

**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
MEADOWBROOK HEIGHTS SECOND SUBDIVISION
HOMEOWNERS ASSOCIATION, INC.
(A COMMON INTEREST LIMITED EXPENSE PLANNED COMMUNITY)**

Recitals:

- A. Declarant is the owner of all property depicted on the Meadowbrook Heights Second Subdivision Plat (the "Subdivision Plat") recorded in the records of the Clerk and Recorder, Larimer County, Colorado, a subdivision in the City of Loveland, County of Larimer, State of Colorado (the "Property").
- B. The Property is subject to this Declaration.
- C. Declarant desires to create a common interest limited expense planned community pursuant to the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as it may be amended from time to time (the "Act"), in which portions of the Property will be designated for separate ownership and the remainder of which will be owned by the Association, as defined herein, provided; however, that such common ownership community shall constitute a limited expense planned community, as provided in C.R.S. § 38-33.3-116, as amended from time to time, and, as provided by the Act, shall be subject only to C.R.S. § 38-33.3-105, § 38-33.3-106, and § 38-33.3-107 of the Act. Other provisions of the Act shall be inapplicable to the Property and this Declaration.

SUBMISSION OF REAL ESTATE

Declarant hereby declares that, in addition to all applicable governmental laws and ordinances, the following terms, covenants, conditions, easements, liens, reservations, restrictions, uses, locations, and obligations are adopted and shall be deemed to run with the land, and shall be burden and benefit to any person or persons acquiring or owning an interest in the Property and any improvements thereon, their grantees, successors, heirs, personal representatives, administrators, devisees, transferees, or assigns.

ARTICLE I

1. DEFINITIONS.

Section A. "Association" shall mean and refer to the Meadowbrook Heights Second Subdivision Homeowners Association, Inc., a Colorado Nonprofit Corporation, its successors and assigns. Members of the Association shall be the Owners of Lots as hereinafter defined and as described in the Bylaws of the Association.

*Meadowbrook Heights
0522 0770
HOLD*

*R/S Development
816 S 57th St
Loveland, CO
80538*

Section B. "Owner" shall mean and refer to the record owner, including the Declarant, whether one or more persons or entities, of the fee simple title of any Lot which is part of the Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section C. "Property" or "Meadowbrook Heights Second Subdivision" shall mean and refer to that certain real property herein before described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation, or otherwise.

Section D. "Common Elements" shall mean and refer to all real property owned or controlled by the Association for the common use and enjoyment of the Owners, and shall include Tracts A, B, C, D, E, F, and G as depicted on the Subdivision Plat. Common Elements shall include the utility, drainage, postal, landscape, and pedestrian easements as depicted on the Subdivision Plat. "Common Elements" shall also mean the west fence and the fence easement bordering Mariana Glen Subdivision. The Common Elements may also be referred to as "Common Area."

Section E. "Easements" shall mean and refer to all easements shown on the recorded plat of Meadowbrook Heights Second Subdivision.

Section F. "Lot" shall mean and refer to any plot of land shown on any recorded subdivision plat of the Property, together with any improvements thereon, with the exception of the Common Elements.

Section G. "Architectural Review Committee" shall mean and refer to the Architectural Review Committee hereinafter further defined and organized.

Section H. "Common Expenses" shall mean and refer to maintenance, insurance, taxes, repair, operations, management and administration expenses, legal and accounting expenses, and other expenses declared by the provisions of the Declaration and by the Bylaws and Articles of Incorporation of the Association to be Common Expenses, and all sums lawfully assessed against the Common Elements by the Association. Common Expenses shall include, without limitation, the cost to irrigate and maintain all landscaping to the Common Elements, and maintenance of all signage and lighting for the entryway to the Subdivision.

Section I. "Fence Easement" shall mean and refer to the easement granted pursuant to, and described in Article VI (3).

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ARTICLE II

1. LIMITED EXPENSE PLANNED COMMUNITY.

The annual average Common Expense liability of each Lot restricted to residential purposes, exclusive of option user fees and any insurance premiums paid by the Association, may in no event exceed \$300 (or such greater amounts as may in the future be provided under the Act with respect to the existence of limited expense planned communities), and the Property in this Declaration is subject only to C.R.S. § 38-33.3-105, § 38-33.3-106, and § 38-33.3-107 of the Act, as amended from time to time, which provisions are hereby incorporated into this Declaration.

ARTICLE III

1. ASSOCIATION.

Section A. Authority. The business and affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws as amended from time to time.

