

**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR THE WILSON COMMONS HOMEOWNERS'
ASSOCIATION**

THIS THE 10th DAY OF AUGUST, 2021

**BY DECLARANT: GIULIANO ADDITION, LLLP, a Colorado limited liability limited
partnership.**

Table of Contents

ARTICLE I – STATEMENT OF PURPOSE AND IMPOSITION OF COVENANTS.....	7
(1) Imposition of Covenants.....	7
(2) Purpose of Declaration.....	7
(3) Development.....	7
ARTICLE II – DEFINITIONS	8
(1) “Act”	8
(2) “Annexation”	8
(3) “Annual Assessments”	8
(4) “Architectural Standards Committee”	8
(5) “Articles” or “Articles of Incorporation”	8
(6) “Assessments”.....	8
(7) “Association”	8
(8) “Board of Directors”	8
(9) “By-Laws”	8
(10) “City”	8
(11) “Common Area(s)”	8
(12) “Common Expense”	9
(13) “Declarant”	9
(14) “Declaration”	9
(15) “Default Rate”	9
(16) “Design Guidelines”	9
(17) “Director”	9
(18) “Eligible Secured Party”	9
(19) “Expansion Property”	9
(20) “Expense Assessments”	9
(21) “First Secured Party”	9
(22) “Improvement(s)”	9
(23) “Improved Lot”	10
(24) “Lot”	10
(25) “Manager”	10
(26) “Member”	10
(27) “Owner”	10
(28) “Period of Declarant Control”	10
(29) “Person”	11
(30) “Plat”	11
(31) “Potential Lots”	11
(32) “Property”	11
(33) “Remedial Assessment”	11
(34) “Rules and Regulations” or “Wilson Commons Rules and Regulations”	11
(35) “Secured Party”	11
(36) “Security Interest”	11
(37) “Special Assessment”	11
(38) “Special Declarant Rights”	11
(39) “Successor to Declarant”	11

(40) "Supplemental Covenants" 12
(41) "Wilson Commons" or "Wilson Commons Homeowners' Association" 12
(42) "Wilson Commons Documents" or "Governing Documents" or "Documents" 12
ARTICLE III – PROPERTY SUBJECT TO DECLARATION..... 12
 (1) Initially Submitted Property..... 12
 (2) Property That May Be Annexed 12
 (3) Declaration of Lot Boundaries..... 13
 (4) Plat 13
 (5) Common Areas and Limited Common Elements 13
ARTICLE IV – ASSOCIATION..... 13
 (1) Wilson Commons Homeowners' Association..... 13
 (2) Common Areas and Common Area Improvements..... 14
 (3) Association's Responsibility For The Common Areas..... 15
 (4) Membership 15
 (5) Board of Directors..... 16
 (6) Indemnification..... 17
 (7) Limitation on Liability of Directors and Officers..... 17
 (8) Owners and Association's Addresses For Notices 17
 (9) Compliance With Wilson Commons Documents 17
 (10) Rules and Regulations..... 18
 (11) Cooperation With Local Government..... 18
 (12) Manager 18
 (13) Delegation By Association 19
 (14) Ownership of Personal Property and Real Property For Common Use..... 19
 (15) Roads, Streets, Trails and Sidewalks 19
 (16) Books and Records 19
 (17) Reserve Account 19
 (18) Capital Reserve Account..... 19
 (19) Implied Rights and Obligations 21
 (20) Litigation Matters..... 21
ARTICLE V – ASSESSMENTS 22
 (1) Budget 22
 (2) Purpose of Assessments 22
 (3) Common Expense Assessments ("Annual Assessments") 22
 (4) Special Assessments For Capital Improvements 22
 (5) Remedial Assessment 23
 (6) Uniform Rate of Assessment; Exceptions and Alternative Allocations 23
 (7) Common Expenses Attributable to Fewer Than All Lots..... 24
 (8) Date of Commencement of Annual Assessment and Payment..... 25
 (9) Collection of Assessments 25
 (10) Creation of a Lien and Personal Obligation for Assessments..... 26
 (11) Effect of Nonpayment of Assessment; Lien; and Remedies of Association 26
 (12) Successor's Liability For Assessment..... 27
 (13) Waiver of the Homestead Exemption; Subordination of a Lien 28
 (14) Exempt Property 28
 (15) Statement of Status of Assessments..... 28

(16) Association’s Right to Cure Default.....	28
(17) Sale of Lot.....	28
ARTICLE VI – PROPERTY RIGHTS OF OWNERS.....	28
(1) Owners’ Easements of Access and Enjoyment.....	28
(2) Delegation of Use	29
(3) Landscaping Easements	29
(4) Easements of Record and of Use	30
(5) Partition or Combination of Lots	30
(6) No Partition of Common Areas	31
ARTICLE VII – OWNER’S OBLIGATIONS FOR MAINTENANCE.....	31
(1) Owner’s Responsibility for Lot	31
(2) Member’s Negligence.....	31
ARTICLE VIII – INSURANCE.....	32
(1) General.....	32
(2) Public Liability and Property Damage Insurance	32
(3) Workers’ Compensation and Employers’ Liability Insurance.....	32
(4) Fidelity Bonds	32
(5) Directors’ and Officers’ Liability Insurance.....	32
(6) Other Insurance	32
(7) Premiums	32
(8) Authority to Purchase.....	32
(9) General Insurance Provisions.....	33
(10) Physical Damage Insurance on Common Area.....	33
(11) Provisions Common to Physical Damage Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance	34
(12) Insurance Obtained by Owners.....	35
ARTICLE IX – USE AND OTHER RESTRICTIONS.....	35
(1) General Restriction	35
(2) Maintenance of Property.....	35
(3) Trash.....	35
(4) Signs.....	36
(5) Residential Use of Lots	37
(6) Home Occupations.....	37
(7) Pets and Other Animals.....	38
(8) Pet Runs	38
(9) Leases and Lots Not Occupied By Owners	38
(10) Buildings and Structures	39
(11) Temporary Use by Declarant	39
(12) Storage of Inoperative Vehicles.....	39
(13) Repair of Vehicles.....	40
(14) Parking and Vehicle Charging.....	40
(15) Screens, Awnings, Flags and Other Accessories	40
(16) Storage	41
(17) Radio, Television, and Other Communication Antennae or Devices; and Electrical or Cooling Devices	41
(18) Electrical, Television, Natural Gas and Telephone Service.....	42

(19) Water and Sanitation..... 42
(20) Wells 42
(21) Temporary Structures..... 42
(22) Outside Burning 43
(23) Noise 43
(24) Lighting..... 43
(25) Nuisances 43
(26) Sight Distance at Intersections..... 44
(27) Unsightly Uses 44
(28) Pools and Hot Tubs 44
(29) Hazardous Activities 44
(30) Restoration in the Event of Damage or Destruction 44
(31) Enforcement 44
ARTICLE X – ARCHITECTURAL STANDARDS COMMITTEE..... 45
 (1) Committee..... 45
 (2) Improvement to Property Defined 45
 (3) Restriction 46
 (4) Submission of Plans 46
 (5) Criteria for Approval..... 46
 (6) Action by Committee 47
 (7) Architectural Standards and Guidelines..... 47
 (8) Landscape Standards and Design Guidelines 49
 (9) Authority of Architectural Standards Committee to Adopt Additional Standards and Rules..... 50
 (10) Organization and Operation of Architectural Standards Committee 51
 (11) Other Requirements 52
 (12) Limitation of Liability..... 52
 (13) Enforcement 53
 (14) Reconstruction of Common Area 54
 (15) Variances..... 54
 (16) Estoppel Certificate..... 55
ARTICLE XI – ASSOCIATION AS ATTORNEY-IN-FACT 55
ARTICLE XII – DAMAGE OR DESTRUCTION 55
 (1) Estimate of Damage or Destruction 55
 (2) Repair and Reconstruction 55
 (3) Funds for Repair and Reconstruction..... 56
 (4) Disbursement of Funds for Repair and Reconstruction 56
 (5) Decision Not to Rebuild..... 56
 (6) Damage or Destruction Affecting Lots 56
ARTICLE XIII – CONDEMNATION 57
 (1) Rights of Owners 57
 (2) Partial Condemnation; Distribution of Award; Reconstruction..... 57
 (3) Complete Condemnation..... 57
ARTICLE XIV – EXPANSION, WITHDRAWAL, DEVELOPMENT AND SPECIAL DECLARANT RIGHT 57
 (1) Time Article Applicable; Order of Exercise of Declarant’s Rights..... 57

(2) General Reservation of Declarant Rights.....	58
(3) Reservation of Right to Expand.....	58
(4) Withdrawal of Property.....	59
ARTICLE XV –PROTECTIONS FOR CERTAIN SECURED PARTIES	60
(1) Introduction.....	60
(2) Percentage of Eligible Secured Parties	60
(3) Notice of Actions	60
(4) Consent by 67% Required.....	61
(5) Consent by 51% Required.....	62
(6) Notice of Objection.....	62
(7) First Secured Parties’ Rights.....	62
(8) Title Taken By First Secured Party.....	63
ARTICLE XVI – ENFORCEMENT OF COVENANTS.....	63
(1) Enforcement	63
(2) Compliance	63
(3) Failure to Comply	63
(4) Who May Enforce.....	63
(5) Remedies.....	63
(6) Nonexclusive Remedies.....	63
(7) No Waiver	63
(8) No Liability.....	64
(9) Recovery of Costs	64
ARTICLE XVII – RESOLUTION OF DISPUTES	64
ARTICLE XVIII – DRAINAGE.....	65
(1) Acknowledgment	65
(2) Moisture	65
(3) Grading.....	65
(4) Water Flow.....	65
(5) Construction and Landscaping Activities	65
(6) Action by Owner	65
(7) Disclaimer	66
ARTICLE XIX– GENERAL PROVISIONS	66
(1) Term of Declaration.....	66
(2) Enforcement	66
(3) Supplemental Declaration.....	66
(4) Amendments	66
(5) Severability	67
(6) Disclaimer	67
(7) No Waiver	67
(8) Captions	67
(9) Construction.....	67
(10) Deemed Amendment to Conform with Law.....	67
(11) Governing Law	67
“EXHIBIT A”	69
“EXHIBIT B”	70

This Declaration of Covenants, Conditions, Restrictions and Easements for Wilson Commons Homeowners' Association (this "Declaration") is made this 10th day of August, 2021, by GIULIANO ADDITION, LLLP, a Colorado limited liability limited partnership ("Declarant"), as successor in interest to Giuliano Addition, LLP, a Colorado limited liability partnership, upon that real Property located in Larimer County, Colorado, which is described on the attached Exhibit "A" (the "Property"), and which is a master planned community known as WILSON COMMONS HOMEOWNERS' ASSOCIATION ("Wilson Commons").

**ARTICLE I – STATEMENT OF
PURPOSE AND IMPOSITION OF
COVENANTS**

(1) Imposition of Covenants. Declarant makes, declares, and establishes the following covenants, conditions, restrictions, and easements (the "Covenants") affecting all of the Property. From this day forward, the Property shall constitute a planned community known as Wilson Commons Homeowners' Association ("Wilson Commons") under the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 through 38-33.3-401 (the "Act"), and shall be held, sold, and conveyed subject to these Covenants and the Act. These Covenants shall run with the land and shall be binding upon all the persons or entities having any right, title, or interest in all or any part of the Property (including Declarant) and their heirs, successors and assigns, and their tenants, employees, guests, and invitees. These covenants shall inure to the benefit of each Owner of any part of the Property.

(2) Purpose of Declaration. The purpose of this Declaration is to create a planned community known as Wilson Commons on the Property in accordance with the Act, as may be amended and supplemented from time to time, or successor legislation to the Act. Declarant intends to provide for the operation, administration, use, and maintenance of the Common Areas defined

in Article II and other areas within the Property; to preserve, protect, and enhance the values and amenities of the Property; and to promote the health, safety, and welfare of the Members (as defined in Article II) of the Association (as defined in Article II) established by this Declaration.

(3) Development. Declarant will develop the initially submitted Property as described in "Exhibit A" as part of Wilson Commons. Declarant reserves the right to develop additional property as an integral part of Wilson Commons if Declarant elects to do so. In addition to the Property, Declarant is the owner of or may acquire certain other additional property as more particularly described in attached "Exhibit B", (hereinafter the "Expansion Property") and reserves the right, but is not obligated to develop the Expansion Property as part of Wilson Commons. Declarant also reserves the right, but shall not be obligated, to annex other unspecified property to Wilson Commons to the full extent permitted by the Act. Declarant may exercise the right to develop the Expansion Property or other unspecified property as part of Wilson Commons during the period beginning on the date of this declaration and ending 180 days after the date the last lot owned by Declarant in the Property is conveyed. Declarant may elect to include all, part, or none of the Expansion Property and/or other unspecified property as an integral part of Wilson

Commons, but no assurances are made as to whether Declarant will exercise this right or the order in which this right may be exercised. Regardless of expansion, the number of units (as defined in the Act) shall not exceed 900. This section I(3) shall be read in conjunction and harmony with Article XIV.

ARTICLE II – DEFINITIONS

The following terms, as used in this Declaration, are defined as follows:

(1) “**Act**” shall mean the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 through 38-33.3-401, as may be amended, or any applicable successor legislation to the Act.

(2) “**Annexation**” shall refer to the Property annexed to the Wilson Commons development by an annexing statement.

(3) “**Annual Assessments**” shall mean the assessments levied annually pursuant to section V(3) below.

(4) “**Architectural Standards Committee**” means the committee formed pursuant to Article X to maintain the quality of architectural harmony of improvements in Wilson Commons.

(5) “**Articles**” or “**Articles of Incorporation**” shall mean the Articles of Incorporation of the Wilson Commons Homeowners’ Association which have been filed with the Colorado Secretary of State to create the Wilson Commons Homeowners’ Association, as such articles may be amended.

(6) “**Assessments**” shall mean the annual, special and remedial assessments levied pursuant to Article V below to meet the

estimated cash requirements of the Association.

(7) “**Association**” shall mean the Wilson Commons Homeowners’ Association (“Wilson Commons”) as is defined in Article II § (42) below.

(8) “**Board of Directors**” or “**Board**” shall mean the Board of Directors of the Association, which is the “Executive Board” as defined in the Act, designated in this Declaration to act on behalf of the Association.

(9) “**By-Laws**” shall mean the By-Laws of the Association which establish the methods and procedures of its operation, as such By-Laws may be amended.

(10) “**City**” shall mean the City of Loveland, Colorado.

(11) “**Common Area(s)**” shall mean Tract A, Tract B, Tract C, Tract D, Tract E, Tract F, Tract G, Tract H, Tract I, Tract J, Tract K, Tract L, Tract M, Tract N, Tract O, Tract P, Tract Q, Tract R, Tract S, and Tract T of Wilson Commons First Subdivision to the city of Loveland, Colorado, as reflected in that plat recorded at Reception No. 2005-0091037 in the records of Larimer County, Colorado. Tracts U, V, W, X, Y, Z, AA, BB, CC, DD, and EE of Wilson Commons First Subdivision to the City of Loveland, Colorado, as reflected in the Plat recorded at Reception No. 2005-0091037 in the records of Larimer County, Colorado are also Common Areas, but are Limited Common Elements within the meaning of the Act, as they are designated to the exclusive use of certain Lots as reflected in the Plat recorded at Reception No. 2005-0091037 in the records of Larimer County, Colorado.

(12) **“Common Expense”** means expenditures and any liabilities incurred by or on behalf of the Association, including any allocations to reserves maintained by the Association.

(13) **“Declarant”** shall mean Giuliano Addition, LLLP, a Colorado limited liability limited partnership, or their successors or assigns, including any successor Declarant to the extent the rights of Declarant are assigned to the successor to Declarant as provided in this Declaration or applicable law. A successor to Wilson Commons, however, by consolidation or merger shall automatically be deemed a successor or assign of the Declarant under this Declaration.

(14) **“Declaration”** shall mean this Declaration of Covenants, Conditions, and Restrictions for the Wilson Commons Homeowners’ Association.

(15) **“Default Rate”** shall mean the interest rate of 18% per annum or such other rate as shall be established by the Board of Directors, but shall not exceed the maximum rate allowed by law. Should the default rate exceed the maximum rate allowed by law, it shall be reduced to the maximum rate permitted by law.

(16) **“Design Guidelines”** shall mean the guidelines and rules published and amended and supplemented from time to time by the Architectural Standards Committee.

(17) **“Director”** shall mean a member of the Board of Directors of the Association.

(18) **“Eligible Secured Party”** shall mean a First Secured Party or first mortgagee or any insurer or guarantor of the senior lien encumbering any lot which has notified the Association in writing of its name and

address and status as a holder, insurer, or guarantor of a first security interest or mortgage. Such notice shall be deemed to include a request that the eligible mortgage holder be given the notices and other rights described in Article XV, below, regardless if notice to such parties is required under such Article.

(19) **“Expansion Property”** shall mean such additional real Property, now owned or hereafter acquired, made subject to the provisions of this Declaration by duly recorded Statement of Annexation in accordance with Article XIV below. The real Property identified as Expansion Property as of the date of this Declaration is more particularly described on attached “Exhibit B” and may be supplemented as provided in Article XIV.

(20) **“Expense Assessments”** shall mean the assessments levied against lots for the purpose of paying common expenses of the Association.

(21) **“First Secured Party”** shall mean any holder of a deed of trust or mortgage which is not junior to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

(22) **“Improvement(s)”** shall mean all buildings, parking areas, living areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, ponds, irrigation facilities, lakes, swimming pools and related facilities, park improvements, facilities and equipment, signs, changes of any exterior color or shape; excavation and all site work, including, without limitation grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvements, or any work of any

kind which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude that does not change exterior colors or exterior appearances. "Improvement(s)" includes both original improvements and later changes and improvements.

(23) "**Improved Lot**" shall mean a Lot, as defined in this Article II, § 23, for which a certificate of occupancy has been issued for the first time. Once a Lot has been issued a certificate of occupancy, it shall continue to be an "Improved Lot" even if the original certificate of occupancy is revoked or no longer in effect.

(24) "**Lot**" shall mean a parcel of land designated as a lot on any plat and reserved for any purpose other than use of streets, roads, or Common Areas. A lot includes any and all improvements, if any are located in it. Further, a lot is a "unit" as defined in the Act. But if any lot is divided or combined so that a portion of the lot is owned by an Owner in conjunction with all or a portion of an adjoining lot and is intended to be used as a single residence and is in fact used as a single residence, then the entire property so held under one Ownership shall be one lot for the purpose of this Declaration.

(25) "**Manager**" shall mean such person or entity retained by the Board of Directors to perform certain functions of the Board pursuant to this Declaration or the By-Laws.

(26) "**Member**" shall mean any person holding Membership in the Association as provided in section IV(4)(a) below.

