

AMENDED DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
BOYD LAKE SHORES, FIRST FILING

ARTICLE I - PREAMBLE

The undersigned hereby amend the Protective Covenants of Boyd Lake Shores, First Filing ("the Property"), County of Larimer, State of Colorado currently recorded at Book 8, Page 111, records of the Office of the Clerk and Recorder, Larimer County, Colorado, which amendment is made pursuant to the terms and conditions of paragraph 18 of said Protective Covenants.

The undersigned are the Owners of a majority of the lots within the Property.

The Owners therefore declare that all of the Property is and shall be held, transferred, sold, conveyed, and occupied subject to the terms, restrictions, limitations, conditions, covenants, obligations, liens, and easements which are set forth in this Declaration, all of which shall run with the Property and shall inure to the benefit of, and be binding upon, all parties having any right, title, or interest in the Property or any portion thereof, and such Owner's heirs, grantees, legal representatives, successors and assigns.

The purpose of these Covenants is to protect the attractiveness and value of lots in said Property and the buildings erected thereon.

ARTICLE II- DEFINITIONS

2.1 General. The words and terms defined in this Article shall have the meanings herein set forth unless the context clearly indicates otherwise.

2.2 Association shall mean and refer to Boyd Lake Home Owners Association, a Colorado Non-Profit Corporation. The members of the Association shall be Owners as defined herein.

2.3 Architectural Review Board shall mean and refer to the Architectural Control Committee created pursuant to Article V of this Declaration.

2.4 Board of Directors or Board shall mean and refer to the Board of Directors of the Association.

2.5 Bylaws shall mean and refer to the duly adopted Bylaws of the Association.

COPY-CLERKS NOTE

✓ Ken McCrady
3525 Valley Oak Dr.
Loveland, Co 80538

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2.6 Common Areas or Parks shall refer to the open spaces and any other areas for common use owned and/or maintained by the Association.

2.7 Lot shall mean a lot as platted and designated on the plat of Boyd Lake Shores, First Filing, as the same may be amended from time to time; provided that, if any lot has been divided so that a portion of the lot is owned by a person in conjunction with all or a portion of an adjoining lot and the other portion of the lot is owned by another separately or in conjunction with all or a part of the other adjoining lot, then the entire property so held under one ownership shall be the lot for the purpose of this Declaration. Each Lot shall be responsible for an equal portion of the common expenses of the Association and shall have an identical portion of the votes in the Association. Said allocation is based upon a formula that provides an equal allocation of such matters to each Lot within the Subdivision.

2.8 Single Family shall mean a group of persons living together as one family for living and cooking purposes. Anything herein notwithstanding a single family shall not include persons living together in any situation constituting a dormitory, rooming house, group home, lodge, meeting hall, or any education, religious or business facility, whether non-profit or for-profit.

2.9 Guests are defined as non-paying persons who are temporary visitors who are not family members of the owner's and who are not paying visitors.

2.10 Subdivision shall mean Boyd Lake Shores - First Filing, located in Larimer County, Colorado.

2.11 "The Act" or "the Act" shall mean the Colorado Common Ownership interest Act, as amended from time to time.

2.12 Other Terms. Other terms may be defined in specific provisions contained in this Declaration and shall have the meaning assigned by each such definition.

ARTICLE III - USE AND OTHER RESTRICTIONS

3.1 Land Use and Building Types. No plot, lot, tract or other parcel of land, except Outlot No. 10, Block 2, shall be used except for single-family residential purposes, and no buildings shall be erected on any lot except one detached single family dwelling, which may include as part thereof, or as a separate structure, a private garage or combination garage-guest house (the use of which shall be confined to bona fide non-paying guests), such separate building to have identical architectural design and proportionate exterior appearance, and proportionate dimensions as the family residence. No dwelling shall be erected or permitted on any tract unless, for a single story dwelling, the same shall have a ground floor area of not less than 1600 square feet, or for a multiple level dwelling a ground floor area of not less than 1200 square feet with a total area of not less than 1800 square feet, each area to be exclusive of any garage or open

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porch, except for lots adjacent to Boyd Lake which shall be single story dwellings with a main floor area of not less than 1600 square feet exclusive of any garage or open porch; and except for any other lots which may from time to time be designated as single story dwelling lots by the Architectural Control Committee. Such other lots shall be designated in writing as single story dwelling lots by the Architectural Control Committee prior to the sale of such lots by any party. For purposes hereof, "detached single family dwelling" shall mean an independent structure designed and occupied as a residence for a single family. Modular and mobile homes are prohibited on lots. All residences shall be built on site. By way of illustration, and without limiting the scope of the foregoing, a "detached single-family dwelling" shall not be deemed to include any dormitory, rooming house, group home, lodge, meeting hall, or any educational, religious, or business facility, whether non-profit or for-profit.

3.2 Building Locations. No building, fence, or other permanent structure shall be located on any lot without first obtaining the written consent of the Architectural Control Committee, approving the proposed location.

