

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
HARVEST**

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (this "Declaration") is made this 29<sup>th</sup> day of June, 2021, by HT Land Partners, LLC, a Colorado limited liability company ("Declarant").

Declarant, as the owner of the real property described in those certain subdivision plats recorded for HARVEST RIDGE NORTH and JOHNSON SUBDIVISION FILING 2, located in the Town of Berthoud, Larimer County, State of Colorado, and legally described in Exhibit A hereto (the "Property"), intends this Declaration to create a general plan and promote the harmonious and attractive development for the planned community known as **HARVEST**.

Declarant reserves the right to impose the same restrictions set forth in this Declaration to that certain subdivision plat to be recorded for HARVEST RIDGE SOUTH, located in the Town of Berthoud, Larimer County, State of Colorado, and legally described in Exhibit B hereto, so that the entire **HARVEST** property may ultimately be developed, administered, maintained, improved, and preserved as a single project for the benefit of HARVEST RIDGE NORTH, LOT 1 of JOHNSON SUBDIVISION FILING 2, and HARVEST RIDGE SOUTH under a uniform series of restrictions and covenants.

This Declaration is made to preserve the natural amenities of the project, to assure architectural harmony of the improvements, and to promote the general health, comfort, safety, convenience, and welfare of the owners of **HARVEST** and each portion thereof.

NOW THEREFORE, Declarant hereby declares that the Property is subject to the following protective covenants, which shall run with the land for the benefit of and be binding upon each present and subsequent owner of any portion of the Property, and their respective grantees, successors, personal representatives, and assigns.

**Article 1  
DEFINITION OF TERMS**

**1.01. Definitions.**

As used in this Declaration, the following terms shall have the meanings indicated:

"Architectural Review Committee" – The committee described in Article V of this Declaration.

"Assessment" – The collective term for General Assessments and Special Assessments.

"Association" – Harvest Owners Association, Inc., a Colorado nonprofit corporation, the Members of which shall be comprised of all Owners of the Lots within the Property, and which shall be established to own, operate, and maintain the Common Elements and other community improvements and to administer and enforce this Declaration.

“Berthoud” or the “Town” – The Town of Berthoud, a municipal corporation situated in Larimer and Weld Counties, in the State of Colorado.

“Board” – The duly elected Board of Directors of the Association.

“Bylaws” – The duly adopted Bylaws of the Association, as the same may be amended from time to time.

“CCIOA” – The Colorado Common Interest Ownership Act, codified at C.R.S. § 38-33.3-101 *et seq.*, as may be amended or superseded from time to time. Each capitalized term not otherwise defined in this Declaration or in the Plats shall have the meaning specified or used in the Act.

“Clerk and Recorder” – The Clerk and Recorder of Larimer County, Colorado.

“Common Elements” – All real and personal property, including but not limited to drainage and utility easements, detention ponds, open space, and other common areas, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, and any area designated as a “Common Element” on the Plats.

“Common Expenses” – The expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

“Declarant” – HT Land Partners, LLC, a Colorado limited liability company, or its successors or assigns.

“Declarant Control Period” – The period of time during which Declarant is entitled to appoint a majority of the members of the Board.

“Declaration” – This Declaration of Covenants, Conditions, and Restrictions, including any amendments hereto, and also including, but not limited to, the Plats.

“Design Guidelines” – Any documents adopted by the Association or Architectural Review Committee for the regulation and management of the harmonious aesthetic in Harvest, including any amendment to those instruments.

“General Assessment” is the amount allocated among the Members to meet the Association’s annual budgeted expenses, as described in Section 4.03.

“Governing Documents” – A collective term referring to this Declaration, the Bylaws, the Articles of Incorporation of the Association, and any other rules, regulations, and responsible governance policies adopted by the Association, as each may be amended from time to time.