Section B. Powers. The Association shall have all of the powers, authority, and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Common Interest Limited Expense Community. The Association may assign its future income, including its rights to receive the Common Expense Assessments, only by the affirmative vote of the 57 Lot Owners.

Section C. Declarant Control. The Declarant, or persons designated by it, may appoint and remove the officers and members of the Executive Board of the Association for a period of three (3) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado. The period of Declarant control as herein set forth is subject to the limitations of § 38-33.3-303(5) of the Act.

ARTICLE IV

1. OWNERS' RIGHTS.

Section A. Owners' Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (1) The right of the Association to charge reasonable fees and assessments for maintenance of Common Elements.

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(2) The right of the Association to suspend the voting rights and right to use of the Common Elements by an Owner for any period during which any assessment or lien against the Owner's Lot remains unpaid.

(3) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by a majority of the members of the Association.

Section B. Association Rules and Regulations. The Association shall have the right and power, through its Executive Board, to adopt such rules and regulations as it, in its sound discretion, shall determine from time to time to regulate and govern the use of the Common Elements.

ARTICLE V

1. ADMINISTRATION.

The administration of the Property by the Association shall be governed by this Declaration, and the Articles of Incorporation and Bylaws of the Association.

2. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

Section A. Every Owner of a Lot shall become a member of the Association upon acquisition of the Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Membership shall pass by operation of law upon the sale of any Lot, which sale may be by deed or by installment land contract ("contract for deed").

Section B. The Association shall have one (1) class of voting members. Each Lot shall be allocated one (1) vote in the Association as more fully made and provided in the Bylaws of the Association. When more than one person or entity owns an interest in a Lot, all such persons or entities shall be members of the Association. The vote for such Lot shall be exercised as the Owners thereof among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one Lot.

ARTICLE VI

1. COVENANT FOR MAINTENANCE RESPONSIBILITIES.

Section A. Covenant for Maintenance of Common Elements. The Association will provide for the maintenance of the Common Elements. Declarant shall have, in its sole discretion, control of when landscaping to the Common Elements is to be commenced and

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completed except, however, all landscaping shall be concluded within two (2) years from the date of the recording of this Declaration.

Section B. Insurance. The Association shall maintain such insurance coverage as a Common Expense as it, in its sole discretion, shall determine from time to time.

2. DELEGATION OF RESPONSIBILITIES.

Section A. Delegation. The Executive Board of the Association may from time to time enter into such management agreements or arrangements with such persons, firms, or corporations as it shall so elect to perform the duties of the Association and shall pay such compensation for such services as it, in its sole discretion, shall so determine. Subject to the right of the Declarant to appoint the members of the Architectural Review Committee, the Executive Board of the Association shall appoint on an annual basis, an Architectural Review Committee which will perform the functions hereinafter described. The Executive Board may appoint other committees to assist the Association in the performance of the Association's duties.

3. FENCE EASEMENT.

The Association is hereby granted a one-foot wide perpetual easement for the erection of fencing together with a three-foot easement for the maintenance and repair of said fence over that portion of each Lot located on the perimeter of the property, including Lots 6, 7, and 8, Block 1; Lots 1, 2, 3, 4, 5, and 6, Block 2; Lots 1 through and including Lot 12 and Lots 27 through and including Lot 42, Block 3; and Lots 9 through and including Lot 16, Block 4.

Fences may be constructed, repaired, and maintained within easements shown on the Subdivision Plat for landscaping.

The Association may, in its sole discretion, erect and maintain a fence or fences within all or portions of the fence easement, or the landscape easement, as a common expense. The fence easement shall be binding upon the Owners of said Lots, their successors in interest and assigns, and shall constitute a covenant running with the land. The Association shall have the right to assign all or a portion of its rights with respect to the fence easement.

ARTICLE VII

1. ASSESSMENT FOR COMMON EXPENSES.

Section A. Personal Obligation of Owners for Assessments. Each owner for any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the estimated Common Expenses attributable to the Property. Assessments for the estimated Common Expenses shall be due monthly or at such

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other intervals as may be set by the Association from time to time. The Association shall prepare and deliver by mail to each member at such intervals as may be set by the Association from time to time, a statement for the estimated Common Expenses.

Section B. Amount of Assessments. Assessments made for the Common Expenses shall be based on the cash requirements deemed to be the aggregate sum the Association shall, from time to time, determine is to be paid by the Owners, to provide for payment of all estimated expenses growing out of or connected with the maintenance or operation of the Common Elements, which sum may include, among other things, Common Expenses, expenses for management, taxes and special assessments, casualty and public liability and other insurance premiums, landscaping and care of grounds, common lighting, repairs, and renovations, wages, water charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, the payment of any deficit remaining from a previous period, and the creation of a reasonable contingency or other reserve, sinking, or surplus fund, as well as other costs and expenses related to the Common Elements. In no event shall the annual average Common Expense liability of each Lot restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the Association, exceed \$300 or such greater amounts as may in the future be provided under the Act in connection with the existence of limited expense planned communities.