(27) "**Owner**" or "**Lot Owner**" shall mean the Owner of record (including Declarant), whether one or more persons or entities, of fee simple title to any lot, but shall

not mean or refer to a Secured Party or any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a deed of trust, mortgage, or other security interest unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

(28) "**Period of Declarant Control**" shall mean any period during which Declarant (or successor to Declarant) may appoint and remove directors and officers of the Association as permitted under the Act. The period of Declarant control will begin on the date of this Declaration as first recorded in the office of the Clerk & Recorder of Larimer County, Colorado, and will end no later than (i) 60 days after conveyance of 75% of the lots that may be created within the Property and the Expansion Property to Owners other than Declarant or successor to Declarant (The number of any potential lots on any portion of Wilson Commons or the Expansion Property that is still eligible to be annexed to the Wilson Commons at any time shall be equal to the number of acres within such Expansion Property multiplied by three or the number of lots indicated on a recorded plat of the Expansion Property whichever is greater); (ii) two years after the last conveyance of a lot by Declarant (or successor to Declarant) in the ordinary course of business; or (iii) the date on which Declarant (or successor to Declarant) voluntarily terminates the period of Declarant control by recording a notice to that effect in the office of the Clerk and Recorder of Larimer County, Colorado, whichever of the foregoing dates or events occurs first. Notwithstanding the foregoing, the period of Declarant control will be extended at the option of Declarant if (1) the Act is amended to allow for such extension beyond the limiting dates outlined in the section above; or (2) the period of Declarant control is

reinstated or extended by agreement between Declarant and the Association. After termination of the period of Declarant control, and if Declarant is still an Owner, Declarant will have all the rights, duties, and obligations ordinarily given to Members under this Declaration.

(29) “**Person**” means a natural person, a corporation, a partnership, limited liability company, Association, a trust or any other entity or combination of the foregoing.

(30) “**Plat**” shall mean any engineering survey or surveys of all or part of the Property, together with such other diagrammatic plans and information regarding the property as may be required by the Act or other applicable law, or as may be included in the discretion of Declarant, as each such survey may be amended and supplemented from time to time, and as recorded in the office of the Clerk and Recorder of Larimer, County Colorado.

(31) “**Potential Lots**” means the lots on any portion of Wilson Commons or the Expansion Property that is still eligible to be annexed to the Wilson Commons at any time. The number of potential lots is equal to the number of acres within such Expansion Property multiplied by three or the number of lots indicated on a recorded plat of the Expansion Property whichever is greater.

(32) “**Property**” shall mean and include Property described on attached Exhibit “A” and initially subjected to this Declaration and any additional real property from time to time made subject to these covenants pursuant to the provisions hereof.

(33) “**Remedial Assessment**” means the assessment levied by the Association pursuant to section V(5).

(34) “**Rules and Regulations**” or “**Wilson Commons Rules and Regulations**” shall mean any rules and regulations adopted by the Association or any Committee of the Association as provided in this Declaration.

(35) “**Secured Party**” shall mean any person holding a security interest in a lot or any other real property in Wilson Commons, including but not limited to a person named as a beneficiary under a deed of trust or mortgagee under a mortgage, or any successor to the interest of any such person under such security instrument.

(36) “**Security Interest**” means an interest in real estate or personal property created by contract or conveyance that secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

(37) “**Special Assessment**” shall mean an assessment levied pursuant to Section V(4).

(38) “**Special Declarant Rights**” is defined as set forth in Article XIV below. “Special Declarant Rights” shall mean the period beginning the date this Declaration is first recorded in the Office of the Clerk & Recorder of Larimer County, Colorado and ending on the date which Declarant shall have conveyed to other parties (other than a successor to Declarant) all units originally owned by Declarant.

(39) “**Successor to Declarant**” shall

mean any person who Declarant assigns any or all of its rights, obligations, or interest as Declarant, as permitted by this Declaration or applicable law and evidenced by an assignment or deed recorded in the Office of Clerk & Recorder of Larimer County, Colorado, designating such party as successor Declarant, signed by the transferor and transferee and otherwise complying with the requirements of the Act. Upon such recording, Declarant's rights and obligations under the Declaration shall cease and terminate to the extent provided in such document.

(40) **"Supplemental Covenants"** shall mean additional further restricted covenants imposed on a portion or portions of the Property from time to time.

(41) **"Wilson Commons"** or **"Wilson Commons Homeowners' Association"** shall mean the common interest community created by this Declaration, consisting of the Property and including any Expansion Property after annexation in accordance with Article XIV and all of the improvements located on the Property. Wilson Commons is a common interest community under the definitions of the Act, and a planned unit development or "PUD" under the terms of the secondary mortgage marketing guidelines promulgated by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporate (Freddie Mac).

(42) **"Wilson Commons Documents"** or **"Governing Documents"** or **"Documents"** shall mean the basic documents creating and governing Wilson Commons, including, but not limited to, this Declaration, the Articles of Incorporation and By-Laws, the Design Guidelines, the Wilson Commons Rules and Regulations and any other procedures, rules,

regulations or policies adopted under such documents by the Association.

ARTICLE III – PROPERTY SUBJECT TO DECLARATION

(1) **Initially Submitted Property.** The Property described on "Exhibit A" is hereby made subject to this Declaration. The Property is generally inclusive of all of the Wilson Commons First Subdivision, the Plat of which is recorded at Reception No. 2005-0091037 in the Real Property Records of the County of Larimer, State of Colorado, and includes all Lots and Common Areas therein. All or portions of the Expansion Property may also be annexed and thereby made subject to these Declarations provided herein and shall thereupon become part of the Wilson Commons development.

(2) **Property That May Be Annexed.** Declarant may in its discretion, but shall not be required to unilaterally annex all or any portion of the Expansion Property to Wilson Commons as provided in this section and Article XIV. Declarant shall add such additional property to Wilson Commons by executing and recording a written statement (an "Annexing Statement") which shall contain (i) an adequate legal description of the annexed property; (ii) a reference to this Declaration, its date of recording and the reception number under which it was recorded; and (iii) a statement that the annexed Property is declared to be part of Wilson Commons. An annexing statement may be contained in a supplemental declaration. Declarant shall have the right to amend any annexing statement in order to correct clerical or typographical errors, if any, contained therein.

(3) Declaration of Lot Boundaries.

The boundaries of each lot are designated on the Plat, and each lot is identified by the number noted on the plat.

(4) Plat. The plat shall conform to the requirements of the Act and shall be recorded in the office of the Clerk & Recorder of Larimer County, Colorado. The Plat may be filed as a whole or as a series of Plats from time to time. Any Plat filed subsequent to the first Plat shall be termed a supplement to the Plat, and then the numerical sequence of each supplement shall be shown on it.

(5) Common Areas and Limited Common Elements. Tract A, Tract B, Tract C, Tract D, Tract E, Tract F, Tract G, Tract H, Tract I, Tract J, Tract K, Tract L, Tract M, Tract N, Tract O, Tract P, Tract Q, Tract R, Tract S, and Tract T of Wilson Commons First Subdivision to the City of Loveland, Colorado, as reflected in that plat recorded at Reception No. 2005-0091037 in the records of Larimer County, Colorado are Common Elements within the meaning of the Act and are Common Areas under this Declaration. Tracts U, V, W, X, Y, Z, AA, BB, CC, DD, and EE of Wilson Commons First Subdivision to the City of Loveland, Colorado, as reflected in that plat recorded at Reception No. 2005-0091037 in the records of Larimer County, Colorado are also Common Areas, but are Limited Common Elements within the meaning of the Act, as they are designated to the exclusive use of certain Lots as reflected in the Plat.

ARTICLE IV – ASSOCIATION

(1) Wilson Commons Homeowners' Association. Declarant has caused the Wilson Commons Homeowners' Association to be incorporated as a nonprofit corporation. The Association will be the Owner of the

Common Areas and responsible for their maintenance, upkeep, and preservation. Any purchaser of a lot shall be deemed to have assented to such designation and ratified and approved the same. The Association shall have the following duties, rights, and powers:

- (a) *Rules and Regulations.* To adopt rules and regulations governing the use and operation of the Common Areas, establishing fines, interest, and other charges to be imposed for violations of the provisions of this Declaration or the Rules and Regulations of the Association, and otherwise providing for the management, operation, and use of Wilson Commons.
- (b) *Assessments.* To levy and collect assessments as provided herein.
- (c) *Maintenance and Management.* To provide for maintenance, management, insurance, and such other expenses as may be incurred by the Association in carrying out its duties under this Declaration.
- (d) *Improvements.* To cause improvements for the benefit of the residents of the Association to be constructed on Common Areas and to levy special assessments in order to fund the costs of constructing and maintaining such improvements.
- (e) *Property Management.* To hire employees, to contract for services, to purchase supplies and equipment, to enter into contracts, and generally to have the powers of a property manager for the Association. The Association may, in its discretion, contract with a third party property manager to act as the agent of the Association in discharging the duties, rights, and powers of the

Association as consistent with the Act and other applicable law.

- (f) *Actions to Prevent Loss or Damage.* To take such actions as the Association may determine necessary or desirable to protect and defend the Common Areas from loss or damage.
- (g) *Deposits of Funds.* To deposit funds in the hands of the Association with national or state banks insured by the F.D.I.C. or other governmental agencies or as may otherwise be permitted by the Act and other applicable law.
- (h) *Representation.* To represent Owners as a group and to take such action as the Association deems necessary or desirable, provided such representation is consistent with this Declaration and the Wilson Commons Documents.
- (i) *Power to Incur Debt.* To the extent permitted by Colorado law, the Association shall have the power to incur debt for the benefit of the Association.
- (j) To protect the interest of such Owners concerning zoning and any other issue having a potential impact upon the Property or the Association.
- (k) To do any other thing or perform any other act that is necessary or desirable as determined by the Association to carry out its duties under this Declaration.
- (l) Any and all other powers granted to similar associations under the Colorado Common Interest Ownership Act, the Colorado Non-Profit Corporation Act, and any other provision of law.

(2) Common Areas and Common Area Improvements. (a) *Transfer from*

Declarant. Declarant shall transfer to the Association, by special warranty deed, those tracts constituting Common Areas which are located within the Property, from time to time. Declarant shall transfer to the Association, by written instrument, any improvements located on the Common Areas after Declarant has completed the construction of such improvements thereon. From time to time before the expiration of special Declarant rights, Declarant may in its discretion, but shall not be obligated to, convey to the Association, by written instrument filed with the Clerk & Recorder of Larimer County, Colorado, certain other parts of the Property (including the Expansion Property) as Common Areas.

(b) *Improvements.* In addition, the Declarant shall have the right in its sole discretion but not the obligation, to construct certain improvements, facilities, and equipment upon the tracts designated on the plat and thereafter transfer the real Property associated therewith to the Association. In such event, such improvements and the real Property upon which they are located shall constitute a common element under the Act and the expense of the operation shall constitute a common expense.

(c) *Purpose of the Common Areas.* The Common Areas are generally designated by this Declaration for the common use, benefit, and enjoyment of the Owners and their families, tenants, employees, guests and invitees, and such other persons as may be permitted to use the Common Areas, as Declarant may specify. Nothing in this Declaration or the Governing Documents shall be construed as a dedication to public use, or a grant to any public, municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Area(s) by such authority or utility, absent an

independent, express written agreement to the contrary.

(3) Association's Responsibility For The Common Areas. (a) *Management by the Association.* The Association, subject to the rights and obligations of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Areas conveyed pursuant to section IV(2)(a), above, and all improvements on the Common Areas (including any furnishings and equipment related thereto) and shall keep it in good, clean and attractive condition and repair, pursuant to the terms and conditions of this Declaration.

(b) *Restrictions on Use.* Any use of the Common Areas by Owners and their families, tenants and guests, and such other persons permitted access to Common Areas shall be subject to the Governing Documents and any applicable Wilson Commons Rules and Regulations governing the Common Areas.

(c) *Easements, Rights of Way, Leases, Licenses, and Concessions.* The Association, acting through the Board of Directors, may grant easements, rights of way, leases, licenses, and concessions through or over the Common Areas without the independent approval by the Owners, subject, however, to the right of the Declarant and the Owners to use the Common Areas as provided in this Declaration. Without limiting the foregoing, the Association may grant rights to the suppliers of utilities serving the Property or other property adjacent to the Property and to developers or owners of property adjacent to the Property for the purposes of accommodating minor encroachments onto the Common Area or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Areas by the

Owners as contemplated under this Declaration.

(4) Membership. (a) *Every Owner a Member & Rights of Family Members, Tenants, and Guests.* Every Owner, by virtue of being an Owner, and for so long as he is an Owner, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any lot. No Owner, whether one or more persons, shall have more than one Membership per lot owned, but all of the persons owning each lot shall be entitled to the rights of Membership and the use and enjoyment appurtenant to such Ownership. An Owner's family members, guests, and tenants shall have the rights of Membership and the use and enjoyment appurtenant to the Owner's ownership of a lot in Wilson Commons. However, an Owner's family members, guests, and tenants shall not have the right to vote unless otherwise provided by this Declaration or by law. An Owner shall not transfer, pledge, or alienate his Membership in the Association in any way except on the sale or encumbrance of a lot, and then only to the purchaser or person holding a security interest in the lot.

(b) *One Vote per Lot.* All Members shall be entitled to vote on Association matters on the basis of one vote for each lot, as each lot is originally platted by Declarant. The number of votes shall be determined by reference to the plat for the lot in question, as recorded by Declarant and as provided by section II(a)(31).

(c) *Multiple Owners of One Lot are Members, only One Vote per Lot.* When more than one person is an Owner of any lot, all such persons shall be Members. (i) The vote for such lot may be exercised by one person or alternative persons as the

Owners themselves determine. (ii) If more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their lot may be cast only by agreement of the majority in the interest of the Owners. (iii) There is a majority of agreement if any one of the multiple Owners cast the vote allocated to the lot without protest being made promptly to the person presiding over the meeting by any other Owners of a lot. (iv) Any Owner of a lot who does not protest to the person presiding over the meeting shall be deemed to assent and ratify the vote of the other Owner.

(d) *Duties Upon Transfer of Ownership and Change of Address.* (i) Any Real Estate Agent for an Owner, other agent for an owner, or the Owner upon contracting to convey any property located within Wilson Commons shall provide to the buyer copies of all current governing documents of the Association, including the Declaration and any applicable rules and regulations. (ii) Any party, upon becoming a Owner shall furnish to the secretary of the Association a photocopy or certified copy of the recorded instrument or such other evidence as may be specified by the Board under the By-Laws or Rules or Regulations, vesting the party with the interest required to make it a member of the Association. (ii) The new Owner shall provide the Association with a single name and address to which the Association shall send any notices given pursuant to the Association documents. The Member shall state in such notice that the number of votes in the Association to which the member believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice, including any change of Ownership, the member shall give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association shall keep

and preserve the most recent written notice received by the Association with respect to each member.

(e) *Membership of Declarant.* The Declarant shall be a member for so long as Declarant owns any lots or as long as Declarant owns any other Expansion Property that is still eligible to be annexed to Wilson Commons.

(5) Board of Directors. (a) *Association Governed by Board of Directors.* The Association shall be governed by Board of Directors as provided in its Articles of Incorporation and its By-Laws, this Declaration, the Colorado Revised Nonprofit Corporation Act, the Colorado Revised Statutes, and all other applicable law. The functions and duties assigned to the Association may be carried out by or under the direction of the officers of the Association who shall be appointed as provided in the By-Laws.

(b) *Right of Declarant to Appoint and Remove Board of Directors During Period of Declarant Control.* The Declarant or persons designated by the Declarant may appoint and remove members of the Board of Directors of the Association. This right of the Declarant to appoint members of the Board of Directors shall terminate at the end of the Period of Declarant Control as defined in section Article II § 28. Declarant may also surrender all or part of its right to appoint Members of the Board of Directors and such surrender shall be effective on recording a statement to that effect in the records of the Clerk and Recorder of Larimer County, Colorado. After Declarant's right to appoint Members of the Board of Directors is terminated, the Directors shall be elected by the Members of the Association at an annual meeting of the Association as provided in the By-Laws. In the event that the Declarant elects to

voluntarily terminate all or part of special Declarant's right to appoint officers and directors, the portion of the Board to which this special Declarant right has been voluntarily terminated shall be elected as provided in the By-Laws.

(6) Indemnification. To the maximum extent permitted by the Colorado Revised Nonprofit Corporation Act, (as may be amended) the Association shall indemnify its directors, officers, and employees against liability arising out of a proceeding against to whom any such director, officer, agents, or employee is made a party in representative or individual capacity. Indemnification shall be done in the manner set forth in the Colorado Revised Nonprofit Corporation Act and any other applicable law.

(7) Limitation on Liability of Directors and Officers. To the maximum extent permitted by the Act, the Colorado Revised Nonprofit Corporation Act (as may be amended), and other applicable law, no director or officer shall be personally liable to the Association or its Members for monetary damages for any breach of fiduciary duty as director or officer, nor shall any director or officer be personally liable for any injury to person or Property arising out of a tort or any other cause of action.

(8) Owners and Association's Addresses For Notices. (a) *One Designated Address for Notices.* All Owners of each lot shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding these Association matters. The Owner or Owners of a lot shall furnish the registered address to the secretary of the Association within five days after receiving title to the lot. The registration shall be in written form and signed by all the Owners of the lot or by such persons as are

authorized by law to represent the interest of all the Owners of a lot.

(b) *Default Address for Notices.* If no address is registered or if all the Owners cannot agree, then the address of a lot shall be deemed the registered address for the Owner(s) until another registered address is furnished as required under this section.

(c) *Delivery to Occupant of Lot Deemed Sufficient Notice.* If the address of the lot is the registered address of the Owners, then any notice shall be deemed duly given if delivered to any person occupying the lot or sent to the lot by any other means specified for a particular notice in Wilson Commons Documents, or if the lot is unoccupied, if the notice is held and available for the Owners at the principal office of the Association.

(d) *Notice to the Association and Board.* All notices and demands intended to be served upon the Board of Directors shall be sent to the address of the Association or such other address as the Board may designate from time to time by a notice delivered to all Owners in accordance with this section.

(e) *Form of Notice.* Unless any section of this Declaration or the Act expressly provides otherwise, all notices given under this Declaration shall be sent by U.S. Mail postage prepaid and notice shall be effective upon deposit in the U.S. mail. Such requirement shall not preclude the Board from adopting rules and regulations permitting other forms of notice, including any form of electronic transmission, hand delivery, courier, or delivery service.

(9) Compliance With Wilson Commons Documents. Each Owner shall abide by and benefit from the provisions, covenants, conditions, and restrictions

contained in the Wilson Commons Documents.

