

Homestead in the Willows

# **Governing Legal Documents**



Homestead in the Willows Homeowners Association  
5896 East Geddes Avenue, Centennial, Colorado 80112 \* 303-793-0230



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**ARTICLES OF INCORPORATION OF  
HOMESTEAD IN THE WILLOWS HOMEOWNERS ASSOCIATION, INC.**

In Compliance with the requirements of the Colorado Non-profit Corporation Act, the undersigned person, acting as incorporator of a corporation, signs and acknowledges the following Articles of Incorporation for such corporation.

**ARTICLE I**

The name of the corporation is HOMESTEAD IN THE WILLOWS HOMEOWNERS ASSOCIATION, INC., hereafter called the "Association".

**ARTICLE II**

The initial registered office of the Association is located at 7336 South Xenia Circle, (P.O. Box 767) Englewood, Colorado, 80110.

**ARTICLE III**

Charles H. Sanford, whose address is 8022 E. Hinsdale Place, (P.O. Box 767) Englewood, Colorado 80110, is hereby appointed the initial registered agent of this Association.

**ARTICLE IV**

**PURPOSE AND POWERS  
OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance and preservation of the Common Area within that certain tract of property described as: Homestead In The Willows Filing 1, Arapahoe County, Colorado, and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association, and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Restrictions, hereinafter called the "Declaration", applicable to the property and

recorded or to be recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of fifty percent of each class of members mortgage, pledge, encumber by deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, and sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area. Any such merger, consolidation or annexation may be approved by the Board of Directors of the Association while there is a Class B member of the Association, and thereafter shall have the assent of two-thirds (2/3) of the Class A members;

(g) to exchange any part of the Common Properties not in excess of 40,000 square feet for a like amount of property contiguous to such Common Property, provided that the Board of Directors of the corporation by unanimous vote of all of the members of the Board of Directors then in office finds: (a) that such an exchange will be beneficial to the corporation, and (b) that the value of the property exchanged is at least equal to the value of the Common Properties involved in the exchange;

(h) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Colorado by law may now or hereafter have or exercise.

#### ARTICLE V MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any building site or living unit which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

The Board of Directors of the corporation may establish by resolution a classification of associate membership which shall be applicable to persons who are not eligible as members, and to tenants of members of the corporation. Associate members shall have no voting rights.

#### ARTICLE VI VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of Sanford Homes, Inc., and shall be entitled to one vote for each building site or living unit owned. When more than one person holds an interest in any building site or living unit, all such persons shall be members. The vote for such building site or living unit shall be exercised as they among

themselves determine, but in no event shall more than one vote be cast with respect to any building site or living unit.

Class B. The Class B member (s) shall be Sanford Homes, Inc., its successor or assigns (as defined in the Declaration). The Class B membership shall cease and be converted to Class A membership on the happening or either of the following events, whichever occurs earlier:

- (a) when the Class B member elects in writing to terminate his Class B membership.
- (b) on December 31, 1984.

#### ARTICLE VII BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of not less than three (3) nor more than five (5) Directors, who need not be members of the Association until the Class B membership is converted to Class A membership. The number of directors and their terms of office may be changed by amendment of the By-Laws of the Association. The Class B member shall be entitled to elect all directors until its Class B membership is converted to Class A memberships.

After the Class B membership is converted to Class A membership, the affairs of the Association shall be managed by a Board of five directors who shall be Members. At the first annual meeting after the Class B membership is converted to Class A membership, the Members shall elect one director for a term of one year, two directors for a term of two years, and two directors for a term of three years to fill the terms of office of directors whose terms expire at such annual meeting. The method of electing directors shall be set forth in the By-Laws.

The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

Charles H. Sanford  
8022 E. Hinsdale Place  
Englewood, Colorado 80110

Nicholas M. Schmidt  
5703 So. Kearney  
Englewood, Colorado 80110



**AMENDED & RESTATED BY-LAWS OF  
HOMESTEAD IN THE WILLOWS HOMEOWNERS ASSOCIATION, INC.**

The undersigned president and secretary of Homestead in the Willows Homeowners Association, Inc. attest that these Amended and Restated Bylaws are the Bylaws of Homestead in the Willows Homeowners Association, Inc. incorporating all duly enacted amendments as of May 17, 1990.

**ARTICLE I  
NAME AND LOCATION**

The name of the Corporation is Homestead in the Willows Homeowners Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 5896 East Geddes Avenue, Englewood, Colorado 80112, but meetings of Members and Directors may be held at such places within the State of Colorado, County of Arapahoe, as may be designated by the Board of Directors.

**ARTICLE II  
DEFINITIONS**

*Section 1. "Association"* shall mean and refer to Homestead in the Willows Homeowners Association, Inc., its successors and assigns.

*Section 2. "Properties"* shall mean and refer to that certain property described in the Declaration of the Covenants.

Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

*Section 3. "Common Properties"* and "Common Area" shall mean those areas of land owned by the Association or shown or declared as such in any recorded subdivision plan of The Properties, including improvements thereon, and intended to be devoted to the common use and enjoyment of the owners of The Properties.

*Section 4. "Lot"* shall mean any numbered plot of land shown upon any recorded subdivision plat of The Properties which is not designated as Common Properties or as a Block.

