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COUNTY COLORADO

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS OF MARSTON
SLOPES SUBDIVISION FILINGS #1 AND # 2 CITY OF LAKEWOOD, COUNTY OF
JEFFERSON STATE OF COLORADO

The Declaration of Protective Covenants and Restrictions of Marston Slopes Subdivision, recorded on the 18th day of February 1979 at Reception Number 79014324, County of Jefferson, State of Colorado, revisions thereof recorded on the 20th day of August-1982 at Reception Number 82057918, County of Jefferson, State of Colorado, and revisions thereof recorded on the 23`d day of October 1996 at Reception Number 80130010, County of Jefferson, State of Colorado are hereby amended and restated in their entirety as set forth below, pursuant to the authority contained in Article VIII, Section 3 of said Declaration, as amended, as same was in force and effect prior to this Amendment and Restatement.

The MARSTON SLOPES HOMEOWNERS ASSOCIATION, a non-profit corporation under the laws of the State of Colorado, declares that the Marston Slopes Subdivision Filings #1 and #2 and any future additions of land subject to this Declaration shall be held, transferred, sold, conveyed and occupied subject to the restrictions, rules, regulations, limitations, uses, covenants, conditions, charges, assessments, fines, and liens identified within this Declaration. The purpose of this Declaration is the protection of the value and desirability of the properties within the Marston Slopes Subdivision. This Declaration shall run with the real property and be binding on all parties having any right, title, interest or part in a Marston Slopes property, their heirs, successors, assigns, and shall inure to the benefit of each property Owner.

ARTICLE I DEFINITIONS

The following words when used in this Declaration are defined as follows:

(a) "ACC" shall refer to the Architectural and Covenants Committee of the Marston Slopes Homeowners Association.

(b) "Assessments" shall refer to all monies, including annual assessments, fines, late fees, interest, and collection costs due the Association from Members as duly assessed against the membership by the Board of Director's of the Association.

(c) "Association" shall refer to the Marston Slopes Homeowners Association.

(d) "Board of Directors" or "Board" refers to the duly elected individuals serving as the directors of the Marston Slopes Homeowners Association.

(e) "Common Areas" shall refer to those areas of land which are dedicated to the Association through ownership or easement and which are devoted to the common uses and enjoyment of the Members of the Association, to include certain lots, perimeter fences, landscaping, irrigation systems, and entry ways with identification signs.

(f) "Declaration" shall refer to this declaration of protective covenants and restrictions of the Subdivision

(g) "Lot" shall refer to any plot of land shown upon the recorded map of the Subdivision and described by a Lot and Block number and which is not designated as part of the Common Areas.

(h) "Member" shall refer to all those who are members of the Association.

(i) "Owner" shall refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot within the Subdivision. A mortgagee shall not be considered an Owner until the mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(j) "Rules and Regulations" shall refer to all land use restrictions, covenants, and other limitations, as defined within this Declaration, the By-Laws of the Association, or as otherwise established by the Association.

(k) "Subdivision" shall refer to the Marston Slopes Subdivision Filings #1 and #2, and any future additions of land which shall also be subject to this Declaration.

ARTICLE II ADDITIONS TO PROPERTY SUBJECT-TO THIS DECLARATION

Additional lands may become subject to this declaration upon written petition and upon approval of three fourths of the Lot Owners. In such an event, the property will be added to the authority of this Declaration and subject to the jurisdiction of the Association.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record Owner of a Lot shall be a Member of the Association. Any person or entity who simply holds an interest as a security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment by the Association, Ownership of such Lot shall be the sole qualification for membership.

Section.2. Voting Rights. The Association shall have only one (1) class of voting membership, and there will be only one vote per Lot. Voting rights apply only to Members with no outstanding assessments or fines and where there is no outstanding infraction of the covenants or Rules and Regulations. Where more than one (1) Member holds interest in any Lot, the vote for any such Lot shall be exercised as the Members themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members Use of Common Areas. Every Member shall have a right to use the Common Areas and such right shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Delegation of Use. Any Member may delegate their right of use to the Common Areas to the members of their families or to their guests.

Section 3. Extent of Member's Rights of Use. The Members rights of use shall be subject

to the following: (a) (a) The Tight of the

(a) Association to limit the number of guests of Members.

(b) The right of the Association to suspend the right to use the Common Areas for any period during which any Assessment or fine remains unpaid, and for any period during which there is an outstanding infraction of the covenants or Rules and Regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes as the Association may deem to be in the best interest of the Members.