“Harvest” – The planned community located in the Town known as Harvest and consisting of the Harvest Ridge North, Johnson Subdivision Filing 2, and Harvest Ridge South subdivisions, and any additional property that may be added from time to time

“Harvest Ridge North” – The first phase of the Harvest development approved by the Town and known as Harvest Ridge North.

“Harvest Ridge South” – The second phase of the Harvest development preliminarily approved by the Town and known as Harvest Ridge South.

“Johnson Subdivision Filing 2” – A minor subdivision approved by the Town that is part of the Harvest development.

“Lot” or “Lots” – A residential lot or multiple residential lots as shown on the Plats. The term Lots shall not mean or include the Common Elements. There are thirty-one (31) Lots within Harvest Ridge North, one (1) Lot within the Johnson Subdivision Filing 2, and sixty-five (65) Lots planned within Harvest Ridge South.

“Member” – A member in the Association pursuant to Section 3.01 of this Declaration. Each Owner of a Lot within the Property shall also be a Member of the Association.

“Owner” – The record fee owner or owners of each Lot within the Property, including Declarant for as long as Declarant still holds interest in the Property.

“Person” – A natural person, corporation, limited liability company, partnership, association, trust, or any other entity or combination thereof.

“Plats” – The recorded plats for Harvest Ridge North, Johnson Subdivision Filing 2, and Harvest Ridge South, as may be amended and supplemented from time to time. The plat of Harvest Ridge North is recorded with the Clerk and Recorder on September 24, 2020, at Reception No. 20200077579. The plat of the Johnson Subdivision Filing 2 is recorded with the Clerk and Recorder on May 4, 2021, at Reception No. 20210044483. The plat for Harvest Ridge South has not yet been recorded.

“Property” – The real property referred to as Harvest Ridge North as legally described in Exhibit A and the real property referred to as Johnson Subdivision Filing 2 as legally described in Exhibit B. At such time as the real property referred to as Harvest Ridge South as legally described in Exhibit C becomes subject to this Declaration, Harvest Ridge South shall thereafter be deemed to be part of the Property, and Harvest Ridge North, Johnson Subdivision Filing 2, and Harvest Ridge South shall thereafter collectively be referred to as the Property.

“Related User” – Any Person who: (a) resides with an Owner within a Lot; (b) is a guest or invitee of an Owner; (c) is an occupant or tenant of a Lot; or (d) is a family member, guest, invitee or cohabitant of the foregoing.

“Special Assessment” – A charge to each Lot for capital improvements or emergency expenses, in accordance with the provisions of Section 4.04.

“Specific Assessment” – A charge to a specific Lot for costs incurred by the Association to remedy any default by an Owner, in accordance with the provisions of Section 4.04.

**Article II**  
**LAND USE CONTROL**

**2.01. Land Use and Building Type.**

Each Lot shall be used for residential and related purposes only. Building on each Lot shall be limited to (i) one (1) detached single family dwelling, not to exceed two and one-half (2 1/2) stories in height above finished grade level, with a private attached garage for no less than two (2) automobiles, unless otherwise approved by the Architectural Review Committee, and (ii) outbuildings or accessory dwellings approved by the Architectural Review Committee pursuant to Section 2.02 of this Declaration. No other building or structure shall be erected, altered, placed, or permitted to remain on any Lot. Garage access shall not exceed 40% of the front facade of the dwelling. It is preferred to have the garage doors face the side of the lot; provided, however, a garage that faces the front of the Lot may be authorized by the Architectural Review Committee if it determines that the front facing garage is compatible with the harmonious and attractive development of the Property. Dwellings must be built on-site. No pre-fabricated, previously built, or modular homes shall be permitted upon any Lot. Dwelling construction must be completed within one (1) year after the date of construction commencement.

**2.02. Proposed Outbuildings.**

The only permitted outbuildings are sheds, pool houses, or other structures determined by the Architectural Review Committee to be compatible with the purposes and intent of this Declaration. All outbuildings must be approved by the Architectural Review Committee before construction. In no case shall there be more than two (2) outbuildings per Lot. The maximum height of any outbuilding shall not exceed that set forth in the Berthoud Municipal Code or other rules promulgated by the Board. The front face of the outbuildings and any of the sides facing the public right of way that serves the Property must be of similar color, design, and quality with the principal dwelling on the Property.

