans for approval or to any landowner by reason of mistake in judgment, negligence or non-feasance of the Authority, its members, agents or employees arising out of or in connection with the approval or disapproval of any such plans. Likewise, anyone so submitting plans to the person when he becomes an owner, agrees that he or it will not bring any action or suite to recover for any damages or other relief against the Authority, its members, agents or employees. The Authority shall not unreasonably withhold approval of any plans submitted pursuant hereto, provided however, that failure to meet the Criteria For Standards or the standards contained herein shall be grounds for the Authority's reasonable disapproval of any such plans. All such construction work shall, upon approval of plans by the Authority, be carried on with dispatch and upon completion thereof, the site shall be promptly landscaped.

ARTICLE VIII. ADVERTISING SPACE

VIIIa) The Authority recognizes that there is the need for signs advertising the name of the company located on the land subject to these standards. It is further recognized that acceptable Criteria For Standards for such signs may from time to time change so as to alter acceptable requirements for such signs. In order to allow for such changes, all requests for signs to be located on any building site on the land subject to these standards shall be submitted for approval of the Authority. Such applications shall be considered in light of the criteria For Standards set forth herein and other appropriate data and shall either approve the proposed sign as submitted or require that the proposal be altered so that any sign constructed in connection therewith shall be such as to fulfill the said Criteria For Standards. In the event that the Authority does not approve any such sign proposals within forty-five (45) days after receipt, said sign proposals shall be deemed to have been approved by the Authority, provided, however, that no sign located on the land subject hereto shall:

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DATED this 6 day of May, 1997.

MOORHEAD ECONOMIC DEVELOPMENT AUTHORITY

Paul Skatvold

Paul Skatvold, Chair

Scott Hutchins

Scott Hutchins, Director

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

The foregoing instrument was acknowledged before me this 6 day of May, 1997, by Paul Skatvold and Scott Hutchins, known to me to be the Chair of the Moorhead Economic Development Authority Board and Director of the Moorhead Economic Development Authority, respectively.

Beth Groesen

Notary Public, Clay County, MN
My Commission Expires: 1-31-00



CONCURRENCE

The above and foregoing Fifth Amendment to Declaration of Industrial Standards and Protective Covenants for McCARA First Addition is hereby concurred in by the City of Moorhead as the Owner of 27 of the 31 lots affected by the Declaration of Industrial Standards and Protective Covenants for McCARA First Addition.

DRAFTED BY:
MATT GLAESMAN CITY PLANNER
MOORHEAD MN

CITY OF MOORHEAD

Morris L. Lanning

MORRIS L LANNING, Mayor

Kaye E. Buchholz

KAYE E. BUCHHOLZ, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

The foregoing instrument was acknowledged before me this 6 day of May, 1997, by Morris L. Lanning and Kaye E. Buchholz, known to me to be the Mayor and City Clerk, respectively, of the City of Moorhead.

Tamra L. Even

Notary Public, Clay County, MN
My Commission Expires: 1/31/2000