(10) Rules and Regulations. Within any limitations prescribed by the Act or other applicable law, the Association may adopt, amend, and repeal rules and regulations, to be known as the “Wilson Commons Rules and Regulations”, governing, among other things, and without limitation:

- (a) The use of the Common Areas;
- (b) The use of private pedestrian and bicycle trails, paths and pathways, if any, within Wilson Commons;
- (c) The use of private driveways or roads shared by two or more lots;
- (d) Snow removal on private driveways shared by two or more lots.
- (e) Interpretation of the restrictions on use of lots in Article IX and elsewhere in this Declaration and impositions of additional restrictions on use of lots as may be deemed beneficial or necessary to maintain community standards as determined by the Board of Directors in their sole discretion;
- (f) Procedures for enforcement so the Wilson Commons Documents;
- (g) The establishment of fines, interest, and other charges to be imposed for violations of the provisions of this Declaration or the Rules and Regulations of the Association, or other Governing Documents;
- (h) To suspend voting rights of a Member or Lot Owner, and
- (i) Any other matter otherwise providing for the management, operation, use of Wilson

Commons, or enforcement of the Wilson Commons Governing Documents.

A copy of the Wilson Commons Rules and Regulations in effect shall be distributed to each member of the Association, and any change in the rules shall be distributed to each member within a reasonable time following the effective date of the change. The Board of Directors of the Association shall provide for the enforcement of the Rules and Regulations, as set forth in the By-Laws.

(11) Cooperation With Local Government. The Association will cooperate with local governmental and quasi-governmental authorities in all respects to enable the Association and such authorities to efficiently and economically provide their respective services to the Owners. It is contemplated that from time to time either the Association or any of those authorities may use the services of the other in furthering their respective obligations, and they may contract with each other to better provide for such cooperation.

(12) Manager. The Association may employ or contract for the services of a manager to act for the Association and the Board and the officers according to the powers and duties delegated to the manager pursuant to the By-Laws or resolution of a Board, provided that no such employment or contract shall have a term of more than three years, and each such contract shall be subject to cancellation by the Association on no more than 90 days prior notice without cause and without payment of a termination fee. The manager shall not have the authority to make expenditures for additions or improvements except with specific prior approval and direction by the Board. The Board or any officer of the Association shall not be liable for any omission or improper exercise by a

manager of any such duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

(13) **Delegation By Association.** The Association may delegate any of its rights, duties, or responsibilities to any committee or other entity which it may choose to form. Any delegation by the Board under this section is subject to compliance with the Act and the By-Laws and the requirement that the Board, when so delegating, shall not be relieved of its responsibilities under the Wilson Commons Documents or the Act.

(14) **Ownership of Personal Property and Real Property For Common Use.** The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal Property and real Property. The Board, acting on behalf of the Association, shall accept any real or personal Property, leasehold, or other Property interest within the Property and conveyed to the Association by Declarant.

(15) **Roads, Streets, Trails and Sidewalks.** The City, Larimer County, the Association, or any combination of them, shall be responsible for the maintenance of all roads, streets, trails, and sidewalks within Wilson Commons to the extent Declarant or the Association may delegate, and to the extent any of such entities may specifically accept those obligations.

(16) **Books and Records.** The Association shall make available for inspection, upon request, during normal business hours or other reasonable circumstances, to Owners and Secured Parties, current copies of the Wilson Commons Documents and the books, records, and financial statements of the Association prepared pursuant to the By-Laws. Any Owner or Secured Party may

make a written request to the Association for a copy of the financial statements for the preceding year. The Association may charge a reasonable fee for copying such materials. The Declarant may charge a reasonable fee for copying any books and records created and/or maintained by Declarant during the Period of Declarant Control to the extent permitted by the Act, whether requested during the Period of Declarant Control or thereafter.

(17) **Reserve Account.** The Association shall establish and maintain an adequate reserve fund from the Working Capital Account and annual assessments levied pursuant to Article V below, for maintenance, repair, or replacement of those Common Areas and improvements located within such areas that may be replaced on a periodic basis.

(18) **Capital Reserve Account.** The Association shall maintain at all times a Capital Reserve Account as provided in this section:

- a. ***Funding the Capital Reserve Account.*** The Association shall collect from the Purchaser at the time of each sale of each Improved Lot (as defined above) a nonrefundable amount equal to \$500.00 at the time of the first sale of each Improved Lot. Thereafter, upon each sale of an Improved Lot by an Owner to another party, a nonrefundable amount equal to \$100.00, or a greater amount determined in the Board of Directors' reasonable discretion, shall be collected from the purchaser (or as the Owner and purchaser may otherwise agree in their contract for purchase and sale of the property) at the time of sale to provide additional funds for the Capital Reserve

Account. The foregoing amounts shall not be collected on the sale of Lots which are not Improved Lots, i.e. Lots which do not have a certificate of occupancy issued on them.

- b. ***Funding the Capital Reserve Account through Regular or Special Assessments.*** If a reserve study commissioned by the Board of Directors indicates that additional funding of the Capital Reserve Account is necessary or prudent for anticipated repair or replacement of existing common areas, common elements, or existing improvements to common areas or common elements, the Board of Directors may also fund the Capital Reserve Account with annual or special assessments.
- c. ***Limitation on Use of Capital Reserve Account.*** It is the intent of this Declaration that funds in the Capital Reserve Account shall be used only for the repair or replacement of existing common areas, existing common elements, or existing improvements to common areas or common elements. The Capital Reserve Account, therefore, shall not be used to acquire new improvements to common areas, to pay for annual budget items, to pay for regular maintenance (*i.e.* annual or more frequent than annual maintenance), or to pay for ordinary operating expenses. The Capital Reserve Account also shall not be used to pay for property management expenses, professional fees, costs, or expenses of any kind except as those expenses are directly related to the repair or replacement of existing common areas, common elements, or existing

improvements to common areas or common elements. Examples of professional fees that may be paid from the Capital Reserve Account include engineering fees for installation or repair, charges for labor or supervision of labor related to installations or repair, or design or planning services directly related to installations or repair of existing common areas, common elements, or existing improvements to common areas or common elements. Examples of professional fees that may **not** be paid from the Capital Reserve Account are attorney fees, litigation fees or expenses, fees to conduct a reserve study, accounting fees, or other similar professional fees which do not directly relate to design or construction services for the actual installations or repair of existing common areas, common elements, or existing improvements to common areas or common elements. Subject to the foregoing limitations, the Capital Reserve Account funds may be applied as the Board determines to be necessary or appropriate to meet unforeseen expenditures of the Association necessary to preserve, repair, or replace common areas, common elements, or improvements to common areas and common elements. Such payments to this fund shall **not** be considered advance payments of annual assessments or to defray annual assessments.

- d. ***Management and Investment of Capital Reserve Account.*** The Association need not maintain all the Capital Reserve Account funds in a segregated account, but **shall** take such reasonable accounting measures to ensure that the Capital Reserve

Account is treated as a separate account for accounting purposes and is used only for the repair or replacement of common areas, common elements, or improvements to common areas as provided herein. The Capital Reserve Account may be maintained in an interest bearing account at an FDIC insured depository institution, and the maintenance of the Capital Reserve Account in this fashion shall be presumed to be in good faith. The Capital Reserve Account may also be invested within the reasonable fiduciary discretion of the Board of Directors. In the event the Capital Reserve Account is invested (other than in an interest bearing account at an FDIC insured depository institution), the members of Board of Directors shall invest the funds under fiduciary standards, and the duties of loyalty, prudence, impartiality, and good faith shall be observed at all times by the members of the Board of Directors. Under no circumstances shall Capital Reserve Account funds be invested in a manner that constitutes a conflict of interest and the Board of Directors shall **not** waive any conflict of interest to permit investment Capital Reserve Funds.

(19) Implied Rights and Obligations.

The Association shall perform all the duties and obligations expressly imposed on it by the Wilson Commons Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Wilson Commons Documents or reasonably necessary to satisfy any such duty or obligation reasonably to be implied from the express provisions of the Wilson Commons Documents or reasonably

necessary to satisfy any such duty or obligation. The Association may exercise any other right or privilege (i) given to it expressly by the Wilson Commons Documents or (ii) reasonably to be implied from the existence of any right or privilege which has been given expressly by the Wilson Commons Documents; or (iii) reasonably necessary to effectuate any such right or privilege.

(20) Litigation Matters. The Association and its officers and directors shall have no obligation, right, power or authority to oversee, administer, manage, investigate, report, litigate, arbitrate, mediate, or otherwise be involved in any claims or disputes asserted, or which could be asserted by individual homeowners against any Declarant, Owner, developer, contractor, or other party with regard to alleged construction defects, express or implied construction warranties or similar claims or actions pertaining to any homes or other improvements constructed in or on any lot within Wilson Commons (collectively "claims"). Without limiting the foregoing, the Association shall not be considered a proper party in interest in any such litigation, arbitration, mediation, or other action or proceeding with respect to any claims. Also, without limiting the foregoing, the Association, shall not be involved in organizing, administering, supervising, managing, or otherwise soliciting involvement in any class action or similar litigation in connection with any claims.

In recognition of the inadequacy of damages or other remedies which might otherwise be available to any Declarant, Owner, developer, contractor, or other party (all of whom are intended to be beneficiaries of this provision), any such party shall, without limiting any other remedy which might be available at law or in equity, be

entitled to injunctive relief, dismissal of any proceeding by or on behalf of the Association seeking to enforce any claims, and to reimbursement of all attorney's fees and other costs of litigation, arbitration, mediation, or other action or proceeding incurred by such party on account of any claims asserted by or on behalf of the Association.

Nothing contained in this section shall be construed as limiting the rights and obligations of the Association with respect to the assertion of claims with respect to any improvements located within or upon the Common Areas, nor shall it preclude the assertion of any claims directly by an individually affected Owner of a Lot.

Due to the foregoing restriction, neither the Board nor the Association will have any obligation, responsibility or liability to any Owner or member on account of the existence of any claims of an individual lot owner or refusal of the Association or the Board to pursue any such claims.

ARTICLE V – ASSESSMENTS

(1) **Budget.** The Board of Directors shall prepare a budget before the closing of each fiscal year of the Association and submit the budget to the Association as required by the Act. The budget shall estimate any and all Common Expenses, including but not limited to the amounts the Board determines proper to set aside as reserves for unforeseen expenses anticipated in the future; expenses for operation, routine maintenance of Common Areas or Common Elements, repairs and replacements, and any other reserves or sinking funds established by the Board; expenses for management; insurance expenses; and any other expense of any kind reasonably incurred in the discretion of the

Board as a Common Expense. The annual budget shall take into account any overages or shortages from the previous year's operations. The Board may amend such budget during the year because of additional improved lots added to Wilson Commons or other unanticipated reasons require adjustments to the income or expenses originally budgeted.

(2) **Purpose of Assessments.** The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners and occupiers of Wilson Commons; to improve and maintain the Common Areas by actions including, but not limited to, the payment of taxes and insurance on the Common Areas; payment for repair, replacement, and additions to any of the improvements on the Common Areas; establishment and continued funding of reserve accounts; and payment of costs of labor, equipment, materials, management, and supervision, and the salary or fee of a professional property manager.

(3) **Common Expense Assessments ("Annual Assessments").** At least annually, equal common expense assessments shall be levied against the Owners of the improved lots in the amount required from the annual budget of the Association for the current year. The Board may, in its discretion, collect annual assessments on a periodic basis of less than one year. As additional improved lots are added to Wilson Commons, common expense assessments shall be assessed against the Owners of such additional improved lots pro rata, based on the number of full months remaining in that year after the additional lots were improved.

(4) **Special Assessments For Capital Improvements.**

(a) *Special Assessments Generally.* In addition to the annual common expense

assessments to be levied by the Association, the Association may levy a special assessment against the Owners of lots payable over such period as the Association may determine for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair, or replacement of capital improvements on the common elements (including the necessary fixtures for repair and personal Property related thereto, or, after adopting and submitting a revised budget to the Association as may be required by the Act, to make up any shortfall in the current year's budget).

(b) *Notice of Assessments.* Notice of the amount and due dates for each special assessment must be sent to each Owner (at least thirty days prior to the due date).

(c) *Owner Approval for Certain Special Assessments.* If any of the special assessments levied pursuant to this section shall be used for the construction of new improvements—as opposed to repair and reconstruction of existing facilities or improvements—and if the total amount of special assessments levied for such construction exceeds 10% of the gross annual budget for the Association for that year, then the use of special assessments for such construction shall require the approval of the Owners representing at least 67% of the votes of the Members. The use of special assessments pursuant to this section for constructing any Common Areas shall not apply to the construction of any Common Areas to be completed by Declarant as part of its development of Wilson Commons.

(5) **Remedial Assessment.** The Association may levy a remedial assessment against an Owner for any fines, fees, costs, or interest levied against any such Owner in accordance with the Rules and Regulations or

other Wilson Commons Documents to recover any expense incurred by the Association because of the failure of the Owner to comply with the requirements of this Declaration, including reasonable legal and attorney's fees, costs, and interest owing to the Association in connection with the enforcement of the provisions of this Declaration.

(6) **Uniform Rate of Assessment; Exceptions and Alternative Allocations.**

(a) *Base Allocation of Assessments.* As a default rule, the allocation of Annual Assessments and any Special Assessments assessed against any lot shall be the fraction of the total Annual or Special Assessment divided by the total number of Improved Lots in Wilson Commons. For purposes of this Article a "Improved Lot" is as defined in Article II § 23. If the event the Board elects to change the "Initial Allocation of Assessments" in section (6)(c) below or otherwise elects not to assess differential assessments, then the base allocation of assessments in this section (6)(a) shall operate as the default allocation.

(b) *Differential Allocation of Assessments.* The Board, in its discretion, may adopt a differential allocation of assessments. **Both Annual Assessments and Special Assessments must be fixed at a uniform rate. Notwithstanding the foregoing, Lots may be classified by type or use or other distinguishing characteristics. In such circumstances, Annual Assessments or Special Assessments, or both, may be allocated at different rates depending on the Lot type, use, or characteristic as provided below:**

(i) *Criteria for Alternative Allocation.*
Lots may be classified by use,

location, density, or other characteristics as the Board may deem appropriate, and shall be assessed on the basis appropriate for each area or other classification, as determined by the Board in its discretion. The rate of assessment levied against Lots within the various areas or other classifications may be varied based upon the Board's sole and exclusive determination that any specific item in the Association's budget may more directly benefit a certain area or other classification of a Property in excess of its proportionate share, or that the Association has provided services to such area or other classification in excess of those to other areas of classifications within Wilson Commons; provided, however, that such rate of assessment shall be uniform within each area or classification.

(ii) *Adoption of Allocation by Resolution of the Board.* The allocation of assessments shall be as initially adopted in this Declaration at Section 6(c), but the Board shall have, in its discretion, the right to adopt a different allocation of assessments as provided in Sections 6(a) and 6(b) above. The rates of assessment for lots within each area of classification shall be established from time to time by resolution of the Board. The classification of a lot for the purpose of determining the rate of assessment shall be made by the Board in its sole discretion, and its discretion shall be final.

(c) *Initial Allocation of Assessments.* The initial allocation of Assessments shall be as follows:

(i) *Base Assessment.* All Lots in the Association shall be assessed a base assessment in an amount to fund the general operating and regular maintenance expenses of the Association.

(ii) *Private Drive Assessment.* Each Lot served by a private easement as designated on the Plat shall also be assessed an additional assessment for expenses related to the use, maintenance, and repair of private drives and alleys. Tracts U, V, W, X, Y, Z, AA, BB, CC, DD, and EE on the Plat; and the "ALLEY" as designated on the Plat are the private drives and alleys, and those tracts are "limited common elements" under the Act. The following lots are served by private drives and alleys: Block 1, Lots 1-4 and 6-33; Block 2, Lots 1-12 and 14-17; Block 3, Lots 1-28; Block 4, Lots 1-28; Block 5, Lots 1-4; Block 6, Lots 1-13.

(iii) *Front Yard Landscaping Easement Assessment.* Each Lot for which the Declarant has reserved an easement to install and maintain front yard landscaping shall also be assessed an additional assessment for the expenses related to the irrigation, maintenance, and repair of that landscaping. The following Lots are subject to an additional assessment for irrigation, maintenance, and repair of front yard landscaping: Block 3, Lots 1-28; and Block 4, Lots 1-28.

(7) **Common Expenses Attributable to Fewer Than All Lots.** The following common expenses may be assessed against individual lot owners or groups of lot owners, as the case may be:

(a) *Judgment Against the Association.* A judgment against the Association may be made only against the lots in Wilson Commons at the time the judgment was entered, in proportion to their respective liabilities for common expenses. A judgment entered against the Association in favor of an Owner or Owners shall not be assessed against such Owners and shall only be assessed against the remaining Owners on a pro-rata basis.

(b) *Misconduct of Individual Members.* If a common expense is caused by the misconduct of an individual Member of the Association, the Association may assess that expense exclusively against that Member's lot. The misconduct of a Member's family member or tenant may, in the sole discretion of the Board, be imputed to the Member for purposes of this section.

(c) *Remedial Assessments.* Fines, fees, charges, taxes, impositions, late charges, fines, collection costs, and interest charged against an Owner pursuant to this Declaration, the Rules and Regulations, Wilson Commons Documents or the Act are enforceable as remedial assessments.

(d) *Common Expense Benefiting Less than All Lots.* Any common expense or a portion thereof benefiting fewer than all the lots must be assessed exclusively against all the lots benefited in the proportions determined by the Board after considering the relevant characteristics of the lots benefited thereby to all the lots benefited.

(8) Date of Commencement of Annual Assessment and Payment. The annual assessment shall commence as to all improved lots no later than 60 days after the date the first certificate of occupancy is issued for a dwelling constructed on a lot.

The first annual assessment shall be prorated according to the number of months remaining in the calendar year.

(9) Collection of Assessments.

(a) *Periodic Collection.* Assessments shall be collected on a periodic basis as the Board of Directors may determine from time to time, but until the Board of Directors direct otherwise, assessments shall be payable quarterly on the first day of January, the first day of April, the first day of July, and the first day of October. Collection of the Association's assessments in this manner shall not prevent the creation of the Association's lien against any lot or impair the Association's ability to enforce or collect its assessments as provided under this Declaration.

(b) *No Waiver.* If assessments are not remitted to the Association in a timely manner, the omission or failure of the Association to fix assessments for any assessment period, or the failure of the Association to notify a Member of the Association of an assessment will not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association in accordance with any budget procedures as may be required under the Act.

(c) *Excess Assessments.* In the event the Association receives assessment revenue in excess of the actual expenses incurred in the same fiscal year, the Board of the Association may, in its discretion, reduce the next year's annual common expense

assessments proportionately among the Owners. However, Association funds dedicated to a reserve account, capital spending account, sinking fund, or other segregated account shall not be deemed an excess of the actual expenses of the Association.

(10) Creation of a Lien and Personal Obligation for Assessments.