*Section 5. "Owner"* shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot of Living Unit

situated upon The Properties, but shall not mean a mortgage.

*Section 6. "Declaration"* shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Clerk and Records of Arapahoe County, Colorado on November 1, 1974 in Book 2287 in Pages 156 to 178 and all supplements and amendments there to.

*Section 7. "Member"* shall mean and refer to those persons entitled to membership as provided in the Declaration.

**ARTICLE III  
MEETING OF MEMBERS**

*Section 1. Annual Meetings.* Each regular annual meeting of the members shall be held on the second Monday of March of each year at 7:30 p.m. If the day for the Annual Meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

*Section 2. Special Meetings.* Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote ten percent (10%) of all votes of the membership.

*Section 3. Notice of Meetings.* Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing or delivering a copy of such notice at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Notice can be included in the Association's newsletter. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

*Section 4. Quorum.* The presence at the meeting of Members entitled to cast, or of the proxies entitled to cast, ten percent (10%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Declaration, the Articles of Incorporation, or these By-Laws.

*Section 5. Proxies.* At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

**ARTICLE IV  
BOARD OF DIRECTORS:  
SELECTION: TERM OF OFFICE**

*Section 1. Number.* The affairs of this Association shall be managed by the Board of five (5) Directors. Only Members of the Association may be elected or appointed to the Board, but properly elected Directors may remain on the Board to complete their term after they are no longer a Member of the Association.

*Section 2. Term of Office.* The members shall elect directors for staggered terms of three years, so that each year approximately one-third of the terms shall expire.

*Section 3. Removal.* Any Director may be removed from the Board, with or without cause, by a majority vote at a meeting at which a quorum of the Members is present in person or by proxy.

*Section 4. Compensation.* No Director shall receive compensation for service as a member of the Board of Directors. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

**ARTICLE V  
NOMINATION AND ELECTION  
OF DIRECTORS**

*Section 1. Nomination.* Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating committee shall

consist of a Chairman, who shall be a member of the Board of Directors, and two or three more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members, to serve from the close of the next Annual Meeting and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the vacancies that are to be filled.

*Section 2. Election.* Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest numbers of votes shall be elected. Cumulative voting is not permitted.

**ARTICLE VI  
MEETINGS OF DIRECTORS**

*Section 1. Regular Meetings.* Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. The Board may waive up to two monthly meetings, but shall hold at least ten (10) regular meetings per year. Should said meeting fall upon a legal holiday, then the meeting shall be held at the same time on the next day which is not a legal holiday.

*Section 2. Special Meetings.* Special Meetings of the Board of Directors shall be held when called by the president of the Association, or by two Directors, after not less than three (3) days notice to each Director.

*Section 3. Quorum.* A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by the majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

*Section 4. Board Consent.* The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

*Section 5. Telephonic Meetings.* The Directors may participate in any meeting of the Board by means of a conference call or similar communications equipment that enables all participants in the meeting to hear each other at the same time. Such participation shall constitute presence in person at the meeting.

## ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

*Section 1. Powers.* The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

*Section 2. Duties.* It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any special meeting which such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- (b) supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
  - (1) fix the amount of the annual assessment against each Lot or Living Unit at least thirty (30) days in advance of the due date of each annual assessment;
  - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
  - (3) foreclose the lien against any property for which assessments are not paid or bring an action at law against the owner personally obligated to pay the same, if foreclosure or legal action is reasonably likely to result in collection thereof.

## ARTICLE VIII OFFICERS AND THEIR DUTIES

*Section 1. Enumeration of Officers.* The officers of this Association shall be a president and a vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

*Section 2. Election of Officers.* The election of officers shall take place at the first meeting of the Board of Directors following each Annual Meeting of the Members.

*Section 3. Term.* The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.



**Section 4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such a period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. An officer may resign at any time giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled by appointment of the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7. Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8. Duties.** The duties of the officers are as follows:

**President:**

- (a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all promissory notes.

**Vice-President:**

- (b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and as may be required of him by the Board.

**Secretary:**

- (c) The secretary shall perform, cause or supervise the following: record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the Members of the Association together with their addresses;

and shall perform such other duties as required by the Board.

**Treasurer:**

- (d) The treasurer shall perform, cause or supervise the following: receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board of Directors; sign all promissory notes of the Association; keep proper books of account; have a Certified Public Accountant audit the Association books not less than every two (2) years with an accountant's review to be performed in the intervening years; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

## ARTICLE IX COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

## ARTICLE X BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member and their agents for any proper purpose; the Board may establish reasonable rules concerning such inspections, and may charge for any expenses incurred. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## ARTICLE XI CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Homestead in the Willows Homeowners Association, Inc., Colorado.

ARTICLE XII  
AMENDMENTS

*Section 1.* These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

*Section 2.* In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII  
MISCELLANEOUS

*Section 1.* The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year.

*Section 2.* All checks shall be signed by at least two (2) persons who are authorized by the Board to sign checks.