3.3 Maintenance of Exteriors of Residences and Other Buildings. The exteriors of all residences and other buildings within the subdivision shall be maintained in good, attractive condition by the owners thereof. All residences shall be repainted or re-stained periodically as needed. The Association may require an Owner to paint or stain. If painting or re-staining has not been performed, the Association may cause such residence or other buildings to be painted or stained and to assess such owner for the costs incurred thereby as follows: If any owner fails to maintain the exterior of a building on such owner's lot in accordance with the foregoing requirements, the Association may give the owner written notice to perform such work within no less than forty-five (45) days, and if the owner fails to perform such work within that time, the Association may have such work done at the expense of the owner. If the work is done by the Association at the owner's expense, the owner shall pay for such work within thirty (30) days after notice is given in writing to the owner as to the cost of such work. If the owner fails to pay within that time and if the Association thereafter incurs reasonable attorneys' fees and costs in collecting such amount from the owner, all such attorneys' fees and costs incurred shall likewise be a debt owing by the owner to the Association.

3.4 Maintenance of Landscaping. Commencing as to each Lot when a certificate of occupancy has been issued for a residence on such Lot, the landscaping on each Lot shall be maintained by the owner, subject however, to the right of the Association to perform any maintenance deemed necessary or desirable to maintain the standards established for the Subdivision, and to assess such Lot in accordance with such owner for such required maintenance. If any owner fails to maintain landscaping on such owner's Lot in accordance with such requirements, the Association may give the property owner written notice to perform necessary maintenance within no less than forty-five (45) days after such notice is given, and if the owner fails to perform such maintenance work within the time, the Association may have such work done at the expense of the owner of the Lot. If the work is done by the Association at the owner's expense, the owner shall pay for such work within thirty (30) days after notice is given in writing to the owner as to the cost of such work. If the owner fails to pay within said time and the Association

thereafter incurs reasonable attorney's fees and costs in collecting such amounts from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association.

3.5 Easements. Easements for the installation and maintenance of utilities, trails, landscaping, and drainage facilities are reserved as shown on the Plat, or those that may be recorded at a later date. Within these easements, no structure, planting or other materials shall be placed or permitted which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow of drainage channels in the easements which hinders or obstructs the use of the trails system, or which adversely affects landscaping installed by the Developer. If any landscaping or structure is installed which violates such requirements, the Association may give the property owner written notice to remove such landscaping or structure within no less than forty-five (45) days after such notice is given, and if the owner fails to move the landscaping or structure within that time, the Association may have such work done at the expense of the owner of the Lot. If the work is done by the Association at the owner's expense, the owner shall pay for such work within thirty (30) days after notice is given in writing to the owner as to the cost of such work. In the event of failure to pay within that time and if the Association thereafter incurs any attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner of the Association.

3.6 Extent of Member's Easements. The rights and easements of enjoyment of members in the Parks shall be subject to the following:

- A. The right of the Association, as provided by its Articles or Bylaws, to suspend the enjoyment rights of any member for any period during which any assessment or debt remains unpaid; and for any period not to exceed thirty (30) days for infraction of its published rules and regulations; and
- B. The right of the Association to limit the number of guests of members and the circumstances under which guests may use the Parks; and
- C. Rules and Regulations (community Rules) of the Association for use and enjoyment of Common Areas and parks.

3.7 Nuisances. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

3.8 Temporary Structures. No structure of a temporary character, whether a basement, tent, storage shed or shelter, garage, barn, mobile home or other outbuilding shall be permitted on any lot at any time, either temporarily or permanently, except during a process of construction, or as approved by the Architectural Control Committee. The term "temporary structure" shall not include a tent or pavilion, which is erected for a period of less than seven (7) days.

3.9 Animals. No animals of any kind shall be kept, bred or maintained for commercial purposes. The number of animals maintained shall not exceed the numbers allowed by regulations of Larimer County or other governmental body with jurisdiction over the subdivision. No animals shall be allowed to remain tied or chained in or upon the Common Areas or Parks, and any animal so tied or chained may be removed by the Association or its agents. Any pet constituting a nuisance may be ordered by the Association to be kept within the fenced portion of its owner's lot, or ordered expelled from the subdivision. Each owner shall be responsible for any damage caused by his or her animals.

3.10 Radio and Television Reception; Antennas. Activity on a lot that interferes with television or AM & FM radio reception on any other lot is prohibited and may be removed or enjoined by the Association. Any installation of exterior antennas, towers, satellite dishes and the like shall be subject to advance approval of the Architectural Control Committee.

3.11 Fencing. No fence shall be erected on any lot within the Property except as approved in advance by the Architectural Control Committee. Perimeter fences are prohibited.

3.12 Unightly Uses. All lots shall at all times be maintained in a clean and sanitary condition, and no litter or debris shall be deposited or allowed to accumulate on any lot. All landscaping, including grass, shall be irrigated, trimmed and maintained in good condition at all times. Refuse piles and other unightly objects or materials shall not be allowed to be placed on or to remain upon any lot.

3.13 Trash Removal. Trash shall be removed from all lots on a regular basis and shall not be allowed to accumulate. Each resident within the subdivision shall be separately liable for the trash-hauling charges attributable to his or her lot, unless the Board determines to do such removal on a community-wide basis. In such latter event, the cost of such removal shall be a common expense, assessable to the owners as set forth in Article VI.