(a) Declarant, for each improved lot owned within the Property, hereby covenants with each Owner of any lot, by acceptance of a deed for said lot, whether or not it shall be so expressed in any such deed or deemed to covenant and agree to pay to the Association (i) annual assessments or charges as provided in this Declaration to generally carry out the functions of the Association; (ii) special assessments for capital improvements and other purposes as stated in this Declaration, such annual and special assessments to be fixed, established and collected from time to time as provided below; and (iii) remedial assessments which may be assessed against a lot pursuant to the Wilson Commons Documents for the Owner's failure to perform an obligation under the Wilson Commons Documents or because the Association has incurred expense on behalf of the Owner under the Wilson Commons Documents.

(b) The annual, special and remedial assessments, together with fines, interest, costs and reasonable legal and attorney fees and other charges allowed under the Act, shall be a charge on the land and shall be a continuing lien upon the lot which each such assessment is made.

(c) Each such assessment, together with fines, interest, costs and reasonable legal fees and other charges allowed under the Act, shall also be the personal and individual

obligation of the Owner of such lot as of the time the assessment falls due, and two or more Owners of the lot shall be jointly and severally liable for such obligations. No Owner may except himself for liability for any assessment by abandonment of his lot or by waiver of enjoyment of the Common Areas. Such personal obligation of the Owner shall also survive foreclosure of any senior lien. Suit to recover a money judgment for unpaid assessments and related charges listed above may be maintained without foreclosing or waiving assessment liens provided in this Declaration.

(11) Effect of Nonpayment of Assessment; Lien; and Remedies of Association.

(a) *Delinquency and Remedies.* Any assessment or assessment installment—whether pertaining to annual, special, or remedial assessments—not paid within thirty days after its due date, shall be delinquent. In the event that an assessment installment becomes delinquent or in the event any remedial assessment is established under this Declaration, the Association, in its sole discretion, make take any or all of the following actions:

- (i) *Late Charge.* Assess a late charge for each delinquency at uniform rates set by the Board of Directors in the rules and regulations from time to time;
- (ii) *Interest Charge.* Assess an interest charge from the date of delinquency at the default rate;
- (iii) *Suspension of Voting Rights.* Suspend the voting right of the Owner(s) during any period of delinquency;
- (iv) *Acceleration of Entire Amount of Annual Assessment.* Accelerate all the remaining assessment installments for the fiscal year in question so that unpaid assessments

for the remainder of the fiscal year shall be due and payable at once;

- (v) *Personal Action.* Bring an action at law against any Owner personally obligated to pay the delinquent installment;
- (vi) *Lien Statement and Foreclosure.* File a statement of lien with respect to the lot, and foreclose as set forth in more detail below.

The remedies provided under this Declaration shall not be exclusive, and the Association may enforce any other remedies to collect delinquent assessments as may be provided by law.

(b) *Lien.* Any assessment chargeable to a lot shall constitute a lien on the lot effective the due date of the assessment and shall be perfected as provided under the Act. The Association may, but shall not be obligated to, prepare a written lien statement with respect to the lot, setting forth the name of the Owner, the legal description of the lot, the name of the Association, and the delinquent assessment amounts then owing. Any such statement shall be duly signed and acknowledged by the president or vice president of the Association, by the manager, or by an attorney retained by the Association, and shall be served upon the Owner of the lot by mail to the address of the lot or at such other address as the Association may have in its records for Owner. At least ten days after the Association mails the statement to the Owner, the Association may record the statement in the office of the Clerk & Recorder of Larimer County, Colorado. The Association may proceed to foreclose the statement of the lien in the same manner as provided for the foreclosure of security interests under the statutes of the State of Colorado. Such liens shall be in favor of the Association and shall be for the benefit of all other Owners. In either a personal action or a foreclosure action the Association shall be

entitled to recover as part of the action, the interest, costs, and reasonable legal fees with respect to the action. The Association shall have the power to bid on a lot at foreclosure and to acquire, hold, lease, encumber, and convey such lot and the improvements thereon.

(c) *No Waiver.* No Owner may waive or otherwise escape liability for the assessment provided in the Declaration for nonuse of the Common Area or by abandonment of his Lot.

(d) *Effective Date of Lien.* The lien shall be effective as of the date the levy was made by the Association and perfected as of the date of this Declaration, and it shall not be necessary to record any other notice of such lien in favor of the Association and as otherwise provided under the Act and Colorado law.

(12) Successor's Liability For Assessment. In addition to the personal obligation of each Owner to pay all assessments and the Association's perpetual lien for such assessments, all successors to the fee simple title of a lot, except as otherwise provided in this Declaration, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid assessments, interest, late charges, costs, expenses and legal fees against such lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall not be personal and shall terminate upon termination of the successor's fee simple interest in the lot. In addition, such successor shall be entitled to rely upon the statement of the status of assessments by or on behalf of the association under section V(15) below.

(13) Waiver of the Homestead Exemption; Subordination of a Lien. (a) *Waiver of Homestead Exemption, Seniority of Association Lien, Exception.* The lien for assessments shall be superior to and prior to any homestead exemption provided now or in the future by any federal law or the laws of the State of Colorado. The lien for assessments shall also be prior to all other liens and encumbrances except to the extent provided otherwise by the Act for liens and encumbrances recorded before the date of recording of this declaration; a lien for security interest on the unit which has priority over all other security interests on the unit and which was recorded before the date on which the assessment sought to be enforced became delinquent; or liens for real estate taxes and other governmental assessments or charges against the unit or cooperative. All other persons who hold a lien or encumbrance not excepted from the priority of the lien for assessments shall be deemed to consent that any such lien or encumbrance shall be subordinate to the Association's future liens or assessments, interest, late charges, costs, expenses, and legal and attorney fees, as provided in this Article V, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

(b) *Reallocation of Extinguished Liens in Favor of the Association.* Should any lien in favor of the Association be extinguished, then the dollar amount of that lien may be assessed to all Lots as common expense at the direction of the Board of Directors on such terms and to such extent as the Directors may determine in their sole discretion. However, no such sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, any assessments made after the sale or transfer.

(14) Exempt Property. The following portions of the Property shall be exempt from the assessments, charges, and liens created under this Declaration:

- (a) All properties to the extent of any easement or other interests therein dedicated and accepted by the City and devoted to public use;
- (b) All utility lines and easements; and
- (c) All Common Areas.

(15) Statement of Status of Assessments. If the Act or other law requires the Association to provide any person with any statement of the status of assessments on any lot or number of lots, including a written statement setting forth the amount of unpaid assessments currently levied against any owner's unit, the Association may charge such reasonable fee for such statements as it may from time to time deem appropriate.

(16) Association's Right to Cure Default. In the event any Owner is in default on any obligations secured by an encumbrance on such Owner's Property, the Board may, at its option, pay the amount due on such an obligation. In such event, the Association shall have a lien against the lot for the amount so paid in the same manner as provided for unpaid assessments.

(17) Sale of Lot. Sale or transfer or any lot or interest in a lot by an Owner shall not affect or release any lien granted to the Association hereunder.

ARTICLE VI – PROPERTY RIGHTS OF OWNERS

(1) Owners' Easements of Access and Enjoyment. Every Owner has a perpetual, nonexclusive easement for access to and from his Lot and for the use and enjoyment of the Common Areas, which easement is

appurtenant to and shall pass with the title to every Lot, subject to the provisions set forth in this Article.

(2) **Delegation of Use.** Any Owner may delegate, in accordance with the Wilson Commons Documents (including specifically, but without limitation, the Rules and Regulations), his rights of access and enjoyment in this Declaration, to his tenants, employees, family, guests or invitees, except as may be otherwise limited by this Declaration or the Wilson Commons Documents.

(3) **Landscaping Easements.** The Declarant reserves to the Association an easement for the installation, irrigation, maintenance, and repair of landscaping upon the following Lots: Block 3, Lots 1-28; Block 4, Lots 1-28 for front yard landscaping (hereinafter the "Paired House Front Yard Landscaping Easement").

(a) ***Term of the Paired House Front Yard Landscape Easements.*** The Paired House Front Yard Landscaping Easement shall continue for a term including the entire period of Declarant Control, and for a period of five (5) years after the termination of Declarant Control. Thereafter, the Paired House Front Yard Landscaping Easement shall automatically renew annually thereafter unless a 67% majority of the Owners of Block 3, Lots 1-28; Block 4, Lots 1-28 vote to vacate the Front Yard Landscaping Easement.

(b) ***Scope.*** The Paired House Front Yard Landscaping Easement shall apply to the irrigation, maintenance, repair and replacement of landscaping originally installed by the Declarant or any replacements thereof as may

be provided by the Association, but does **not** include any portion of the house, utilities, concrete flatwork, stairs or steps, improvements appurtenant to a public right of way, or any other improvement of any kind other than the landscaping originally installed by Declarant and replacements of Declarant installed landscaping installed by the Association.

(c) ***Location.*** The location of the Paired Home Front Yard Landscaping Easement shall extend from the front plane of each house built on Block 3, Lots 1-12 to Picasso Drive; from the front plane of each house built on Block 3, Lots 13-28 to Da Vinci Drive; from the front plane of each house built on Block 4, Lots 1-12 to Picasso Drive; and from the front plane of each house built on Block 4, Lots 13-28 to Da Vinci Drive.

(d) ***Declarant's Responsibility.*** The Declarant shall, in Declarant's sole discretion, select and install the landscaping improvements to be installed in the area of the Paired Home Front Yard Landscaping Easement.

(e) ***Association's Responsibility.*** The Association shall irrigate, maintain, and replace as necessary the original landscaping installed by Declarant. The Association shall not be responsible for the maintenance or repair of Owner installed landscaping within the area of the Paired Home Front Yard Landscaping Easement unless the Association expressly agrees to assume that responsibility. The Association is not responsible for public sidewalks, utilities, concrete

flatwork or steps, or owner installations of any kind.

(f) ***Improvements and Changes by Association.*** During the period of Declarant Control, the Association shall have the right, but not the obligation to make changes and improvements to the Paired Home Front Yard Landscaping Easement landscaping from time to time with the express written consent of the Declarant. After the period of Declarant Control, the Association shall have the right, but not the obligation to make changes and improvements to the Paired Home Front Yard Landscaping Easement landscaping from time to time.

(g) ***No Owner Installed Landscaping without Written Approval of the Association.*** During the term of the Paired Home Front Yard Landscaping Easement, the Owners of Block 3, Lots 1-28; Block 4, Lots 1-28 agree not to install landscaping of any kind in the area of the Paired Home Front Yard Landscaping Easement without the express written permission of the Association. Unless otherwise agreed in writing by the Association, the Owner is responsible for the maintenance and repair of any Owner installed landscaping unless expressly agreed by the Association in writing. The Association may require the removal of Owner installed landscaping under the following circumstances: (i) if the installation was not approved; (ii) if the installation is or becomes a safety hazard; (iv) if an approved installation dies or becomes aesthetically displeasing in the discretion of the Board or the

Architectural Standards Committee. The foregoing remedies do not preclude other remedies permitted under this Declaration including fines, special assessments, injunctive relief, and any other applicable remedies provided for elsewhere in this Declaration.

(4) **Easements of Record and of Use.** The Property shall be subject to all easements shown on any recorded Plat affecting the Property and to any other easements of record or of use as of the date of recordation of this Declaration.

(5) **Partition or Combination of Lots.** Except pursuant to exercise of the Special Declarant Rights under Article III section (2) and Article XIV or any other part of this Declaration, no part of a Lot may be partitioned or separated from any other part thereof, and no Lots may be combined, except as provided in this section VI(4) and subject to the limitations of section II(25) and any other applicable requirements or restrictions of this Declaration or the Act. A Lot may be subdivided into two or more Lots, or two or more Lots may be combined into one, only with the written consent of Declarant (during the Special Declarant Rights Period) and the Board of Directors. Such subdivision or combination must be in compliance with all applicable state, county, city, and any other applicable zoning and subdivision regulations and the Act. Declarant's consent, if required, shall be conditioned upon payment by the Owner(s) concerned of all expenses incident to Declarant's consent, including legal and accounting fees. Every agreement and recorded instrument for partition or combination of Lots shall make adequate provision for the preservation of easements previously reserved with respect to the Lots, and the adjustment of voting rights and

liability for payment of Assessments appurtenant to or imposed on such Lots.

Whether partitioned, combined, or unchanged, each Lot shall be conveyed, transferred, gifted, devised, bequeathed, encumbered, or otherwise disposed of, as the case may be, with all appurtenant rights and interests created by law or by this Declaration, including the Owner's Membership in the Association and the right to use the Common Areas, and with the appropriate allocation of voting rights, as provided in sections II(25) and IV(4), and liability for Assessments as established for such classification of Lot by the Board of Directors.

(6) No Partition of Common Areas.

The Common Areas shall be owned by the Association, and no Owner shall bring any action for partition or division of the Common Areas. By acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived assignment, each Owner shall be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other action designed to cause a division of the Common Areas, and this section may be pleaded as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Association, and hereby agrees to reimburse the Association for its costs, expenses, and reasonable legal fees in defending any such action.

**ARTICLE VII – OWNER'S
OBLIGATIONS FOR MAINTENANCE**

(1) Owner's Responsibility for Lot.

Except as provided in the Wilson Commons Documents or by written agreement with the Association, all maintenance of a Lot and the Improvements located thereon shall be the

sole responsibility of the Owner of the Lot. Each Owner shall maintain his Lot in accordance with community-wide standards as determined by the Board. The Board may, in its discretion, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy such standards. Before assuming maintenance responsibilities, the Board shall notify the Owner and any applicable Eligible Secured Party in writing of its intention to do so, and if the Owner or the Eligible Secured Party has not commenced and diligently pursued remedial action within thirty days after the mailing of such written notice, then the Association may proceed. The expenses of the maintenance by the Board shall be reimbursed to the Association by the Owner within thirty days after the Association notifies the Owner of the amount due, and any sum not reimbursed within that thirty day period shall bear interest at the Default Rate from the date of the expenditure until payment in full. The Board of Directors may also adopt a schedule or schedules to assist in enforcement of this section. Such charges shall be a Remedial Assessment enforceable as provided in Article V.

(2) Member's Negligence. If the need for maintenance, repair or replacement of any portion of the Common Areas (including Improvements located on Common Areas) arises because of the negligent or willful act or omission of a Member, his family member, or tenant, then the expenses incurred by the Association for the maintenance, repair or replacement shall be a personal obligation of that Member. If the Member fails to repay the expenses incurred by the Association within thirty days after the notice to the Member of the amount owed, then those expenses shall bear interest at the Default Rate from the date of the advance by the

Association until payment by the responsible Member in full, and all such expenses and interest shall become a Remedial Assessment enforceable in accordance with Article V.

ARTICLE VIII – INSURANCE

(1) **General.** To the extent reasonably available, the Association shall obtain and maintain the insurance described in this Article. If such insurance is not reasonably available, the Board may determine to not provide such insurance or to provide alternative insurance. To the extent reasonably possible, all insurance shall be underwritten with companies licensed to do business in Colorado having a Best's Insurance Report Rating of A-VI (or equivalent) or better and shall cover the risks described below.

(2) **Public Liability and Property Damage Insurance.** The Association shall obtain and maintain comprehensive liability insurance, including non-owned and hired automobile liability coverage; personal injury liability coverage; and products' coverage covering liabilities of the Association, its Directors, Officers, employees, agents and Members arising in connection with Ownership, operation, maintenance, occupancy or use of any Property within Wilson Commons which the Association is required to maintain, repair or replace with a minimum single limit or per-occurrence limit of at least \$1,000,000.

(3) **Workers' Compensation and Employers' Liability Insurance.** The Association shall obtain and maintain workers' compensation and employers' liability insurance if necessary to comply with applicable laws.

(4) **Fidelity Bonds.** A blanket fidelity bond or dishonesty insurance coverage is required for anyone who either handles or is responsible for funds held or administered by the Association whether or not they receive compensation for their services. The bond or insurance shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association while the bond is in force.

(5) **Directors' and Officers' Liability Insurance.** The Association may obtain and maintain directors' and officers' liability insurance, if reasonably available, covering all of the Directors and Officers of the Association, with limits as determined by the Board.

(6) **Other Insurance.** The Association may carry any other insurance that the Board of Directors determines appropriate.

(7) **Premiums.** Insurance premiums for insurance carried by the Association shall be a Common Expense, and amount of such premiums shall be included in the annual Common Expense Assessments levied by the Association.

(8) **Authority to Purchase.** All insurance policies related to the Common Areas shall be purchased by the Board of Directors or its duly authorized agent. The Board of Directors, the Manager, and the Declarant shall not be liable for failure to obtain any coverage required by this Article VIII or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs. Notwithstanding the foregoing, if the insurance required by this Article is not reasonably available, or if any policy of such insurance is cancelled or not

renewed without a replacement policy having been obtained, the Association promptly shall cause notice of that fact to be provided to all Owners if required to do so by the Act.

(9) General Insurance Provisions.

All such insurance coverage obtained by the Board of Directors shall conform to any minimum requirements of the Act, and, to the extent not inconsistent with the Act, the following provisions:

- (a) As long as Declarant owns any Lot, Declarant shall be protected by all such policies in the same manner as any other Owner. The coverage provided to Declarant under the insurance policies obtained in compliance with this Article shall not be deemed to protect or be for the benefit of any general contractor engaged by Declarant, nor shall such coverage be deemed to protect Declarant for (or waive any rights with respect to) warranty claims against Declarant as the developer of Wilson Commons.
- (b) The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments allocable to all of the Lots or to only some of the Lots, if the claims or damages arise from the negligence of particular Members (if the repairs benefit only particular Members), or as an item to be paid from working capital reserves established by the Board of Directors. Except as otherwise set forth in this Article, the maximum deductible amount shall be the lesser of Ten Thousand Dollars (\$10,000.00) or one percent (1%) of

the policy face amount or such amount as may be otherwise set by the Board of Directors.

(10) Physical Damage Insurance on Common Area.

The Association shall obtain insurance for all insurable Improvements, if any, on the Common Area in an amount equal to the full replacement value (*i.e.*, one hundred percent of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal Property, and other items normally excluded from coverage), which shall include all building service equipment and the like, common personal Property and supplies, and any fixtures or equipment within the Common Areas.

(a) In addition, such policy shall afford protection against at least the following:

- (i) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement covering sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage.
- (ii) Such other risks as shall customarily be covered with respect to homeowners association Common Areas similar in construction, location and use to Wilson Commons.

(b) In contracting for the insurance coverage obtained pursuant to this section above, the Board of Directors shall be required to make reasonable efforts to secure coverage which provides the following:

- (i) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to this Declaration not to do so.
- (ii) The following endorsements (or equivalent): (A) "cost of demolition;" (B) "contingent liability from operation of building laws or codes;" (C) "increased cost of construction;" (D) "agreed amount" or elimination of co-insurance clause; and (E) "inflation guard" (if available).

Prior to obtaining any policy of physical damage insurance, or any renewal thereof, and at such other intervals as the Board of Directors may deem advisable; the Board of Directors shall make reasonable efforts to obtain an appraisal or estimate from a general contractor or such other source as the Board may determine of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage) subject to insurance carried by the Association, without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Article.