**2.03. Proposed Primary Dwelling Quality, Size, and Style.**

No single level dwelling shall be erected on any lot having an enclosed floor area on the main level of less than one thousand eight hundred (1,800) square feet exclusive of porches, garages, and basements. No split bi-level style home dwelling shall be erected on any lot having an enclosed floor area on the main level of less than one thousand (1,000) square feet and one thousand eight hundred (1,800) square feet total. No split tri-level dwelling shall be erected on any lot having an enclosed floor area on the main level of less than one thousand (1,000) square feet and two thousand five hundred (2,500) square feet total. No two story dwelling shall be erected on any lot having an enclosed floor area on the main level of less than one thousand two hundred (1,200) square feet and two thousand two hundred (2,200) square foot total. For purposes of this section, the main level shall be that level of the dwelling at or closest to finished grade level which is most immediately reached by the front entrance to the dwelling. If any dispute arises as to what constitutes the main level of a dwelling, the decision of the Architectural Review Committee shall be conclusive and controlling. No trailer, tent, shack, garage, barn, or other building shall be used

as a residence at any time, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No dwelling, outbuilding, fence, or other structure shall be erected, placed, or altered on any Lot until the proposed building plans, specifications, exterior color and finish, plat plan (showing the proposed location of such building or structure, driveways, and parking areas), and construction materials have been approved by the Architectural Review Committee. Poured concrete driveways shall extend continuously from the garage to the curb. Acceptable roofing materials are thirty-year asphalt, fiberglass, stone-coated steel, or concrete. Standing seam metal roofing shall be allowed as an accent. The majority of the roof pitches shall be 8:12 or greater. Roofing colors must be limited to that of the natural material or muted earth tones. The placement of exterior windows and doors on each building on flat walls shall align vertically and horizontally and should not be randomly located.

Exterior architecture is to follow the style of Modern Farmhouse with Modern Mountain accents. Colors of the exterior materials used on the building must be subdued and blend with the colors of the natural landscape. Muted earth tones and white are acceptable. The exterior shall include at least one accent color in addition to the base color and trim color. All dwellings shall possess wood, brick, or stone exteriors, or a combination thereof. Materials that closely resemble wood, brick, or stone will also be acceptable. A minimum of 10% brick or stone trim is required on the front facing elevation of the dwelling. Complementary accent features of brick or stone shall be incorporated to the sides and rear building elevations. Corner lots shall have both elevations that face the street treated as if they were the front elevation for the purposes of architectural treatment and setbacks.

The Architectural Review Committee shall have the full discretion to approve and deny such plans so as to ensure the best use and the most appropriate development and improvement of each Lot; to protect the Owners and Related Users of each Lot against inappropriate use of the surrounding Lots as will depreciate the value of the Property; to preserve, so far as is practicable, the natural beauty of the Property; to guard against the erection of poorly designed structures and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to ensure the highest and best development of the Property; to encourage and secure the construction of attractive dwellings and other permitted structures on the Property; to encourage and secure the construction of dwellings on the appropriate location on each Lot; to prevent haphazard and inharmonious improvement of Lots; to secure and maintain proper setbacks from streets; and, in general, to provide adequately for a high type and quality of improvements on the Property.

The review by the Architectural Review Committee does not replace reviews required by Berthoud, nor does the Architectural Review Committee accept any liability for acceptance of buildings that do not meet code.

#### **2.04. Repairs.**

Any repairs to or reconstruction of dwellings, outbuildings, fences, and other structures built on the Property, whether due to wear and tear or natural causes (such as wind, hail, fire, or flood), shall be subject to and in accordance with this Declaration. Removal of damaged structures, or the repair and reconstruction of such damaged structures, shall be promptly undertaken and completed no later than six (6) months from the date of damage.