3.14 Disabled Vehicles, Vehicle Repair. Disabled automobiles shall not be stored on streets, driveways, or lots within the subdivision. No person shall repair, rebuild or maintain any vehicle within the subdivision, except within the confines of an owner's lot.

3.15 Storage. The Board shall have the right to impose rules and regulations concerning the storage or parking of motor homes, boats, trailers, or recreational vehicles on the streets within or adjacent to the Property and on any lot, including the prohibiting of such storage or parking or the requirement of storage in designated areas. Visible — storage of all such items on any street within or adjacent to the property or on any lot shall be prohibited during the months of October through April, inclusive.

3.16 Restrictions on Leasing of Residences. An owner may lease his residence subject only to the following restrictions:

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Any lease agreement shall provide that the terms of this lease shall be subject in all respects to the provisions of this Declaration, and the Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. Any such lease shall not relieve the Owner from liability to the Association for the terms and conditions imposed by this Declaration.

3.17 Hazardous Materials. Storage, use or disposal of hazardous or radioactive materials within the Property is prohibited, unless specifically approved in advance by the Architectural Control Committee.

3.18 Solar Devices. All solar devices must either be architecturally and aesthetically integrated into the structure they serve or be screened from the view of the street and adjacent lots and streets. All solar devices, and their placement, must be approved by the Architectural Control Committee.

3.19 Commencing and Finishing Construction. Once construction of any structure is commenced on any lot, with the prior approval of the Architectural Control Committee, such construction must be diligently continued and must be completed in accordance with the plans and specifications approved by the Architectural Control Committee, within one year of commencement, or such longer time reasonably consented to by the Architectural Control Committee, in light of the nature of the project or other mitigating factors. Commencement of construction shall be deemed to commence with the first substantial construction activity (including earth work).

3.20 Rebuilding. Any structure which is destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt, or all debris must be removed and the lot restored to a slightly condition, within six (6) months of the time the damage occurs.

3.21 Signage. Except as set forth herein, no commercial sign may be placed on a lot other than a sign not more than five (5) square feet in size advertising the lot for sale or rent and political campaign signs.

3.22 Outside Lighting. No exterior lighting shall be installed or maintained on any lot except as approved by the Architectural Control Committee. No free-standing yard light may be placed higher than twelve (12) feet above ground level. Each Lot is required to have a minimum of one 60-watt light, within five feet of the street and not less than five (5) feet above the ground, which light shall be kept burning at all times during hours of darkness, said light to be unobstructed by shrubbery and fences.

3.23 No Subdivision. No lot shall be subdivided or utilized for more than one detached single family dwelling (with associated outbuildings and structures). Boundary adjustments between neighboring lots shall be allowed, subject to applicable laws and subject to the reasonable approval of the Architectural Control Committee, provided that such adjustments shall not result in an increase in the total number of lots within the subdivision.

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3.24 Mining. No mining or extraction of oil, gas, gravel or minerals of any sort shall be permitted on any lot, except the drilling and maintenance of a water well for irrigation use on said premises if otherwise allowed by law. The Architectural Control Committee must approve location, pump house, and other appurtenant structures.

3.25 Lake Front Park. There is hereby granted to all of the Owners of all lots in Boyd Lake Shores, First Filing a perpetual, private easement upon Lot 10, Block 2, Boyd Lake Shores, First Filing for ingress and egress to Boyd Lake for the purposes of boating, swimming, and related recreational activities. Said easement is to permit pedestrians, boats and other vehicles associated with recreational activities to move to and from Boyd Lake. The owners of all lots in Boyd Lake Shores First Filing, shall be responsible jointly and severally for the maintenance of Lot 10 in Block 2, and shall keep the surface thereof planted with grass, and shall tend the same properly, or shall surface the same with gravel or other suitable surfacing and shall, at all times keep the said surface smooth, level and free of weeds or other overgrowth and free of rubbish and debris of any kind and nature and shall, at no time, use the said easement for storage of any kind, except as approved in advance by the Board.

3.26 Home Occupations. Home occupations are permitted so long as the occupation is a business or profession conducted within a dwelling by a resident thereof as a use accessory thereto, is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and no article is sold or offered for sale on the premises. No nonresidential employee of a home occupation business may use the premises, including but not limited to, pick up or delivery.