Section C. Notice of Assessments. The Executive Board of the Association shall fix the amount of the assessment to be made against each Owner at least thirty (30) days in advance of the assessment period. The due date shall be established by the Executive Board and set forth in the notice of the assessment.

2. DESTRUCTION OF COMMON ELEMENTS.

If the Common Elements or a portion thereof is destroyed by fire or other casualty, the Executive Board may replace or repair the Common Elements if the Executive Board determines that such replacement or repair is in the best interests of the Owners of the Property.

ARTICLE VIII

1. LIEN FOR NONPAYMENT OF ASSESSMENTS.

Section A. Effect of Nonpayment of Assessments, Remedies of the Association. Each Owner shall be allocated a fraction of the total Common Expense, which fraction shall have as its numerator the number of Lots owned by each Owner, and the denominator of which shall be the total number of Lots in the Property. Each Owner shall pay the Owner's proportionate share of the Common Expenses and expenses of administration, maintenance, and repair of the Common Elements and any other expenses set forth in this Declaration, or lawfully assessed by the Association. Payment thereof shall be in such amounts and at such

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5. CUMULATIVE REMEDIES.

The liens for unpaid assessments and unpaid amounts due from Owners and the rights to foreclosure and sale described in this Declaration shall be in addition to and not in substitution for any rights and remedies which the Association and its assigns may have by law, including a suit to recover a money judgment for such unpaid amounts and assessments.

6. CONDEMNATION OF COMMON ELEMENTS.

If at any time, all or any portion of Common Elements, or any interest therein, is taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, then any award in condemnation shall be paid to the Association and deposited into its operating fund. No Owner shall be entitled to participate as a party, or otherwise, in any proceedings related to such condemnation. Such right of participation is herein reserved exclusively to the Association which shall, in its name alone, represent the interests of all Owners.

7. INVALIDATION.

Invalidation of any one of the covenants or provisions in the Declaration by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

8. LIABILITY OF ARCHITECTURAL REVIEW COMMITTEE AND EXECUTIVE BOARD.

No member, director or officer of the Executive Board of the Association, the Architectural Review Committee, or any other committee or office established hereunder shall be personally liable to any Owner or any other person for any error or omission of the Executive Board, the Association, the Architectural Review Committee, and committee established hereunder, their employees or representatives; provided that such member, director or officer has not acted with intentional bad faith or malice toward any Lot Owner.

Dated this 30th day of August, 1995.

DECLARANT:

K & B DEVELOPMENT LLC,
a Colorado Limited Liability Company

By Donald D. Keims
Donald D. Keims, General Manager

12. SIGNS.

No signs shall be located on any Lots except signs offering the Lot for sale and except builders' or suppliers' signage during the period of construction. Approval for other signs or signage may be obtained in writing from the Architectural Review Committee. Said Committee shall have the right to disapprove all such requests for signs except those described above.

13. ANIMALS.

No animals, livestock, cattle, swine, fowl, poultry, or insects of any kind shall be housed, raised, or left on any Lot either temporarily or permanently except commonly accepted domestic household pets may be kept, provided they are not kept or maintained for any commercial purpose. Animal pens shall be maintained on a regular basis to assure a neat and orderly appearance and a clean and healthy atmosphere.

14. RESUBDIVISION.

The erection of more than one dwelling per Lot or the resubdivision of Lots is prohibited unless consent of the Architectural Review Committee and the City of Loveland is first obtained in writing.

15. FENCES.

The construction of all fencing shall be constructed by a professional company engaged in the business of fence construction, and such company shall be subject to the approval of the Architectural Review Committee. All fences shall be maintained in good repair and shall be of the same size, color, and material as that of the fencing erected by Declarant; provided, however, limited privacy screening may be allowed for the hot tubs or like uses. Subject to approval by the Architectural Review Committee, four, five, or six-foot privacy fences may be allowed, natural in color.

