

AMENDED AND RESTATED DECLARATION  
AND AGREEMENT REGARDING RESTRICTIONS,  
COVENANTS, EASEMENTS, AND CONDITIONS  
FOR BELCARO PARK, 3RD FILING

The undersigned constitute the owners of not less than 60% of the lots within the third filing of Belcaro Park (the "Third Filing"), a subdivision consisting of the following:

Lots 1 to 4, inclusive, Block 1  
Lots 1 to 26, inclusive, Block 2  
Lots 1 to 7, inclusive, Block 3

as depicted by a plat recorded in Plat Book 19, at Page 56, of the records of the Clerk and Recorder of the City and County of Denver, State of Colorado ("Clerk and Recorder") (the "Recorded Plat").

To preserve the desirability and attractiveness of the Third Filing as a community of single-family homes, a declaration and agreement regarding restrictions, covenants, easements, and conditions was adopted May 2, 1949, and was recorded in Book 6546, at Page 324, of the records of the Clerk and Recorder.

The undersigned owners now desire to extend and modify certain of the restrictions, covenants, easements, and conditions imposed in the original declaration and agreement for the purpose of maintaining the Third Filing as a quality community of single-family homes. To this end, the original declaration and agreement is amended and restated as follows (the "Declaration and Agreement"):

1. Definitions

a. "Association" shall mean the Belcaro Park Homeowners Association, a Colorado nonprofit corporation.

b. "Board" shall mean the Board of Directors of the Association.

c. "Lot" shall refer to a lot within the Third Filing. Lot and block numbers used herein shall refer to lots and blocks as identified on the Recorded Plat. Where two or more adjoining lots constitute a single

parcel of land under common ownership, the term "lot" shall be construed to refer to them collectively.

d. A "corner lot" is one the front line of which and one entire side line of which abut on two intersecting streets.

e. The street or streets upon which a lot fronts shall be deemed to be the front street. Any other street or streets contiguous to such lot shall be deemed to be a side street.

f. An "outbuilding" shall mean an enclosed covered structure not directly attached to the residence which it serves.

g. "Owner" shall mean the holder or holders of the fee title to a lot, lots, or portion of a lot within the Third Filing.

h. A "residence" shall mean a single-family residential dwelling in the Third Filing, including any attached garage.

i. "Street" shall include any street, avenue, boulevard, road or lane as shown on the Recorded Plat.

## 2. Use of Land

a. Lots may be improved, used, or occupied only for private residential purposes. No store or business house, no gas, oil or automobile service station, no flats or apartment house, and no building of any kind whatsoever shall be erected, used, or occupied except private residences and such outbuildings as are customarily appurtenant to such residences. Each residence shall be detached and designed for occupancy by a single family only.

b. No detached garage or outbuilding on any lot shall be used as a residence or living quarters. Not more than one residence shall be erected on any lot.

## 3. Architectural Control Committee

The Board may, in its discretion, from time to time, appoint an Architectural Control Committee of at least three members to act in its behalf under this

Declaration and Agreement (the "Committee"). The Committee members thereof shall be appointed from among the members of the Association and shall serve at the pleasure of the Board.

#### 4. Review of Plans

Each owner desiring to construct, reconstruct, add to, remodel the exterior of a residence, garage, or outbuilding, or to construct any other improvement on the owner's lot, shall submit plans and specifications depicting such work to the Board, which shall refer them to the Committee, if one has been appointed. If not, the Board as a whole may act as the Committee. The Committee shall review such plans solely for compliance with the terms and conditions of this Declaration and Agreement. If the Committee fails to notify the submitting owner, by notice delivered to the owner's residence, that there are questions of noncompliance with this Declaration and Agreement reflected in such plans within 30 days after submittal of the plans by the owner, the owner's obligation to submit such plans for review shall be satisfied. This section is not intended to encompass maintenance or repairs.

#### 5. Outbuildings, Additions, Structures, and New Residences

a. Outbuildings, additions to residences, and any other structure attached to a residence or outbuilding, except for greenhouses and tool sheds, shall be compatible in style, architecture, materials, appearance, and height to the residence to which they are appurtenant. No outbuilding shall exceed the residence to which it is appurtenant in height or number of stories.

b. All buildings or structures erected on any lot shall be of new construction or comparable materials, and no buildings or structures shall be moved from other locations onto a lot. Any work involving the constructing, altering, or remodeling of any structure shall be prosecuted diligently from commencement to completion.

c. All new residences shall be compatible in style, architecture, materials, appearance, and height to the other residences on the block.

6. Frontage for Lots

For the purpose of these restrictions, all lots shall be deemed to front on the street or streets on which the lot or lots abut, except that Lots 13, 14, 15, and 16, Block 2, shall be deemed to front on East Kentucky Avenue. Every residence shall have an approved, acceptable, and presentable exterior on all of the streets on which its lot abuts.