ARTICLE V ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by the acceptance of a deed, whether or not it shall be expressed in any such deed or conveyance, is deemed to covenant and agrees to pay to the Association:

(a) Annual Assessments or charges payable in advance, and

(b) Special Assessments for capital improvements, such Assessments to be fixed, established, and collected from time to time, and

(c) Assessments which may be levied by the Association for violations of the covenants or Rules and Regulations, and³

(d) Cost of collections and attorney fees.

These Assessments shall be a charge upon the land of the Owners and shall be a continuing lien upon the property or Lot against which the Assessments are made. Each such Assessment shall also be the personal obligation of the person or entity who was the Owner of such property or Lot at the time the Assessment was due. The obligation shall remain a personal obligation of the Owner and shall pass to their successor in title or ownership as a joint liability until paid.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the business purposes of the Association, for the improvement and

maintenance of the Common Areas, and for the services and facilities related to the use and enjoyment of the Common Areas including, but not limited to the following:

(a) Repair and maintenance of any improvements such as signs, fences, and stone walls located in the Common Areas.

(b) Caring for the appearance, safety, and upkeep of the Common Areas such as trees, shrubs, lawns, landscaping, irrigation systems, and snow removal.

(c) Payment of premiums for fire, hazard, and liability insurance policies.

(d) Providing a reserve for anticipated repairs, maintenance, and replacement items.

(e) Expenses related to communications with Members and to conduct the business of the Association.

(f) Legal obligations such as taxes, utility services, and permits.

Section 3. Basis of Annual Assessment. Each Lot shall be subject to an annual Assessment. The Board of Directors of the Association shall fix an annual Assessment and may raise or lower said Assessment amount as they may deem necessary in their discretion.

Section 4. Special Assessments for Capital Improvements. In addition to annual Assessments, the Association may levy a special Assessment for the purpose of defraying, in whole or in part, the cost of the acquisition of any additional Common Areas or capital improvements of the Common Areas, including the related necessary fixtures and personal property, where the capital improvement or addition would result in a special Assessment less than twenty-five percent (25%) of the annual Assessment in the calendar year the special Assessment was initiated. Where a special Assessment would exceed twenty-five percent (25%) of the annual Assessment, then the Association shall conduct a meeting of the membership to discuss and vote on the special assessment. Assent by a simple majority of the Members in good standing at the meeting is required for approval of the special assessment.

Section 5. Rate of Assessment. The annual Assessment and any approved special Assessments must be fixed at a uniform rate for all Lots by the Board of Directors.

Section 6. Due Date of Assessments. The due date for payment of the annual Assessment is February 28 of each year. The Board of Directors shall fix the amount of the annual Assessment by January 1 of each year and will notify the Members in writing by January 31 of each year of the annual Assessment amount due, the date for payment, the address for rendering payment, and charges for late payments. Due dates, payment methods, fines, and late charges for special Assessments will be fixed by the Board of Directors. Members will be notified in writing thirty (30) days in advance of the amount of payment, date due, late charges, and address for rendering payment for special Assessments or fines.

Section 7. Assessment Payment Status. The Association shall, upon request provide to any Member, or to a mortgagee of any Lot, a certificate in writing signed by an officer of the Association, indicating the then current status of the annual, and special Assessments, and any outstanding fines.

Section 8. Assessments for Violation of the Declaration and/or Rules and Regulations. The Board of Directors shall have the authority to levy Assessments for any violation of the Declaration or the Rules and Regulations of the Association. Members must be notified in writing of any such Assessment and must be given thirty (30) days in which to pay the Assessment. The Board of Directors will have the authority to levy Assessments for late charges, interest, attorney fees, and payment collection costs.

Section 9. Effect of Non-Payment of Assessments. The Personal Obligation of the Owner. The Lien and Remedies of the Association. If the Assessments or are not paid on the due date as specified, then such Assessment shall become delinquent and shall, together with interest and cost of collection become the personal obligation of the then Owner, their heirs, devisee, personal representatives and assigns. The personal obligation of the then Owner to pay for such an Assessment, however, shall remain their personal obligation for the statutory period and shall pass to their successor and title whether or not expressly assumed. If the Assessment is not paid when due, then a delinquency charge of the larger of \$25.00 or twenty-five percent (25%) of the Assessment shall be charged to the Owner plus the Assessment shall bear interest from the due date at the rate of the bank prime loan rate for the week in which the Assessment was due, as reported by the Federal Reserve, plus six percent (6%). The Association may bring an action at law against the Owner personally obligated to pay same or to foreclose the lien against the Owner's property, and shall be added to the amount of such Assessment all attorney's fees incurred by the Association, and in the event a judgment is obtained, such judgment shall include interest on the Assessment or fine as above provided and attorney's fee to be fixed by the court together with the cost of the action.

