

AMENDED AND RESTATED DECLARATION
AND AGREEMENT REGARDING RESTRICTIONS,
COVENANTS, EASEMENTS, AND CONDITIONS
FOR A PORTION OF THE BELCARO PARK,
LAKOTA HEIGHTS FILING

4th filing

The undersigned constitute the owners of not less than 60% of the lots within that portion of the Lakota Heights filing (the "Lakota Heights Filing") consisting of the following:

Lots 1 to 48, inclusive, Block 5, together with the vacated alley adjoining said lots

Lots 1 to 48, inclusive, Block 6, together with the vacated alley adjoining said lots

Lots 1 to 48, inclusive, Block 7, together with the vacated alley adjoining said lots

as depicted by a plat recorded in Plat Book 17, at Page 15, 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 Lakota Heights Filing as a community of single-family homes, a declaration and agreement regarding restrictions, covenants, easements, and conditions was adopted June 8, 1951, and was recorded in Book 6942, at Page 274, 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 Lakota Heights 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. "Plot" shall refer to a parcel of land within the Lakota Heights Filing consisting of not less than four contiguous lots together with one-half of the vacated alley adjoining said lots. Lot and block numbers used herein shall refer to lots and blocks as identified on the Recorded Plat.

d. A "corner plot" 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 plot fronts shall be deemed to be the front street. Any other street or streets contiguous to such plot 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 plot, plots, or portion of a plot within the Lakota Heights Filing.

h. A "residence" shall mean a single-family residential dwelling in the Lakota Heights 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. Plots 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 plot shall be used as a residence or living quarters. Not more than one residence shall be erected on any plot.

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 plot, 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 plot shall be of new construction or comparable materials, and no buildings or structures shall be moved from other locations onto a plot. 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 Plots

For the purpose of these restrictions, all plots shall be deemed to front on the street or streets on which the plot or plots abut. Every residence shall have an approved, acceptable, and presentable exterior on all of the streets on which its plot 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 25 feet of the front lot line or within 8 feet of the side lot line, except as follows:

Block 5:

Lots 1 and 48, respectively, 15 feet from East Kentucky Avenue and 25 feet from South Monroe Street and South Garfield Street, respectively

Lots 24 and 25, respectively, 8 feet from East Tennessee Avenue and 25 feet from South Monroe Street and South Garfield Street, respectively

Block 6:

Lots 1 and 48, respectively, 15 feet from East Kentucky Avenue and 25 feet from South Garfield Street and South Jackson Street, respectively.

Lots 24 and 25, respectively, 8 feet from East Tennessee Avenue and 25 feet from South Garfield Street and South Jackson Street, respectively

Block 7:

Lots 1 and 48, respectively, 15 feet from East Kentucky Avenue and 25 feet from

South Jackson Street and South Harrison Street, respectively.

Lots 24 and 25, respectively, 8 feet from East Tennessee Avenue and 25 feet from South Jackson Street and South Harrison Street, respectively (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 plot, 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 plot on which they are erected, and on any corner plots they shall also be located wholly within the side 1/3 of the plot 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 plot, 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 line of the plot. In case of more than one such outbuilding being erected on any plot, 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 plot, measured along the rear line thereof.

10. 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.

11. Easements Reserved

Easements are hereby reserved for public utility services on, over, and under the rear five feet and sidelines of each plot. 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 plot 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.

12. Signs, Miscellaneous Structures,
Parking, and Storage

a. No advertising or signs shall be erected or maintained on any plot 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 plot 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 plot 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 plot above or below the ground.

e. No trailer, 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 Lakota Heights 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 plot

except within an enclosed garage, or allowed to remain on any street within the Lakota Heights Filing, except temporarily during repairs.

13. Plots to be Maintained

Each plot 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 plot so as to be visible from any street or adjoining plot, except that building and landscaping materials may be temporarily maintained on site during a period of work.

14. No Subdivisions

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 plots in the Lakota Heights Filing, but all of which collectively shall constitute a single instrument.

e. This Declaration and Agreement shall supersede and replace the original declaration and agreement which was adopted June 8, 1951.

The undersigned owners hereby adopt and ratify this Declaration and Agreement.