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DECLARATION OF PROTECTIVE COVENANTS
OF BOISE VILLAGE NORTH, P.U.D.
CITY OF LOVELAND, LARIMER COUNTY, COLORADO

RECITALS:

1. Declarant is the Owner in fee of all the Lots according to and identified in the recorded Corrected Final Plat of KOLDEWAY INDUSTRIAL THIRD SUBDIVISION, being a Subdivision of Lot 8, Block 1, Koldeway Industrial First Subdivision and also Lot 4, Block 1, Koldeway Industrial Second Subdivision, City of Loveland, located in Section 18, Township 5 North, Range 68 West of the Sixth P.M., Larimer County, Colorado. Such development and lands being sometimes referred to hereafter as the "Property".

2. It is the intention and desire of the Declarant to set forth this Declaration of Protective Covenants in order to promote the harmonious and attractive development of the Property for the health, comfort, safety, convenience, and general welfare of the present and subsequent Owners of the Property and each portion thereof.

NOW THEREFORE, Declarant hereby declares that the Property is subject to the following protective covenants which shall run with the land for the benefit of and be binding upon each present and subsequent Owner of any right, title or interest in any portion of the Property and their respective heirs, grantees, successors, representatives, and assigns.

DEFINITION OF TERMS

As used in this Declaration, the following terms shall have the meanings indicated:

Adjacent Street Tree Lawn. Means and refers to the sidewalk, trees, grass and other landscaping and plantings which abut a Lot or Tract and are within the right-of-way for the street; being that specific portion which is encompassed by extending the side lot lines of the Lot (or the side and rear lot lines of a Corner Lot) or Tract on a straight line toward the center of the street which the lot line intersects.

Architectural Control Committee. The Committee described in Article II of this Declaration.

Colorado Common Interest Ownership Act. The Colorado statutes known as the "Colorado Common Interest Ownership Act", which is now codified as Article 33.3 of Title 38, Colorado Revised Statutes, as may from time to time hereafter be amended.

Corner Lot. Means and refers to a Lot which abuts more than one street.

10-10-05

LOVELAND MIDTOWN DEVELOPMENT INC

1043 EAGLE DR
LOVELAND, CO 80537-0000

Dealer. Means and refers to a person in the business of constructing homes or selling Lots for such person's own account.

Declarant. The Owner of the Property whose signature is affixed to this Declaration, and any successor or assign to Declarant's Rights hereunder with respect to Declarant Control.

Declarant Control. Rights reserved to the Declarant to control the Architectural Control Committee.

Declarant's and Dealers' Facilities. Facilities as in the sole opinion of the Declarant may be reasonably required, convenient, or incidental to the construction, management and sale of the Lots and residences thereon by Declarant or Dealers, including but not limited to, business offices, storage areas, construction yards, model homes, signs, and sales offices.

Declarant's Rights. Rights reserved to the Declarant by this Declaration.

Declaration. This Declaration as amended, changed, or modified from time-to-time.

Duplex. Means and refers to a single residential building containing two residential units each designed to be occupied by a single family.

Duplex Home Lot. Means and refers to all of the Lots in Block 20.

Dwelling. Means and refers to a single-family or duplex residential building constructed on a Lot.

Final Development Plan. Means and refers to the Final Development Plan on file with the City of Loveland for the Property.

Improvement. Means and refers to any dwelling, outbuilding, shed, garage, fence, wall, pad, driveway, walkway, parking area, curb, clotheslines, berm or landscaping, deck, patio or other structure or improvement of any kind.

Lot or Lots. Means and refers to the Lots as shown on the Plat, and any other Lots hereafter created within or added to the Property. It does not include any area identified on the Plat as a Tract.

Neo-Traditional Home Lot. Means and refers to Lots 1 through 14 inclusive in Block 10; and Lots 5 through 10 inclusive in Block 11, and all of the Lots in Blocks 1, 6, 7, 9, 12, 13, 14, 15, 16, 17 and 18.

Owner. The record fee Owner, or Owners if more than one of a Lot, including

Declarant so long as Declarant owns any Lot. Owner shall include the seller of a Lot under any executory contract for sale or installment sale contract. Owner shall not include any person holding a mineral interest or holding an interest solely as security for satisfaction of an obligation.

Plat. The Corrected Final Plat of KOLDEWAY INDUSTRIAL THIRD SUBDIVISION, being a Subdivision of Lot 8, Block 1, Koldeway Industrial First Subdivision and also Lot 4, Block 1, Koldeway Industrial Second Subdivision, City of Loveland, located in Section 18, Township 5 North, Range 68 West of the Sixth P.M., Larimer County, Colorado, as recorded in the records of the Larimer County Clerk and Recorder. If additional lands are hereafter added to the Property, the term shall also include the plat(s) of such additional lands.

Property. All of the Lots shown on the Plat, and any other real property hereafter added. The Property does not include any land identified on the Plat as a Tract.

Purchaser. Means and refers to a person, other than a Declarant or a Dealer who by means of a transfer acquires a legal or equitable interest as an Owner in a Lot, other than: (a) a leasehold interest in a Lot of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or (b) a security interest.

Single-Family. Means and refers to an individual, or a group of persons related by blood or marriage, or a group of not more than three persons who are not all related to each other by blood or marriage living, together.

Successor. When used in connection with the Declarant, means one or more persons (other than a Purchaser) who have been assigned or otherwise succeeded to all or a portion of Declarant's Rights. Whether or not specifically so stated, any right exercisable by Declarant shall also be exercisable by a Successor to whom Declarant has assigned such rights.

Traditional Home Lot. Means and refers to Lots 15 through 21 inclusive in Block 10; and Lots 1 through 4 inclusive in Block 11; and all of the Lots in Blocks 2, 3, 4, 5, 8 and 19.

Two-Family. Means and refers to use of a Duplex by two single families, each single family living in one of the residential units.

ARTICLE I LAND USE CONTROL

1.00 Land Use and Building Type. Except as may expressly be provided otherwise in this Declaration, Traditional Home Lots shall be used only for single-family residential purposes, and Duplex Lots shall be used only for two-family residential purposes; provided, that, all Lots may also be used for any home occupation which is in compliance with this

Article I and is permitted by applicable zoning regulations. Except for Declarant's Facilities or Dealers' Facilities approved by Declarant, no building, other than approved outbuildings, shall be erected, altered, placed or permitted to remain on any Lot except as follows: (a) on Traditional Home Lots and Neo-Traditional Home Lots, one detached single-family dwelling and a private attached or detached garage; and, (b) on Duplex Lots, one single family dwelling or one dwelling unit of a Duplex dwelling, and attached or detached garage(s). In addition, the Architectural Control Committee may approve placement on a Lot of outbuildings in accordance with paragraph 1.03 below, if the Committee finds that such structure is compatible with the harmonious and attractive appearance of the Lot and is of satisfactory design and quality. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant and its builders, agents, employees, successors and assigns to maintain Declarant's Facilities, and for Declarant to authorize Dealers to maintain Dealers' Facilities, on the Property during the period of construction and sale of the Lots.

1.01 Architectural Control Committee Approval Required. Except for Declarant's Facilities or Dealers' Facilities approved by Declarant, no Improvement shall be erected, placed, maintained, or altered on any Lot unless they are in compliance with this Declaration and all required plans and specifications related thereto have been first submitted to and approved by the Architectural Control Committee in accordance with the provisions of Article II.

All dwellings and other buildings, shall have finished exteriors and roofs of styles, types and of materials approved by the Architectural Control Committee. Unless otherwise approved by the Architectural Control Committee: (a) the dwelling roof of Traditional Homes and Duplexes shall have a pitch of no less than five/twelve and an overhang no greater than eighteen inches, and detached building roofs shall have a pitch of no less than four/twelve and an overhang no greater than eighteen inches; and (b) the dwelling roof of Neo-Traditional Homes and detached buildings shall have a pitch of no less than six/twelve and an overhang no greater than that allowed by the Final Development Plan, except that carports or covered walkways shall have roof pitches and overhangs as the Architectural Control Committee determines appropriate for the particular Lot and structures thereon.