7. Setback of Residence From Street Line and Contiguous Lots

a. No residence or any part thereof, nor any other structure, shall be erected or maintained within 30 feet of the front lot line or within 8 feet of the side lot lines except as follows:

Block 1:

Lot 1, 25 feet from Adams Way and 15 feet from South Steele Street

Lot 2, 15 feet from South Steele Street and 8 feet from East Tennessee Avenue

Lot 3, 25 feet from Adams Way and 8 feet from East Tennessee Avenue

Lot 4, 25 feet from Adams Way

Block 2:

Lot 1, 30 feet from Adams Way and 8 feet from East Tennessee Avenue

Lot 5, 25 feet from Adams Way and 15 feet from South Steele Street

Lot 6, 30 feet from East Kentucky Avenue and 15 feet from South Steele Street

Lots 7 and 14, 25 feet from East Kentucky Avenue

Lot 20, 30 feet from East Kentucky Avenue on the west and 15 feet from East Kentucky Avenue on the north

Lot 21, 25 feet from South Monroe Street and 15 feet from East Kentucky Avenue

Lots 22, 23, 24, and 25, 25 feet from South Monroe Street

Lot 26, 25 feet from South Monroe Street and 8 feet from East Tennessee Avenue

Block 3:

Lots 4 and 5, 25 feet from East Kentucky Avenue (collectively, the "building limit lines").

b. The building limit lines set forth in subparagraph a. are subject to the following exceptions:

- Cornices, spoutings, chimneys and purely ornamental projections may extend three feet nearer the side lot lines;
- Uncovered and unenclosed porches, balconies and terraces may extend 10 feet nearer the front lot line;
- Bay or other windows, vestibules, and stairway landings (other than full two-story windows, vestibules and stairway landings), cornices, spoutings, chimneys, or other similar projections may extend four feet nearer the front and side lot lines in the direction of any street adjoining the lot; and
- Steps leading to residences, provided such steps are not higher than the level of the first floor of the residence.

c. Upon the written request of an owner, the Board, acting through the Committee, if one has been established, may change the building limit lines set forth subparagraph a. for the owner's lot, provided that such line may not be changed more than five feet nearer any adjoining street, and provided further that no such change shall be made without the written consent of the owners of the immediately adjoining lots on that block.

8. Outbuildings Setback From Streets

a. Except for those projections set forth in Article 7, all outbuildings shall be located wholly within the rear 1/3 of the lot on which they are erected, and on any corner lots they shall also be located wholly within the side 1/3 of the lot farthest from the adjoining side street.

b. Upon the written request of an owner, the Board, acting through the Committee, if one has been established, may change the outbuilding setback for the owner's lot, provided that no such change may permit the erection or maintenance of any outbuilding more than 20 feet nearer to the front street or more than 15 feet nearer to the side street than is provided for above.

9. Outbuildings Free Space Required

a. Except for those projections set forth in Article 7, no outbuildings shall occupy more than 35 feet measured along the rear lot line. In case of more than one such outbuilding being erected on any lot, the combined width of such outbuildings shall not exceed the width provided for a single outbuilding.

b. Upon the written request of an owner, the Board, acting through the Committee, if one has been established, may allow the maximum combined width of any outbuildings to be increased by up to 10% of the width of the lot, measured along the rear lot line.

10. Garage Driveways

All garages erected on Lots 13, 14, 15, and 16, Block 2, shall be garages attached to the residences, and all driveways used in connection with said garages shall enter the property from East Kentucky Avenue. No driveway shall enter said lots from East Tennessee Avenue.

11. Minimum Area for Residence

All residences shall have a ground floor area of the main structure, exclusive of garages, porches and terraces, of at least 1,200 square feet in the case of

one-story structures and at least 650 square feet in the case of structures of more than one story.

12. Easements Reserved

Easements are hereby reserved for public utility services on, over, and under the rear five feet and sidelines of each lot, plus the east 20 feet of Lot 6, Block 2. Easements are also reserved where public utility facilities are presently installed pursuant to the easements reserved in the original declaration and agreement. Public utilities shall have access along such easements and along the side lines of each lot for access to the easement for the purpose of maintenance, construction, and repair of utility facilities. No permanent building shall be erected or maintained within said easements. Other structures and landscaping erected or maintained within said easements shall be subject at all times to the prior right to the use of the easements for utility purposes.