**2.05. Nuisance.**

No Lot shall be used in such a manner as to obstruct or interfere with the enjoyment of occupants of other Lots or annoy them by unreasonable noises, lights, odors, or otherwise, nor shall any nuisance or illegal activity be committed or permitted to occur on any Lot.

**2.06. Animals.**

Dogs, cats, and other household pets and small animals may be kept provided they are not kept, bred, or maintained for any commercial purposes, and further provided that the number of pets does not exceed four (4) and does not result in unsanitary conditions or a nuisance or annoyance to the occupants of other Lots. The Board may adopt from time to time such rules and regulations as it deems appropriate regarding the type, quantity, and requirements for keeping household pets and small animals. Notwithstanding the foregoing, unless approved by the Board, no bovine, equine, ovine, swine, or ratite may be kept on any Lot, and no chickens, ducks, geese, pea hens, or other non-household birds or poultry may be kept on any Lot. All animals shall be kept and maintained in accordance with this Declaration and the rules and regulations regarding the same as may be adopted by the Board from time to time. Any decision by the Board regarding the type and number of animals which may be kept upon any Lot shall not be effective unless and until it has been conveyed in writing. Any decision may be later rescinded or modified by the Board, and any party affected by such rescission or modification shall have a reasonable time, not to exceed forty-five (45) days, to comply with such rescission or modification.

**2.07. Keeping of Animals.**

Animals shall be housed within the limits of the residence and garage structure. Appropriate measures must be maintained to control excessive noise by pets, flies, and other pests on each Lot, the disposal of waste, and other similar matters. The Board shall have the authority to establish standards for the maintenance of animal related matters, which in the judgment of the Board shall be deemed appropriate for the health, safety, and maintenance of the Property and its Owners and Related Users. It is specifically understood that the Board may require Owners and Related Users to take such measures as may be necessary to prevent the destruction of vegetation on each Lot. All pet excrement must be cleaned up after immediately by the pet owner or responsible party with the pet, regardless of whether such excrement is on said pet owner's lot, a neighboring lot, or the Common Elements. Appropriate measures must also be taken to control excessive noise by pets. Animals must be either be confined by fence or leashed and accompanied by its owner or responsible party at all times. No pet will be left unattended chained or staked to any object outside the owner's property.

**2.08. Trash and Recycling.**

No Lot shall be used or maintained as a dumping ground for rubbish. All trash, garbage, and other waste shall be kept in sanitary containers, and all such containers shall be maintained in a good, clean condition. All liquid and solid wastes shall be stored and removed for final disposal in a manner that protects against surface and groundwater contamination. Wood shavings, saw dust,

and waste materials shall be handled, stored, and disposed in a manner that controls dust, blowing debris, and other potential nuisance conditions.

The Board shall select the trash removal company and recycling removal company having the exclusive right to provide such removal services within Harvest. To reduce traffic and noise within Harvest, all Owners and Related Users shall be required to contract separately with the company or companies selected by the Board to provide such removal services, and such removal services shall all be performed on the same day of the week, if possible. Except as provided below, all trash, garbage and other waste, and all recyclables, shall be kept in sanitary containers out of the view of the surrounding Lot Owners and off the streets so as to present a clean and sanitary appearance at all times. Owners and Related Users may set out the sanitary containers the evening before scheduled pick-up and the sanitary containers must be removed and returned to their concealed locations by evening of the day of pick-up.

The Association reserves the right, but not the obligation, to contract directly with the trash removal company and the recycling removal company on behalf of the Owners and Related Users, and to assess the cost of such removal services as a Common Expense.

#### **2.09. Signs.**

No signs or flags of any kind that are visible from outside of a structure shall be erected, placed, or permitted to remain on a Lot without the written consent of the Board, with the exception of a single sign per Lot of not more than six (6) square feet in total area advertising the sale of the Lot; provided, Declarant and the Board shall have the right to erect signs and flags throughout the Property. The Association may adopt additional rules and regulations regarding the display of real estate signs within the Property from time to time.