16. There shall be a maximum fence height of four (4) feet along Tracts E-F-G and Tract A accesses.

ARTICLE XI

1. ARCHITECTURAL REVIEW.

There shall be created a committee called the Meadowbrook Heights Second Subdivision Architectural Review Committee (hereinafter referred to as "Architectural Review Committee"). No building shall be erected, placed, or altered on any Lot, nor shall any wall, fence, or other enclosure, deck, patio, porch, solar collector, or other improvement, be located thereon, until construction plans and specifications, including, without limitation, exterior

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colors for painted and stained surfaces, plot plan and configuration, size and square footage of improvements, have been submitted to and have been approved by the Architectural Review Committee, in its sole discretion, as to quality of workmanship and materials, harmony of design with surrounding structures, exterior colors, and location with respect to topography and grade.

One complete set of plans and specifications shall be furnished to the Architectural Review Committee. All plans and specifications must be complete, legible, and understandable but need not be professionally drawn or prepared. The Architectural Review Committee reserves the right to reject plans and specifications if they, in their discretion, deem them to be incomplete or insufficient. The Architectural Review Committee shall have the right to waive or vary any of the requirements described in this Declaration. The Architectural Review Committee may retain one (1) set as part of its permanent files. The following items must be included in such plans and specifications (in addition to other items which the Architectural Review Committee may require, in its sole discretion from time to time) and shall, without limitation, be subject to approval of the Architectural Review Committee in its sole discretion:

- a. Size and square footage of finished space including floor plans;
- b. Exterior elevations.
- c. Exterior colors and samples of exterior materials. All colors must be selected from the color Board and exterior materials must be approved in advance by the Architectural Review Committee, in its sole discretion.
- d. Harmony of design with surrounding structures and variation in exterior design to avoid monotony of repetition;
- e. Plot layout with respect to topography, grade, and drainage in relation to existing dwellings and drainage.

2. MEMBERSHIP TO THE COMMITTEE.

The Architectural Review Committee shall consist of not less than one (1) nor more than three (3) persons. As of the date of this Declaration, the Architectural Review Committee shall consist of Donald D. Keirns and Kathryn M. Beadell, whose address is 816 East 57th Street, Loveland, CO 80538. If the Architectural Review Committee consists of more than one member, a majority of the Architectural Review Committee may designate a representative to act for it. Neither the members of the Architectural Review Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this Declaration. The Architectural Review Committee shall, however, have the authority to use the services of an architect as consultant and charge a sum not exceeding One Hundred Fifty Dollars (\$150) for each set of plans and specifications submitted to it for

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approval to defray the fees of the consultant. The consultant shall not have the right to vote in passing on the plans and specifications. Until Declarant sells or conveys all Lots owned by Declarant, Declarant shall have the right to appoint the members (or their successors) of the Architectural Review Committee. Upon sale of all Lots owned by Declarant, the Architectural Review Committee shall be appointed on an annual basis by the Executive Board of the Association from among the Lot Owners. After the sale of all Lots owned by the Declarant, and in the event of death or resignation of any member of the Architectural Review Committee, the remaining members shall have the authority to designate a successor.

3. PROCEDURE.

The Architectural Review Committee's approval or disapproval as required in this Declaration shall be in writing or as indicated on the builder's or Owner's set of plans and specifications. In the event the Architectural Review Committee or its designated representative fails to approve or disapprove within forty-five (45) days after the plans and specifications have been submitted to it, the plans and specifications will be deemed approved and the related covenants described in this Declaration shall be deemed to have been fully complied with; provided, however, that such approval will only be deemed to have occurred with regard to matters sufficiently described in plans and specifications which are actually received by the Architectural Review Committee.

All buildings and improvements shall be constructed in accordance with plans and specifications approved by the Architectural Review Committee. Any changes to approved plans and specifications shall require resubmission to and approval by the Architectural Review Committee.

4. ADOPTION OF GUIDELINES.

The Architectural Review Committee may from time to time formulate and adopt guidelines and procedures consistent with this Declaration for the purpose of clarifying or assisting in the exercise of its duties contemplated by this Declaration. The Architectural Review Committee may formulate guidelines and rules regarding the adoption of architectural and construction standards and the regulation of use of Lots on the Property. The contents of the guidelines may not necessarily be reflected by this Declaration. Such guidelines must be approved by the Executive Board of the Association. The Architectural Review Committee will furnish a copy of said guidelines, upon request and payment of an amount equal to the cost of copying such guidelines, procedures, and rules.

5. NONWAIVER.

The approval or disapproval by the Architectural Review Committee of any plans, drawings, or specifications for any work or construction done or proposed, or in connection with any other matter requiring the approval of the Architectural Review Committee under this Declaration, shall not be deemed to constitute a waiver of any right to approve or

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disapprove any similar plan, drawing or specification or matter whenever subsequently or additionally submitted for approval by any Owner.