(11) Provisions Common to Physical Damage Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance.

Any insurance coverage obtained by the Association under the provisions of this Article above shall comply with the Act and are subject to the following provisions and limitations:

- (a) The named insured under any such policies shall include Declarant, until all of the Lots in Wilson Commons owned by Declarant have been conveyed, and the Association,

attorney-in-fact for the use and benefit of the Members, or the authorized representative of the Association (including any trustee with whom the Association may enter into an insurance trust agreement, or any successor trustee) who shall have exclusive authority to negotiate losses under such policies.

- (b) Each Owner shall be an insured person with respect to liability arising out of the Owner's interest in the Common Area or Membership in the Association.
- (c) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy will be primary.
- (d) The policies shall provide that coverage shall not be prejudiced by (i) any act or omission of any Owner (including an Owner's family, tenants, servants, agents, invitees, and guests) when such act or neglect is not within the control of the Association, or (ii) any act or omission of the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control; or (iii) conduct of any kind on the part of an Owner (including the Owner's family, tenants, servants, agents and guests) or any Director, officer, employer or Manager of the Association, without prior demand to the Association and a reasonable opportunity to cure.

- (e) The policies shall contain the standard mortgage clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be cancelled in the middle or at the end of any policy year or other period of coverage or substantially modified or reduced (including cancellation for nonpayment of premiums) without at least thirty days' prior written notice mailed to the Association and to each Owner and Secured Party to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.
- (f) The policies shall contain a waiver by the insurer of any right to claim by way of subrogation against Declarant, the Board of Directors, the Association, a third party manager, and any lot Owner or Member and their respective agents, employees, or tenants, and in the case of members or lot owners of their households, guests, invitees, or tenants, and of any defenses based upon co-insurance.

(12) Insurance Obtained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. No insurance coverage obtained by an Owner shall operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage.

ARTICLE IX – USE AND OTHER RESTRICTIONS

- (1) **General Restriction.** The Property shall be used only for the purposes set forth in this Declaration, as permitted by the applicable ordinances of the City, and the laws of the State of Colorado and the United States, and as set forth in the Wilson Commons Documents or other specific recorded covenants affecting all or any part of the Property.
- (2) **Maintenance of Property.** No lot or Common Areas within Wilson Commons shall be permitted to fall into disrepair and all such property, including any improvements and landscaping thereon, shall be kept and maintained in a clean, safe, attractive and sightly condition and in good repair. Maintenance, repair and upkeep of each lot shall be the responsibility of the owner of the lot.
- (3) **Trash.** No storage of trash will be permitted in or outside on any lot in a manner which may permit the spread of fire, odors, seepage, or encouragement of vermin. All equipment, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring lots and streets. All rubbish, trash or garbage must be deposited in locations in containers on lots approved or provided by the Association. The Association may adopt rules and regulations further defining the deposit of rubbish, trash or garbage and other matters related thereto. Without limiting the foregoing, the Association, acting through the Board, shall have the right to require that the trash collection within Wilson Commons be performed by one or more designated company, companies, or municipal service (if applicable) and that trash collected from all Lots be collected on a specified day or days

of each week. The Association may also designate trash pickup for the following lots be performed by a different company than the remaining lots in the Association based on the unique configuration of those lots: Block 1, Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33; Block 2, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17; Block 5, Lots 1, 2, 3, 4; and Block 6, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13. In the event the Association so elects, all Owners shall make use of the trash collection service or services provided or contracted for by the Association. In the event the Association contracts with more than one trash collection service, the Association may impose a differential assessment on lots based on the particular trash service designated for a lot. This Section IX(3) shall not apply to the Declarant or a contractor during construction of a dwelling or other improvements within Wilson Commons. Such contractor may dispose of trash, rubbish, debris and other construction materials either personally or by contracting with a trash collection company. Trash collection shall not be a common expense and shall be the responsibility of individual Lot Owners unless the Association elects to contract directly with a trash collection service or services and directly assess individual Lot Owners for those services.

(4) Signs. No signs of any kind shall be displayed to the public view on any Lot or Common Area except as permitted by this section or otherwise permitted by applicable law. This provision shall not apply to permanent signs identifying Wilson Commons which are installed by the Declarant as part of the development of Wilson Commons, nor shall this provision preclude Declarant or its agents, as long as Declarant is the Owner of any Lot within Wilson Commons, from placing such signs as

Declarant deems appropriate, without limitation on size or location, offering property or lots for sale. The Board of Directors may adopt rules and regulations permitting signs advertising lots for sale at such location and of such character as the Board shall designate, provided that in no event shall individual Members be entitled to place advertising signs on the Common Areas, nor shall any such Member be allowed to use more than one sign to advertise such Member's lot for sale. No signs of any kind shall be displayed to the public view on any lot or any Common Area. However, subject to the approval of the Architectural Standards Committee, a sign of not more than one square foot identifying a professional occupation or other home occupation as permitted by section IX(6) of this Declaration may be placed on the lot where such permissible home occupation is located; one sign of not more than five square feet advertising a lot for sale or for rent, or as otherwise provided in the rules and regulations adopted by the Board of Directors.

Notwithstanding any of the foregoing, the display of the American flag, service flags, political signs, and religious signs and symbols shall be governed by C.R.S. § 38-33.3-106.5, and the following provisions shall apply: (A) a display of the American Flag shall not be larger than 3 feet by 5 feet, flagpoles for the display of the American flag shall not exceed 15 feet in height, and the display shall be consistent with the federal flag code, 4 U.S.C. 4 to 10 or any successor legislation thereto; (B) a display of a service flag is limited to a flag bearing a star denoting the service of the owner or occupant of the unit, or a member of the unit owner's or occupant's immediate family, in the active or reserve military service of the United States during a time of war or armed conflict and shall not be larger than 36 inches by 46

inches, and the manner and location of display may be limited in rules and regulations adopted by the Board; (C) political signs may not be displayed more than 45 days before an election day or 7 days thereafter, and no more than one political sign per office or contested ballot issue may be displayed, and the maximum size of each political sign may not exceed 36 inches by 46 inches or any lesser size limit imposed by the City of Loveland; (C) the Board may make other rules and regulations concerning the the display of the American flag, service flags, political signs, and religious signs and symbols within the limitations of Colorado and Federal law.

(5) Residential Use of Lots. Each Lot may be used only for residential purposes and developed by the construction of a single-family residence. No business or commercial building may be erected on any Lot, and no business or commercial enterprise or other non-residential use may be conducted on any part of a Lot, except as provided in section IX(6) below. The term “residential purposes” refers to both the physical appearance of the dwelling and lot as well as the interior use of any dwelling or exterior use of any lot, except as provided in section IX(6) below (referring to home occupations).

(6) Home Occupations. The conduct of a home occupation within a residence in Wilson Commons shall be considered accessory to residential use and not a violation of this Declaration provided that the following requirements are met:

- (a) Such home occupation shall be conducted only within the interior of the dwelling and shall not occupy more than twenty-five percent of the floor area within the dwelling, except as approved in writing by the Board.

- (b) The home occupation shall be conducted only by the residents of the dwelling and no non-residents shall be employed in connection with the home occupation carried on in the dwelling, except as approved in writing by the Board.
- (c) No sign shall be permitted on the Lot or the exterior of the dwelling except as provided for in section IX(4) above.
- (d) The conduct of such home occupation must be permitted under the zoning ordinances of the City of Loveland and any other applicable law.
- (e) No noise or offensive activities shall be conducted on any Lot and no Lot shall be used, in whole or in part, for the storage of any property or thing that will cause the Lot to appear in an unclean or untidy condition that will create an eyesore or nuisance.
- (f) No substance, thing, or material that emits foul or obnoxious odors, is injurious to the health or safety of any occupant of the surrounding Lots, or causes any noise that might disturb the peace, quiet, comfort, or serenity of the surrounding Lots shall be permitted on a Lot.
- (g) There shall be no evidence of a home occupation visible from the outside of a dwelling.
- (h) No retail sales to customers visiting the Lot shall be permitted, except as approved in writing by the Board.

- (i) Additional vehicular trips to the Lot caused by the conduct of a home occupation may be regulated by rules and regulations promulgated by the Board.

(7) Pets and Other Animals. Animals may be kept as pets only in compliance with any applicable law, including local laws, ordinances, and regulations. To the extent local laws, ordinances, and regulations are more restrictive than this section, then those laws shall apply. To the extent local laws, ordinances, and regulations are less restrictive, then these restrictions shall apply.

- (a) ***Household Pets.*** A maximum of four household pets, which shall be defined to include domestic dogs, domestic cats, and other small animals not typically kept as livestock, are permitted without the express written consent of the Board of Directors of the Association. No number of pets in excess of four animals shall be kept without the express written consent of the Board of Directors of the Association. One pet or any number of pets kept in Wilson Commons, however, may be prohibited by the Board of Directors if the Board in good faith determines such pet or pets (i) pose a threat to the health, safety, welfare, or property of any homeowner family member, tenant, guest, or other person in Wilson Commons; (ii) are a nuisance; or (iii) threaten property values or the beauty and attractiveness of Wilson Commons as a residential subdivision. Under no circumstances shall any animals, including dogs or cats, be kept, bred, or maintained for commercial purposes without the prior written approval of the Board of Directors. In the exercise of its

discretion, the Board of Directors may adopt rules and regulations regarding the maintenance of animals upon the Property, and such rules and regulations may supplement or vary the terms of this section.

- (b) ***Household Livestock.*** No household livestock (which shall include chickens, goats, llamas, sheep, donkeys, pigs, horses, cows, or other animals which are customarily bred for the production of meat, eggs, milk, wool, or for other agricultural purposes or uses) shall be kept within Wilson Commons during the period of Declarant Control and for three (3) years after the last day of Declarant Control. Thereafter, the Board of Directors may adopt rules and regulations which permit the keeping of household livestock, but only to the extent such is permitted under local law and ordinances.

- (8) **Pet Runs.** No pet runs or other fenced-in areas for the containment of dogs or other pets shall be permitted upon any Lot without the prior written approval of the Architectural Standards Committee. In considering whether to approve any such pet run or other fenced-in areas, the Architectural Standards Committee shall consider the location, size, concealment, proximity to surrounding structures and adjacent Lots, proposed building materials, aesthetic appeal and harmony of exterior design in relation to surrounding structures. Furthermore, no invisible fences or similar restraints shall be installed within or encroach upon any portion of the Common Areas.

- (9) **Leases and Lots Not Occupied By Owners.** Every lease shall be in writing. The written lease shall contain provisions requiring that the tenant comply with all

provisions of this Declaration and the other Wilson Commons Documents. The Board may, in its discretion, require that all leases be submitted to it for approval before the lease will be effective and that all tenants met with a person designated by the Board to review the requirements of the Declaration and other Wilson Commons Documents. In any circumstances where a lot is leased or is occupied by persons other than Owner, the Owner of the Lot shall:

- (a) Provide the Association with a current mailing address;
- (b) Submit any Lease to the Association for its records; and
- (c) If the Property is not leased, but is occupied by a person(s) other than the Owner, the Owner shall provide a statement indicating who is living on the lot and under what terms.

The Association shall have the power to enforce the provisions of the Declaration and other Wilson Commons Documents against any tenant or occupier of a lot regardless of the provisions of the lease or the terms of an agreement under which a person other than the Owner is occupying the Lot. The Association shall have the power to levy fines and assessments against tenant or occupier as it would have against any Lot Owner under this Declaration, and the Lot Owner shall be responsible for any Annual, Special, or Remedial Assessments assessed against the Lot. The foregoing shall not limit the right of the Lot Owner to require a tenant or occupier to pay assessments on behalf of the Lot Owner or otherwise indemnify the Owners for Annual, Special, or Remedial Assessments.

(10) Buildings and Structures. All buildings or structures erected upon Lots in

Wilson Commons shall be of new construction. No structures of a temporary character such as trailers, tents, shacks, storage buildings or the like shall be placed on any Lot in the subdivision. The Board of Directors, however, may approve the use of temporary structures not to exceed a period of three days for a legitimate purpose consistent with the community standards of Wilson Commons and such consent of the Board shall not be unreasonably withheld.

(11) Temporary Use by Declarant. Notwithstanding any provision herein or in a Supplemental Declaration to the contrary, it shall be expressly permissible for Declarant to maintain on any Property in Wilson Commons as Declarant shall determine desirable during the period of development of the Property and Expansion Property (if applicable) and sale of lots therein such facilities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to such development and sale including, but not limited to, a business office, show homes, storage area, construction yards, structures, signs and sales offices. Declarant may also operate whatever equipment is necessary for these purposes, including but not limited to heavy equipment at any time, seven days a week. This section shall also apply to any commercial builder (and its general contractors or sub-contractors) to whom the Declarant conveys lot(s) for the purpose of new residential construction during the development of the Property and Expansion Property (if applicable) and sale of lots therein.

(12) Storage of Inoperative Vehicles. Inoperative vehicles shall not be stored, parked or permitted to remain upon a Lot, except within a fully enclosed garage. For purposes of this provision, any disassembled or partially dissembled car or other vehicle or any car or other vehicle which is not capable

of moving under its own propulsion for two consecutive days shall be considered an "inoperative vehicle" subject to the terms of this section.

(13) Repair of Vehicles. No activities such as, but not necessarily limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat may be performed on any Lot unless performed entirely within a completely enclosed garage attached or associated with the dwelling located on such Lot. Without limiting the foregoing, no such activity shall be performed upon any of the Common Areas at any time. The foregoing restrictions shall not be deemed to prevent washing and/or polishing of any motor vehicle.

(14) Parking and Vehicle Charging. The following provisions shall apply to the parking and storage of motor vehicles, bicycles, and other means of conveyance:

(a) ***General Provisions Related to Vehicle Storage.*** No trailer, motor home, bus, camper, large commercial-type vehicle, including a vehicle-mounted camper, whether chassis or slide-in, or pick-up coach, tent, trailer, boat, truck trailer, machine, tractor, semi-tractor, tractor trailer, all terrain vehicles, motorcycles, or similar vehicles or equipment, shall be parked, placed, erected, maintained or constructed on any lot or the Common Areas for any purpose. However, trailers, campers, motor homes, pick-up coaches, tents or boats which can be and are stored completely within an enclosed garage and are not used for living purposes will not be in violation of these restrictions. Trailers, campers, motor homes, pick-up coaches, boats, and

similar vehicles may be parked for a period of 72 total hours during any one-month period for the purpose of loading, unloading, cleaning or similar activities related to the use of the vehicle. Garage doors shall be kept closed when not in use, except for a reasonable period of time not to exceed two hours or such lesser time as the Board may determine in its discretion.

(b) The parking provisions in section 14(a) above shall be subject to the provisions of C.R.S. § 38-33.3-106.5(1)(d), as may be amended or repealed from time to time.

(c) ***Electric Vehicle Charging Stations.*** Electric vehicle charging stations shall be placed entirely within enclosed garages. Any electrical vehicle charging station shall be professionally installed and meet all applicable building codes. The Association may adopt additional bona fide safety requirements and reasonable aesthetic provisions governing the dimensions, placement, or external appearance of a charging station.

(15) Screens, Awnings, Flags and Other Accessories. (a) ***Generally.*** No screens, storm doors, awnings, flags, clothes lines, permanent basketball or other sports related goals or recreational accessories (whether attached to a dwelling or otherwise permanently fixed in place), or any other similar exterior accessories shall be installed or used on or about any Lot without the prior written approval of the Architectural Standards Committee. In considering whether to approve any such accessory, the Architectural Standards Committee shall consider the location, size, visual impact on

the Lot and proximity to adjacent Lots, aesthetic appeal and harmony of exterior design in relation to surrounding structures. Use or installation of any such accessory shall also be subject to such rules and regulations as may be adopted by the Association from time to time and Association or Architectural Standards Committee may consider the color, location, and all other aspects of the accessory in question. In any event, if any such accessories are permitted by the Architectural Standards Committee and the Association, the Member installing same on its Lot shall be responsible to fully and properly maintain such accessories at all times.

(b) *Portable Sports Goals and Non-Permanent Recreational Accessories.* Portable or movable sports goals and portable or movable recreational accessories, including basketball goals and any other type of sports goal or sporting or recreational equipment, shall be stored when not in use and such storage shall ensure that such items are not an eyesore or detract in any way from the beauty of Wilson Commons, as determined in the sole discretion of the Board of Directors or Architectural Standards Committee. The Board or Architectural Standards Committee may promulgate rules governing the use of portable or movable sports goals and recreational accessories, including portable or moveable basketball goals and any other type of sports goal or sporting or recreational equipment. Such rules may contain provisions relating to when and where such items may be used and how they shall be stored.

(16) **Storage.** No tanks for storage of gas, fuel, oil, chemicals or other matter shall be erected, placed or permitted on any Lot: except that two containers of fuel of five (5) gallons or less each are permitted per Lot; up to six (6) quarts of motor oil in six (6) or

fewer containers are permitted; up to ten (10) gallons of chemicals for household consumer use are permitted in their original manufacturer's containers; and the foregoing limits shall be adjusted downward in conformance with any applicable state or local law. No clothesline equipment, service yards, woodpiles or storage areas of any kind shall be permitted on any Lot without the approval of the Architectural Standards Committee, which shall require enclosure or screening, such as privacy fences, landscaping or berming, to conceal such area from the view of neighboring Lots. Storage of landscaping materials for a limited period of time, not to exceed seven (7) days, is permitted while landscaping construction is actively underway. Under no circumstances, however, shall landscaping materials be stored on any street or common area without the advance written approval of the Architectural Standards Committee and subject to any reasonable restrictions the Architectural Standards Committee may impose within its sole discretion.

(17) **Radio, Television, and Other Communication Antennae or Devices; and Electrical or Cooling Devices.** No exterior television antenna, radio antenna, satellite dish, or any other transmitting or receiving device shall be placed, allowed or maintained upon any portion of any dwelling or other structure located upon a Lot or any other portion of Wilson Commons without the express written consent of the Board or the Architectural Standards Committee, which shall not be unreasonably withheld.

(a) *Electronic Communication Devices.* In determining whether consent to the placement of electronic communication devices shall be granted, the Board or the Architectural Standards Committee shall consider the size, location, and appearance of any such device, as well as any other relevant

issues including, but not limited to interference with radio, television, or other communication devices used by other homeowners. In addition, no electronic devices or systems causing unreasonable interference with radio or television receivers or other communication devices of other homeowners shall be placed or maintained on any lot. Notwithstanding the foregoing, no more than two satellite dishes with horizontal elements not in excess of eighteen inches in diameter will be allowed on a lot, provided that the location thereof is approved by the Architectural Standards Committee, and the Owner submits a plan to screen or otherwise conceal or minimizes the visual impact of the satellite dish to the extent feasible, and such plan is approved in writing by the Architectural Standards Committee. Restrictions on the installation of satellite dishes to receive television or other electronic communication signals shall be applied only as consistent with the requirements of applicable federal, state, and local laws. The Architectural Standards Committee may grant relief from the provisions of this section for good cause shown and such relief shall not be unreasonably withheld.