Notwithstanding the above, to the extent CCIOA so provides, the Association may not prohibit the outdoor display of an American flag, a service flag, or a political sign if the flag is displayed in a manner consistent with the federal flag code and the sign conforms to time, place, and manner restrictions imposed by the Association in accordance with Colorado law. The Board may enact reasonable rules regulating the placement and manner of displaying American and service flags and may limit the size of any flag to the extent consistent with CCIOA. No flag shall be displayed from any balcony or be permitted to flutter or rustle such that it may be heard by the occupants of other Lots.

#### **2.10. Utility Easements.**

Easements for the installation and maintenance of utilities and related elements are reserved as shown on the Plats. Unless approved by the Board, no structure, tree, shrub, or other material shall be placed or permitted to remain within these easements which may damage or interfere with the installation and maintenance of utilities. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot except for those improvements for which the Association, a public authority, or a utility company is responsible. The Association shall have the right to enter upon such easements from time to time as the Board may determine necessary or appropriate to construct, operate, maintain, or repair any facilities required of the

Association. The Association shall not be responsible for any damage to any property or landscaping on any Lot, including any damage occurring outside the easement area from equipment or operations. If any work is done by the Association as a result of the failure of an Owner to comply with this Declaration or to properly maintain the easement area, the cost shall be assessed against such Owner as a Specific Assessment (as defined in Section 4.04 below) and shall be recoverable by the Association in the same manner and fashion as general and special assessments, with all the remedies and rights for recovery and collection as provided in Article IV of this Declaration.

**2.11. Private Access Easement and Public Utility Easement.**

Each Owner shall have the joint and mutual use of the private access easement and public drainage easement shown upon the Plats. No Owner shall interfere with the usage of each easement area for these purposes. The maintenance and repair of the easement and any associated improvements shall be the responsibility of the Association.

**2.12. Fences.**

All fences, walls, hedges, and plantings adjacent to public roads shall be in compliance with any applicable site line requirements established by Berthoud or the State of Colorado. All fences, walls, hedges, and shrub plantings shall be maintained in a clean, neat, and orderly condition at all times. To ensure continuity throughout the neighborhood, all fencing shall be five (5) foot high Bufftech fencing in the color of Weathered Blend. All fences at a property line that abuts another property or a public right-of-way and fencing of lots along Berthoud Parkway shall be the style titled Brookline. Fencing that abuts open space shall be the style of Big Rail – 4 Rail Horse Fence. Fencing from the side lot line to the house can be either style mentioned in this section. In the event that Berthoud requires or approves any different type of fencing than what is set forth herein, the Town's requirement shall control. Upon discontinuation of the above specified product or color, an approved equivalent will be determined by the Architectural Review Committee.

**2.13. Vehicles and Other Motorized Equipment.**

No boat, camper, recreational vehicle, trailer, or other similar vehicles (except standard pickup trucks and emergency service vehicles allowed pursuant to C.R.S. §38-33.3-106.5(1)(d)) shall be stored, parked, or permitted to remain on any street or Lot except within fully enclosed garages or outbuildings. No automobile repair or maintenance shall be performed except within the confines of a Lot. No abandoned, inoperable, or junk vehicle may be stored within the view of the public right-of-way serving the Property. If a vehicle becomes inoperable while within the streets or lots, it shall be removed for repair within 24 hours of becoming inoperable. All motorized equipment must be properly equipped with mufflers so as to reduce to the greatest degree practicable the noise of operation. The hours of operation of any motorized equipment on a Lot shall be confined to the period of time commencing at 7:00 a.m. and ending at 9:00 p.m., unless the Board establishes different hours.