The architectural theme of development for the Property is a mix of traditional and "neo-traditional" or "bungalow" style of design. It is the intent of this Declaration to allow the Architectural Control Committee to exercise full discretion in the approval and denial of any Improvement so as to create a development that compliments the character of the Property, and to foster compatible designs which are harmonious with the development of the Property. Therefore, in addition to, and notwithstanding, the other provisions of this Article I, and those set forth in Article II, the Architectural Control Committee shall have the absolute and unfettered authority and discretion to approve or deny any Improvement so as to provide, in the view of the Architectural Control Committee, the best use and the most appropriate development and Improvement of each Lot so as to protect the Owners of building sites against inappropriate use of surrounding Lots as will depreciate the value of the Lots; to guard against the erection of poorly designed structures, and structures built of improper or unsuitable

materials; to obtain harmonious color schemes; to provide the highest and best development of said Property; to encourage and secure the erection of attractive homes and other permitted structures thereon, with appropriate locations thereof on Lots; to prevent haphazard and inharmonious improvement of Lots; to secure and maintain proper setbacks and in general to provide adequately for an appropriate type and quality of Improvements on said Lots and thereby enhance the value of Improvements on the Lots. In furtherance of these powers, the Architectural Control Committee may, but is not required to, adopt from time to time, guidelines for development, including, but not limited to, construction materials, exterior finishes and colors, landscapes and fence design and materials, exterior lighting and ornaments, and architectural style; and may amend, revoke, modify, and deviate therefrom, in whole or in part all or any part thereof from time to time.

1.02 Dwelling Quality and Size. Dwellings must be built on-site and no prefabricated, or off-site manufactured, or previously built, or modular home shall be permitted upon any Lot. Each dwelling shall include, either as a part thereof or as a detached structure, a private garage with a minimum area of 400 square feet and capable of housing no less than **two (2)** passenger cars. For Neo-Traditional Lots, all garage access shall be from the alley in the rear, and no vehicle access shall be from the street(s) abutting the Lot. The design shall de-emphasize the prominence of the garage when viewed from the street. The Architectural Control Committee is vested with the authority to adopt from time to time minimum and maximum permissible area of dwellings and the apportionment of area between the first floor and other floors or basement areas; provided that, unless the Architectural Control Committee allows a lesser amount: (a) no dwelling on a Neo-Traditional Lot shall have less than **650** square feet of living space on the first floor; and, (b) dwellings on Traditional Home Lots shall have no less than **1,000** square feet of finished living space on the first floor; and, (c) each Dwelling Unit in a Duplex shall have no less than **650** square feet of living space on the first floor. The determination of what constitutes living space within a dwelling for such area calculations shall be within the sole discretion of the Architectural Control Committee. The Architectural Control Committee shall be vested with the sole determination as to what constitutes the first floor of a dwelling and what constitutes a story and basement for purposes of this Article I, and such determination with regard to any proposed dwelling shall be final and binding upon the Owner. For purposes of this Section, unless a different standard is adopted by the Architectural Control Committee, the square footage of finished living area shall be calculated by the exterior measurement of living area only, excluding basement and garden level areas (whether or not there is a basement or garden level walkout) and excluding attic areas, garage, porches, balconies, decks, lofts, patios, and open spaces. In no event shall any roof line or architectural feature of any dwelling exceed **twenty-six (26)** feet in height above finish grade immediately adjacent to the front entrance (as determined by the Architectural Control Committee) of the dwelling.

1.03 Outbuildings. All outbuildings are subject to the prior approval of the Architectural Control Committee in accordance with the provisions of this Declaration. In addition to a single-family dwelling, the Architectural Control Committee may, but is not required to, approve the following outbuildings for a Lot:

1.03.1 Detached Buildings. In the discretion of the Architectural Control Committee, each Traditional Home Lot may have: (i) one (1) detached utility outbuilding which, unless otherwise approved by the Architectural Control Committee, shall not exceed **one hundred-twenty (120)** square feet and a height not to exceed **twelve (12)** feet at the roof peak which may be used for storage or other use permitted by this Declaration; and (ii) one recreational structure such as a gazebo, or hot tub enclosure; and (iii) a detached garage, if a garage is not incorporated in the dwelling. The maximum size and height of garages and recreational structures shall be determined by the Architectural Control Committee for the particular Lot and structures thereon. Unless otherwise approved by the Architectural Control Committee, any detached building and its roofing shall be of the same or similar material and style and color as the dwelling.

1.04 Building Location. Except for fences approved by the Architectural Control Committee, no building or other structure shall be placed in any area shown on the Plat as an easement. Except for Declarant's facilities and fences approved by the Architectural Control Committee, and subject to the other provisions of this Section 1.04, all structures located on any Lot shall be subject to the setback requirements set forth in the "Setback Matrix" attached hereto as Exhibit "A" and incorporated herein by this reference.

1.04.1 Traditional Home Lots and Duplex Lots: Notwithstanding any other provision of this Section 1.04, the provisions of this paragraph 1.04.1 shall apply to location of structures on Traditional Home Lots and Duplex Lots. For purposes of measurement of setbacks, the rear set back shall be measured from the rear lot line to the nearest wall of the structure, and the front setback shall be measured from the front sidewalk edge which is closest to the structure, to the nearest wall of the dwelling, or garage, whichever is closest. Notwithstanding any other provision, where access to the garage is from the front of the Lot, the garage shall be no less than **twenty (20)** feet from the nearest edge of the front sidewalk; and for Lots where garage access is from the side, the garage shall be no closer than **twenty (20)** feet from the nearest edge of the sidewalk on the side where access is obtained. A covered patio or porch shall be considered to be a wall of the structure. The Architectural Control Committee shall determine in its sole discretion what constitutes the nearest wall of the structure for purposes of compliance with the setback requirements. The Architectural Control Committee may allow unobtrusive projections not exceeding **two (2)** feet in depth and **ten (10)** feet in width (such as for eaves, cantilevers, fireplaces, bay windows, and similar features; but not covered or enclosed porches or covered or enclosed patios) to extend into the front yard, rear yard and side yard setbacks; provided that in no event shall such projections extend into any easement area and in no event shall the eave-to-eave distance between structures on different Lots be less than six (6) feet. Uncovered and unenclosed decks and patios, and balconies may project into the backyard and side yard setback; provided that they do not encroach on any easement or right-of-way.

1.04.2 Neo-Traditional Home Lots. Notwithstanding any other provision of this Section 1.04, the provisions of this paragraph 1.04.2 shall apply to location of structures on

Neo-Traditional Home Lots. Each Neo-Traditional Home Lot may have one side lot line where no setback is required, and such side lot line is referred to as the "zero setback side lot line". Structures are allowed to be built up to the zero setback side lot line; provided that in no event shall the distance between the nearest walls of structures on different Lots be less than **ten (10)** feet, and in no event shall the eave-to-eave distance between structures on different Lots be less than **six (6)** feet. For purposes of determining the setbacks, measurement shall be from the lot line to the nearest wall of the structure. A covered patio or porch shall be considered to be a wall of the structure. The Architectural Control Committee shall determine in its sole discretion what constitutes the wall of the structure for purposes of compliance with the setback requirements. The Architectural Control Committee may allow unobtrusive projections not exceeding **two (2)** feet in depth and **ten (10)** feet in width (such as for eaves, cantilevers, fireplaces, bay windows, and similar features; but not covered or enclosed porches or covered or enclosed patios) to extend into the front yard, rear yard, and side yard setbacks; provided that in no event shall such projections extend into any easement area (other than the maintenance and encroachment easements provided in Section 1.05). Uncovered and unenclosed patios not greater than **thirty (30)** inches above finish grade, uncovered and unenclosed decks not greater than **thirty (30)** inches above finish grade, and balconies may encroach into rear yard setbacks; provided that they do not encroach on any easement or right-of-way, and in no event shall they be closer than five (5) feet to the alley right-of-way or the rear lot line, or the side lot line which is not a zero setback side lot line. Garages shall be accessed only from alleys.