/s/ Carol A. Blackwell  
President

/s/ Ed Haffey  
Secretary

DECLARATION OF RESTRICTIONS OF  
HOMESTEAD IN THE WILLOWS HOMEOWNERS ASSOCIATION

THIS DECLARATION, made this 26<sup>th</sup> day of September, 1974, by Sanford Homes, Inc., a Colorado Corporation, hereinafter called Declarant,

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in the County of Arapahoe, State of Colorado, known as Homestead in the Willows, Filing 1, such plat having been recorded in the plat records of Arapahoe County, State of Colorado, on June 4, 1974 in Book 26 Page 79.

WHEREAS, Declarant desires to subject such property to the conditions, restrictions and charges for the benefit of such property and its present and subsequent owners as hereinafter specified; and

NOW THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold and conveyed subject to the following easements, covenants, restrictions, and charges. Such easements, covenants, restrictions and charges (hereinafter sometimes referred to as "covenants and restrictions") shall run with such property and shall be binding on all parties having or acquiring any right, title or interest in such property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

The following words when used in this Declaration or any supplemental declaration, unless the context shall prohibit shall have the following meanings:

A. **"Association"** shall mean Homestead in the Willows Homeowners Association, Inc., a Colorado corporation not for profit, its successors and assigns.

B. **"Block"** shall mean any plat of land designated by the term "block" on any recorded subdivision plat of the Properties.

C. **"The Properties"** shall mean all the property hereinabove described and additions thereto subject to this Declaration or any supplemental declaration under the provisions of Article II hereof.

D. **"Common Properties"** shall mean those areas of land shown or declared as such in any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties.

E. **"Lot"** shall mean any numbered plot of land shown upon any recorded subdivision plat of The Properties which is not designated as Common Properties or as a Block.

F. **"Building Site"** shall mean a Lot or a parcel consisting of a portion of any Lot or contiguous portions of any two or more contiguous Lots.

G. **“Living Unit”** shall mean any structure or portion of a structure situated upon The Properties designed and intended for use, occupancy and ownership as a residence by a single family.

H. **“Designated Public Properties”** shall mean properties dedicated to public use not owned by Declarant or the Association and which may be maintained by the Association. Such designated public properties shall include but not be limited to the entrance park at Quebec and Arapahoe Streets, and any sidewalk or median parkways along Quebec Street and interior collector greenways which are adjacent to the properties.

I. **“Member”** shall mean every person or entity who holds membership in the Association.

J. **“Owner”** shall mean the record owner, whether one or more persons or entities, of fee simple title to any Building Site or Living Unit situated upon The Properties, but shall not mean a mortgagee nor a condominium association owning record title to a tract of land on which is located a condominium development.

K. **“Street”** means any highway or other thoroughfare as shown on the recorded plat of The Properties.

L. **“Set Back”** means the minimum distance between a structure and a lot line.

M. **“Street Frontage”** means that portion of a Lot or Building Site which borders on a Street.

## ARTICLE II SUBJECTING ADDITIONAL PROPERTY TO THIS DECLARATION

*Section 1. Additions in Accordance With a General Plan of Development.* At any time before December 31, 1984, Declarant, its successors and assigns shall have the right to bring within the scheme of this Declaration additional properties located between the public roads known as Quebec, Dry Creek, South Holly and Arapahoe Road in future stages of development, but shall not include any apartment house consisting of one or more rooms intended for use and occupancy by a tenant of an owner.

*Section 2. Method of Making Additions.* Additions authorized under this Article shall be made by filing of record a supplemental

declaration of covenants and restrictions with respect to the additional property. Such Supplemental Declaration may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to The Properties.

*Section 3. Additions by Others.* So long as Declarant is a Class B member, additions may be made by any other owner of property who with the approval of the Board of Directors of the Association desires to add such property located within the boundaries described in Section 1 of this Article II to the scheme of this Declaration and to subject it to the jurisdiction of the Association. When Declarant ceases to be a Class B member, such additions may be made upon approval of the Association pursuant to a vote of its members as provided in its Articles of Incorporation. Such approval by the Board of Directors or Membership shall be evidenced by a certified copy of such resolution of approval recorded in Arapahoe County, Colorado.

## ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

*Section 1. Membership.* Members of the Association shall be every Owner of a fee or undivided fee interest in any Building Site or Living Unit subject by covenants of record to assessment by the Association and every person who holds a contract purchaser’s interest of record in a Building Site or Living Unit. There shall be no other qualification for membership except as set forth above. Membership shall terminate on transfer of a fee simple title by an Owner or the contract purchaser’s interest by a contract purchaser who qualifies as a member. If an Owner sells a Building Site or Living Unit by contract of Sale, upon recordation thereof, the Owner’s membership shall terminate and the contract purchaser’s membership shall commence.

*Section 2. Voting Rights.* There shall be two classes of voting membership:

A. Class A members will be all those members other than the Declarant. Class A members will be entitled to one vote for each Building Site or Living Unit in which they hold the interest required for membership by Section 1. If more than one person holds such interest or interests, all such persons shall be members, but the vote for such Building Site or Living Unit shall be exercised as the persons holding such interest shall determine between themselves, provided that in no event shall more than one vote be cast with respect to any such Building Site or Living Unit. When Class B membership has been converted to Class A membership, all directors of the Association shall be elected by the Class A members.