**2.14. Hazardous Activity.**

No activities shall be conducted on any Lot or within the Common Area which are or might be unsafe or hazardous to any person or property. There shall be no exterior fires permitted on the Property except for those allowed by the Berthoud Municipal Code or other similar requirements. No Owner or Related User shall permit any conditions which creates a fire hazard or violation of fire prevention regulations on a Lot. No firearms shall be discharged within the Property.

**2.15. Towers, Masts, Antennas, and Satellite Dishes.**

No radio or television antennas, masts, or towers shall be permitted which rise at the highest point of extension higher than six (6) feet above the uppermost point of the roof of the principal building being served and shall not exceed twenty four inches (24") in diameter. No more than one (1) such antenna, mast, or tower shall be permitted for any dwelling unit, and no such antenna, mast, or tower shall be affixed to other accessory buildings. The allowance and the placement of satellite dishes is restricted to the rear side of the home, may not be visible from the street, and may not extend higher than the uppermost portion of the roof. No electronic transmitters shall be operated that result in interference with the operation of any TV, radio, or other electrical/electronic device.

**2.16. Outside Storage.**

Outside storage on any lot is prohibited. No construction machinery shall be stored outside for a period exceeding one (1) week on any Lot. No gasoline, paint, or other toxic, hazardous, or flammable liquid or gas shall be stored on any Lot in quantities in excess of twenty-five (25) gallons, unless storage is in compliance with all applicable safety standards and regulations and written approval is obtained from the Board. All equipment shall be enclosed within a structure approved by the Architectural Review Committee, including garden or maintenance equipment except when in actual use.

**2.17. Agricultural Use.**

The agricultural use of each Lot shall be limited to a produce garden and/or orchard. Proper conservation measures are to be utilized to prevent blowing dust and soil erosion. Weeds must be kept continuously maintained and controlled on all grounds, including grounds not used for lawns or gardens.

**2.18. Building Location.**

Unless otherwise approved by the Architectural Review Committee, no primary residence shall be located on any Lot nearer than fifteen (15) feet to the public right-of-way, nor ten (10) feet to any side lot line. No attached garage shall be located on any Lot nearer twenty (20) feet to the public right-of-way. No building or any portion thereof, including eaves and overhangs, shall ever encroach upon any adjacent lot. In the event that the Town of Berthoud Development Code requires more restrictive setback requirements, those standards shall control.

## 2.19. Landscaping.

Each Lot shall be suitably landscaped with grasses, shrubs, and other groundcover within seven (7) months of certificate of occupancy. Trees must be placed so to cause minimum obstruction of views and as may otherwise be required by the Town. All grasses, shrubs, and trees shall be kept and maintained in an attractive, healthy, live, and growing condition, and with such frequency as is consistent with good property management. All dead or diseased grass areas, shrubs, and trees shall be promptly removed and replaced with proper landscaping. Vacant lots shall be maintained in a clean condition with all weeds and grass trimmed, treated, and maintained on a regular basis, and no less than every other week from the spring through the fall. The front yard of each Lot shall be at least 30% lawn. The remaining portion can be mulched with rock and include trees, flowers, and shrubs. No fencing, trees, or shrubs shall be located in any way which blocks the view of operators of motor vehicles so as to create a traffic hazard. Irrigation systems should be designed to reduce overspray and run off and meet all local municipal regulations. Drip irrigation is strongly encouraged to reduce water consumption. All irrigation systems should include a controller which can be set to irrigate within the limits of any imposed water restriction. Water features are to be filtered and maintained in good working order. Water features should be sized and located as to minimize noise pollution to adjacent neighbors.