1.04.3 Corner Lots: The Architectural Control Committee shall determine for Corner Lots the front, side and rear lot lines, which determination shall be conclusive and binding on the Owner.

1.04.4 Fencing Setbacks: The setback requirements for fencing, if any, shall be as established from time to time by the Architectural Control Committee, and unless otherwise so established by the Architectural Control Committee, there shall be no fencing allowed in the front yard of any Lot, and any fences along side lot lines shall terminate no less than five (5) feet to the rear of the front wall of the dwelling (as determined by the Architectural Control Committee). For purposes of this paragraph, a garage which projects beyond the wall containing the front entrance (as determined by the Architectural Control Committee) of the dwelling shall not be considered to be the front wall of the dwelling and the termination point of any fence adjacent to such garage shall be five (5) feet to the rear of a line extended along the said front wall of the dwelling.

1.05 Easements. Easements are reserved on the Plat, and are also created in this Declaration in this Section and elsewhere.

1.05.1 Utility and Other Easements. Easements for installation and maintenance of utilities and various other purposes are reserved as shown on the Plat. Within these easements no structure, planting, or other material, other than any fencing or landscaping approved by the Architectural Control Committee, shall be placed or permitted to remain. Any

such fences and landscaping are subject to removal or damage as may occur in the course of use of such easements for the purposes identified, and the Owner of each Lot accepts the risk of such removal and damage. The easements area of each Lot and all landscaping and Improvements on it shall be maintained continuously by the Owner of the Lot.

1.05.2 Encroachment and Maintenance Easements on Neo-Traditional Home Lots And Duplex Lots: On Neo-Traditional Home Lots, improvements may be placed up to the zero setback side lot line. On Duplex Lots, the Duplexes will have a common wall. Encroachments of such improvements may occur on the adjacent Lot, due to imprecision in construction, or due to allowable architectural features which may permissibly project onto the adjacent Lot pursuant to the provisions of paragraph 1.04.2 above. There is hereby created on each Neo-Traditional Home Lot and each Duplex Lot an easement for access to and for any encroachments of improvements erected on an adjacent Lot which are common walls or which are near or extend beyond that Lot's zero setback side lot line. Such easement being for the construction, reconstruction, inspection, maintenance and repair of such common walls or other improvements as reasonably necessary for those purposes. The easement so created is nonexclusive, and both Lot Owners shall have the mutual usage of such area for the said activities related to their respective improvements. The Owner of the Lot upon which the encroachment and maintenance easement arises shall retain the use of such area so long as it does not unreasonably interfere with the above said purposes of the encroachment and maintenance easement. Except for approved structures with common walls, nothing herein shall be deemed to permit any improvement by an encroachment which is in violation of the minimum distance requirement of paragraph 1.04.2 above.

1.05.3 Side Yard Use Easements. To promote the most beneficial use of side yard space between dwellings, there may also be created by separate instruments easements providing for use of the side yard of a Lot by the adjacent Lot. Such easements and instruments shall be in addition to the easements created in this Declaration and upon the Plat, and shall not impair, release, revoke, relinquish or otherwise restrict such easements.

1.06 Time for Construction and Repair. The construction of a Dwelling, structure, landscaping, or any other Improvement approved by the Architectural Control Committee, shall be commenced within **six (6) months** of approval of the plans by the Architectural Control Committee and Owner shall diligently proceed with construction. The improvement shall be fully completed within **twelve (12) months** after the date of commencement of the construction; unless a different period is specifically provided elsewhere in this Declaration for the specific Improvement in which case such specific time period shall control. The Architectural Control Committee may grant extension of the foregoing time periods upon a showing by Owner of good cause, as determined in the sole discretion of the Architectural Control Committee. In the event any structure is destroyed either wholly or partially by fire or other casualty, all debris and remaining portions of the structure shall be promptly removed from the Lot, and the structure shall be promptly rebuilt or remodeled to conform to this Declaration. All repairs or reconstruction of dwellings, fences or other structures or other Improvements, whether due to wear and tear or other causes shall be subject to and in

accordance with the covenants herein, and repair and reconstruction thereof shall be completed no later than **one (1)** year from the date of damage. If required by the Architectural Control Committee, the Owner of a Lot upon which construction, or repair or reconstruction, of any Dwelling, structure, or other Improvement, is to be performed shall deliver to the Architectural Control Committee a deposit ("the Deposit") in an amount to be determined by the Architectural Control Committee from time to time. The Deposit shall be returned to the Owner within **thirty (30)** days after the Improvement has been timely completed in conformity with the approved plans and specifications, and all debris has been removed from the Lot. If the Improvement has not been timely completed, or has not been completed in conformity with the approved plans and specifications, or if debris has not been removed from the Lot, then the Architectural Control Committee shall have the right, but not the obligation, to enter upon the Lot if it deems appropriate and complete the Improvements in conformity with the approved plans and specifications and remove debris and deduct the cost thereof from the Deposit, and to apply the balance of the Deposit to any attorney fees and other costs which may be incurred due to the breach by the Lot Owner of compliance with the provisions of this Declaration. At such time as the Lot has been placed in conformity with the provisions of this Declaration, the balance of the Deposit, if any, shall be returned to the Owner within **thirty (30)** days following attainment of compliance. If the Deposit is not sufficient to cover the costs of completing the Improvements or removing the debris or the costs and expenses of enforcement of this Declaration due to Owner's breach, the amounts not so satisfied by the Deposit shall be recoverable as a special assessment against the Owner and the Lot.

1.07 Nuisance. Each Lot shall at all times be maintained in a clean and tidy condition and shall not be used for any purpose or storage of anything that will cause such Lot to appear in an unclean or unsightly condition. No Lot shall be used in such a manner as to obstruct or interfere with the enjoyment of other Lots, or annoy them by unreasonable traffic, noises, lights, odors, or otherwise, nor shall any nuisance or illegal activity be committed or permitted to occur on any Lot. No exterior horn, whistle, bell, or other sound devices except security devices used exclusively to protect the security of the Lot and the Owners or occupants thereof shall be placed or used on any part of the Lot. All power and motorized equipment, including mowers, snowblowers, tractors and any other motorized equipment used on any Lot must be properly equipped with mufflers so as to reduce to the degree practicable the noise of operation. Any power equipment used on a Lot shall be housed within the garage or a building, if any, approved for such use by the Architectural Control Committee, and doors and windows shall be closed to minimize to the greatest extent possible the noise of operation.

1.08 Animals. Except for the specific provisions below regarding the keeping of household pets, no animals will be kept on any Lot.

1.08.1 Household Pets. Household pets such as dogs and cats, and such other household pets which may be specifically approved from time to time by the ordinances of the City of Loveland may be kept on a Lot only to the extent allowed by such ordinances. No such household pets may be kept, bred, or maintained for any commercial purposes and the manner of keeping such animals shall not be allowed to result in any unsanitary conditions or a nuisance or annoyance to the occupants of other Lots. The Architectural Control Committee

may, in its discretion, adopt from time to time such rules and regulations as it deems appropriate regarding the manner of keeping such household pets on any Lot. Any decision by the Architectural Control Committee regarding the manner of keeping animals upon any Lot, shall not be effective unless and until it has been reduced to writing. Any such decision may be later rescinded or modified by the Architectural Control Committee, and any Owner affected by such rescission or modification shall have a reasonable time, not to exceed **forty-five (45) days**, to comply with such rescission or modification. Household pets shall be properly housed and penned or fenced in enclosures approved by the Architectural Control Committee to confine them to the Lot and shall not be allowed to roam.