B. The Class B member shall be the Declarant or its successor or assigns. The Class B member shall be entitled to elect all members of the Board of Directors of the Association. Class B membership may be converted to Class A membership at the option of the Class B member, its successor or assigns by its written notice to the Secretary of the Association, and shall be converted to Class A membership without further act or deed on December 31, 1984.

#### ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES

*Section 1. Members' Easements of Enjoyment.* Subject to the provisions of Section 3 of this Article every member shall have a right of easement and enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot of Living Unit and upon the recordation of a contract of sale of any Lot or Living Unit.

*Section 2. Title to Common Properties.* The Declarant may retain legal title to the Common Properties until such time as it has completed improvements thereon and until such time as in its opinion the Association is able to maintain the same. Notwithstanding the foregoing, the Declarant shall convey the Common Properties to the Association free and clear of all liens and encumbrances not later than December 31, 1984. The Declarant if directed

by the Association pursuant to the same vote of membership as required for dedication of the Common Properties may convey the Common Properties to a municipal corporation, public agency or authority rather than convey such Common Properties to the Association.

*Section 3. Extent of Members' Easements.* The rights and easements of enjoyment created hereby shall be subject to the following:

A. The right of the Association to limit the number of guests of members.

B. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Properties.

C. The right of the Association to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid and for any period not to exceed thirty days for any infraction of its published rules and regulations; and

D. The right of the Declarant and the Association in accordance with its Articles and Bylaws to mortgage said property as security for any loan the purpose of which is improvement of the Common Properties. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to a right after taking possession of such properties to charge admission and other fees as a condition of continued enjoyment by the members, and, if necessary, to open the enjoyment of such property to a wider public until the mortgage debt is satisfied, whereupon the possession of such property shall be returned to the Association and all rights of the members hereunder shall be fully restores; and

E. The right of the Association to dedicate or transfer all or any part of the Common Properties to any municipal corporation, public agency or authority for such uses and purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer, however, shall be effective except pursuant to a vote of the members as provided by the Articles of Incorporation.

F. The right of the Association to close or limit the use of the Common Area while maintaining or making replacements in the Common Area.

*Section 4. Delegation of Use.* Any member may delegate in accordance with the bylaws his right of enjoyment to the Common Properties to the members of his family and his tenants.

## ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENT

*Section 1. Creation of the Lien and Personal Obligation of Assessment.* Declarant for each Lot and Living Unit owned by it within The Properties hereby covenants, and each Owner of any Building Site or Living Unit by acceptance of the deed therefore, whether or not it shall be so expressed in acceptance of the deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments and special assessments for capital improvements. Such assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a continuing lien upon the property against which each such assessment is made from the date hereinafter set forth. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be a personal obligation of the person who is the Owner of such property at the time when the assessment fell due. Such personal obligation shall not pass to his successors in the title unless expressly assumed by them.

*Section 2. Purpose of Assessments.* The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the residents in The Properties and in particular for the improvement and maintenance of property, services and facilities devoted to the purpose and related to the use and enjoyment of the Common Properties and of homes and Living Units situated upon The Properties. Without limiting the generality of the foregoing,

assessments may be used to lease facilities for the use of residents in The Properties.

*Section 3. Basis of Annual Assessment.* Unless changed by vote of the membership as hereinafter provided, the maximum annual assessment for any Building Site owned by Class A members on which is located a single family detached dwelling shall be \$180.00 per year. The assessment for Living Units owned by Class A members which are part of a townhouse, row house or a cluster-type condominium development which is a single Living Unit in height shall be at such assessment ratio as shall be determined by the board of directors for that particular development, having in mind the additional amenities furnished to the particular Living Units not otherwise available to the members. In no event shall such ratio be less than 50% of the assessment per Building Site improved by single family detached dwelling. Building Sites and Living Units owned by the Class B member shall not be levied or liable for any annual assessment.

The board of directors of the Association may after consideration of the current maintenance costs and the financial requirements of the Association fix the annual actual assessment at an amount less than the maximum. In such event the amount of such assessment shall be the basis upon which the lesser assessment ratios, as heretofore set forth, shall be determined. Although assessment amounts may be changed, as herein provided, assessment ratios for Living Units and structures determined by the board of directors pursuant to this section shall not be changed. In the event that a net operating loss is incurred by the Association in any one year which is reimbursed by Declarant an amount not to exceed 50% of any such loss for each year, or \$5,000.00 for each year, whichever is less.

The maximum annual assessment may be changed as follows:

A. From and after January 1, 1976, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

B. From and after January 1, 1976, the maximum annual assessment may be increased

above 10% by a vote of one-half (1/2) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

**Section 4. Special Assessments for Capital Improvements.** Upon vote of the members of the Association in the manner hereinafter set forth, the Association may levy in addition to annual assessments a special assessment in any calendar year applicable to that year only, for the purpose of defraying in whole or in part of the cost of construction or reconstruction or expected repair or replacement of a described capital improvement upon the Common Properties including necessary fixtures and personal property related thereto provided, that, any such assessment shall have the assent of 60% of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The assessment ratio for any Living Unit or structure as determined pursuant to Section 3 shall be applicable to special assessments.