Section 10. Subordination of the Lien to First Mortgage. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage or first mortgages hereafter placed upon any Lot subject to Assessment, provided that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessment thereafter becoming due, nor from any lien of any subsequent Assessment.

Section 11. Description of Common Area Improvements to be Maintained by the Association. The following describe the Common Areas to be maintained by the Association:

(a) Perimeter fence along the west right-of-way of South Wadsworth Boulevard from West Oxford Drive to West Quincy Avenue.

(b) Perimeter fence, landscaping and paved path along the north right-of-way of West Quincy Avenue from South Wadsworth Boulevard to the rear property line of Lot 1, Block 2, Marston Slopes Subdivision Filing #1.

(c) Entry way stone walls, subdivision identification signs, and landscaping at

the northwest and southwest corners of South Wadsworth Boulevard and West Oxford Drive, and at the northeast and northwest corners of West Quincy Avenue and South Zephyr Street.

(d) Landscaping and fencing along both sides of West Oxford Drive from South Wadsworth Boulevard to South Yarrow Street, landscaping along the west side of South Yarrow street for ninety feet (90') by ten feet (10') west of the sidewalk, and landscaping and fencing along the east side of South Yarrow street for eighty feet (80') by ten feet (10') east of the sidewalk.

(e) Landscaping along both sides of South Zephyr Street from West Quincy Avenue to West Quincy Drive.

(f) Outfall sanitary sewer main and drainage pipe in the southern right-of-way of West Quincy Avenue as set forth by Council Bill #340, Series of 1978, Ordinance 316, City and County of Denver.

(g) Landscaping, storm water drainage, and detention ponding on Lots #1 and #2, Block 2, Marston Slopes Subdivision Filing #1, commonly referred to as the Marston Slopes Park, plus the storm drainage pipes as identified in "Easement Deed" to the City of Lakewood, recorded June 8, 1978 in the Jefferson County Records, Reception Number 78051280.

ARTICLE VI ARCHITECTURAL AND COVENANTS COMMITTEE

Section 1. Committee Management. An Architectural and Covenants Committee will be implemented, maintained, and managed by the Board of Directors of the Association. The Board will have the authority to define the composition of the ACC, procedures for removal of members, and the responsibilities and duties of the committee, to include but not be limited to:

1. Review and approval of new, changes to, or maintenance of, architecture of existing properties and appurtenances;
2. Review and approval of new landscaping plans or changes to existing plans; 3. Review of noted or reported covenant or Rules and Regulations violations;
4. Identification of corrective actions to remedy any violation of a covenant or Rule and Regulation of the Association;

Section 2. ACC Approvals. Approvals granted by the ACC is for the conformance to the Association standards and does not imply conformance to any requirements of any Municipal, County, State, or Federal government. Accordingly, the ACC and the Association assume no responsibility for the structural, electrical, grading, or construction detailing of any property. The ACC shall not be liable in damage to any person or entity submitting a request for approval or to any Owner within the Subdivision by reason of any action, failure to act, approval, or disapproval with regard to such request.

ARTICLE VII LAND USE RESTRICTIONS

Section 1. City, County, and State Regulations. Zoning ordinances and rules and regulations of the City of Lakewood, County of Jefferson, and State of Colorado, are considered to be a part of these covenants. If these covenants conflict with any zoning ordinance or rule or regulation, then the most restrictive shall apply.

Section 2. Residential Purposes Only. All Lots in the Subdivision shall be for residential purposes only and no building shall be erected or placed on any Lot other than for one private single family dwelling, together with a private garage.

Section 3. Inclusion in Recreation and Park Districts. Inclusion of the Subdivision in any Recreation and/or Parks District, or any other special improvement district shall require the affirmative vote of three-fourths (3/4) of the Owners.