1.09 Commercial Uses. Other than the activities of Declarant and Dealers, no Lot shall be used for any business, trade, or commercial use, except such home occupations as are otherwise in compliance with this Declaration and permissible under the zoning regulations which from time to time are in effect. Any such home occupation must meet any policy or decision adopted by the Architectural Control Committee regarding home occupation, must be fully carried out within the dwelling unit on the Lot, and may not be conducted in such fashion as to constitute a nuisance or violate any provision of this Declaration. Any such decision or policy adopted by the Architectural Control Committee may be later rescinded or modified by the Committee, and any Lot Owner affected by such rescission or modification shall have a reasonable time, not to exceed forty-five (45) days, within which to comply with such rescission or modification.

1.10 Maintenance of Lots and Improvements. Owners of Lots shall keep or cause to be kept all buildings, fences, structures, landscaping and other Improvements in good repair. Rubbish, refuse, trash, litter, lumber, junk, boxes, bottles, cans, garbage, and other solid, semi-solid, and liquid waste shall be kept within sealed sanitary containers, shall not be allowed to accumulate, and shall be disposed of in a sanitary manner. All such containers shall be maintained in a good, clean condition and no such containers shall be stored outside, unless the Architectural Control Committee first approves appropriate screening, and each Lot Owner shall arrange for the removal, no less than weekly, of all such waste. No lumber or other building materials shall be stored or permitted to remain on any Lot unless screened from view in a manner approved by the Architectural Control Committee, except for those materials reasonably necessary to be stored on the Lot during construction of Improvements.

1.11 Signs. No sign of any kind shall be displayed to the public view on any Lot except signs erected by Declarant to identify the Property, and except: (i) one sign of not more than **five (5)** square feet advertising the Lot for sale or rent; (ii) signs used by Declarant or those of Dealers or a builder approved by Declarant to advertise the Property or Lot(s) during the construction and sales period; and (iii) such other signs as the Architectural Control Committee may, from time to time, approve.

1.12 Fences. Except those installed by Declarant, no fence, wall, hedge or other plantings which will act as a screen or divider shall be installed or maintained without first being approved by the Architectural Control Committee. The acceptable height, style, material, design and color of fencing shall be as the Architectural Control Committee may

from time-to-time determine. All fences, walls, hedges and plantings adjacent to public roads shall be in compliance with any applicable site line requirements established by the governmental authority having jurisdiction. All fences, walls, hedges, and shrub plantings shall be maintained in a clean, neat, and orderly condition at all times. In the exercise of its discretion, the Architectural Control Committee may require fencing on any Lot.

1.13 Vehicles. No bus, large commercial or construction type vehicles (including by way of example and not in limitation, dump truck, cement mixer truck, oil or gas truck, delivery truck, backhoe, bulldozer, or semi-tractor or trailer) shall be parked, stored or kept on any Lot, except those of Declarant, or while reasonably necessary during construction of Improvements. Recreational vehicles, utility or recreational trailers, boats and boat trailers, and recreational or other equipment ("Accessory Vehicle"), shall not be parked on the streets of the Property or stored on any Lot unless in accordance with any policies hereafter adopted by the Architectural Control Committee from time to time regarding such parking and storage. The Architectural Control Committee may, in its discretion, require that such storage be on slabs or inside structures or screening approved by the Architectural Control Committee. Notwithstanding the foregoing, Accessory Vehicles may be parked by the Owner of a Lot or the Owner's guest, upon the driveway of the Lot or upon the street immediately adjacent to the Lot for a period not to exceed seventy-two (72) continuous hours at one time; and no such parking shall be allowed which exceeds more than a total of seven (7) days, during a thirty (30) day period, in which an Accessory Vehicle is so parked. Any calendar day in which an Accessory Vehicle is so parked at any time, for purposes of this section shall be deemed to constitute a twenty-four (24) hour period of parking, notwithstanding that the vehicle is moved during such day. Unless otherwise approved by the Architectural Control Committee, no more than two (2) Accessory Vehicles shall be kept on any Lot. The Architectural Control Committee can at any time modify or rescind its policies regarding such storage and every Lot Owner shall comply with such rescissions or modifications within **forty-five (45)** days of notice from the Architectural Control Committee of the change in policy. No junk or inoperative vehicles shall be stored or permitted to remain on any Lot unless within fully enclosed garages. For purposes of this provision, any unlicensed vehicle, or any disassembled or partially disassembled car, truck, or other vehicle, or any vehicle which has not been moved under its own power for more than **one (1)** week, shall be considered an inoperable vehicle. No work of automobile repair or maintenance shall be performed except such work as is performed by the occupant of such Lot upon the occupant's vehicles and all such work shall be performed within the confines of an Owner's garage.

1.14 Fires and Firearms. There shall be no exterior fires permitted on any Lot except barbecue fires contained within receptacles specifically designed for such purposes. No Owner shall permit any conditions on his Lot which create a fire hazard or are in violation of fire prevention regulations. No firearms shall be discharged within or on any Lot.

1.15 Towers, Masts, Antennas, Solar Panels, Mechanical Units and Satellite Dishes. No devices for transmission or reception of microwave, optical, radio, television, or other communication signals, including by way of example and not in limitation, antennas, masts, towers, satellite dishes; and no heating, ventilating or air conditioning units, solar panels, or

other similar objects shall be placed on the roof or exterior of any building, or elsewhere on a Lot, unless first approved by the Architectural Control Committee. Unless otherwise permitted by the Architectural Control Committee, all such approved facilities shall be appropriately screened, or architecturally integrated into and fully contained within the roof or exterior of dwellings and shall not significantly project from the surrounding surfaces. The allowance of and the placement of all such units is, to the fullest extent possible by law, restricted to the sole discretion of the Architectural Control Committee.

1.16 Storage of Dangerous Materials. No underground or above-ground storage tanks of any character shall be allowed on any Lot. No gasoline, paint or any other toxic, hazardous or flammable materials shall be stored on any Lot in quantities in excess of 15 gallons, unless written approval thereof is obtained from the Architectural Control Committee, and such storage is in compliance with all applicable safety standards and regulations.

1.17 Maintenance of Easements and Landscaping.

1.17.1 Landscape Requirements. The Owner of each Lot shall be responsible for at all times properly maintaining the landscaping on Lots and the trees and landscaping on the Adjacent Street Tree Lawns abutting the Lot, and to control and eradicate weeds on such Lot and Adjacent Street Tree Lawn areas, including without limitation, all utility and other easements on the Lot. If the Owner of any Lot fails to so maintain such areas on their respective Lots, the Architectural Control Committee shall be empowered, but is not required, to enter onto such Lots and undertake such steps as necessary to maintain or restore the same, and the cost thereof shall be charged against the Owner of the respective Lot and shall be recoverable as a special assessment against the Owner and the Lot. Each Lot shall be required to have established ground cover of a type approved by the Architectural Control Committee within such times as may from time to time be set forth in the applicable governmental ordinances, or guidelines adopted by the Architectural Control Committee, whichever requires the earliest installation; provided, that, if no such ordinances or guidelines are adopted or in effect, each Lot shall have the yards established as follows: (i) for Traditional Home Lots, the front, side, and back yards established in approved ground cover and plant materials and an underground automatic sprinkler system for the front yard installed within nine (9) months of the first occupancy for the dwelling; (ii) for Neo-Traditional Home Lots, the front yard shall be established by the Dealer, or Purchaser if the Purchaser is the builder, and it shall be completed at the time of issuance of a certificate of occupancy or in no event later than seven (7) months from issuance of a certificate of occupancy, and the side and back yards shall be established by the Owner no later than nine (9) months from first occupancy. For good cause, and if allowed by the City of Loveland, the Architectural Control Committee may approve an extension of such time periods.