6. ESTOPPEL CERTIFICATE.

Within thirty (30) days after written demand therefor is delivered to the Architectural Review Committee by any Owner, and upon payment to the Association of a reasonable fee from the time to be fixed by the Architectural Review Committee, the Architectural Review Committee shall provide the Owner with an estoppel certificate executed by any one of its members, certifying with respect to the Lot of said Owner, that as of the date thereof either: (a) All improvements and other work made or done upon or within said Lot comply with this Declaration; or (b) such improvements and work do not so comply, in which event the certificate shall also (i) Identify the noncomplying improvements and work; and (ii) set forth with particularity the cause or cause for such noncompliance.

ARTICLE XII

1. RESERVED DECLARANT RIGHTS AND ADDITIONAL RESERVE RIGHTS.

Declarant reserves the right for the maximum time limit allowed by law (or, to the extent no such time limit is fixed by law, for a period of fifteen (15) years after the recording of this Declaration) to perform the acts and exercise the rights specified below (the "Reserved Declarant Rights"). Declarant's Reserved Declarant rights include the following:

- a. Completion of Improvements. The right to complete improvements indicated on the plat of the Meadowbrook Heights Second Subdivision.
- b. Sales Management and Marketing. The right to maintain sales offices, management offices, signs advertising the Property or portions thereof for sale, and models on the Property. The Declarant shall have the right to determine the size and location of any sales offices, management offices, and models. The Declarant shall also have the right to relocate any sales offices, management offices, and models from time to time at its discretion. After the Declarant ceases to be the owner of a Lot, the Declarant shall have the right to remove any sales offices, management offices, and models from the Property.
- c. Master Association. The right to make the Property subject to another nonprofit association formed to govern the Property and one or more common interest communities.
- d. Merger. The right to merge, consolidate or annex the Property with another common interest community.

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- e. Control of Executive Board Members and Officers. The right to appoint or remove any officer or director of the Association or any member of the Architectural Review Committee.
- f. Amendment to Declaration. The right to amend this Declaration in connection with the exercise of the following rights (collectively, the "Development Rights").
- (i) Add real estate to the Property;
 - (ii) Create Lots and additional Common Elements;
 - (iii) Subdivide Lots or convert Lots into Common Elements;
 - (iv) Withdraw all or any portion of the Property from the provisions of this Declaration.
- g. Amendment of Plat. The right to amend the Meadowbrook Heights Second Subdivision plat in connection with the exercise of any Development Rights.
- h. Transferability of Rights. Any of the Declarant's rights may be transferred to any person or entity by an instrument describing the right transferred and recorded in the Larimer County, Colorado, records. Such instrument shall be executed by the transferor or Declarant and the transferee.

ARTICLE XIII

I. COVENANTS TO RUN WITH THE LAND.

This Declaration and these provisions are to run with the land and shall be binding upon all parties and all persons claiming under them until January 1, 2004, at which time this Declaration and said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of the then record Owners of a majority of the Lots it is agreed to amend this Declaration and said covenants in whole or in part. Provisions for maintenance of Common Elements and open space located in the Property shall not be permitted to lapse with other covenants unless other provisions are made for the continuation of maintenance. This Declaration may be amended in whole or in part at any time by a duly written and recorded instrument executed by the then record Owners of a majority of the Lots. Notwithstanding any provision to the contrary in this Declaration, until Declarant has sold all Lots owned by Declarant, any amendment to this Declaration shall require the consent of Declarant.

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2. DELINQUENCY.

Any assessment or other amount due from an Owner as provided for in this Declaration, which is not paid when due, shall be delinquent. With respect to each amount not paid within thirty (30) days after its due date, the Association may, at its election, require the Owner to pay a "late charge" in a sum to be determined by the Association, but not to exceed 10 percent of the amount due. If any such amount or assessment is not paid within thirty (30) days after the delinquency date, the assessment or amount shall bear interest from the date of delinquency at the rate of eighteen percent (18%).

3. ASSOCIATION'S PERFORMANCE OF AN OWNER'S DUTIES.

In the event any Owner fails to comply with the provisions of this Declaration, the Association shall be entitled to take whatever lawful actions are necessary to enforce the provisions hereof including performing such duties on behalf of the Owner. If the performance of an Owner's duties by the Association requires the Association or its delegates to enter onto the Lot of an Owner for such purposes which shall include, but not be limited to, cutting of weeds, erosion control, and trash clean up, such entry shall be deemed to have occurred with the consent of the Owner and shall not constitute a trespass. The Association shall be entitled to recover all costs, expenses and attorneys' fees incurred by the Association in performing the duties of an Owner. If the Owner fails or refuses to pay the Association for such amounts within thirty (30) days from the date invoiced by the Association, the amounts, including late charges and interest, shall constitute a lien against the Owner's Lot together with the Owner's interest in the Common Elements, and shall have the same priority, and shall be documented, evidenced, attached, enforced and accompanied by the same benefits as the lien for nonpayment of assessments described in this Declaration.