ARTICLE IV - ARCHITECTURAL STANDARDS

4.1 Restrictions. No building, corral, shed, storage structure, awning, fence or any other structure shall be erected, placed or altered on any lot, nor shall there be any external modifications to any such structure, until the plans and landscaping specifications showing the nature, kind, shape, height, color, materials and location of the same have been submitted to and approved in advance by the Architectural Review Board in writing. No landscaping shall be installed on any lot, or altered thereafter, unless a landscaping plan showing the nature, type, height, and location of the proposed landscaping improvements has been submitted to and approved by the Architectural Review Board in writing. Without limiting the generality of the foregoing, prior approval of the Architectural Review Board must be obtained for any of the following: (i) attachments to the exterior of a structure, (ii) installation of greenhouses, (iii) installation of patio covers, landscaping, screening, trellises and the like, (iv) change in exterior paint colors, (v) installation of any barn corral, shed or storage building, and (vi) any other exterior change, including cosmetic changes such as garage doors, shutters and the like. The authority of the Architectural Review Board shall extend to the quality, workmanship and materials for any structure proposed; conformity and harmony of exterior design and finish with existing structures within the subdivision; location of all structures with respect to the existing buildings, topography and finished ground

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elevation; and all other matters required to assure that such structures enhance the quality of the subdivision and are erected in accordance with the plan for the subdivision. All residences will have permanent foundations. Mobile or modular homes are prohibited.

4.2 Guidelines and Rules. The Architectural Control Committee may adopt Guidelines and Rules governing the type of structures to be permitted in the Subdivision, permitted construction materials and the like. These Guidelines and Rules are made for the purpose of creating and keeping the Subdivision, so far as possible, desirable, attractive, beneficial, uniform, harmonious, and suitable in architectural design, materials, and appearance; limiting the use of lots to single family residential buildings; guarding against unnecessary interference with the natural beauty of the Subdivision; locating structures on lots so as to minimize, to the extent reasonably possible, the obstruction of view of other Lot owners and prohibiting improper uses of adjoining properties in the Subdivision, all for the mutual benefits and protection of all owners.

4.3 Garages and Parking. Each dwelling on a Lot shall include an attached garage having space for not less than two automobiles. Each Lot must have provisions for off street parking for at least two automobiles, exclusive of garage space.

4.4 Materials and Workmanship. All improvements shall be constructed of good and suitable materials, and all workmanship shall result in first class construction and shall be accomplished in a good and workmanlike manner. All dwellings shall include dimensional (i.e., shake shingle appearance) or wood shake shingle, tile, or other decorative roof, which shall be subject to the approval of the Architectural Control Committee.

4.5 Accessory Buildings. Small sheds for storage of lawn furniture, yard, equipment, gardening equipment, and similar type items, which are well constructed and neat of appearance, shall be permitted, providing the size, design, and location of said structures shall be subject to prior approval by the Architectural Control Committee. X

4.6 Setbacks. Each single family detached dwelling and accessory shall be located at least 40 feet from the street at the front of the Lot and 25 feet from any side street; and at least 10 feet from the boundary of the nearest adjacent Lot. Accessory detached buildings shall be no closer than 75 feet to the front of the Lot and 25 feet from all other property lines. Anything herein notwithstanding the Architectural Control Committee shall have the right to allow or require adjustments to these setbacks as it determines necessary to carry out the purposes of this Declaration.

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ARTICLE V - ARCHITECTURAL CONTROL COMMITTEE

5.1 Establishment and Membership of Architectural Control Committee. The Architectural Control Committee, hereinafter referred to at times as the "ACC," shall be established as set forth in the Bylaws.

5.2 Address of Architectural Review Board. The address of the ACC shall be at the United States Post Office address of the Association.

5.3 Submission of Plans. Prior to commencement of work requiring ACC action, the person proposing to take such an action to Property, "Applicant" shall submit to the ARB at its offices, such description, surveys, plot plans, drainage plans, elevation drawings, landscaping plans, construction plans, specifications and samples of materials and colors as the ACC shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed improvement to property. Until receipt by the Architectural Review Board of all required materials in connection with the proposed improvement to property, the ACC may postpone review of any materials submitted for approval.

5.4 Criteria for Approval. The ACC shall approve any proposed improvement to property only if it deems in its reasonable discretion that the improvement to property in the location indicated will not be detrimental to the appearance of the surrounding areas of the development as a whole; that the appearance of the proposed improvement to property will be in harmony with the surrounding areas of the development area; that the improvement to property will not detract from the beauty, wholesomeness and attractiveness of the development area or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed improvement to property will not become a burden on the Association. The ACC may condition its approval of any proposed improvement to property upon the making of such changes therein as the ACC may deem appropriate.

5.5 Architectural Control Committee Guidelines or Rules. The ACC may issue Guidelines or Rules relating to the procedures; materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed improvement to property.

5.6 Architectural Review Fees. The ACC may, in its guidelines or rules, provide for payment of reasonable fees to accompany each request for approval of any proposed improvement to property. The Architectural Review Board may provide that the amount of such fees shall be uniform for similar types of proposed improvement to property, or the fees may be determined in any other reasonable manner, such as based upon the cost of the proposed improvement to property.

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5.7 Decision of Architectural Control Committee. The ACC shall take reasonable steps to reach a decision within thirty (30) days after receipt by the ACC of all materials required by it for review. The decision shall be in writing and, if the decision is not to approve a proposed improvement to property, the reasons therefore shall be stated. The decision of the ACC shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the ACC.

5.8 Notice of Completion. Promptly upon completion of the improvement to property, the applicant shall give written notice of completion to the ACC and, for all purposes hereunder, the date of receipt of such notice of completion by the ACC shall be deemed to be the date of completion of such improvement to property.