**Section 5. Voting Notices for Special Assessment and Change of Maximum Assessment.** Written notice of any meeting of members called to change the maximum annual assessment or to levy a special assessment shall be sent to all members at least thirty (30) days in advance of the date of such meeting, setting forth the purpose of the meeting.

**Section 6. Quorum For Any Action Authorized Under Sections 4 and 5.** The quorum required for any action authorized in Sections 4 and 5 of this Article V shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of members, or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject

to the notice requirements set forth in Sections 4 and 5 and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Date of Commencement of Annual Assessment.** The initial annual assessments shall commence on the first day of such month as determined by the board of directors of the Association, shall be made for the balance of the calendar year, and shall be due and payable on the date fixed by the board. Annual assessments for any year after the first year shall become due and payable on March 1 of such year, and may be collected on a monthly basis.

The amount of the initial annual assessment for the first year in which assessments are made or for any property which becomes subject to assessment for the first time shall be prorated on a calendar year basis according to the date of the first assessment or the date on which property first became subject to assessment.

The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

**Section 8. Duty of the Board of Directors.** The board of directors shall fix the amount of the annual assessment against each Building Site or Living Unit and give the Owner subject thereto written notice of such assessment at least 30 days in advance of the due date of such assessment. The Board shall cause to be prepared a roster of the properties subject to assessments with assessments applicable to each such property and shall keep such roster in the Association office subject to inspection by any Owner.

The Association shall upon demand at any time furnish to any Owner liable for an assessment a certificate in writing setting forth whether the assessments on the property owned by such Owner have been paid.

**Section 9. The Effect of Non-payment of Assessments; Lien of Association.** If an assessment is not paid on the due date hereinabove set forth, such assessment shall become delinquent and shall bear interest at the

rate of ten per annum from such due date. The secretary of the Association shall file in the office of the County Clerk in which the property is located within 90 days after such delinquency, a statement of the amount of the delinquent assessments together with interest, and upon payment in full thereof shall execute and file a proper release of such lien. Such assessment with interest set forth above shall constitute a lien on such Building Site or Living Unit from the date of the filing notice of delinquency until the lien is released as herein provided. The Association may bring an action at law to enforce payment of a delinquent assessment against the Owner personally obligated to pay the same and may enforce such lien in the manner provided by law with respect to a lien on real property.

In the event a judgment or decree is obtained in favor of the Association, the Owner shall be liable for the Association's court costs and disbursements and a reasonable attorney's fee to be fixed by the Court, such costs, disbursements and attorney fees to be further secured by such lien. No Owner may waive or otherwise escape liability for assessments by non-use of the Common Properties or abandonment of his Building Site or Living Unit.

*Section 10. Subordination of the Lien to Mortgages.* The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust. Sale or transfer of any Building Site or Living Unit shall not affect the assessment lien. However the sale or transfer of any Building Site or Living Unit which is subject to any mortgage or deed of trust, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof including sale under a deed of trust shall extinguish any lien of an assessment which became a lien prior to such sale or transfer. Such sale or transfer shall not release such Building Site or Living Unit from liability from any assessments thereafter becoming due or from the lien thereof.

*Section 11. Exempt Property.* The following property subject to the Declaration shall be exempted from the assessments, charges and liens created herein:

A. All properties to the extent of any easement or other interest therein dedicated and accepted by a municipal or quasi-municipal corporation or other local public authority and devoted to public use.

B. All Common Properties.

## ARTICLE VI RESTRICTIONS ON USE OF PROPERTY BY OCCUPANTS

*Section 1. Use Restrictions.* The following restrictions shall be applicable to the use of any property subject to this Declaration:

A. No Building Site on The Properties shall be used for any purpose other than residential purposes unless otherwise shown on the official recorded plat.

B. No animals or fowls shall be raised, kept or permitted upon The Properties or any part thereof, excepting only domestic dogs or cats and excepting caged pet birds kept within the dwelling house, provided said dogs, cats and pet birds are not permitted to run at large and are not kept, bred or raised for commercial purposes or in unreasonable numbers.

C. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Properties.

D. No noxious or offensive activity shall be carried on upon The Properties or any part thereof, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or detract from its value as an attractive residential community.

E. No Owner or occupant shall remove or significantly alter any tree in any street, right-of-way, park or recreational area or other part of

the Common Properties unless permission in writing is first granted by the Association.

F. No Lot shall be used or maintained as a dumping ground for rubbish, grass clippings, garbage or trash. Garbage and other waste shall be kept in sanitary containers. All containers for the storage or disposal of such material shall be kept in a clean and sanitary condition, and comply with all local, state or federal requirement, and shall be obscured from public view by planting, fences or other means.

**ARTICLE VII  
RESTRICTIONS ON TYPE  
OF STRUCTURE PERMITTED**

*Section 1. Restrictions on Structures.* In addition to the requirements imposed by any county or municipal corporation having jurisdiction over The Properties, the following restrictions apply to structures, improvements and personal property on The Properties.

A. No dwelling shall be erected on any part of the herein described real property containing less than 1400 square feet or principal living area, said living area to be fully enclosed. Porches, terraces, basements, guests houses, servant quarters and garages shall not be construed as living area. Basement shall be defined as any room located 6 or more feet below the adjoining surface of the ground. No single family dwelling shall be more than two stories in height, including the main floor level. No outhouse of any kind, tent, shed or trailer or any other temporary dwelling, shall be erected or maintained on any Building Site or be used for living purposes, nor shall any garage be used for dwelling purposes. Garden sheds or tool sheds may be erected however, with the approval of the Architectural Committee.