4. LEGAL PROCEEDINGS.

If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants or provisions described in this Declaration, it shall be lawful for the Association or any Owner to prosecute or bring proceedings at law or in equity against the person or persons violating any such covenant.

In the event that the Association elects to bring any claim or action against an Owner, his family, invitees, licensees, tenants or subtenants, to enforce the provisions of this Declaration, such Owner shall be liable to the Association for all costs, expenses, and reasonable attorneys' fees incurred by the Association in such action. If the Owner fails or refuses to pay the Association for such amounts within thirty (30) days from the date invoiced by the Association, the amounts, including late charges and interest, shall constitute a lien against the Owner's Lot together with the Owner's interest in the Common Elements, and shall have the same priority, and shall be documented, evidenced, attached, enforced, and accompanied by the same benefits as the lien for nonpayment of assessments described in this Declaration.

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times as may be determined by the Association. If any Owner shall fail to make any such payments of the Common Expenses when due, the amount thereof, including late charges and interest, shall perfected a lien against the Lot of the Owner together with the Owner's interest in the Common Elements and upon the recording of notice thereof by the Association, such liens shall be constituted upon such Owner's interest in said Lot prior to all other liens and encumbrances, recorded or unrecorded, except: (a) Taxes or special assessments theretofore or thereafter levied by any political subdivision or municipal corporation of this state, and other state or federal taxes which by law a lien on the interest of such Owner is prior to pre-existing recorded encumbrances; and (b) all unpaid obligatory sums as may be provided by a recorded encumbrance, including additional advances made thereon prior to the arising of such Common Elements assessment lien.

Section B. Evidence of Lien. To evidence such lien for unpaid assessments, the Association shall prepare a written notice setting forth the amount, the name of the Owner of the Lot, and a description of the Lot. Such notice shall be signed on behalf of the Association by an officer of the Association and shall be recorded in the office of the Clerk and Recorder of the County of Larimer. Such lien may be enforced by the foreclosure by the Association of the defaulting Owner's Lot in like manner as mortgages on real property. The lien for Common Elements assessment shall be in favor of the Association. In any such foreclosure, the Owner shall be required to pay all the costs and expenses of such proceedings; the costs, expenses, and all reasonable attorney's fees in connection with such foreclosure; and all such unpaid amounts, including late charges and interest. These amounts shall constitute a lien on the Lot of the Owner together with the Owner's interest in the Common Elements and shall have the same priority, and shall be documented, evidenced, attached, enforced, and accompanied by the same benefits as the lien for nonpayment of assessments herein described. The Owner shall also be required to pay to the Association all assessments during the period of the foreclosure, and the Association, on behalf of the members, shall have the power to bid on the Lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. The Association shall send to each first mortgagee a copy of the notice of lien provided for herein. Any encumbrances holding a lien on a Lot may, but shall not be required to, pay any unpaid Common Expenses payable with respect thereto; and upon such payment, such encumbrances shall have a lien on such Lot for the amounts paid of the same rank as the lien of his or its encumbrance.

ARTICLE IX

1. OWNER'S OBLIGATION FOR PAYMENT OF ASSESSMENTS.

Section A. Personal Obligation to Pay Assessments. The amount of expenses assessed by the Association against each Owner shall be the personal and individual debt of the Owner at the time the assessment is made. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. No Owner may exempt himself or itself from liability for his or its contribution

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toward the Common Expense by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Lot of the Owner.

Section B. Liability of Grantee. The grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his or its proportionate share of expenses up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid to the grantee therefore; provided, however, that upon payment of a reasonable fee not to exceed twenty dollars (\$20) and upon written request, and such prospective grantees shall be entitled to a statement from the Association setting forth the amount of unpaid assessments, if any with respect to the subject Lot, the amount of the current assessments and the period that it covers, and the date the assessment comes due, credit for advance payments or for prepaid items which shall be conclusive upon the Association. If a statement of indebtedness is not sent by the Association to the prospective grantee within twenty (20) days of such request, such grantee shall not be liable for, nor shall the Lot, if conveyed to the grantee, be subject to a lien for any unpaid assessments against the subject Lot.