13. Signs, Miscellaneous Structures, Parking, and Storage

a. No advertising or signs shall be erected or maintained on any lot other than the nameplate of the owner and street number and temporary signs erected in connection with elections or advertising the availability of a residence for sale.

b. Subject to Article 7, no fence, wall, or hedge, nor any pergola or other detached structure, shall be erected or maintained on any part of any lot in front of the front building limit line and on corner lots in front of either of the front building limit lines.

c. No aerials or antennas shall be maintained over any part of any lot not occupied by a structure nor more than 5 feet above the roof of any structure. Satellite dishes shall not exceed six feet in height from the ground level and shall be placed to the rear of the residence and screened from the street.

d. No tank for the storage of oil or other fluid may be maintained on any lot above or below the ground.

e. No trailer, basement, tent, shack, garage, barn, or other outbuilding shall at any time be used as

a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

f. No garbage or trash can or receptacle shall be maintained or exposed in an open or unsightly manner, but may be temporarily placed in the front of the lot for trash collection.

g. No house trailer, camping, or boat trailer, hauling trailer, boat, truck larger than three-quarter ton, bus, or self-contained motorized recreational vehicle of any type shall be parked, stored, or displayed on any street within the Third Filing except temporarily for loading, delivery, or during an emergency, nor parked or stored on a lot except within an enclosed garage. No vehicle of any type which is not in working condition shall be parked or stored on any lot except within an enclosed garage, or allowed to remain on any street within the Third Filing, except temporarily during repairs.

#### 14. Lots to be Maintained

Each lot shall at all times be kept in a clean, sightly condition. No trash, litter, junk boxes, containers, bottles, cans, implements, machinery, dirt, or sand piles, lumber or other building materials shall be placed or permitted to remain on any lot so as to be visible from any street, except that building and landscaping materials may be temporarily maintained on site during a period of work.

#### 15. No Subdivisions

No lot shall be subdivided so as to permit the construction of two or more residences.

#### 16. Hedges and Trees

All hedge and screen planting shall be kept trimmed to a height of eight feet or less and no trees of the poplar or willow family shall be planted or allowed to grow on any lot, except within the following portion of Lots 1 and 7, Block 3: commencing at the northeast corner of Lot 7, then along the east line of Lot 7 a distance of 29.2 feet, then west on a straight line to a point on the westerly line of Lot 1 a distance



of 7.3 feet from the northeast corner of Lot 1 as measured along the westerly line, then northerly along the westerly line of Lot 1 to the northwest corner of Lot 1, then east along the north boundary of Lots 1 and 7 to the point of beginning.

17. Interpretation

The Board may resolve any questions of interpretation under this Declaration and Agreement, provided, however, that such resolution shall not be binding upon any owner other than the owner requiring the interpretation. The powers and duties given to the Association in this Article shall not detract from or lessen the power and authority of an owner to enforce this Declaration and Agreement against any other owner in accordance with the terms hereof.

18. Nonliability

Neither the Association, the Board, the Committee, nor any member of any such organization, by virtue of such membership, shall be liable to any owner for any act or omission taken or not taken under or pursuant to any of the terms or provisions of this Declaration and Agreement. Each owner releases said organizations and members thereof from any such liability and agrees not to assert any rights that he has or may have in the future against them by reason of any provisions of this Declaration and Agreement or acts taken or not taken pursuant to such provisions.

19. Enforcement

The Association, acting through the Board, and the owner of any lot shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, and terms imposed by this Declaration and Agreement. Failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. All rights and remedies provided in this Declaration and Agreement are distinct and cumulative to any other right or remedy hereunder or afforded by law or equity, and may be exercised concurrently, independently, or successively. The Board or any owner shall have the right to seek injunctive relief

and specific performance remedies in order to enforce this Declaration and Agreement.

20. Effective Date and Term

a. This Declaration and Agreement shall be effective as of the date that it is filed for record with the Clerk and Recorder. It shall continue in full force and effect perpetually unless terminated by the affirmative vote of the owners of not less than 60% of the lots.

b. This Declaration and Agreement shall have no retroactive effect. No residence, outbuilding, structure, or improvement in existence on the date this Declaration and Agreement becomes effective shall be prohibited by this Declaration and Agreement. No activity prohibited by this Declaration and Agreement which has taken place prior to its effective date shall be deemed to be a violation of this Declaration and Agreement, provided, however, that the continuance of any prohibited activity after the effective date of this Declaration and Agreement shall be a violation hereof.

21. Miscellaneous

a. In the event any judgment or other court order shall invalidate any term or provision of this Declaration and Agreement, the remaining terms and provisions shall continue in full force and effect.

b. This Declaration and Agreement may be amended by the affirmative vote of the owners of not less than 60% of the lots. At any time an amendment is adopted it shall be recorded with the Clerk and Recorder.

c. This Declaration and Agreement shall run with the land and shall be binding upon all owners as of its effective date and their successors in ownership of the lots.

d. This Declaration and Agreement may be issued in several duplicate counterpart instruments, each of which shall be an original and may be executed by some of the owners of lots in the Third Filing, but all of which collectively shall constitute a single instrument.