The Purchaser of each Lot which is not a Corner Lot (as determined pursuant to Section 1.04), shall be responsible for planting and maintaining a tree of a type approved by the Architectural Control Committee in the front lawn of the Lot; and Purchasers of Corner Lots shall be required to plant and maintain such a tree in the front and side yards adjacent to the streets. Each Purchaser of a Lot adjacent to a street tree lawn shall be required to plant and

maintain grass or ground cover of a type approved by the Architectural Control Committee in the Adjacent Street Tree Lawn abutting the Lot, and shall install (including boring under the sidewalk) and maintain an underground automatic sprinkler system for the Adjacent Street Tree Lawn. Such trees and lawns shall be established within the time required for establishment of the front yard. The Lot Owner shall be responsible for promptly replacing any dead or diseased trees or plantings on the Lot or Adjacent Street Tree lawn with new plantings of a species approved by the Architectural Control Committee, and other than trees replaced by Declarant, replacement trees shall have a minimum trunk size of two (2) inches caliper.

No more than 30% of the front yard landscaping shall be in non-living materials, unless otherwise approved by the Architectural Control Committee and the City of Loveland. For purposes of determining compliance with this provision, the front yard shall consist of the landscapable area which commences at the sidewalk edge and extends to the area on each side of the dwelling lying five (5) feet towards the rear of the Lot behind a line drawn along the front of the dwelling (as determined by the Architectural Control Committee); provided that the Architectural Control Committee may also apply this 30% standard to side yards adjacent to streets for corner Lots if approved fencing or other screening materials are not in place along such side yard lot line. The same standard shall apply to back yards, unless the entire back yard is screened from view by fencing or other screening materials approved by the Architectural Control Committee and is no less than six (6) feet high.

1.17.2 Ornaments Restricted. Ornaments, such as fountains, statuary, artificial plants, wagon wheels or equipment, or other ornamental features shall not be placed or allowed to remain on any Lot where visible from streets unless the same have been approved by the Architectural Control Committee. Allowance or disallowance of such ornaments shall be solely within the discretion of the Architectural Control Committee. The allowance of any ornamentation on any Lot shall not require allowance upon any other Lot. Approval of placement of any ornamentation is hereby made expressly subject to the power of the Architectural Control Committee to later rescind or modify the approval; provided that any such rescission or modification shall allow the Owner a reasonable time for compliance, not to exceed forty-five (45) days, and the Owner shall not be entitled to any compensation for such rescission or modification. If approved ornamentation is destroyed, damaged, or removed voluntarily or by theft or other cause, replacement thereof shall require approval of the Architectural Control Committee which shall have the sole discretion to approve or deny the same.

1.17.3 Gardens. Unless otherwise approved by the Architectural Control Committee, vegetable gardens will be allowed only in rear yards. Flower gardens are encouraged in the front and side yards.

1.18 No Subdivision of Lots. No Lot shall hereafter be subdivided except by Declarant.

1.19 Drainage and Soil Conditions.

1.19.1. Soil Conditions. Many soils within the State of Colorado consist of both expansive soils and low-density soils which may adversely affect structures if the structure is not properly designed and maintained and appropriate drainage provided and maintained. The soils can consist of soils that swell, as well as soils that shrink. Engineered foundations for all construction on the Property are recommended. Soils may also contain substances producing radon gas.

1.19.2. Action by Owner. The Owner of each Lot agrees to obtain plans and specifications from a qualified engineer for the foundation of any structures, and for grading and other methods of control of water flow on and across the Lot in compliance with any grading and drainage plan for the Property approved by the City of Loveland. Each Owner of any Lot is required to comply with the recommendations of such engineer and to at all times take appropriate action to not impede or hinder waters falling upon or flowing across the Lot in the manner intended by the applicable grading and drainage plans and recommendations for the Lot and the grading and any drainage plan approved by the City of Loveland for the entire Property. Each Owner of a Lot shall use his or her best efforts to assure that the moisture content of those soils supporting the foundation and the concrete slabs forming a part of the dwelling constructed thereon remain stable and shall not introduce excessive water into the soils. Each owner of a Lot covenants and agrees, among other things:

(A) Not to install Improvements, including, but not limited to, landscaping, items related to landscaping, walls, walks, driveways, parking pads, patios, fences, additions to the dwelling, outbuildings, or any other item or Improvement which will change the grading of the Lot.

(B) To fill with additional soil any back-filled areas adjacent to the foundations of structures and in or about the utility trenches on the Lot in which settling occurs to the extent necessary from time to time to maintain the grading and drainage patterns of the Lot.

(C) Not to water the lawn or other landscaping on the Lot excessively.

(D) Not to plant lawns, flower beds (especially annuals) and vegetable gardens adjacent to or within **six (6) feet** of the foundation and slabs of structures on the Lot or on any adjacent lot unless approved by a professional soils engineer or landscape professional.

(E) If plantings are used within **six (6) feet** of structures, to water the plantings by drip irrigation or controlled hand watering and to avoid excessive watering.

(F) To minimize or eliminate the installation of piping and heads for sprinkler systems within **six (6) feet** of structures.

(G) To install any rock or mulch beds in a manner which will assure that water will not pond in the beds, whether due to nonperforated edging or due to installation

of the base of the bed at a level lower than the adjacent lawn.

(H) To install a moisture barrier (such as polyethylene) under any beds within **six (6)** feet of structures.

(I) To maintain the gutters and downspouts which discharge water into extensions or splash blocks by assuring that (i) the gutters and downspouts remain free and clear of all obstructions and debris; (ii) the water that flows from the extension or the splash block is allowed to flow rapidly away from the foundation and/or slabs; and (iii) the splash blocks are maintained under sill cocks.

(J) To recaulk construction joints opening up between portions of the exterior slabs and garage slabs in order to thereby seal out moisture.

1.19.3. Declarant Not Liable. The Declarant shall not be liable for any loss or damage arising from or in any way connected with soil conditions on any Lot, including by way of example and not in limitation, radon gas, expansive or shrinking soils, subsurface water conditions or the flow of waters on, across, through or under any Lot.

1.20 Driveways and Parking Areas. Appropriately hard surfaced private driveways and parking areas are required. Concrete or other materials approved by the Architectural Control Committee shall be used for such surfacing. Except for those installed by Declarant, no driveway, parking pad, patio, or other paved, graveled, or hard surfaced area shall be placed on any Lot, or altered, unless first approved by the Architectural Control Committee. All driveways shall be of sufficient width to extend a minimum of six (6) inches on each side of the garage door opening.

1.21 Sidewalks. Declarant shall not be responsible for repair of existing sidewalks or curb and gutter on or adjacent to any Lot at the time of sale of a Lot to a Purchaser.

1.22 Mining. No exploration for or extraction of any sand, gravel, oil, gas, mineral or other subsurface material shall be performed on any part of any Lot and no part of any Lot shall be used for the storage, processing or refining of any such substance.

1.23 Clotheslines. No clothesline shall be installed or maintained on any Lot unless approved by the Architectural Control Committee, and no clothesline shall be approved unless it is retractable.

1.24 Prohibited Habitation. No basement, partially completed dwelling, trailer, recreational vehicle, shack, garage, tent, or outbuilding or other structure or Improvement on a Lot shall at any time be used for human habitation, temporarily or permanently. The only place where habitation may occur is within a completed Dwelling complying with the plans and specifications approved by the Architectural Control Committee and having all necessary governmental approvals and occupancy permits. No habitation shall occur in any Dwelling which has been damaged, or whose waste water, or other utility system has failed or is

inadequate, so as to render such habitation inappropriate.