ARTICLE X

1. LAND USE AND BUILDING TYPE.

No Lot shall be used except for single-family residential purposes, although Owners may use their residences for in-home businesses if: (i) Consistent with applicable governmental zoning ordinances; (ii) traffic is not unreasonably increased in the subdivision; and (iii) if such use is approved in advance by the Architectural Review Committee, in its sole discretion; provided, further, that the Architectural Review Committee can revoke such use in its discretion at any time. Except as provided in Article X, 4, Section A, no building shall be erected, altered, placed, or permitted to remain on any Lot other than one single-family dwelling of a height, size, and location as approved in the sole discretion of the Architectural Review Committee.

2. MINIMUM SQUARE FOOTAGE.

No dwelling shall be erected, altered, or permitted to remain on any Lot unless the finished floor space area thereof, exclusive of basement, open porches, garages, and attached out-buildings, and based on exterior measurements, shall not be less than:

- a. 1,100 square feet for a one-story dwelling;
- b. 1,400 square feet for more than a one-story dwelling.

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3. BUILDING LOCATION AND SET-BACK REQUIREMENTS.

The location and set-back of each building on any Lot shall be determined in the sole discretion of the Architectural Review Committee, which set-back and location restrictions and limitations shall be at least consistent with all applicable governmental zoning ordinances, subdivision regulations, and building codes. The Architectural Review Committee may, in its sole discretion, require and enforce varied and more restrictive set-back and location requirements with respect to the various Lots located in the Meadowbrook Heights Second Subdivision. No portion of any improvement or building on a Lot may encroach upon another Lot.

4. OTHER PROVISIONS RELATING TO THE CONSTRUCTION OF IMPROVEMENTS.

Section A. Garages and Storage Sheds. Only one detached garage, storage shed, garden house, or other building shall be constructed on any Lot. The Architectural Review Committee shall have sole discretion on design, location, and color of additional buildings.

Section B. Exterior Dwelling Roofs. All roofs must be approved by the Architectural Review Committee and, unless otherwise approved by the Architectural Review Committee, in its sole discretion, all exterior dwelling roofs shall be, at a minimum, a 25-year warranty fiberglass shingled roof, Tamko Heritage II, weathered wood in color.

Section C. Sanitation and Appearance of Lots During Construction. During the construction of a dwelling on a Lot, the Owner of such Lot is responsible for ensuring that the Owner or Owner's builders: (i) Provide a portable toilet at the construction site; (ii) provide suitable receptacles for construction waste; (iii) do not deposit excess concrete, building materials, and waste on the Common Elements, adjacent Lots, ditches, or on the Roads and Easements, and that all such materials are appropriately removed from the Property by at least the time the construction of the dwelling is complete; and (iv) pay for and repair any damage to Common Elements, Roads and Easements, Drainage ways, or any other portion of the Property occurring during the construction of the dwelling.

Section D. Architectural Design. The overall building design, including, but not limited to, exterior materials and colors and solar energy systems, shall be subject to the approval of the Architectural Review Committee, in its sole discretion. Each Lot Owner shall select a neutral color from among those colors displayed on a color board ("Color Board") approved by and made available to Owner by the Architectural Review Committee, which can be changed at the discretion of the Architectural Review Committee.

Section E. Site Planning. Overall site planning and grading of each Lot shall be subject to the approval of the Architectural Review Committee, in its sole discretion.

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Section F. Construction. Construction of a Residence or other structure approved by the Architectural Review Committee shall commence within three (3) months after approval of the plans and specifications, and the Owner shall thereafter proceed diligently with such construction. The exterior of any such structure shall be completed within six (6) months of the date of commencement of construction. The Architectural Review Committee may grant an extension of the foregoing time period for good cause and when such extension is requested by the Owner. Upon approval of plans and specifications for the construction of a Residence on a Lot, the Owner of the Lot shall deliver to the Declarant an amount equal to Two Hundred Fifty Dollars (\$250) to be held by the Declarant as a clean-up deposit ("the Deposit"). The Deposit shall be returned to the Owner within thirty (30) days after the Residence has been completed and all excess debris removed from the Lot. However, if the exterior of the Residence is not completed within six (6) months after the date of commencement of construction, the Owner shall forfeit the Deposit. If the Residence is completed within six (6) months of commencement of construction, but all excess debris has not been removed from the Lot within such time period, then the Architectural Review Committee shall have the right, but not the obligation, to enter upon the Lot and remove such excess debris and deduct the cost of such removal from the Deposit. The balance of the Deposit, if any, shall be returned to the Owner within thirty (30) days after all excess debris has been removed from the Lot. The deposit will be forfeited unless the Owner makes a written request for the return of the balance of the Deposit from the developer within six (6) months after completion of Owner's home.