B. No trailer, camper, or pickup coach, tent, boat or truck (except pickup) shall be parked, placed, erected, maintained or constructed on any Building Site for any purpose. However, trailers, campers, pickup coaches, tents or boats which can be and are stored completely within attached garages and are not used for living purposes will not be in violation of these restrictions.

C. Lot sizes, set back and building height requirements and restrictions on distances between structures are set forth in the Land Use Plan for The Willows as approved by the Arapahoe County Commissioners Resolutions R-P No. 622-73, R-5 No. 623-73, and B-3 No. 626-73.

**ARTICLE VIII  
RESTRICTIONS REGARDING  
CONSTRUCTION AND MAINTENANCE**

*Section 1. Architectural Committee.* The Architectural Control Committee is composed of Charles H. Sanford, Nicholas M. Schmidt and P. Colin Dandridge. The majority of this Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for the services performed to this covenant. When the Class B membership terminates, the board of directors shall appoint an Architectural Committee of three or more persons who need not be members of the Association, which Committee may act for the board to the extent set forth in this Declaration.

*Section 2. Restrictions on Construction, Maintenance and Improvements.* The following restrictions are applicable to construction, maintenance, and improvements on The Properties:

A. No building, fence or other structure shall be erected, placed or altered on any lot until the construction plans and specifications and a plot plan showing the location of the structure have been approved by the Architectural Control Committee as to the quality of workmanship and materials, harmony of external design and color with existing structures, and as to location with respect to topography and finished grade elevation. The Committee shall have the right to refuse to approve any such plans, specifications or grading plans which are not suitable or desirable in its opinion for aesthetic or other reasons. These plans and specifications are to be approved in writing by the Committee, and a



finally approved plan shall be lodged permanently with said Committee. All subsequent changes, or additions affecting the external appearance of said structure including but not limited to external appearance of said structure including but not limited to fences, roofing material, walls, basketball backboards, awnings, antennae, air conditioners and coolers shall be subject to prior approval of the Architectural Control Committee.

B. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

C. No sign or radio or TV antenna of any kind shall be displayed to the public view on any part of the above described property, except one professional sign per dwelling of not more than five square feet advertising a dwelling for sale or rent, and signs used by a builder to advertise dwellings or dwelling during the construction and sale period. The Declarant is permitted to use larger signs during the promotional period and erect permanent signs near the entrances to the subdivisions.

D. No permanent outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes nor any pole, tower or other structure supporting said outdoor overhead wires shall be erected, placed or maintained within The Properties. All purchasers of Lots within The Properties, their heirs, successors, and assigns shall use underground service wires to connect their premises and the structures built thereon to the underground electric or telephone utility facilities.

E. No fence, wall hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways 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 15 feet

from the intersection of the property lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**Section 3. Right of Entry of Association Representative.** Any agent or officer of the Association may at any reasonable hour or hours during construction or remodeling, enter and inspect any of said property as to its maintenance or improvements to determine if there has been compliance with the provisions hereof. The Association, and any agent, or officer thereof, shall not thereby be deemed guilty of any manner of trespass for such entry or inspection. The Association may issue a certificate of completion and compliance as to any property so inspected.

**Section 4. Evidence of compliance with Restrictions.** Records of the Association with respect to compliance with the provisions of this Declaration shall be conclusive evidence as to all matters shown by such records. Issuance of a certificate of completion and compliance by the Secretary or an Assistant Secretary of the Association showing that the plans and specifications for the improvements or other matters herein provided for have been approved and that such improvements have been made in accordance therewith, or a certificate as to any matters relating to this Declaration by the Secretary or an Assistant Secretary of the Association shall be conclusive evidence that shall justify and protect any title company insuring title to any property subject to this Declaration and shall fully protect and purchaser or encumbrancer in connection therewith. After the expiration of one year following the issuance of a building permit therefore by municipal or other governmental authority, any structure, work, improvement or alteration shall be deemed to be in compliance with the provisions thereof unless a notice of non-compliance executed by the Association shall have been

recorded in the office of the County Clerk in which the property is located or unless legal proceedings shall have been instituted to enforce compliance or completion.

**Section 5. Minor Violations of Setback Restrictions.** If upon the erection of the first single family dwelling upon any of the Building Sites which are subject to these restrictions it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement may be waived by the written consent and waiver of the Owners of the Building Sites immediately adjoining on either side of the Building Site upon which the violation or infringement occurs, and such waiver shall be binding upon all other Owners which are subject to these restrictions. Nothing herein contained shall prevent the prosecution of a suit for any other violation of the restrictions contained in this Declaration. A “minor violation” for the purpose of this section is a violation of not more than two feet beyond the required setback lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to such structure.