1.25 Exterior Lighting and Utilities. Exterior lighting shall be designed so as not to unreasonably interfere with the use and enjoyment of other Lots. All exterior lighting shall be subject to approval by the Architectural Control Committee and shall be designed and located so as to be compatible with and integrated into the structures on any Lot and the character of the development of the Property. The Architectural Control Committee shall have full discretion to approve and deny exterior lighting to minimize impact on adjacent Lots in the Property and minimize the impact of exterior lighting on viewing the night sky and avoiding the appearance of a brightly lit complex. Unless previously approved in writing by the Architectural Control Committee, no Owner shall install mercury vapor or sodium or high-wattage incandescent or similar type of bright, broad-area or flood or spot lighting on a Lot, and no owner shall allow exterior lighting to be on continuously or during significant portions of the evening hours other than low wattage porch, patio, walkway or other similar lighting which has been specifically approved for the Lot for that purpose by the Architectural Control Committee. All electric, telephone, and other utility lines are to be placed underground.

1.26 Compliance With Laws. Nothing shall be done or kept in or on any Lot which would be in violation of any statute, rule, ordinance, regulation, permit or validly imposed requirement of any governmental authority having jurisdiction.

1.27 Rights and Responsibilities of Lot Owners With Common Walls. Each Lot Owner whose Lot has upon it a structure with a common wall with that of another Lot Owner has a mutual duty to cooperate with the other Lot Owner in obtaining, carrying out and equitably sharing the expenses of insuring, maintaining, repairing, and replacing the structure to the extent of its common character and as necessary to the support, integrity and functioning of the other Lot Owner's structure as it relates to the common components. Except for emergencies, a Lot Owner intending to incur any expense or perform any repair or modification related to such common components ("Undertaking") shall give each affected adjacent Lot Owner written notice of the intended action or expense to be undertaken, including a description of the specific matter, the need therefor and the expected cost thereof which each Lot Owner is to share. Such notice shall be given no less than thirty (30) days prior to undertaking the expense or action intended. A Lot Owner receiving such notice shall have fifteen (15) days following receipt of notice to respond in writing setting forth any objection to the proposed Undertaking; and if no written objection is timely made, then the Lot Owner shall be deemed to have consented thereto. No Lot Owner shall propose an Undertaking, or object to an Undertaking, unreasonably or in bad faith.

If objection to an Undertaking is timely made, the Lot Owner giving notice may refer the matter to the Architectural Control Committee, and the Architectural Control Committee shall act as binding arbitrator of the issue of appropriateness and necessity of the proposed Undertaking. Such issue shall be decided in a meeting of the Architectural Control Committee called for that purpose, which shall be held in a reasonable time, not to exceed thirty (30) days from request by the Lot Owner. Each affected Lot Owner shall be given notice of the hearing date and an opportunity to be present and provide relevant evidence. The Architectural Control

Committee shall determine the issue by majority of those Architectural Control Committee members present and shall provide its decision in written form within fifteen (15) days following the completion of the hearing. Where objection has been made, the Lot Owner proposing the Undertaking may proceed with the Undertaking only to the extent approved by the Architectural Control Committee.

A Lot Owner incurring expenses for an Undertaking shall be entitled to recover an equitable share of such expenses from each Lot Owner who is obligated by this Section to share such expenses, to the extent set forth in the notice if no objection thereto was made by the Lot Owner, and if objection was made, then to the extent, if any, that the Undertaking was found by Architectural Control Committee action to be appropriate and necessary; and shall have a lien against the affected Lot therefor. The recovery of the amounts owing and enforcement of the lien may be pursued in appropriate court action. If court proceedings are undertaken to enforce such remedies, then the party substantially prevailing in such proceedings shall also recover costs, all attorney fees, recording and title investigation fees and costs, and all other expenses incurred therein, in addition to the amounts owing in connection with the Undertaking.

Undertakings which are emergency in nature, may be carried out with such notice as is reasonable under the circumstances and each Lot Owner shall share an equitable amount of the cost of such Undertaking, and if any dispute arises, the parties may, by mutual agreement, submit the same to the Architectural Control Committee for resolution after the Undertaking has occurred in accordance with the foregoing procedures, or a Lot Owner may seek judicial resolution thereof. A Lot Owner shall have an easement as reasonably necessary on each affected Lot to carry out an Undertaking which is an emergency, or is consented to or approved by the Architectural Control Committee.

1.28 Conflict With Final Development Plan. Notwithstanding any other provision of this Declaration to the contrary, if any provisions of this Article I conflict with the provisions of the Final Development Plan, then the Architectural Control Committee shall apply the provisions of the Final Development Plan if those provisions are the more restrictive, and if the provisions of this Declaration are the more restrictive, then the Architectural Control Committee may at its discretion apply the provisions of either the Final Development Plan or this Declaration; provided that the Architectural Control Committee shall to the extent practicable apply the same provisions to similar circumstances to provide a reasonable degree of consistency to similar circumstances, but the foregoing shall not prevent the Architectural Control Committee from changing from time to time its policy as to which provisions apply if it determines in its discretion that such policy change is appropriate to meet the purposes of this Declaration.

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

2.01 Appointment of Committee. The Declarant has established an Architectural Control Committee, the initial member of which are the members of the governing board of the LOVELAND MIDTOWN METROPOLITAN DISTRICT. Until all Lots within the Property

have been sold to Purchasers and homes have been built and occupied upon all Lots, the Declarant shall appoint the Architectural Control Committee, which may consist of one (1) or more persons as determined by the Declarant. At such time as all Lots have been sold to Purchasers and homes have been built and occupied thereon, the number of members of the Architectural Control Committee and their appointment shall be as provided for in the paragraph below entitled "Termination of Declarant Control". No member of the Architectural Control Committee shall be entitled to any compensation for services as a member of the Committee. The initial address of the Architectural Control Committee shall be **1043 Eagle Drive, Loveland, Colorado 80537**, and hereafter may be changed from time to time by the members of the Architectural Control Committee. The members of the Architectural Control Committee can engage services of architects, engineers, attorneys and such other persons as they deem from time to time appropriate, and may pay the cost thereof from the filing fees required to be paid by those seeking Architectural Control Committee review.

2.02 Architectural Control. Other than Declarant's Facilities and Dealers' Facilities approved by the Declarant, no Improvement shall be erected, placed, maintained or altered on any Lot until the construction plans and specifications and a plan showing the location of the Improvements have been approved by the Architectural Control Committee as to quality of workmanship, quality and color and type of materials, the esthetics and harmony of exterior design with the character of the community and the existing structures, and as to location of Improvements and finished grade elevation, and compliance with this Declaration. Unless the Architectural Control Committee approves a different time for submission of a landscape plan, at, or within **sixty (60) days** of, the time of submission of plans for the Dwelling on any Lot, the Owner shall also submit a final landscape plan. If a final landscape plan is not submitted with the plans for the dwelling, a preliminary landscape sketch shall be included with the submission of the dwelling plans. Each plan submitted to the Architectural Control Committee shall bear the stamp or certification of an architect or engineer licensed in the State of Colorado; provided, that, the Architectural Control Committee may waive this requirement if in the exercise of its discretion it determines such certification is not reasonably appropriate for the plan to be reviewed, and such determination is evidenced by a written waiver of the requirement signed by the members of the Architectural Control Committee. Notwithstanding the waiver of requirement of certification by an architect or engineer, the Architectural Control Committee may at any time, before or after submission of the plan, determine that the plan submitted without certification should be so certified, and may require the party submitting such plan to obtain such certification before any further action by the Architectural Control Committee.

2.03 Rules of Procedure and Guidelines. The Architectural Control Committee may, but is not required to, adopt development standards and guidelines and rules and regulations from time to time establishing procedures and design standards, criteria and guidelines in furtherance of this Declaration. The Architectural Control Committee shall meet at the convenience of the members thereof as often as necessary to transact its business. Request for approval of design shall be made to the Committee in writing, accompanied by two (2) complete sets of plans and specifications for any and all proposed Improvements to be constructed on any Lot. Such plans shall include plot plans showing drainage and grading

plans, the location on the Lot of the Dwelling, building, wall, fence, or other Improvement proposed to be constructed, altered, placed, or maintained thereon, together with the proposed construction materials, color scheme for roofs and exteriors thereof, architectural renderings, and proposed landscape plantings. The Architectural Control Committee may require submission of additional plans, specifications, and of samples of materials and colors prior to approving or disapproving the proposed Improvement. Until receipt by the Architectural Control Committee of all the required materials in connection with the proposed Improvement to the Lot, the Committee may postpone review of any material submitted for approval.