5.9 Inspection of Work. The ACC or its duly authorized representative shall have the right to inspect any improvement to property prior to or after completion, provided that the right of inspection shall terminate thirty (30) days after the ACC shall have received a notice of completion from the Applicant.

5.10 Notice of Noncompliance If, as a result of inspections or otherwise, the ACC finds that any improvement to property has been done without obtaining the approval of the ACC, or was not done in substantial compliance with the description and materials furnished by the Applicant to the ACC or was not completed within one year after the date of approval by the ACC, the ACC shall notify the applicant in writing of any noncompliance which notice shall be given, in any event, within thirty (30) days after the ACC receives a notice of completion from the Applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

5.11 Failure of Architectural Control Committee to Act After Completion. Upon receipt of the ACC of a written notice of completion from the applicant, the ACC shall attempt to inspect the property and advise the applicant of any noncompliance within thirty (30) days, but failure to do so shall not affect the ACC's right to thereafter give a notice of noncompliance.

5.12 Correction of Noncompliance. If the ACC determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of receipt by the Applicant of the ruling of the ACC. If the Applicant does not comply with the ACC's ruling within such period, the matter may be referred to the Board of the Association, and the Board of the Association may, in its discretion, record a notice of noncompliance against the real property on which the noncompliance exists, may institute judicial proceedings to allow it to remove the non-complying improvement, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection with such matter including, without limitation, reasonable attorney's fees. If such expenses are not promptly repaid by the Applicant or owner to the Association, the Association may levy a reimbursement assessment lien against the owner and the owner's lot for such costs and expenses. The right of the Association to remedy or remove any

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noncompliance shall be in addition to all other rights and remedies, which the Association may have at law, in equity, or under this Declaration.

5.13 Architectural Control Committee Power of Grant Variances. The ACC may authorize variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, under hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the ACC. If any such variance is granted, no violation of the provisions of this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of the variance shall not operate to waive any of the provisions of this Declaration or any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of the variance affect to any way the Owner's obligation to comply with all governmental laws and regulations affecting the Property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

5.14 Compensation of Members. Members of the ACC shall receive no compensation for services rendered except for professional members, such as architects, builders, etc., if any. All members shall receive reimbursement for out-of-pocket expenses incurred by them in the performance of their duties hereunder.

5.15 Meetings of Architectural Control Committee. The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may, from time to time, by resolution in writing adopted by a majority of the members, designate an ACC Representative (who may, but need not, be one of its members) to take any action or perform any duties for or on behalf of the ACC, except the granting of approval to any improvement to property and granting of variances. The action of such ACC Representative within the authority of such ACC Representative or the written consent of the vote of a majority of the members of the ACC shall constitute action of the ACC.

5.16 Records of Action. The ACC shall report in writing to the Association's Board of Directors all final actions of the ACC and the ACC shall keep a permanent record of such reported actions.

5.17 Estoppel Certificates. The Association shall, upon the reasonable request of any interested party and after confirming any necessary facts with the ACC, furnish a certificate with respect to the approval or disapproval of any improvement to property or with respect to whether any improvement to property was made in compliance herewith. Any person without actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

5.18 Non liability for Architectural Control Committee Action. Neither any member of the ACC, any ACC Representative or agent, the Association nor, any member of the Association's Board of Directors nor Developer shall be liable for any loss, damage

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or injury arising out of or in any way connected with the performance of the duties of the ACC unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the ACC shall not be responsible for reviewing, nor shall its approval of any improvement to property be deemed approval of the improvement to property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

5.19 No Implied Waiver or Estoppel. No action or failure to act by the ACC or by the Association shall constitute a waiver or estoppel with respect to future action by the ACC or the Association with respect to any improvement to property. Specifically, the approval by the ACC of any improvement to property shall not constitute approval of, or obligate the ACC to approve, any similar proposals, plans, specifications or other materials submitted with respect to any other proposed improvement.

5.20 Appeals. Any decision of the ACC may be appealed to the Board of Directors. Any appeal shall be made in writing to the Board within thirty (30) days of either the ACC or Board of Director's decision.

ARTICLE VI - THE ASSOCIATION

6.1 Articles of Incorporation and Bylaws. The interests of all Lot owners shall be governed and administered by the Articles of Incorporation and Bylaws of the Boyd Lake Shores Home Owners Association, Inc. and by this Declaration. In the event of a conflict between the provisions of this Declaration and the Articles of Incorporation or the Bylaws of the Association, the terms of this Declaration shall be controlling.

6.2 Membership. Except as set forth, each owner of a Lot, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership.

6.3 Examination of Books by First Mortgagee. The holder of any recorded first mortgage or deed of trust on a lot in the subdivision will, upon request, be entitled to:

(a) inspect the books and records of the Association during normal business hours; and

(b) receive an annual financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association; and

(c) receive written notice of all meetings of the Association and shall be permitted to designate a representative to attend all such meetings.