Section G. Sidewalk Construction by Lot Owners. Each Lot Owner, other than Declarant, who initially constructs a residence on a Lot, shall at said Owner's sole expense, shall be responsible for the construction and maintenance of the sidewalks along the street front of each Lot.

Section H. Area Maintenance by Lot Owners. All property Owners are responsible for maintaining the area between their property boundary and the edge of the pavement along their Lot, including the maintenance of the street trees.

Section I. Fence Heights. Owners of Lots that are adjacent to the public walkways shown on the plat shall have a maximum fence height of four (4) feet along the pedestrian easements.

The maximum fence height along Wilson Avenue is five (5) feet high.

Section J. Corner Lot Fence Restrictions. There shall be no stockade fences on the following Lots:

Lots 1 and 8, Block 1; and Lots 1 and 12, Block 2 off of Fifth Street SW and Amelia (was Rhonda Court) and Dana Court;

Lot 1, Block 3; and Lot 16, Block 4 off of Kathryn Drive.

The fences shall be designed in accordance with the City of Loveland's Site Distance Triangle Guide.

Section K. Pedestrian Traffic. Pedestrian traffic may occur on public walkway as the result of public access.

5. PERMITTED USES.

No noxious or offensive activity shall be carried on upon any Lot, nor may anything be done which may become an unreasonable nuisance or annoyance to the Property or other Owners. No Lot shall be used as a parking or storage area for vehicles or materials of any kind, other than personally owned automobiles of the Owner, and except for a reasonable term while a structure on said Lot is under construction. No Lot or other portion of the Property shall be used by an Owner as a parking or storage area for personally owned automobiles intended for commercial purposes to the extent that such automobiles constitute an unreasonable nuisance or annoyance to the Property or other Owners as to the size or quantity thereof. The Architectural Review Committee may from time to time formulate and adopt guidelines indicating the number and size of personally owned automobiles intended for commercial purposes which may be stored or parked on the Property by an Owner. No campers, trailers, motor homes, buses, tractors/trailers, "RVs" (recreational vehicles) or boats shall be stored or regularly parked on the Property, except if stored or regularly parked in a fenced area or enclosed garage. No motor vehicles of any kind, including cars, trucks, trailers, motorcycles, or the like, may be stored, junked, or otherwise maintained in any idle or unworkable condition. No motor vehicle or machine will be overhauled or rebuilt in the driveway of any Lot, in front of any dwelling on any Lot, or on the Roads and Easements. Only vehicles and machines of good running condition which are currently licensed and registered are permitted to be parked.

6. MINERAL EXTRACTION.

No mining or extraction of minerals shall be permitted on any Lot including seismic or other mineral extraction testing.

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7. WATER AND SANITATION.

Any residence constructed on any Lot shall be connected with any public or community water or sewage disposal system which may be formed or created to serve the Subdivision. Privies, outhouses, chemical toilets, etc., are expressly prohibited except for a reasonable period of time during the construction of a residence.

8. DRAINAGE.

Each Owner is responsible for providing adequate water drainage from the Owner's Lot into existing storm drains or street gutters so that such water does not drain onto adjacent Lots. No chemicals or petroleum products shall be allowed to drain into storm drains or street gutters but this paragraph will not prevent the application in normal quantities of customary insect, animal, or plant control substances, fertilizers, and plant foods on Lots even if run-off from the Lots could carry these substances into the storm drain system.

9. REFUSE AND RUBBISH.

All property and premises shall be kept in a clean and sanitary condition at all times. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage, or any other form of solid, semisolid, or liquid waste. Rubbish, garbage, or other waste shall be kept and disposed of in a sanitary container. All containers or other equipment for the storage or disposal of garbage, trash, rubbish, or other refuse shall be kept in a clean, sanitary condition and shall be kept inside the residence or individually housed or screened from view. No trash, litter, or junk shall be permitted to remain exposed upon the premises and visible from public roads or adjoining or nearby premises. Burning of trash will not be permitted.

10. YARD MAINTENANCE AND LAWN SEEDING.

All yards shall be landscaped within one (1) year after completion of residence.

11. APPEARANCE OF LOTS.

Each Lot at all times shall be kept in a clean, sightly, and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building materials shall be permitted to remain exposed upon any Lot so they are visible from any neighboring Lot or streets, except as necessary during the period of construction. In the event any structure is destroyed, either wholly or partially, by fire or any other casualty, said structure shall be promptly rebuilt or remodeled to conform with this Declaration; or if the structure is not to be rebuilt, all remaining portions of the structure, including the foundation and all debris, shall be promptly removed from the Lot.