(b) *Heating and Cooling Devices.* One ground mounted exterior air conditioning condenser or equivalent devices may be installed by any homeowner without the approval of the Board or Architectural Standards Committee. Wall or window mounted heating units, air conditioning units, fans, swamp coolers, and any other similar devices (collectively "wall mounted units") are prohibited for aesthetic reasons. Likewise, roof mounted air conditioning units, swamp coolers, heating units, solar panels, and any other similar devices (collectively "roof mounted units") are prohibited for reasonable aesthetic reasons. The Association, through the Board or

Architectural Standards committee, however, may adopt rules and regulations permitting devices which are intended as energy efficiency measures to the extent the Association determines that such units may determine beneficial to the homeowners and the Association and meet reasonable aesthetic and bona fide safety standards. This section 17(b) shall be interpreted as reasonably necessary to comply with any law concerning energy efficiency, reduction of carbon emissions, or other similar law.

(18) **Electrical, Television, Natural Gas and Telephone Service.** All electrical, television, natural gas, and telephone service installations shall be placed underground.

(19) **Water and Sanitation.** Each structure designed for occupancy shall connect with water and sanitation facilities as are made available from time to time by the City or any other approved utility supplier.

(20) **Wells.** No well from which water, oil, or gas is produced shall be dug, nor shall storage tanks, reservoirs, or any installation of power, telephone or other utility lines (wire, pipe, or conduit) be made or operated anywhere in Wilson Commons except in connection with water wells and works operated by public agencies or duly certified public utility companies; provided, however, that the foregoing shall not prevent the drilling of or installation of water wells by the Association or the Declarant or its assigns, provided further that all required approval from appropriate governmental authorities shall first be obtained.

(21) **Temporary Structures.** No temporary structures shall be permitted except as may be determined to be necessary during construction and as specifically authorized by the Architectural Standards Committee, and except as necessary for the

exercise by Declarant of the Special Declarant Rights.

(22) **Outside Burning.** There shall be no exterior fires, except barbecues, outside fireplaces, and braziers contained within facilities or receptacles and in areas designated and approved by the Architectural Standards Committee. Incinerators and incinerator fires are prohibited. No Member or family member, guest, invitee, or tenant shall permit any condition upon its portion of Wilson Commons which creates a fire hazard or is in violation of fire prevention regulations.

(23) **Noise.** No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or Improvements, shall be placed or used on any portion of the Property.

(24) **Lighting.** The Board or the Architectural Standards Committee shall have the power to adopt rules and regulations prohibiting or limiting the use of exterior lighting that may prove to be a nuisance or detract from the beauty or property values of Wilson Commons. "Exterior lighting" shall include any lighting located on the outside of any structure located on a lot as well as any lighting on the interior of any structure located on a lot which is intended to be viewed from the exterior, such as an illuminated sign or other similar device. Without limiting the generality of the foregoing, unless more restrictive municipal ordinances apply or the Board or Architectural Standards Committee adopts different standards, the following shall apply to all outdoor luminaries:

- (a) Spotlights, floodlights, and motion activated spotlights and floodlights are prohibited.

- (b) Exterior light fixtures approved by the International Dark-Sky Association (IDA) for residential use are permitted. Except, however, spotlights, floodlights, and motion activated spotlights and floodlights are prohibited even if approved by the IDA.

- (c) Low voltage landscape lighting is permitted if aimed away from adjacent Lots or common areas, so that direct glare is not visible from adjacent properties, and comply with IDA guidelines.

- (d) The Board or Architectural Standards Committee may adopt rules and regulations allowing additional or different lighting and higher total permitted lumen levels for holiday lights for the time period starting on October 30 and ending on January 7th of the following year (i.e. a sixty eight day period).

- (e) Exceptions: These rules shall not apply to lighting owned or operated by the City of Loveland; lighting used for legitimate, good faith emergency purposes; lighting for temporary use of no more than thirty (30) days and that is approved in writing by the Board or Architectural Standards Committee; or lighting required by municipal ordinance or other law.

(25) **Nuisances.** No noxious or offensive activities shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or any other Owner. Nothing shall be done or kept in or

on any Property within Wilson Commons which would be in violation of any statute, rule, ordinance, regulation, permit or validly imposed requirement of any governmental body. Nothing contained herein shall be construed as prohibiting or restricting construction activities by Declarant at any time, seven days per week.

(26) Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street Property lines and a line connecting them at points 25 feet from the intersection of the street Property lines extended. The same sightline limitation shall apply on any Lot within 10 feet from the intersection of a street Property line with the edge of a driveway pavement. No tree shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

(27) Unightly Uses. Refuge piles and other unsightly objects or materials shall not be allowed to be placed or to remain upon any Property within Wilson Commons. No unsightly vehicle, as determined in the sole discretion of the Board of Directors, shall be parked in any area other than an enclosed garage.

(28) Pools and Hot Tubs. The construction and use of above ground or in ground pools is prohibited in Wilson Commons. Hot tubs not exceeding a footprint of 100 square feet are permitted only on the written approval of the Architectural Standards Committee after submission of plans specifying the location, dimensions, and appearance of the hot tub.

(29) Hazardous Activities. No activity shall be conducted on and no Improvement shall be constructed on any Lot within Wilson Commons that is or might be unsafe or hazardous to any person or property.

(30) Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on any Lot, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the Architectural Standards Committee, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Lot to be suitably landscaped subject to the approval of the Architectural Standards Committee so as to present a pleasing and attractive appearance.

(31) Enforcement. The Association, or the Architectural Standards Committee, acting on behalf of the Association, may take such action as it deems advisable to enforce these Covenants as provided in this Declaration. In addition, the Association and the Architectural Standards Committee shall have a right of entry on any part of the Property for the purposes of enforcing this Article, and any costs incurred by the Association or the Architectural Standards Committee in connection with such enforcement which remain unpaid thirty days after the Association has given notice of the cost to the Owner and otherwise complied with the Act shall be subject to interest at the Default Rate from the date of the advance by the Association or the Design Review Committee through the date of payment in full by the Owner, and shall be treated as a Remedial Assessment enforceable as provided in Article V. The Association shall, in its rules and regulations, have the right to establish fines for the violations of the restrictions of this Article.

**ARTICLE X – ARCHITECTURAL
STANDARDS COMMITTEE**

(1) **Committee.** There is hereby established an Architectural Standards Committee which shall have the powers and duties set forth herein. Initially, the Architectural Standards Committee shall consist of the following three individuals:

Karen Trippet
308 Commerce Drive, Unit A
Fort Collins, CO 80524

Robert Sabin
3037 North Taft Avenue
Loveland, CO 80538

Allison Giuliano-Roeder
308 Commerce Drive, Unit A
Fort Collins, CO 80524

A majority of the Committee may designate a representative to act for it. In the event any vacancy occurs on the Committee for any reason, the remaining Members shall have full authority to designate a successor. During the Appointment Period (as hereafter defined), Declarant shall have the continuing right to determine the number of Members of the committee and to appoint such Members. The “Appointment Period” shall mean the period of time extending from the date of recording this Declaration and continuing until the earliest to occur of the following events: (a) The date a certificate of occupancy is issued for a dwelling on the last lot owned by Declarant that is located anywhere in the Property or any property annexed to Wilson Commons, whether or not such lot is conveyed by Declarant to a third party before the certificate of occupancy is issued; (b) Such time as Declarant waives this right by written notice to the Association;

(b) December 31, 2025; or (c) a shorter period if expressly required by the Act or other applicable law. Members of the Architectural Standards Committee appointed by Declarant may be removed at any time by Declarant and shall serve until resignation or removal by Declarant. After the end of the Appointment Period, the then record Owners of a majority of the Lots within Wilson Commons shall have the power through a duly recorded written instrument to change the Membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties. Except as the Membership may be changed by written instrument of a majority of the lot owners within Wilson Commons, vacancies on the Committee shall be filled first by the Declarant and if Declarant does not fill the vacancy within three months after it is notified of such vacancy, then by the remaining Members of the Committee.

(2) **Improvement to Property Defined.** “Improvement to Property”, as used in this Article X, shall mean and include without limitation:

- (a) The construction, installation, erection or expansion of any building, fence, structure or other Improvement, including utility facilities;
- (b) The demolition or destruction by voluntary action of any building, structure or other Improvement;
- (c) The grading, excavation, filling or similar disturbance to the surface of the land, including without limitation, change of grade, change of ground level or change of drainage pattern;

- (d) The installation or removal of any Landscaping; and
- (e) Any change or alteration of any previously approved Improvement to Property, including any change of exterior appearance, color or texture.

(3) Restriction. No Improvement to Property shall commence on or be made to any Lot by anyone other than Declarant or commercial builders (or their general or sub-contractors) to whom the Declarant conveys lot(s) for new residential construction during the development of the Property or Expansion Property (if applicable) unless the same has been approved by the Architectural Standards Committee; provided, however, that Improvements that are completely within a building may be undertaken without such approval. All Improvements shall be constructed only in accordance with approved plans.

(4) Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement to Property, the person proposing to make such Improvement to Property (hereinafter "Applicant") shall submit to the Architectural Standards Committee such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Architectural Committee shall reasonably request showing the nature, kind, shape, height, width, color, materials and location of the proposed Improvement to Property. The Architectural Standards Committee may require submission of additional plans, specifications or other information as it may deem necessary prior to approving or disapproving the proposed Improvement to Property. The Committee may postpone review of any materials submitted for

approval until all materials requested by it are submitted. The Architectural Standards Committee shall maintain a record of all materials submitted to it for consideration, the action ultimately taken thereon and the date of such action.

(5) Criteria for Approval.

(a) *General Criteria for Approval.* The Architectural Standards Committee shall approve any proposed Improvements to Property only if it determines in its reasonable discretion that the Improvement to Property will be consistent with the surrounding areas and of Wilson Commons as a whole and that the Improvement to Property will be consistent with the beauty, wholesomeness, and attractiveness of Wilson Commons and the enjoyment thereof by all the Members of the Association. The Architectural Standards Committee may condition in its approval of any proposed Improvements to Property upon the making of such changes thereto as the Architectural Standards Committee may deem appropriate.

(b) *The Discretion of the Architectural Standards Committee.* The Architectural Standards Committee shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, seals, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in any standards and rules adopted by the Architectural Standards Committee and the other Wilson Commons Documents. The Architectural Standards Committee, in its sole discretion based on concerns for good planning and design, the aesthetic, architectural and environmental interest of Wilson Commons, or other factors as necessary or desirable to fulfill the intent of

the standards and rules, may excuse compliance with such requirements in specific situations and may permit compliance with different or alternative requirements.

(c) *Binding Effect.* The actions of the Architectural Standards Committee, in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

(6) Action by Committee. The Architectural Standards Committee's approval or disapproval of any matter submitted to it shall be in writing. The Committee shall act by a majority vote of a quorum or by its designated representative. A quorum of the Committee shall consist of a majority of the Members of the Committee. In the event the Committee fails to approve or disapprove plans and specifications submitted to it within 60 days after such submission (including submission of all additional materials requested) approval will not be required and the Applicant shall be deemed to have fully complied with the requirements of this Article

(7) Architectural Standards and Guidelines. The design requirements imposed on the Declarant by the City of Loveland are hereby expressly incorporated into this Declaration. The requirements of this Declaration may be modified by adoption of rules and regulations of the Architectural Standards Committee as authorized by the Board of Directors. Members of the Association may obtain variances to these requirements under section X(13).

(a) *Rules and Regulations.* The Architectural Standards Committee is

authorized to adopt rules and regulations to set out and enforce the architectural standards and design guidelines for Wilson Commons. Such rules and regulations shall be construed in addition to the requirements of this section and may construe, extend, or modify the terms of this section.

(b) *Traditional Residential Development.* Housing in Wilson Commons will be traditional in character and designed in an architecturally consistent manner through the use of repetitive design elements, such as front porches, and recurring architectural details such as boxed windows, column trims, and contrasting siding materials on street facing gable ends. The Architectural Standards Committee shall determine how these design elements will be required on a consistent basis throughout Wilson Commons. All design elements shall be of a consistent type, quality, and color range, all as determined by the Architectural Standards Committee.

(c) *Architectural Design Standards.* The following architectural design standards shall be enforced as interpreted by the Architectural Standards Committee, but the Architectural Standards Committee may adopt additional requirements in its rules and regulations:

- (i) *Roof Slope.* Roof slopes shall be a minimum 5:12 pitch, except that the Architectural Standards Committee may approve minor roof pitches of less than 5:12 on a case by case basis in the Architectural Standards Committee's sole discretion.
- (ii) *Roof Overhangs and Eaves.* Roof overhangs at eaves shall be a minimum of 12" and roof

- overhangs at rakes shall be a minimum of 6”.
- (iii) Fences. Fences shall be of a consistent design throughout Wilson Commons, and shall be built in conformance with the specific requirements separately designated by the Declarant during the period of Declarant Control or by rules and regulations adopted by the Board or Architectural Standards Committee. All such privacy fences shall be limited to the area immediately adjacent to or behind the front elevation of the residence and compatible with the minimum front yard setback as prescribed in the final development plan approved by the City.
- (A) Chain link fencing and any form of fence construction other than that specified here are not permitted.
- (B) Lot owners are not required to build privacy fences, but any privacy fence built on a lot shall conform to these requirements. These fence requirements may be modified only by express rules and regulations adopted by the Architectural Standards Committee at the express direction of the Board.
- (iv) Furnace Flues/Plumbing Vents. All furnace flues and plumbing vents shall be located on the roof slope away from primary street-facing elevations whenever possible.
- (v) Driveways and Parking Areas. Driveways shall be of concrete slab construction and shall not exceed a maximum width of twenty feet (20’) for two car garages and thirty feet (30’) for three car garages. Additional concrete slabs for parking are not permitted.
- (vi) Garage Doors. Garage doors shall not exceed ten feet (10’) in height.
- (vii) Dog Runs and Animal Enclosures. No dog runs or animal enclosures are permitted.
- (viii) Antennas, Satellite Dishes, and other transmitting or receiving devices. Antennas, Satellite Dishes, and any other transmitting or receiving devices are prohibited except as provided in Article IX § (17) of the Declaration.
- (ix) Basketball Hoops and other Exterior Accessories. Basketball hoops and other exterior accessories are prohibited except as provided in section Article IX § (15) of the Declaration.
- (x) Sheds and other outdoor storage structures are prohibited during the period

of Declarant Control and for three (3) years thereafter. After that time period the Board may, but shall not be required to, direct the Architectural Standards Committee to adopt standards for outdoor storage structures.

(8) Landscape Standards and Design Guidelines.

(a) *Rules and Regulations.* The Architectural Standards Committee is authorized to adopt rules and regulations construing, supplementing, or modifying the landscape standards and design guidelines in this Article X § (8).

(c) *Approval.* The written approval of the Architectural Standards Committee shall be obtained pursuant to this Article prior to commencement of construction of any landscaping. Approval shall be required for any privacy fence, retaining wall, arbor, gazebo, or any form of landscaping including the planting of trees or shrubs or the inclusion of any non-living landscape material. A Member of the Association may be granted a variance to the requirements of this Article X § (8) or under section Article X § (13).

(c) *Minimum Requirements.* All lots shall be landscaped using either traditional landscaping, xeriscaping principles, or a combination of both. All landscape plans must be approved in writing by the Architectural Standards Committee and the following principles shall guide the Architectural Standards Committee's discretion in approving landscaping plans:

(i) *Traditional Landscaping.* Front lawns shall be landscaped with a minimum of 70% Kentucky Bluegrass sod or an equivalent approved in writing by the Architectural

Standards Committee in the front lawn material in the front lawn. Rear lawns shall be landscaped with a minimum of 70% living material if the rear lot is not completely screened by a privacy fence or a minimum of 50% living material if the rear lot is completely screened by a privacy fence.

(ii) *Xeriscaping.* Xeriscaping or low water use landscaping is permitted, but the following principles shall apply: (A) any xeriscaping plan shall be supported by sound landscape planning and design that takes into account the regional climate and microclimate of the site, and groups plants by their water needs, and aesthetic considerations; (B) at least 70% of the xeriscaped yard area shall including living plant material when mature, with plants selected for their design characteristics and water conservation; (C) an appropriate automatic irrigation system **must** be utilized to irrigate living plant material at appropriate levels; (D) mulches of organic material may be used at appropriate depths in planting beds to assist soils to retain water, prevent weed growth, and prevent erosion; (E) decorative boulders, rocks, gravel, and sand may be utilized as part of a coherent and aesthetically pleasing plan; but (F) mulches, decorative rocks, boulders, sand or similar materials **must not** exceed 30% of the total landscape square footage and may not form large fields (*i.e.* an uninterrupted area in excess of 20 square feet) without living plant material. The Architectural Standards Committee shall have discretion to impose maintenance standards for xeriscaped or low water use landscaping on a case by case basis as a condition for approval.

(d) All Lots and landscaping shall be maintained in good order and appearance including both traditionally landscaped and xeriscaped Lots. The Architectural Standards Committee shall have discretion to

determine what constitutes minimum maintenance standards, and may issues rules and regulations for minimum landscape maintenance from time to time. All Lots shall be kept free from plants infected with noxious insects or plant diseases which in the opinion of the Architectural Committee are likely to spread to other property, and all lots shall be kept free from weeds and noxious plants.

(e) *Completion of Landscaping.* Promptly after completion of construction of a dwelling on any Lot, and in any event within sixty days after completion of such construction between March 1 and September 1, and in no event later than the last day of April following the completion of construction at any time between September 2 and the last day of February, all yard areas shall be landscaped as required in this Article and carefully maintained thereafter. The time for completion of any landscaping plans submitted after the initial landscaping of a lot shall be determined by the Architectural Standards Committee on a case by case basis, but in no event shall any landscaping project continue for a period of more than sixty days.

(e) *Drainage.* No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior written approval of the Architectural Standards Committee. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture. Lot owners are responsible for and shall prevent excess water runoff from their lots as provided in Article XVII whether landscaping has been completed or not.

(f) *Alternative Landscaping.* The Architectural Standards Committee may

promulgate rules and regulations for the use of landscaping methods other than those prescribed in this Declaration upon the approval of the Board of Directors.

(9) Authority of Architectural Standards Committee to Adopt Additional Standards and Rules.