6.4 Powers. The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Common Areas and to

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perform all of the duties required of it. Those powers shall be exercised through the Board of Directors and shall include, without limitation, the following:

- (a) To enforce all of the applicable provisions of this Declaration.
- (b) To maintain the Common Areas and all improvements thereon.
- (c) To contract for and pay for the cost of providing the maintenance functions described herein out of funds collected by the Board.
- (d) To levy and collect the costs of maintenance as provided herein and to make or authorize the expenditures therefrom as hereinafter described.
- (e) To receive and process complaints from Owners with respect to any provisions of this Declaration or any other activities of the Association.
- (f) To adopt such rules and regulations as the Board from time to time may deem necessary or appropriate to carry out the provisions of this Declaration or other duties of the Association.
- (g) To render such discretionary decisions as are vested in the Board pursuant to this Declaration.
- (h) To impose charges for late payments of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws and Rules and Regulations of the Association, and to establish the rate of interest to be assessed for all sums which may be payable to the Association.
- (i) To obtain and keep in force such insurance as the Board may from time to time deem appropriate including, but not limited to, casualty and liability, worker's compensation, errors and omissions coverage for officers, directors, employees and members of the Association, insurance for indemnification of officers, directors and members of the Association acting on behalf of and for the benefit of the Association, and such other insurance that the Board may deem appropriate.
- (j) To exercise all powers and rights granted to the Association by the provisions of the "The Act", as from time to time amended.
- (k) To take such other action or to incur such other obligations whether or not herein expressly specified as shall be reasonably necessary to perform the Association's obligations hereunder, subject to the approval of the members of the Association.

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Notwithstanding the above, unless at least seventy-five percent (75%) of the first mortgagees of lots (based upon one vote for each first mortgagee owned or held) have given their prior, written approval, the Association shall not be empowered or entitle to:

- (a) by act or omission , seek to abandon or terminate the Declaration;
- (b) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas;
- (c) use hazard insurance proceeds for loss to the Common Areas improvements for other than repair, replacement or reconstruction of such improvements.

6.5 Common Areas Maintenance and Operations. The maintenance and operation of the Common Areas shall be the responsibility and the expense of the Association and its Board and Committees (including, without limitation, any appropriate indemnity to members thereof), and the costs therefore shall be a common expense of all the lot owners. Said expense shall be divided equally among the respective lot owners. Each owner, by the acceptance of a conveyance of a lot shall be obligated to pay his or her share of such expenses. An owner shall be responsible for his full share of such expenses whether or not his or her lot is improved. For purposes hereof, maintenance of Common Areas shall include, without limitation, maintenance of landscaping in the Common Areas, maintenance of the boat ramp, and the perimeter fence.

6.6 Common Areas, Additions, Alterations, or Improvements - Limitations. There shall be no additions, alterations, or improvements of or to the Common Areas by the Association requiring a special assessment in excess of \$200.00 per lot in any one calendar year without the prior approval of the members of the Association, at a special or regular meeting of the Association members by a majority vote. Such expenditures shall be a common expense.

6.7 Formula for Determining Assessments. Commencing for calendar year 2002 and subsequent years, assessments shall be made no less frequently than annually and shall be based upon a budget adopted no less frequently than annually by the Association. The assessments shall be based upon the total number of lots within the Subdivision. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment. Assessments may be due annually, monthly , or on such other periodic basis as the Board may determine appropriate.

6.8 Based upon Budget. Assessments shall be based upon a budget which shall be established by the Board of Directors, annually, which budget shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the lot owners to provide for the payment of all expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Areas, which sum may include, but not be limited to, expenses of management; taxes and special assessments unless separately assessed; premiums for insurance,

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landscaping and care of the ground; common lighting and heating; repairs and renovations; wages; common water and sewer charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Association or any of its agents or employees on behalf of the lot owners under or by reason of this Declaration and the Articles of Incorporation and Bylaws of the Association; expenses of operation of the ACC; for any deficit remaining from a previous period; for the creation of reasonable contingency reserve, working capital and sinking funds as well as other costs and expenses relating to the Common Areas; and for maintaining a reserve fund for replacement of Common Areas, which shall be funded by annual payments rather than special assessments. The Association shall comply with the requirements of Section 38-33.3-303(4), Section 38-33.3-315(1) and any other applicable provisions of the Act, as the same may from time to time be in effect, relative to the proposal and ratification of such budget.

6.9 Assessments for Other Charges. The Association shall have the right to charge lot owners for special services provided by the Association to such owners including, but not limited to, those matters set forth in Section 3.3 of this Declaration. That is, such services shall be deemed to have been provided for the exclusive benefit of such lot Owners under Section 38-33.315(3)(b) of the Act. The Association shall also have the right to charge a lot owner for any common expense caused by misconduct of such lot owner, in which event such expense may be assessed exclusively against such owner. The Association shall have the right to impose a lien for any such special service charges or charges due to misconduct that are not paid when due; said lien shall include court costs and reasonable attorneys' fees incurred by the Association in collecting said charges.

6.10 No Other Common Area Liens. No additional liens, other than mechanics liens, assessment liens or tax liens, may be obtained against the Common Areas, and no other assessments, debts or other obligations are assumed by lot Owners, other than as set forth herein.