Notwithstanding any other provision of this Declaration, the guidelines, criteria or rules adopted by the Architectural Control Committee may specify circumstances under which a variance to the strict application of the provisions of this Declaration to a proposed Improvement may be granted where strict application would be in the opinion of the Architectural Control Committee unreasonable or unduly harsh under the circumstances. If such a variance is granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provision in the particular instance covered by the variance. Nothing herein shall authorize the Architectural Control Committee to make any variance with respect to provisions of this Declaration which restrict the character of uses to which Lots may be placed, such as, without limitation, provisions restricting animals, commercial activities and other restrictions of this Declaration regarding use, and the ability to grant variances is solely restricted to the location and construction of Improvements.

The guidelines or rules adopted by the Architectural Control Committee may elaborate or expand upon the provisions of this Declaration relating to procedures and criteria for approval and may also specify rules and restrictions pertaining to the construction of Improvements, including, for example, the storage of construction materials and hours of construction operations. Such guidelines and rules adopted by the Architectural Control Committee shall have the same force and effect as if they were set forth in and were a part of this Declaration.

2.04 Approval of Plans. The Architectural Control Committee shall approve or disapprove plans, specifications, and details within **thirty (30)** days from the receipt of all materials requested by the Committee and shall notify the Owner submitting them of such approval or disapproval in writing. If all samples, plans, specifications, and details requested by the Committee have been submitted and are not approved or disapproved within such **thirty (30)** day period they shall be deemed approved as submitted. One set of plans and specifications and details with the approval or disapproval of the Architectural Control Committee endorsed thereon shall be returned to the Owner submitting them and the other copy thereof shall be retained by the Architectural Control Committee for its permanent file. Applicants for Architectural Control Committee action may, but need not, be given the opportunity to be heard in support of their application. Refusal of approval of plans, location, or specifications may be based by the Architectural Control Committee upon any reasonable grounds, including purely aesthetic considerations, which in the sole and unfettered discretion of the Architectural Control Committee shall seem sufficient, reasonable, and not capricious.

The Committee may condition its approval of any proposed Improvement to property upon the making of such changes therein as the Committee may deem appropriate. All applications to the City of Loveland for issuance of building permits must be accompanied by a letter from the Architectural Control Committee evidencing review and approval of the plans by the Architectural Control Committee.

2.05 Filing Fees. As a means of defraying its expenses, the Architectural Control Committee may require a reasonable filing fee to accompany the submission of plans to it in an amount to be fixed by the Architectural Control Committee from time to time. No additional fees shall be required for one (1) resubmission of plans revised in accordance with Architectural Control Committee recommendations if such resubmission is made within **twenty (20)** days of the Architectural Control Committee response to the initial plans submitted. Additional resubmissions shall require payment of additional fees, unless waived by the Architectural Control Committee for such reasons as the Architectural Control Committee in the exercise of its sole discretion deems appropriate.

2.06 Completion of Improvements. Any Improvement approved by the Architectural Control Committee shall be timely commenced and completed within the times provided in the paragraph in Article I above entitled "Time for Construction and Repair". If not commenced within such time, the approval of the Committee shall automatically expire unless extended by the Committee, and the applicant must thereafter resubmit all plans to the Committee for reconsideration. The fact that a proposed Improvement has previously been approved by the Committee shall not require the Committee to again approve such proposed Improvement if the approval has expired pursuant to the terms of this paragraph.

2.07 Governmental Approvals. Each Owner shall obtain, prior to commencement of construction of any Improvement, all permits, licenses, certificates, consents and other approvals necessary or required pursuant to any law, ordinance, resolution, order, rule or regulation of any governmental authority having jurisdiction in order for the Owner to construct, operate and maintain the Improvement; and before commencing work on any such Improvement, the Owner shall provide to the Architectural Control Committee a copy of such governmental approval. The Owner shall also furnish the Architectural Control Committee on a timely basis with copies of permits or certifications showing that the work being performed has, where required, been inspected and approved by the governmental authority having jurisdiction and a copy of the certificate of occupancy or final inspection or certification shall be timely provided to the Architectural Control Committee.

2.08 Inspection of Work and Notice of Completion. The members of the Architectural Control Committee, and any agent or representative thereof, shall have the right to inspect any Improvement to any Lot prior to and after completion, provided that the right of inspection shall terminate **three (3)** days after the Committee has received from the applicant a notice of completion.

2.09 Estoppel Certificates. Upon the reasonable request of any interested party, and after confirming any necessary facts, the Architectural Control Committee, shall furnish a

certificate with respect to the approval or disapproval of any Improvement to any Lot or with respect to whether any Improvement to a Lot is made in compliance herewith. Any person without actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

2.10 Non-Liability. No member of the Architectural Control Committee, or any other agents of the Architectural Control Committee, shall be liable for any loss, damage or injury arising out of or in any way connected with the performance or nonperformance of the Architectural Control Committee. In reviewing any matter, the Architectural Control Committee is not responsible for reviewing, nor shall its approval of any Improvement to a Lot be deemed to be, an approval of the Improvement to a Lot from the standpoint of safety, whether structural or otherwise, or conformance with any building, zoning or other codes or governmental laws or regulations.

2.11 No Implied Waiver or Estoppel. No action or failure to act by the Architectural Control Committee shall constitute a waiver or estoppel with respect to future action by the Architectural Control Committee, or any Owner with respect to any Improvement. By example, and not in any way a limitation, the approval by the Architectural Control Committee of any Improvement shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvement.

ARTICLE III DECLARANT CONTROL

3.01 Declarant Control. The Declarant shall, for the period of time hereafter provided, retain the right to appoint and remove the members of the Architectural Control Committee and to fill any vacancy occurring in any such position and to make amendments to this Declaration ("Declarant Control").

3.02 Period of Declarant Control. The period of Declarant Control shall continue until five years following the time that no Lot in the Property is owned by Declarant or any successor to Declarant (other than a Purchaser) to whom the right to exercise Declarant Control has been assigned, and dwellings have been built upon each Lot and occupied. Declarant may at any time voluntarily surrender the right to appoint and remove the members of the Architectural Control Committee and may do so by written instrument. In the event of such early voluntary surrender, the Declarant may require that specified events, conditions, or actions of the Architectural Control Committee, occur and/or be approved by Declarant before they become effective.

3.03 Termination of Declarant Control. Upon termination of the period of Declarant Control with respect to the Architectural Control Committee, the members of such Committee shall be the members of the governing board of the LOVELAND MIDTOWN METROPOLITAN DISTRICT, as the same shall from time to time be constituted.

ARTICLE IV
GENERAL PROVISIONS

4.01 Term. Subject to amendments hereafter duly made, the covenants and provisions as set forth in this Declaration are to run with the land and shall be binding on the Lots and Owners thereof and all parties and all persons claiming under them for a period of twenty-five (25) years from the date it is recorded after which time said Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument signed by sixty-seven percent (67%) of the then Owners of the Lots has been recorded agreeing to terminate this Declaration.

4.02 Amendments.

4.02.1 Amendments by Declarant. Notwithstanding any other provision, until such time as **one-third** of the Lots in the Property are owned by Purchasers, Declarant (or Declarant's Successor) alone, and without the necessity of consent by anyone else, shall have the right to amend this Declaration from time to time for any purpose which Declarant deems appropriate. Such amendments shall bind all the Lots in the Property, but shall not be effective with respect to any person not having actual knowledge thereof until such time as notice of such amendment is filed for record in the Office of the Larimer County Clerk and Recorder.