(a) The Architectural Standards Committee may adopt standards and rules governing within Wilson Commons, the types of buildings to be permitted, permitted construction materials, permitted landscaping, and the like. Such standards may include permitted exterior materials and finish, including colors which are approved for the exterior of structures within Wilson Commons. Such standards and rules shall be as determined from time to time by the Committee, shall be in writing and shall be available to all interested parties upon request therefor. The Standards and Rules may include, among other things, those restrictions and limitations set forth below:

- (a) Standards establishing and dictating an architectural theme and requirements pertaining to building style and design, construction materials and site planning;
- (b) Procedures for making application to the Architectural Standards Committee for design review approval, including the documents to be submitted and the time limits in which the Architectural Standards Committee must act to approve or disapprove any submission;
- (c) Time limitations for the completion, within specified periods after approval, of the Improvements for

- which approval is required under the standards and rules;
- (d) Designation of a building site on a Lot, establishing the maximum developable area of a Lot and setback or view corridor requirements;
 - (e) Minimum and maximum square foot areas of living space that may be developed on any Lot;
 - (f) Limitations on the height of any building or other Improvement;
 - (g) Specifications for the location, dimensions and appearance or screening of any permitted fences, accessory, structures, antennae or other such Improvements.
 - (h) Landscaping regulations, including requirements for installing and maintaining landscaping on the entire Lot; time limitations within which all landscaping must be completed; limitations and restrictions prohibiting the removal or requiring the replacement of existing trees; and other practices benefiting the protection of the environment, aesthetics and architectural harmony of Wilson Commons.
 - (i) General instructions for the construction, reconstruction, refinishing or alteration of any Improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation of utility lines or conduits anywhere in Wilson

Commons, addressing matters such as loading areas, waste storage, trash removal, equipment and materials storage, grading, transformers, and meters.

- (j) Designation of front, side or rear entry garages; and
- (k) Use and design of private driveways located within the Property.

(10) Organization and Operation of Architectural Standards Committee.

(a) Membership & Term of Office. Any person, whether a Member of the Association or not, may serve on the Architectural Standards Committee. During the Appointment Period, members of the committee shall be appointed by the Declarant. After the Appointment Period, the members of the committee shall be appointed by the Board of Directors. The term of office of each member of the Architectural Standards Committee, subject to section X(1), shall be as determined by the Board of Directors but no less than one year and not more than three years commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Architectural Standards Committee member die, retire, or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed by the Declarant during the Appointment Period and by the Board thereafter. Members of the Architectural Standards Committee may serve multiple terms.

(b) Chairman. So long as Declarant appoints any member of the Architectural Standards Committee, Declarant shall appoint the chairman. At such time as the Architectural Standards Committee is appointed by the Board of Directors, the chairman shall be elected annually from

among the Members of the Architectural Standards Committee by a majority vote. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

(c) *Operations.* The Architectural Standards Committee chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Architectural Standards Committee prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any member.

(d) *Voting.* The affirmative vote of a majority of the then serving Members of the Architectural Standards Committee shall govern its actions and be the act of the Architectural Standards Committee.

(e) *Expert Consultation and Delegation to Expert Consultant.* The Architectural Standards Committee may avail itself of other technical and professional advice and consultants as it deems appropriate, and the Architectural Standards Committee may *delegate* its plan review responsibilities, *including* final review and approval, to one or more of its Members or to a consultant(s) retained by the Architectural Standards Committee. Such consultant may be reasonably compensated for services performed and reasonable expenses incurred. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant shall be equivalent to approval or disapproval by the entire Architectural Standards Committee. While such appointment may be withdrawn by the Architectural Standards Committee at any time, the initial professional delegate of the Architectural Standards Committee shall be:

Allison Giuliano-Roeder
308 Commerce Drive, Unit A
Fort Collins, CO 80524

(f) *Expenses.* Except as otherwise provided in this section, all expenses of the Architectural Standards Committee shall be paid by the Association and shall constitute a Common Expense. The Architectural Standards Committee shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Architectural Standards Committee from time to time, and such fees shall be collected by the Architectural Standards Committee and remitted to the Association to help defray the expenses of the Architectural Standards Committee's operation.

(11) Other Requirements.
COMPLIANCE WITH THE WILSON COMMONS DESIGN REVIEW PROCESS IS NOT A SUBSTITUTE FOR COMPLIANCE WITH CITY BUILDING, ZONING, AND SUBDIVISION REGULATIONS, AND EACH OWNER IS RESPONSIBLE FOR OBTAINING ALL APPROVALS, LICENSES, AND PERMITS AS MAY BE REQUIRED PRIOR TO COMMENCING CONSTRUCTION OF IMPROVEMENTS. The establishment of the Architectural Standards Committee and procedures for architectural review shall not be construed as changing any rights or restrictions upon Owners to maintain and repair their Lots and Improvements as otherwise required under the Declaration or other Wilson Commons Documents.

(12) Limitation of Liability. The Architectural Standards Committee shall use reasonable judgment in accepting or disapproving all plans and specifications

submitted to it. Neither the Architectural Standards Committee nor any individual Architectural Standards Committee member shall be liable to any person for any official act of the Architectural Standards Committee in connection with submitted plans and specifications, except to the extent the Architectural Standards Committee or any individual Architectural Standards Committee member acted with malice or wrongful intent. **THE ARCHITECTURAL STANDARDS COMMITTEE MAKES NO STRUCTURAL REVIEW OF PROJECTS SUBMITTED FOR APPROVAL AND DOES NOT WARRANT ANY APPROVED PROJECT IN ANY WAY. APPROVAL BY THE ARCHITECTURAL STANDARDS COMMITTEE DOES NOT NECESSARILY ASSURE APPROVAL BY THE APPROPRIATE GOVERNMENTAL BOARD OR OTHER AUTHORITY.** Notwithstanding that the Architectural Standards Committee has approved plans and specifications, neither the Architectural Standards Committee nor any of its Members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the Improvements. Neither the Board, the Architectural Standards Committee, nor any agent thereof, nor Declarant, nor any of its officers, directors, shareholders, employees, agents or its consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Wilson Commons Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events, the members of the Architectural Standards Committee shall be defended and indemnified by the Association to the full

extent permitted by law in any such suit or proceeding which may arise by reason of the Architectural Standards Committee's decision.

(13) Enforcement.

(a) *Right of the Architectural Standards Committee to Inspect Improvements.* Any member or authorized consultant of the Architectural Standards Committee, or any authorized officer, Director, employee or agent of the Association may enter upon any exterior portion of a Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being built in compliance with the Wilson Commons Documents and the plans and specifications approved by the Architectural Standards Committee.

(b) *Optional Temporary Certificate of Compliance & Assurance of Completion.* This section X(13)(b) shall not apply to the Declarant or any commercial builder (or its general or sub-contractors) to whom Declarant conveys lot(s) for the purpose of new residential construction during the development of the Property. The Architectural Standards Committee, may in its discretion, require any Owner of a lot to obtain a temporary certificate of compliance issued by the Committee indicating substantial completion of improvements in accordance with the plans and specifications approved by the Architectural Standards Committee, and imposing such conditions for issuance of a final certificate of compliance as the Architectural Standards Committee may determine appropriate in its reasonable discretion. Without limiting the preceding sentence, the Architectural Standards Committee may require, in its discretion, and

as a condition to the issuance of the temporary certificate of compliance, that the Owner deposit with the Architectural Standards Committee such sums as may be necessary to complete improvements on the lot, including landscaping, by a specified date. If the improvements are not completed as scheduled, the Architectural Standards Committee may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to the Association for the failure of the Owner to comply with these Covenants, including, without limitation, the remedies set forth in Article XVI and any other remedy provided in this Declaration, the Governing Documents, the Act or by any applicable law.

(c) *Certificate of Compliance.* Upon payment of a reasonable fee established from time to time by the Architectural Standards Committee, and upon written request of any Owner or his agent, an existing or prospective Secured Party, or a prospective grantee, the Architectural Standards Committee shall issue an acknowledged certificate, in recordable form, setting forth generally whether, to the best of the Architectural Standards Committee's knowledge, the Improvements on a particular Lot are in compliance with the terms and conditions of the Declaration, Wilson Commons Documents, and any standards and rules adopted by the Architectural Standards Committee.

(d) *Deemed Nuisances.* Every violation of these Covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Member shall be applicable. Without limiting the foregoing, these Covenants may be enforced by any means under the Wilson Commons documents, the Act, or as provided below.

(e) *Fines for Violations.* The Architectural Standards Committee may adopt a schedule of fines for failure to abide by the Architectural Standards Committee rules and the Design Guidelines, including fines for failure to obtain any required approval from the Architectural Standards Committee.

(f) *Removal of Nonconforming Improvements with Court Order.* The Association, upon request of the Architectural Standards Committee and after first obtaining a court order from a Colorado court having jurisdiction thereof, may enter upon any Lot and remove any Improvement constructed, reconstructed, refinished, altered or maintained in violation of these Covenants. The Owner of the Improvement shall immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within thirty days after the Association gives the Owner notice of the expenses, the sum owed to the Association shall bear interest at the Default Rate from the date of the advance by the Association through the date of reimbursement in full, and all such sums and interest shall be a Remedial Assessment enforceable as provided in Article V.

(14) **Reconstruction of Common Area.** The reconstruction by the Association after destruction by casualty or otherwise of any Common Area that is accomplished in substantial compliance with "as built" plans for such Common Area shall not require compliance with the provisions of this Article or the standards and rules.

(15) **Variances.** The Architectural Standards Committee may authorize variances from compliance with any provisions of this Declaration or any applicable rules and regulations of the

Association when circumstances such as natural obstructions, hardships, aesthetics or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the Members of the Architectural Standards Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any provisions of this Declaration for any purpose except as to the particular Property and the particular provision hereof, covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

(16) Estoppel Certificate. The Architectural Standards Committee shall upon the reasonable request of any interested party, furnish a Certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether an Improvement to Property was made in compliance with this Declaration and any applicable Supplemental Declaration. Any person shall be entitled to rely on such Certificate with respect to all matters set forth therein.

ARTICLE XI – ASSOCIATION AS ATTORNEY-IN-FACT

Each and every Member hereby appoints the Association as attorney-in-fact in such Member's name, place, and stead for the purpose of dealing with the Improvements on

the Common Areas in the event of damage or destruction as provided in Article XII below, or a complete or partial taking as provided in Article XIII below. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant, Member, or other person or entity owning a Lot, shall constitute appointment of the Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Member which may be necessary, appropriate, or advisable to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE XII – DAMAGE OR DESTRUCTION

(1) Estimate of Damage or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Areas, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Area so damaged or destroyed. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

(2) Repair and Reconstruction. As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Members, the Association may take any and all necessary or appropriate action to effect repair and

reconstruction, and no consent or other action by any Member shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

(3) Funds for Repair and Reconstruction.

The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Article V above, levy, assess, and collect in advance from all Members, without the necessity of a special vote of the Members, except as provided in section V(4)(c), a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

(4) Disbursement of Funds for Repair and Reconstruction.

The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in section XII(3) above constitute a funds for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs and repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance may, in the discretion of the Board, be treated as an excess assessment pursuant to section V(9)(c). Alternatively, the Board may elect to distribute a remaining balance to the Members in proportion to the contributions each Member made as a Special Assessment to the Association under section XII(3),

above, or, if no Special Assessments were made, then on the basis of the allocation to the Members of Common Expenses under Article V, first to Eligible Secured Parties and then to the Members, as their interests appear.

(5) Decision Not to Rebuild. If Members representing at least eighty percent (80%) of the votes in the Association, including the vote of every Owner of Improvements that will not be restored and including, during the Special Declarant Rights Period, the Vote of Declarant, and any other votes required by the Act, agree in writing not to repair and reconstruct and no alternative Improvements are authorized, then and in that event the Property shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition. Any remaining insurance proceeds shall be distributed in accordance with the Act.

(6) Damage or Destruction Affecting Lots.

In the event of damage or destruction to the Improvements located on any of the lots, the owner thereof shall promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within one hundred eighty days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than ninety days, then the Association may, after notice and hearing as provided in the Bylaws, impose a fine accruing at the rate of \$1,000.00 per day or such other rate imposed by the Board in compliance with the Act, charged against the owner of the lot until repair and reconstruction is commenced, unless the owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the owner's control.

Such fine shall be a Remedial Assessment and lien against the Lot as provided in Article V.

ARTICLE XIII – CONDEMNATION

(1) **Rights of Owners.** Whenever all or any part of the Common Areas shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Member shall be entitled to notice of the taking, but the Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

(2) **Partial Condemnation; Distribution of Award; Reconstruction.** The award made for a taking by power of eminent domain shall be payable to the Association as trustee for all Owners to be disbursed as follows:

(a) *Takings Involving Common Areas.* If the taking involves a portion of the Common Area on which Improvements have been constructed, then, unless within sixty days after such taking, Owners representing at least sixty-seven percent of the votes in the Association, including, during the Special Declarant Rights Period, the vote of Declarant, shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors, the Architectural Standards Committee, the City (if required), and any other authority having jurisdiction in such matters (if required). If such Improvements are to be repaired or restored, the provisions in Article XII above regarding the

disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

(b) *Takings not Involving Common Areas and Surplus Funds from Awards.* If the taking does not involve any Improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed on the basis of the Common Expenses allocated to the Owners under Article V, first to the Secured Parties and then to the Owners, as their interests appear.

(3) **Complete Condemnation.** If all of Wilson Commons is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas shall be distributed as provided in section XIII(2) above.

ARTICLE XIV – EXPANSION, WITHDRAWAL, DEVELOPMENT AND SPECIAL DECLARANT RIGHTS

(1) **Time Article Applicable; Order of Exercise of Declarant's Rights.** This Article applies during the period beginning the date of this Declaration and ending on the day 180 days after the last lot owned by Declarant in the Property is conveyed. Declarant makes no representations and gives no assurances of the order in which any phases of the Expansion Property or other property annexed to the Property may be developed or incorporated into Wilson Commons. Further, the fact that Declarant may exercise one or more of Declarant's development rights or other Special Declarant Rights on one portion

of the Property (including Expansion Property or other annexed property) shall not operate to require Declarant to exercise a development right or Special Declarant Right with respect to any other portion of the Property (including Expansion Property or any other annexed property).

(2) General Reservation of Declarant

Rights. (a) *Reservation of Special Declarant Rights.* Declarant reserves the right to complete improvements indicated on plats and maps filed with the Declaration and any supplemental plats and maps filed as part of an annexation or expansion of the initially submitted property; to exercise any development right reserved in this Declaration or by the Act; to maintain sales offices, management offices, signs advertising development in Wilson Commons, sales and construction office trailers, and model homes; to use easements through the common elements and units (as defined in the Act) for the purpose of making improvements within Wilson Commons or within real estate or within the expansion property; to make Wilson Commons subject to a master association; to merge or consolidate Wilson Commons with another common interest community with the same form of ownership; to appoint or remove any officer or director of the Association during any period of Declarant control; and any other Special Declarant Right permitted under the Act or other applicable law.

(b) *Reservation of Development Rights.* Declarant further reserves the right annex the Expansion Property or other property as provided in section XIV(3); to replat Lots or Common Areas or portions thereof within the Property prior to the conveyance thereof to any Owner other than Declarant; the right to subdivide lots or convert lots into common area, subject to the limitation on number of lots in section I(3); the right to construct

underground utility lines, pipes, wires, ducts, conduits, and other facilities to furnish utility and other services to buildings and Improvements to be constructed on the Property, Expansion Property, or any other annexed property; the right to withdraw and grant easements and licenses to public utility companies and to convey Improvements within those easements anywhere in Wilson Commons not occupied by buildings for the purpose of utility service. The quality of construction of any buildings and improvements shall be consistent with those constructed pursuant to this Declaration as initially recorded and all units, lots, or common areas created pursuant to the Development Rights will be restricted to the same uses and to the same extent as the Lots created under this Declaration.

(3) Reservation of Right to Expand.

Without limiting the foregoing sections in this Article, Declarant reserves the right to expand the Property to include up to 900 units (as defined in the act). More specifically, Declarant reserves the following rights:

(a) *Reservation of Right to Expand.* Declarant reserves the right, but shall not be obligated, to expand the effect of this Declaration to include all or part of the Expansion Property described in "Exhibit B". The consent of the existing Owners and Secured Parties shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. Declarant shall have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded. Declarant shall pay all taxes and other governmental assessments relating to the Expansion Property as long as Declarant is the owner of such property.

(b) *Incorporation of Additional Expansion Property.* Declarant also reserves

the right to incorporate into the Property real property that is not part of the Expansion Property, subject to the limitations of the Act. No assurances are made by Declarant as to boundaries of such additional expansion property, the order in which additional portions of expansion property may be subjected to development rights.

(c) *Statement of Annexation.* Any expansion may be accomplished by recording a Statement of Annexation and one or more supplemental Plats in the records of the Clerk and Recorder of Larimer County, Colorado, on or before the expiration of the Special Declarant Rights Period. The Statement of Annexation shall describe the real Property to be expanded, submit it to the covenants, conditions, and restrictions contained in this Declaration and provide for voting rights and Assessment allocations as provided in this Declaration. The following requirements shall also apply:

- (i) *Voting Rights and Allocation of Common Expenses.* Each additional Lot resulting from Annexation shall be allocated one vote and liability for the Common Expenses equal to the liability allocated to each of the other Lots as determined by the Board and as otherwise provided in this Declaration, and the proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly.
- (ii) *Consent of Members not Required.* Such Statement of Annexation shall not require the consent of the Members of Wilson Commons. Any such expansion shall be effective upon the filing for record of such Statement of Annexation, unless otherwise provided therein.

The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

- (iii) *Applicability of this Declaration and Supplemental Declaration.* Upon the recordation of any such Statement of Annexation, the definitions used in this Declaration shall be expanded automatically to encompass and refer to Wilson Commons as expanded. Such Statement of Annexation may add supplemental covenants peculiar to the Expansion Property in question, or delete or modify provisions of this Declaration as it applies to the Expansion Property added. However, this Declaration may not be modified with respect to that portion of the Property already subject to this Declaration, except as provided below in section XIX(4) for amendment of this Declaration.
 - (iv) *Adjustment to Assessments.* Upon the annexation of any additional Common Area or any other parcels of the Expansion Property or other real estate into Wilson Commons, the obligations of the Association for the maintenance and operation of the Common Areas or other properties maintained by the Association for the use or benefit of the Owners, and the Assessments levied to fund those functions, may be increased appropriately, subject to the budget procedures set forth in the Wilson Commons Documents and the Act.
- (4) **Withdrawal of Property.**
- (a) *Reservation of Right to Withdraw Property.* Declarant reserves the right to

withdraw from the jurisdiction of these Covenants any parcel of the Property (including the Expansion Property or other annexed property), subject to the limitations of the Act ("Withdrawal Property"). After withdrawal of any parcel from the regime of this Declaration, the Common Expenses and votes attributable to the Lots remaining in the Property shall be allocated in accordance with Article V, above.