Section 4. All Other Restrictions. The Board of Directors shall have the authority to establish all other restrictions and Rules and Regulations for usage of the land by the Owners. Such restrictions or Rules and Regulations shall apply, but not necessarily be limited to, the following:

- (a) Structures and appurtenances, including colors; (b) Landscaping;
- (c) Foundations, plans, construction time frames, and dwelling requirements; (d) Animals;
- (e) Fencing, storage, and trash;
- (f) Temporary structures;
- (g) Signage;
- (h) Vehicles, trailers, farming and business equipment; and, (1) Drilling and mining.

Section 5. Approval of Rules and Regulations. All additions and changes to the land use restrictions or Rules and Regulations are subject to approval by the Members at the annual Association. Additions or changes to the Rules and Regulations that have been submitted to the membership thirty (30) days in advance of the annual meeting may be approved by a simple majority vote of the Members in good standing present in quorum at the annual Association meeting.

Section 6. Submittal of Additions or Changes to Rules and Regulations. Any Member may submit an addition or change to the rules and regulations for vote by the membership by submitting a written request to the Secretary of the Association identifying the proposed addition or change sixty (60) days in advance of the annual meeting. The Secretary of the Association will publish the proposed addition or change by the Member and any additions or changes which the Board of Directors is proposing for consideration with the announcement of the annual meeting and will include the proposal(s) on the meeting

agenda for discussion and vote. Any proposal that has not been submitted in conformance to the above will not be entertained at the annual meeting.

Section 7. Conflicts. In the event of a conflict between the established Rules and Regulations published by the Association and this Declaration, the Declaration shall prevail.

Section 8. Publication of Additions or Changes. Approved additions or changes to the Rules and Regulations will be published, in writing, to all Members thirty (30) days after the annual meeting. Additions and changes will then take effect on the first (1 st) of January following approval at the annual Association meeting.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Enforcement and Assessments. The Association may enforce this Declaration, restrictions and limitations or covenants, the ACC procedures, and the published Rules and Regulations by proceedings at law or in equity against any person or persons violating or attempting to violate any of these requirements either to recover damages for any violation or to restrain violations or attempted violations or may recover such damages as may ensue because of such violation including costs of suit and attorney's fees.

The Association shall have the authority to levy and collect Assessments for any violation of the Declaration or any covenant, limitation, restriction, or Rule and Regulation of the Association.

Failure to enforce the Declaration, or any covenant, restriction or Rule and Regulation of the Association shall in no event be deemed a waiver of a right of enforcement in the future.

Section 2. Severability. Invalidation of any one provision of this Declaration or any restriction, Rule and Regulation by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Duration. The covenants and restrictions of this Declaration and the Rules and Regulations of the Association shall run with the land, and shall inure to the benefit of the Association, the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from October 1, 2000 after which time these covenants as appropriately amended, shall be automatically extended for successive periods of ten (10) years. This Declaration shall be reviewed every twenty (20) years beginning January 1, 2001 by the Board in existence at that time and action shall be initiated by the Board if amendments are deemed necessary.

Section 4 Amendment to the Declaration. The covenants and restrictions of this Declaration, exclusive of the Rules and Regulations, may be amended by an instrument signed by not less than three-fourths (3/4) of the Owners. Any amendment shall be duly recorded.

Section 5. Notices. Any notice required to be sent to any Member or Owner under the

provisions of the Declaration shall be deemed to have been sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 6. Owner Responsibility for Acquiring Approval for Building and Landscape Changes. It shall be the sole responsibility of the Owner to obtain approval in advance from the ACC to change, modify, enhance, add, remove, or restructure any building or landscaping feature, and failure to obtain advance approval will subject the Owner to Assessment by the Association.

Section 6. Binding Effect. The benefit and duties of this Declaration accrued to or imposed upon the Owners shall be binding upon and inure to the benefit of the Owners and their successors and assigns.

Section 7. Effective Date. The effective date of this Declaration as amended will be ninety (90) days after acceptance by the Board of Directors of this Declaration as ratified by the general membership of the Association. The Rules and Regulations existing at the time this Declaration becomes effective, shall remain in effect until modified or changed in accordance with the Declaration and By-Laws.

We, being all of the current directors of the Marston Slopes Homeowners Association hereby accept this Declaration as ratified by the general membership of the Association in accordance with Article VIII, General Provisions, Section 4, Amendment to the Declaration.

Jon Bradley

Tom Cemich

Steve Foster

Louie Mortellaro

Tom O'Donnell

Bill Roat