4.02.2 Amendments by Owners, Consent of Declarant. The Owners of **sixty-seven percent (67%)** of the Lots may at any time modify, amend, augment, or delete any of the provisions of this Declaration provided however that:

(A) While the Declarant, or any successor to Declarant (other than a Purchaser) to whom the right to consent to amendment has been assigned by Declarant, owns any Lot, no amendment may be made unless the Declarant (or Declarant's Successor) has consented in writing thereto.

(B) No amendment shall be effective with respect to any person not having actual knowledge thereof, until such time as notice of such amendment is filed for record in the Office of the Larimer County Clerk and Recorder.

(C) No amendments may be adopted which would be inconsistent with any condition or covenants imposed as a condition of approval of the platting and subdivision of the Property.

(D) Any of the following amendments to be effective must be approved in writing by the record holders of all encumbrances on the Lots at the time of such amendment:

4.03 Addition of Other Land, and Additional Rights of Declarant. In addition to any other rights of Declarant, during the period of Declarant Control described in this Declaration, the Declarant shall have the following rights:

4.03.1 Addition and Withdrawal of Real Estate. The right to add additional real estate to the Property and to withdraw real estate from the Property. Such addition or withdrawal shall be accomplished by recording a supplement to this Declaration.

4.03.2 Addition of Common Elements. The right to add or create Common Elements in the Property.

4.03.3 Completion of Improvements. The right to complete Improvements indicated on the Plat.

4.03.4 Construction Easements. The right to use easements through any Common Elements hereafter created for the purpose of making Improvements within the Property or within real estate which may be added to the Property.

4.03.5 Merger. The right to merge or consolidate the Property with another common interest community of the same form.

4.03.6 Other Rights. The right to exercise any other right created in or reserved to Declarant by any other provision of this Declaration.

4.03.7 Rights Transferable. Any right created or reserved under this Declaration for the benefit of the Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in Larimer County, Colorado. Such instrument shall be executed by the Declarant and the transferee.

4.04 Mortgagee Protection Clause. No breach of the covenants or restrictions herein contained, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or through trustee sale or through deed given in lieu thereof.

4.05 Enforcement. The provisions of this Declaration may be enforced in proceedings brought by any Owner or by the Architectural Control Committee. Enforcement may be by proceedings at law or in equity against any person or persons violating or attempting to violate any provisions of this Declaration either to restrain violation, or to recover damages, or both. All remedies provided are cumulative, and pursuit of one shall not bar pursuit of any other, independently, or jointly, and in any sequence.

4.06 Severability. Invalidation of any clause, sentence, phrase, or provision of this Declaration by judgment or court order shall not affect the validity of any other provisions of this Declaration which shall remain in full force and effect.

4.07 Non-Application of Colorado Common Interest Ownership Act. Declarant elects that the Colorado Common Interest Ownership Act shall not be applicable.

IN WITNESS WHEREOF, this Declaration has been executed by the Declarant who is the Owner of all lands in the Property, and mortgagees holding any lien against the Property, whose signatures and identification of Ownership interest are set forth below.

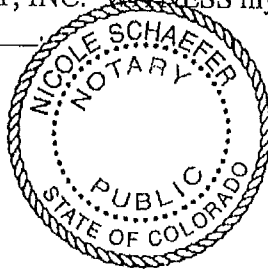
DATED this 11th day of October, 2005.

DECLARANT: LOVELAND MIDTOWN DEVELOPMENT, INC.

By: [Signature] Secretary/Treasurer

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 11th day of October, 2005, by BLAINE RAPPE as Secretary/Treasurer of LOVELAND MIDTOWN DEVELOPMENT, INC. WITNESS my hand and official seal. My commission expires: 01.05.06



[Signature]
Notary Public

SETBACK MATRIX

A setback matrix is provided for the single family homes in order to insure that homes within these areas provide variation in their relationship to the street.

Single Family Homes

Block	Lot	Setbacks			
		Front	Side	Back	Corner
2	1	20'	5' min.	15' min.	5'
	2	23'	5' min.	15' min.	
	3	20'	5' min.	15' min.	
	4	23'	5' min.	15' min.	
	5	23'	5' min.	15' min.	
	6	20'	5' min.	15' min.	5'
3	1	20'	5' min.	15' min.	15'
	2	20'	5' min.	15' min.	15'
	3	23'	5' min.	15' min.	
	4	23'	5' min.	15' min.	
	5	25'	5' min.	15' min.	
	6	25'	5' min.	15' min.	
	7	23'	5' min.	15' min.	
	8	23'	5' min.	15' min.	
	9	20'	5' min.	15' min.	15'
	10	20'	5' min.	15' min.	15'
4	1	20'	5' min.	15' min.	15'
	2	20'	5' min.	15' min.	15'
	3	23'	5' min.	15' min.	
	4	23'	5' min.	15' min.	
	5	25'	5' min.	15' min.	
	6	25'	5' min.	15' min.	
	7	23'	5' min.	15' min.	
	8	23'	5' min.	15' min.	
	9	20'	5' min.	15' min.	15'
	10	20'	5' min.	15' min.	15'
5	1	20'	5' min.	15' min.	15'
	2	20'	5' min.	15' min.	15'
	3	23'	5' min.	15' min.	
	4	23'	5' min.	15' min.	
	5	25'	5' min.	15' min.	
	6	25'	5' min.	15' min.	
	7	23'	5' min.	15' min.	
	8	23'	5' min.	15' min.	
	9	20'	5' min.	15' min.	15'
	10	20'	5' min.	15' min.	15'

Exhibit "A"

8	1	20'	5' min.	15' min.	5'
	2	20'	5' min.	15' min.	
	3	20'	5' min.	15' min.	
	4	23'	5' min.	15' min.	
	5	23'	5' min.	15' min.	
	6	25'	5' min.	15' min.	
	7	25'	5' min.	15' min.	
	8	23'	5' min.	15' min.	
	9	25'	5' min.	15' min.	
	10	20'	5' min.	15' min.	
	11	23'	5' min.	15' min.	
	12	25'	5' min.	15' min.	
	13	25'	5' min.	15' min.	
	14	23'	5' min.	15' min.	
	15	25'	5' min.	15' min.	5'
	16	25'	5' min.	15' min.	5'
	17	20'	5' min.	15' min.	
	18	20'	5' min.	15' min.	5'
	19	25'	5' min.	15' min.	15'
	20	23'	5' min.	15' min.	
	21	20'	5' min.	15' min.	
	22	23'	5' min.	15' min.	
	23	20'	5' min.	15' min.	5'
	24	20'	5' min.	15' min.	5'
	25	20'	5' min.	15' min.	15'
	26	23'	5' min.	15' min.	
	27	20'	5' min.	15' min.	
	28	20'	5' min.	15' min.	
	29	20'	5' min.	15' min.	5'
10	15	20'	5' min.	15' min.	5'
	16	23'	5' min.	15' min.	
	17	25'	5' min.	15' min.	
	18	25'	5' min.	15' min.	15'
	19	20'	5' min.	15' min.	15'
	20	23'	5' min.	15' min.	
	21	20'	5' min.	15' min.	15'
11	1	20'	5' min.	20' min.	15'
	2	25'	5' min.	20' min.	
	3	23'	5' min.	15' min.	
	4	20'	5' min.	15' min.	5'

Exhibit "A"

19	1	20'	5' min.	15' min.	15'
	2	23'	5' min.	15' min.	
	3	23'	5' min.	15' min.	
	4	25'	5' min.	15' min.	
	5	23'	5' min.	15' min.	
	6	23'	5' min.	15' min.	
	7	20'	5' min.	15' min.	15'
	8	25'	5' min.	15' min.	
	9	23'	5' min.	15' min.	
	10	20'	5' min.	15' min.	5'