(b) *Reciprocal Easements if Property is Withdrawn.* If all or a part of the Property is withdrawn from Wilson Commons: (i) The Owners of the Withdrawal Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across Wilson Commons; and (ii) the Members of Wilson Commons shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Withdrawal Property; and (iii) the Declarant shall prepare and record in the office of the Clerk and Recorder of Larimer County, Colorado, whatever documents are necessary to evidence such easements. Such recorded easements shall specify that the Owners of the Withdrawal Property and the Owners in Wilson Commons shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's Property upon such reasonable basis as the Declarant shall establish in the easements. Preparation and recordation by the Declaration of an easement pursuant to this section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

ARTICLE XV –PROTECTIONS FOR CERTAIN SECURED PARTIES

(1) **Introduction.** This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Eligible Secured Parties. This Article is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

(2) **Percentage of Eligible Secured Parties.** Various provisions in this Declaration prohibit certain designated actions without the approval or consent of a specified percentage of Eligible Secured Parties. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Secured Parties is required, the percentage of Eligible Secured Parties who have given any such approval or consent shall be deemed to be equal to 100 multiplied by (a) the number of votes in the Association allocated to Units in which Eligible First Secured Parties having given such approval or consent hold Security Interests, divided by (b) the total number of votes in the Association allocation to all Units that are subject at the time to Security Interests held by Eligible First Secured Parties. If no other percentage is specified, approval or consent by 67% of First Secured Parties shall be deemed to be required.

(3) **Notice of Actions.** Unless any section of this Declaration or the Act expressly provides otherwise notice under this section shall be sent by U.S. Mail postage prepaid and notice shall be effective upon deposit in the U.S. mail, but such requirement shall not preclude the Board from adopting rules and regulations permitting other forms of notice, including any form of electronic transmission, hand delivery, courier, or delivery service. If requested in writing to do

so, the Association shall give prompt written notice of the following to each Eligible Secured Party making such request:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which an interest is held by the Eligible Secured Party;
- (b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by an Owner whose Unit is encumbered by a Security Interest held by such Eligible Secured Party;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of an Eligible Secured Party as set forth in this Article; and
- (e) any judgment rendered against the Association that is not covered (subject to reasonable deductible or retention limits) by insurance.

(4) Consent by 67% Required. The Association may not take any of the following actions without the consent of 67% of First Secured Parties:

- (a) conveyance or encumbrance of the Common Elements, provided that the granting of easements for public utilities, for construction and maintenance of roads within the Project, or for other purposes permitted by this Declaration will not be deemed a conveyance or

encumbrance within the meaning of this clause;

- (b) restoration or repair of the Project (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;
- (c) termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;
- (d) merger of the Project with any other common interest community;
- (e) any decision not to repair or replace the Common Elements except as permitted in this Declaration; or
- (f) except as provided by the Act, in the case of condemnation or loss of substantially all of the Units and/or Common Elements of Wilson Commons,
 - (i) by act or omission seek to abandon or terminate Wilson Commons;
 - (ii) change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards or determine the pro rata share of Ownership of each Unit in Common Elements;
 - (iii) partition or subdivide any Unit;
 - (iv) seek to abandon, partition, subdivide, encumber, sell or

transfer, the Common Elements by act or omission, provided that the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Project is not a transfer within the meaning of this clause; or

- (v) use hazard insurance proceeds for losses to any of the Project (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the Project.

(5) Consent by 51% Required. Except as otherwise required by the Act, provisions of this Declaration relating to the following subjects may not, without the consent of 51% of Eligible Secured Parties, be materially amended or modified:

- (a) voting;
- (b) Assessments, Assessment liens or subordination of such liens;
- (c) reserves for maintenance, repair and replacement of Common Elements;
- (d) insurance or fidelity bonds;
- (e) rights to use the Common Elements;
- (f) responsibility for maintenance and repair of the several portions of the Project;
- (g) expansion or contraction of the Project, or addition or annexation of Property to or withdrawal of Property from the Project;
- (h) definition of the boundaries of any Unit;
- (i) the interests of any Person in the general or limited Common Elements;
- (j) convertibility of Units into Common Elements or of Common Elements into Units;

- (k) leasing of Units;
- (l) any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey such Owner's Unit;
- (m) self-management by the Association or professional management of the Association; or
- (n) protection of the interests of First Secured Parties.

(6) Notice of Objection. Unless an Eligible Secured Party provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action outlined above within thirty days following the receipt of notice delivered by certified or registered mail, return receipt requested, of any such proposed amendment or action, the Eligible Secured Party shall be deemed conclusively to have approved the proposed amendment or action.

(7) First Secured Parties' Rights. (a) *Payment of Taxes and Insurance.* First Secured Parties, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Areas or Improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Areas. First Secured Parties making such payments shall be owed immediate reimbursement from the Association.

(b) *Payment of Assessments.* First Secured Parties shall be entitled to cure any delinquency of the Owner of the Lot encumbered by the First Secured Party in the payment of Assessments of which the First Secured Party has received notice under section XV(3), above. In that event, the First Secured Party shall be entitled to obtain a

release from the lien imposed or perfected by reason of such delinquency.

(8) Title Taken By First Secured Party.

Any First Secured Party who obtains title to a Lot pursuant to the remedies provided in the First Security Interest, including foreclosure of the First Security Interest, shall be liable for all Assessments due and payable as of the date title to the Lot vests in the First Secured Party under the statutes of Colorado governing foreclosures. Except as provided in the Act, such First Secured Party shall not be liable for any unpaid dues and charges attributable to the Lot which accrue prior to the date such title vests in the First Secured Party.

ARTICLE XVI – ENFORCEMENT OF COVENANTS

(1) Enforcement. The failure of any Owner to comply with the provisions of this Declaration or any requirement imposed on such Owner pursuant to any provision hereof will give rise to a cause of action in the Association or Declarant for recovery of damages or injunctive relief or both or as described in further detail in this Article.

(2) Compliance. Each Owner or other occupant of any part of the Property shall comply with the provisions of the Wilson Commons Documents as the same may be amended from time to time.

(3) Failure to Comply. Failure to comply with the Wilson Commons Documents shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws shall be given to the delinquent party prior to commencing any legal proceedings.

(4) Who May Enforce. Any action to enforce the Wilson Commons Documents may be brought by Declarant, the Board, the Architectural Standards Committee, or the Manager in the name of the Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the Wilson Commons Documents, then the aggrieved Owner may bring such an action.

(5) Remedies. In addition to the remedies set forth above in this Article, any violation of the Wilson Commons Documents shall give to the Board, the Manager, the Architectural Standards Committee, or Declarant, on behalf of the Owners, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, modify, or replace, at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest of the Owners and meaning of the Wilson Commons Documents. If the offense occurs on any easement, walkway, Common Area or the like, the cure shall be at the expense of the Owner or other person responsible for the offending condition.

(6) Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

(7) No Waiver. The failure of the Board of Directors, Declarant, the Architectural Standards Committee, the Manager, or any aggrieved Owner to enforce the Wilson Commons Documents shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Wilson Commons Documents at any future time.

(8) No Liability. No member of the Board of Directors, Declarant, the Architectural Standards Committee, the Manager or any Owner shall be liable to any other Owner for the failure to enforce any of the Wilson Commons Documents at any time.

(9) Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Wilson Commons Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Wilson Commons Documents or the restraint of violations of the Wilson Commons Documents, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable legal fees, attorney fees, legal assistant's and paralegal fees, or any other legal fee as may be incurred, or, if suit is brought, as may be determined by the court.

ARTICLE XVII – RESOLUTION OF DISPUTES

If any dispute or question arises between Members or between Members and the Association or relating to the interpretation, performance or nonperformance, violation, or enforcement of the Wilson Commons Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures, if any, set forth from time to time in the Bylaws or the Rules and Regulations. To the full extent permitted by Colorado law, the Board shall not be liable for failure to provide due process or a hearing to any Owner, Member, or other interested party. If the Board, however, fails to provide due process or provide a hearing, the Owner, Member, or other interested party may take any applicable action at law or otherwise. The Association may adopt provisions in its bylaws mandating alternative dispute

resolution procedures including mandatory mediation and mandatory arbitration for disputes between the Association and Members, or between Members as arise out of or relate to this Declaration, the bylaws, or rules and regulations of the Association.

With respect to claims between Members and the Declarant or between the Association and the Declarant, the following provisions shall apply: If a dispute arises from or relates to this Declaration, the bylaws, or rules and regulations of the Association, or Wilson Commons Documents, or otherwise arises out of or relates to the Property or improvements to the Property, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association. The American Arbitration Construction Industry Mediation Procedures shall apply before resorting to arbitration. The parties further agree that any unresolved controversy or claim arising out of or relating to this contract, or breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof, except that each party shall pay their own attorney fees and costs.

The terms of Article XVII inure to the benefit of the Declarant, are enforceable by the Declarant, and shall not ever be amended without the written consent of the Declarant and without regard to whether the Declarant owns any portion of the Property at the time of such amendment.

ARTICLE XVIII – DRAINAGE

(1) **Acknowledgment.** Soils within the State of Colorado consist of expansive soils, low density soils, and moisture retentive soils which will adversely affect the integrity of a dwelling if the dwelling and the Lot on which it is constructed are not properly maintained. Expansive soils contain clay minerals which have the characteristic of changing volume with the addition or subtraction of moisture, thereby resulting in swelling and/or shrinking soils. The addition of moisture to low-density soils causes a realignment of soil grains thereby resulting in consolidation and/or collapse of the soils.

(2) **Moisture.** 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 surrounding the dwelling.

(3) **Grading.** Each Owner of a lot shall maintain (and not alter) the grading and drainage patterns of the Lot as indicated in the subdivision plans on file with the Planning Office of the City.

(4) **Water Flow.** The Owner of a lot shall not impede or hinder in any way the water falling on the Lot from reaching the drainage courses established for the Lot and Wilson Commons.

(5) **Construction and Landscaping Activities.** The Owner of a lot shall take all measures required to remediate the runoff of water, sediment, mud, sand, landscaping material, and other debris of any kind from the lot during any construction or landscaping. Such remedial efforts shall include compliance with any state, federal, or

local laws or regulations governing the flow of water, sediment, mud, sand, or debris off construction sites. Lot owners shall be liable for the costs to remove any excess water, sediment, sand, mud, or other debris which has flowed off their lot onto another Lot or any of the Common Areas or into public infrastructure including streets, sidewalks, gutters, and stormwater drains and stormwater facilities. The Board or Architectural Standards Committee may adopt such rules and regulations relating to runoff of water, sand, landscaping materials, and debris during construction as it deems advisable. Under no circumstances, shall dirt, mulch, sand, or other landscaping materials be stored on any street or common area without the advance written approval of the Architectural Standards Committee and subject to any reasonable restrictions the Architectural Standards Committee may impose within its sole discretion including any measures to mitigate potential harm.

(6) **Action by Owner.** To accomplish the foregoing, 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 a dwelling, 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 foundation of the dwelling and in or about the utility trenches on the Lot in which settling occurs to the extent necessary from time to time 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 flower beds (especially annuals) and vegetable gardens adjacent to or within four feet of the foundation and slabs of the dwelling located on the Lot.
- (e) To install any gravel beds in a manner which will assure that water will not pond in the gravel areas, whether due to nonperforated edging or due to installation of the base of the gravel bed at a level lower than the adjacent lawn.
- (f) To install a moisture barrier (such as polyethylene) under any gravel beds, except any gravel beds in back-filled areas.
- (g) To assure that (i) water that flows from downspout extensions or splash blocks is allowed to flow rapidly away from the foundation and/or slabs; and (ii) splash blocks are maintained under sill cocks.
- (h) To re-caulk construction joints opening up between portions of exterior slabs and garage slabs in order to thereby seal out moisture.
- (i) To comply with any and all local, state, and federal laws, ordinances, or regulations pertaining to the control of water, sediment (sand, soil, or dirt), and construction debris during any improvement on a lot. Such management shall be the sole responsibility of a Lot Owner.

(7) Disclaimer. Declarant shall not be liable for any loss or damage to a dwelling

caused by, resulting from, or in any way connected with soil conditions or failure of an Owner to control drainage on any Lot.

ARTICLE XIX- GENERAL PROVISIONS

(1) Term of Declaration. Subject to amendment as herein provided, this Declaration shall remain in full force and effect and shall run with the land and shall be binding upon all persons having any interest in any of the real Property within Wilson Commons for a period of twenty years after the date hereof and thereafter shall be automatically extended for successive periods of twenty years each unless, prior to the beginning of the extension period, an instrument signed by 80% of the then Owners of Lots within Wilson Commons has been recorded agreeing to terminate the Declaration in whole or in part.

(2) Enforcement. The failure of any Owner to comply with the provisions of this Declaration or any requirement imposed on such Owner pursuant to any provision hereof will give rise to a cause of action in the Association or Declarant for recovery of damages or injunctive relief or both as described in further detail in this Article.

(3) Supplemental Declaration. A Supplemental Declaration made and recorded by the Declarant in connection with a specific Annexation may impose additional requirements or vary provisions of this Declaration with respect to such Annexation. In such event, the provisions of the Supplemental Declaration shall control to the extent they are inconsistent with the provisions of this Declaration.

(4) Amendments. This Declaration, or any portion thereof, may be amended at any time

by an instrument in writing signed by the Owners of at least 67% of the Lots constituting Wilson Commons; except that if Colorado law so permits, no such instruments amending the Declaration shall be effective that are not executed by the Declarant so long as the Declarant owns any Property that is within Wilson Commons or eligible to be Annexed to Wilson Commons pursuant to the terms of this Declaration. Any Amendment shall be effective only upon the recordation of the written Amendment and ratifications thereof containing the necessary signatures of Owners and Eligible Secured Parties. No Amendment to this Declaration may be made which conflicts with the applicable laws of the State of Colorado. To the full extent permitted by Colorado law, no Amendment shall affect the rights of Declarant unless approved and consented to by the Declarant in writing. In addition, so long as the Declarant owns any Property that is within Wilson Commons or eligible to be annexed to Wilson Commons pursuant to the terms of this Declaration, the Declarant may unilaterally amend the Declaration to the full extent permitted in C.R.S. §§ 38-33.3-205(4), 205(5), 208(3), 209(6), 210, and 222.

(5) **Severability**. Any provision of this Declaration invalidated in any manner whatsoever shall not be deemed to impair or affect in any manner the validity, enforcement or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

(6) **Disclaimer**. No claim or cause of action shall accrue in favor of any person in the event of the invalidity of any covenant or

provision of this Declaration or for the failure of the Association, the Board, the Architectural Standards Committee or Declarant to enforce any covenant or provision hereof. This section may be pled as a full bar to the maintenance of any such action or arbitration brought in violation of the provisions of this section.

(7) **No Waiver**. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may occur.

(8) **Captions**. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

(9) **Construction**. The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and vice versa, when the context so requires. The provisions of this Declaration shall be liberally constructed as a whole to effectuate the purpose thereof.

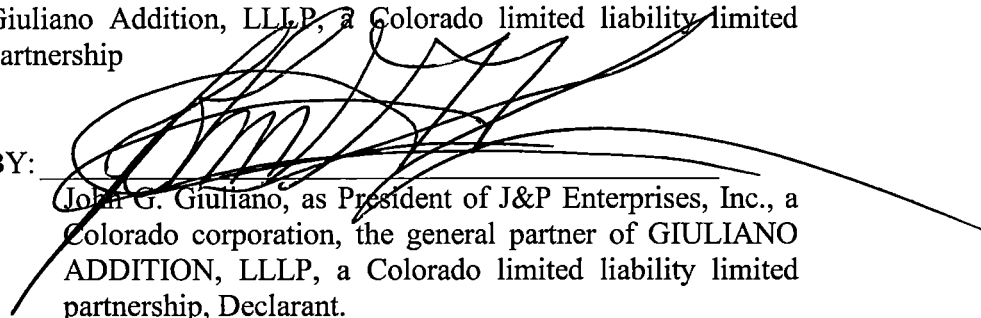
(10) **Deemed Amendment to Conform with Law**. Any provision of this Declaration contrary to Colorado or other applicable law shall be deemed to be amended and construed to conform with the applicable law.

(11) **Governing Law**. This Declaration shall be construed and governed under the laws of the State of Colorado.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed on the day and year first hereinabove written.

Giuliano Addition, LLLP, a Colorado limited liability limited partnership

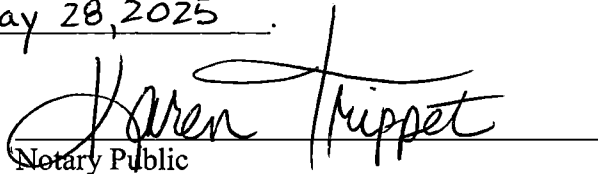
BY:


John G. Giuliano, as President of J&P Enterprises, Inc., a Colorado corporation, the general partner of GIULIANO ADDITION, LLLP, a Colorado limited liability limited partnership, Declarant.

State of Colorado)
) S.S.
County of Larimer)

The foregoing instrument was acknowledged before me this 10th day of August, 2021, by John G. Giuliano, as President of J&P Enterprises, Inc., a Colorado corporation, the general partner of GIULIANO ADDITION, LLLP, a Colorado limited liability limited partnership, Declarant.

WITNESS my hand and official seal.
My commission expires: May 28, 2025.


Notary Public

KAREN TRIPPET
Notary Public
State of Colorado
Notary ID # 19934007770
My Commission Expires 05-28-2025

“EXHIBIT A”

**ATTACHED TO AND MADE PART OF THE DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS FOR THE WILSON COMMONS HOMEOWNERS’
ASSOCIATION**

LEGAL DESCRIPTION OF PROPERTY: Lots 1-33, Block 1; Lots 1-17, Block 2; Lots 1-28; Block 3; Lots 1-28; Block 4; Lots 1-4, Block 5; Lots 1-13, Block 6; Lots 1-9, Block 7; Lots 1-11, Block 8; Lots 1-47, Lot 9; Lots 1-14, Block 10; Lots 1-11, Block 11; Lots 1-15, Block 12; Lots 1-33, Block 13; Lots 1-17, Block 14; Lots 1-14, Block 15; Tracts A-EE; of the Wilson Commons First Subdivision being a Subdivision of Wilson Commons Addition, City of Loveland, County of Larimer, State of Colorado.

70

**“EXHIBIT B”
ATTACHED TO AND MADE PART OF THE DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS FOR THE WILSON COMMONS HOMEOWNERS’
ASSOCIATION**

LEGAL DESCRIPTION OF EXPANSION PROPERTY:

All or any portion of the real property the Declarant or successors in interest to the Declarant may now own or hereafter acquire in the North ½ of the SE ¼ of Section 33, Township 6 North Range 69 West of the 6th P.M., NW ¼ of Section 33, Township 6 North Range 69 West of the 6th P.M., the NE ¼ Section 33, Township 6 North Range 69 West of the 6th P.M., all in the County of Larimer, State of Colorado.

DECLARANT RESERVES THE RIGHT TO ANNEX ADDITIONAL PROPERTY IN ADDITION TO THE PROPERTY DESCRIBED IN THIS “EXHIBIT B” TO THE FULL EXTENT PERMITTED UNDER THE DECLARATION, THE ACT, AND ANY OTHER APPLICABLE LAW.