## ARTICLE IX RESERVATION OF EASEMENTS

Declarant hereby grants to the County of Arapahoe or its successors and also reserves to itself, its successors and assigns, perpetual easements under, over and across all Common Properties and under, over and across strips of land five feet in width running along and interior to the side lines and rear lines of each Building Site and each Block for the purpose of erecting, constructing, maintaining and operating sewers and drainage systems, and poles, pipes, wires, cables, guys, anchors and conduits for lighting, heating, power, telephone and any other method of conducting and performing any public or quasi-public utility service or function beneath, upon, or above the surface of such Common Properties and five foot strips of land. Declarant reserves the right to cut and/or trim any tree or other growth on such common Properties and such five foot strips which may interfere with or menace the construction, maintenance or operation of such utilities.

On all Common Properties shown as such on recorded plats and not lying between dotted lines within street boundaries and lot lines on recorded plats, the easement herein granted to the County of Arapahoe or its successor shall be limited to a strip five feet on either side of the center line of each sewer or other pipeline, conduit, cable or other utility instrumentality as initially placed in, on or under such Common Properties.

On all Common Properties lying between dotted lines within street boundaries and lot lines on recorded plats, the easement herein granted to the County of Arapahoe or its successor shall include the rights to go upon such Common Properties to maintain and repair improved streets.

The recorded Subdivision plats for the Properties contain easements for and restrictions related to utility lines.

If any portion of the Common Properties encroaches upon a Living Unit or Building Site, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a Living Unit encroaches upon the general common elements, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does similarly exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Properties or on the Living Units for purposes of marketability of title or other purposes.

All lots, building sites and living units are subject to and bound by Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in the Properties, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. The owner or owners shall pay as billed a portion of the cost of public street lighting in the Properties according to Public Service Company rates, rules and regulations, including future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

ARTICLE X  
INSURANCE AND INDEMNIFICATION

*Section 1. Insurance.* The Association shall maintain at all times insurance policies for fire with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all Common Area facilities and buildings, and such casualty and public liability and other insurance policies as the Board deems necessary.

*Section 2. Indemnification.* Each officer and director of the Association shall be indemnified by the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon him in any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been an officer or director of the Association, or any settlements thereof, whether or not he is an officer or director of the Association at the time such expenses are incurred, except in such cases wherein such officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association.

ARTICLE XI  
GENERAL PROVISIONS

*Section 1. Duration.* Covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Building Site or Living Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty years from the date this Declaration is recorded. After such term such covenants and restrictions shall be automatically extended for successive periods of ten years unless an instrument signed by the then Owners of two-thirds of the Building Sites and Living Units has been recorded agreeing to change said covenants and restrictions in whole or in part. The covenants and restrictions of this

Declaration may be amended during the first twenty year period by an instrument signed by not less than 75% of the Owners of Building Sites or Living Units and thereafter by an instrument signed by not less than 66-2/3% of such Owners. Any amendment must be properly recorded.

*Section 2. Notices.* Unless otherwise herein, and notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

*Section 3. Enforcement.* The Association or the Owner or Owners of any of the Properties may enforce the restrictions, conditions, covenants, and reservations imposed by the provisions of this Declaration herein set forth by proceedings at law or in equity against any person or persons violating or attempting to violate any of the said restrictions and limitations, either to recover damages for such violation, including reasonable attorneys fees incurred in enforcing these covenants, or to restrain such violation or attempted violation, or to modify or remove structures fully or partially completed in violation hereof, or both. Every suit to enforce these covenants, or restrain a violation or attempted violation hereof, or to modify or remove a structure fully or partially completed or in violation hereof shall be commenced no later than one year from the date of the violation for which the action is sought to be brought or maintained. Failure of the Association or of 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. The Association shall not be liable to reimburse any Owner for attorneys' fees or costs incurred in any suit brought by an Owner to enforce or attempt to enforce these covenants.

*Section 4. Severability.* Invalidation of any one of these covenants or restrictions by judgment or court decree shall in no wise affect any other provisions which shall remain in full force and effect.

Section 5. **Effect of Ordinances.** Police, fire and other public safety ordinances of any governmental corporation or unit having jurisdiction over any portion of The Properties shall govern where more restrictive than these covenants and restrictions.

Section 6. **“Declarant”** as used herein means the named Declarant, its successors and assigns.

IN WITNESS WHEREOF the undersigned being the Declarant herein has hereunto set its hand and seal as of the day and year first hereinabove set forth.

SANFORD HOMES, INC  
By /s/ Charles H. Sanford  
President

ATTEST:  
/s/ Nicholas M. Schmidt  
Secretary

STATE OF COLORADO )  
 ) ss.  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of September, 1974, by Charles H. Sanford, as president, and Nicholas M. Schmidt, as secretary, of Sanford Homes, Inc., a Colorado corporation.

Witness my hand and official seal.

/s/ Linda A. Hickey  
Notary Public

My commission expires June 16, 1977.

## **HOMESTEAD IN THE WILLOWS AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS**

This Amendment is made that certain Declaration of Covenants and Restrictions of Homestead in the Willows Homeowners Association dated September 26, 1974 (as amended and supplemented by the amendments and supplements listed in Exhibit “B” attached hereto and by this reference made a part hereof) which was filed in Book 2287 at Page 156 of the real property records of the Clerk and Recorder of Arapahoe County Colorado on the 1<sup>st</sup> day of November, 1974 (the “Declaration”).