6.11 Assessments. The amount of the common expenses and special service and misconduct charges assessed against each lot shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his lot. The Association shall have the authority to take prompt action to collect any unpaid assessment or special service charge, which remains unpaid for more than thirty (30) days from the due date for payment thereof. Unless otherwise determined by the Board, in the event of default in the payment of a special service charge or assessment, the lot Owner shall be obligated to pay interest at the rate of eighteen percent (18%) per annum on the amount of the assessment from due date thereof, together with all expenses, including attorneys' fees, incurred together with such late charges as are provided by the Bylaws or Rules of the Association. Suit to recover a money judgment for unpaid special service charges or assessments shall be maintainable without foreclosing the lien described in Section 6.13 below, and the institution of such suit shall not be or construed to be a waiver of lien.

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6.12 Creation of Lien and Foreclosure. The monthly maintenance charge, together with any special assessment or other penalty, cost or charges which an Owner is obligated to pay, shall be a debt of such Owner to the Association on the date when each installment thereof become due. In the event of the default of any Owner in the payment of any installment of maintenance charges or special assessments, such amount, and any subsequently accruing unpaid assessments, together with interest thereon at the rate of eighteen percent (18%) per annum, or such other rate as may hereafter from time to time be established by the Board, and together with all costs which may be incurred by the Association in the collection of such amount, together with reasonable attorneys' fees shall be and become a lien on the interest of the defaulting Owner in his lot. The Association may, but is not required to, execute and record in the Larimer County Recorder's Office a Notice of Assessment Default, setting forth the name of the defaulting Owner as indicated by Association records, the amount of the delinquency, and the fact that additional delinquencies may accrue and increase such amount, and the legal description of the lot. Such lien shall attach and be effective from the due date of the assessment, and may be enforced by foreclosure by the Association of the defaulting Owner's interest in the Property. The lien provided herein shall be in favor of the Association for the benefit of all Owners who are Association members. In any such foreclosure proceedings, the costs and expenses for filing any notice or claim of lien, and all reasonable attorneys' fees and costs in connection with such foreclosure shall be the obligation of the defaulting Owner and shall also be included in the lien against the defaulting Owner's lot. The lien shall include, and the defaulting Owner shall also be required to pay to the Association the monthly maintenance charge and any other assessments for the lot, which payment comes due during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association, on behalf of the member Owners, shall have the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and sell the same. Such lien provided herein shall have the priority provided by the Colorado Common Interest Ownership Act. The Association may, but is not required to send notice of default to an Owner, and a copy of such notice may, but is not required to be mailed to the holder of any deed of trust or mortgage of record constituting a lien on such lot. Upon the payment of the amounts due, if the Association recorded a Notice of Assessment Default, the Association shall cause to be recorded a certificate setting forth the satisfaction of such lien, signed by an officer of the Association on behalf of the Association.

6.13 Owner's Obligations for Payment of Assessments. The amounts assessed by the Association against each lot and any interest, costs, and attorney fees in connection with default in payment thereof, shall be the personal and individual debt of the Owner thereof at the time the assessment is made. Each person, if more than one (1), composing the Owner shall be jointly and severally liable therefore. Suit to recover a money judgment for unpaid expenses shall be maintainable without foreclosing or waiving the lien securing same. No Owner may exempt himself from liability for contribution toward the common expenses by a waiver of the use or enjoyment of the Common Elements or by abandonment of his or her lot.

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6.14 Statement of Assessment Status. Upon payment to the Association of a reasonable fee, as may from time to time be established by the Board, accompanied by the written request of the Owner or any mortgagee or prospective Owner of a lot, the Association shall, within thirty (30) days issue a written statement setting forth the amount of unpaid assessments and any other charges outstanding with regard to the subject lot, and the date when the same became due. Such statement shall also include credit for any advanced payments of common assessments, but no credit shall be given for any accumulated amounts for reserves or sinking funds, if any. The statement issued by the Association shall be binding upon the Association and its officers and each Owner in favor of persons who rely thereon in good faith. The manner and time for providing such statements shall be as provided by the terms of the Act, as the same may from time to time be amended.

6.15 Liability on Transfer. Any Owner who sells his or her lot in good faith and for value shall be relieved of the obligation for payment of assessments arising thereafter attributable to the lot, as of the date of the recordation of the deed transferring such lot to the subsequent purchaser. Except as may otherwise be provided by the Act, as from time to time amended, the Owner transferring, and the purchaser of the transferred lot, shall be jointly liable for payment of all assessments and any related interest, costs and attorney fees attributable to the lot accrued through the date of such recordation, and the lien for recovery of the same shall remain in force against such lot.

6.16 Lien Subordinate to First Mortgage – Limitations. The lien for special service charges and assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now hereafter placed upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have been due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall cause such Lot and grantee there under to be relieved of liability for such prior assessments, but shall not relieve such Lot or grantee from any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

6.17 First Mortgage Foreclosure. Notwithstanding any of the terms or provisions of this Declaration, in the event of any default on the part of an Owner under any first mortgage or first deed of trust which entitles the holder thereof to foreclose the same, any sale under such foreclosure, including the delivery of a deed in lieu to such first mortgagee, shall be made free and clear of all then due and owing assessments. No first mortgagee shall be liable for any unpaid common expense assessments accruing prior to the time such mortgagee received a deed to a Lot.