WHEREAS, the Association has determined that the construction, maintenance, repair and replacement of fencing on the perimeter of The Properties is of interest to the Owners and promotes the recreation, health, safety, enjoyment and welfare of the residents in The Properties; and

WHEREAS, the Association has determined that such fencing is accurately described on Exhibit “A” attached hereto (the “Perimeter Fencing”); and

WHEREAS, seventy-five percent (75%) of the Owners of Building Sites or Living Units have signed an instrument amending the

Declarations which instrument is in substantially the same form as this Amendment;

NOW THEREFORE, the Declaration is amended as described hereinafter.

### **AMENDMENTS**

1. The following paragraph N. shall be added to ARTICLE I of the Declaration.

N. “Perimeter Fence” shall mean the Perimeter Fence and any other elements defined as such by the Association in the Declaration, any amendments thereto or any resolution of the Board of Directors established in Article IV of the Articles of Incorporation.

2. The following Section 12 shall be added to Article V of the Declaration.

*Section 12. Assessments Related to the Perimeter Fence.* The costs of maintenance and repairs of the Perimeter Fence may be paid from Annual Assessments fixed pursuant to Section 3 or Section 12.5 of this Article V. The Board of Directors may, in its discretion, irrespective of the fact that the Perimeter Fences

are not Common Property fix Special Assessments (as defined hereinabove) for the payment of costs associated with the replacement of the Perimeter Fence or utilize funds from the Perimeter Fence Maintenance Reserve Fund Account (as described below) for the payment of costs associated with the maintenance or repair of the Perimeter Fence. Such costs concerning the Perimeter Fence shall be borne:

1. Entirely by any Owner whose conduct or misconduct causes the need for maintenance, repair or replacement of all or a portion of the Perimeter Fence;

2. Equally by all Owners for maintenance or repair for ordinary wear and tear of the Perimeter Fence;

3. Equally by all Owners where the Perimeter Fence is replaced or reconstructed because it is obsolete, worn out, unsightly or becomes otherwise inconsistent with standards of maintenance established by Architectural Control Committee or any generally applicable public requirements;

4. The Association shall undertake to refurbish the Perimeter Fence during 1994 to bring it into compliance with the standards established by the Architectural Control Committee. Said refurbishment shall not be commenced until binding agreements are executed with a reputable company(ies) providing that the cost of such refurbishment shall not exceed \$125,000.00 Preceding subparagraphs 1, 2 and 3 notwithstanding, such refurbishment costs shall be assessed and are hereby authorized as follows:

- (a) Equally against Owners of Property on which portions of the Perimeter Fence are located for surface preparation and staining of the interior of the fence;
- (b) Equally against all Owners for surface preparation and staining of the exterior of the Perimeter Fence including any landscape modification necessary for such purposes; and,
- (c) Equally against Owners of Property on which portions of the Perimeter Fence are

located where landscape modification (on such Owners Property), reconstruction or structural rehabilitation is required, provided however, any landscape modification shall be agreed upon by such Owner and the Architectural Control Committee prior to its implementation.

5. Funds required to pay costs associated with Perimeter Fences not otherwise provided for herein shall be assessed as part of the Annual Assessments or as equal Special Assessments (irrespective of the fact that the Perimeter Fences are not Common Property) against all Owners.

6. The Board of Directors shall establish a special account to be known as the Perimeter Fence Maintenance Reserve Account to provide for maintenance and repair of the Perimeter Fence. The Perimeter Fence Maintenance Reserve Account shall be funded initially by an Annual Assessment against the Property of each Owner in the amount of \$30.00 per year which assessment may be increased, at the discretion of the Board of Directors, by no more than 10% each year, subject to the limitations of Section 3 of Article V. At such time as replacement of the Perimeter Fence is authorized as a Special Assessment, the funds then existing in the Perimeter Fence maintenance Reserve Account may be applied toward the cost of such replacement.

Notwithstanding anything to the contrary contained in Section 3 of Article V the provisions of this Section 12 shall not be applicable to any Owners of Living Units which are part of a Townhouse, row house or a cluster-type condominium development, specifically including those known as the Village I townhomes.

The consent and approval of each of the undersigned Owners shall be irrevocable and remain valid notwithstanding any Owner's disability, death or conveyance of their Lot or Living Unit prior to the recording of this

Amendment. Final approval for these Amendments is evidenced by the signature of seventy-five (75%) of the Owners of Building Sites or Units. The signed copy or the Amendments is maintained at the offices of the Association at 5896 East Geddes Circle, Englewood, Colorado.

Executed this 14<sup>th</sup> day of June 1994.

HOMESTEAD IN THE WILLOWS HOMEOWNERS ASSOCIATION, INC.

/s/ Joe Gschwendtner  
President

ATTEST:

/s/ Kim Long  
Secretary

STATE OF COLORADO         )  
  ) ss.  
County of Arapahoe         )

The foregoing Amendment was acknowledged before me this 14<sup>th</sup> day of June 1994 by Joe Gschwendtner, President, and Kim Long, Secretary for Homestead In The Willows Homeowner Association, Inc.

/s/ Robert M. Thompson

MY COMMISSION EXPIRES JUNE 8, 1996.