6.18 Mortgages – Priority. Each owner of a Lot shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a Lot may create junior mortgages, liens or encumbrances on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restriction, uses, limitations, obligations, lien for unpaid assessments, and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws of the Association; and (2) that

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the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgages premises, all of his right, title and interest in and to the proceeds under all insurable policies upon said premises held by the Association, and if such request is not granted, such release may be executed by the Association as an attorney-in-act for such junior mortgagee.

6.19 Professional Management. Professional management may be utilized by the Association. Any agreement which may be entered into with regard to professional management or any other contract for providing of services by Declarant or Developer shall be for a term of not more than on (1) year and shall be terminable on thirty (30) days' written notice, without cause and without payment of a termination fee.

ARTICLE VII - GENERAL PROVISIONS

7.1 Duration. Subject to the provisions of Section 7.3 of this Article, this Declaration shall remain in full force and effect, shall run with the land and shall be binding on all persons having any interest in any lot in the Subdivision for a period of twenty (20) years from the date this Declaration is recorded and thereafter shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then-owners of lots has been recorded agreement to change or terminate the Declaration in whole or in part.

7.2 Amendments. Except as set forth in Section 7.3 hereof, the Owners of fifty percent (50%) of the lots may at any time modify, amend, augment, or delete any of the provisions of this Declaration; provided, however, that no amendment shall be effective with respect to any person not having actual knowledge thereof, until such time as notice of such amendment is filed for record in the Office of the Larimer County Clerk and Recorder. Any of the following amendments to be effective must be approved in writing by the record holders of all encumbrances on the lots at the time of such amendments:

A. Any amendment which affects or purports to affect the validity or priority of any encumbrance; or

B. Any amendment which would necessitate a first mortgagee, after it has acquired a residential lot, to pay any portion of any unpaid assessment or assessments accruing prior to foreclosure, to the extent the amounts would exceed the priority of such assessments over that provided by the Colorado Common Interest Ownership Act, as amended from time to time.

7.3 Mortgage Protection Clause. Except as otherwise provided by the terms of the Colorado Common Interest Ownership Act, as amended from time to time, with respect to the priority of the lien for assessments, no breach of the covenants or restrictions herein contained, nor the enforcement of any lien provided for herein, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants and restrictions together with any pre-existing liens for maintenance assessments shall be binding upon and effective against any Owner whose

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title is derived through foreclosure or through trustee sale or through deed given in lieu thereof.

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

7.5 Disclaimer. No claim or cause of action shall accrue in favor of any person in the event of the invalidity of any covenant or provision of this Declaration or for the failure of the Association to enforce any covenant or provision hereof. This Section 7.5 may be pleaded as a full bar to the maintenance of any such action brought in violation of the provisions of this Article.

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

7.7 Enforcement. The provisions of these covenants may be enforced by any Owner or by the Board of Directors on behalf of the Association. In addition to lien foreclosure, enforcement may be by proceedings at law or in equity against any person or persons violating or attempting to violate any of these covenants either to restrain violation, or to recover damages, or both. All remedies provided are cumulative, and pursuit of one shall not bar pursuit of any other, independently, or jointly, and in any sequence.

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

7.9 Construction. The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and vice versa, when the context so requires.

7.10 Notices. Notices required or permitted by this Declaration shall be made in writing. Notice to a member of the Association shall be sufficient if sent by United States mail, sufficient postage prepaid, to the latest address given by such member to the Secretary of the Association. In such event, notice shall be deemed effective three (3) days after such deposit into the United States mail. Notices may also be given by certified or registered mail, or by hand delivery. If hand delivered, notice shall be effective on the date that hand delivery is accomplished. If sent by registered or certified mail, notice shall be deemed effective three (3) days after the deposit into the United States mail, sufficient postage prepaid.

7.11 Effective Date. This Amended Declaration of Covenants, Conditions and Restrictions for Boyd Lake Shores, shall become effective 11, April, 2002.

7.12 Colorado Common Interest Ownership Act. This Declaration is not intended to subject the Property and/or the Association to the Colorado Common Interest Ownership Act except to the extent required by law or as specifically set forth in this Declaration.

IN WITNESS WHEREOF, the undersigned being the _____ in _____ has executed this Declaration as of the date and year first written above.

OWNERS:

Lot 20, Block 1

W. J. McCallough
Carol McCallough

Lot 1, Block 10

Julianne M. Kall
Charles J. Kall

Lot 13, Block 1

John S. Ebert
Heidi Ebert

Lot 6, Block 2

Arthur V. Lee
Shirley A. Vicker

Lot 4, Block 1

John S. Ebert
Heidi Ebert

Lot 14, Block 2

Bethanne Stolte
Dy C. Stolte

Lot 1, Block 2

Tom Ebert
Verena Ebert

Lot 13, Block 2

James J. DeLoach
Catherine B. DeLoach