Street Landscaping (landscape between street curb and sidewalk) shall be installed by builder and consist of the following. Tree requirements are as shown in the Landscape Plans approved by the Town of Berthoud for Harvest Ridge North and Harvest Ridge South. Plantings within the tree lawn will have a minimum of 1 shrub and 2 ornamental grasses for every 10 feet of street frontage. Plantings shall be installed to cover 75% of ground at maturity. Grasses and shrubs within 40 feet of intersections will not be taller than 36". Turf is not allowed in the street landscaping area. Soil amendment shall be incorporated at a rate of three (3) cubic yards per 1000 SF and tilled 6 inches into the existing soil. All landscape beds shall be mulched to a minimum depth of 3" with a mixture of shredded wood mulch (choice cedar or similar), 1.5" river rock, and 3" or 4" round oval river cobble (natural in color) over porous landscape weed control fabric. Larger boulders may also be incorporated.

Private lot landscaping shall be installed by homeowner or builder. A minimum of one (1) ornamental, shade or evergreen tree shall be installed. Foundation plantings adjacent to the current and future street frontages are required to be planted with a mixture of deciduous and evergreen shrubs with accents of perennials and ornamental grasses at a rate of 10 plants per 40 linear feet of foundation. Foundation plantings on side yards away from street frontages to be planted with a mixture of deciduous and evergreen shrubs with accents of perennials and ornamental grasses at a rate of 5 plants per 40 linear feet of foundation. Foundation plantings on rear yards are required to be planted with a mixture of deciduous and evergreen shrubs with accents of perennials and ornamental grasses at a rate of 8 plants per 40 linear feet of foundation. All private irrigation systems shall utilize an automated/programmable sprinkler irrigation system with a rain shut off. Spray irrigation shall be limited to lawn areas or ground covers, with the remainder of plantings receiving drip, bubbler, or sub-surface irrigation.

**2.20. Holiday Decorations.**

Temporary holiday decorations may be displayed on one's own property. Holiday decorations may not be installed any earlier than forty (40) days prior to the holiday and must be removed no later than seven (7) days after the holiday.

**2.21. Play Structures and Equipment.**

Play structures and equipment such as trampolines, swing sets, and play surfaces cannot be located in front or side yards. Play structures must not exceed fifteen (15) feet in height and should be located to minimize visual effect. Equipment should be properly painted or stained to resemble the home and maintained to be attractive from other homes and should not block another's view. All play structures and/or equipment must be approved by the Architectural Review Committee prior to installation.

**2.22. Swimming Pools/Hot Tubs.**

Any outdoor swimming pools, spas, hot tubs, Jacuzzis, or other similar facilities shall be screened from the view of adjacent lots and right-of-way by screening materials and methods approved by the Architectural Review Committee.

**2.23. Exterior Lighting; Light Pollution.**

Exterior lighting on any Lot shall not be directed in such a manner as to create an annoyance to adjoining properties. Light pollution shall be minimized, with light sources not visible off the Lot to the extent practicable. Illumination of roofs or features on roofs is prohibited.

**2.24. Related Residential Uses.**

No trade or business of any kind may be conducted in or from any Lot, except that the Owner or Related User of a Lot may conduct "discrete business activities" which are ancillary to a primary residential use so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the lot; (ii) the business activity does not involve regular visitation of the lot or involve door-to-door solicitation of other occupants of the Property; (iii) the business activity does not, in the Board's judgment, generate a level of pedestrian traffic to and from the lot, which is significantly greater than what is typical of the lots when no business activity is conducted; (iv) the business activity conforms to all zoning requirements for the lot; (v) the business activity does not increase the Association's liability or property insurance obligations or premiums; and (vi) the business activity is consistent with the primarily residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, as the Board may determine in its discretion. Notwithstanding the above, the leasing of a Lot for purposes consistent with this Declaration shall not be considered a trade or business. This Section 2.24 shall not apply to any activity conducted by Declarant with respect to its development and sale of the Property, its use of any lots which it owns, or its exercise of any Declarant rights under the Governing Documents.

**2.25. Leases.**

The term "lease" as used in this Declaration shall include any agreement for the leasing or rental of any Lot and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease its Lot so long as the lease provides that (i) the terms of the lease and lessee's occupancy shall be subject in all respects to the provisions of the Governing Documents, and that any failure by the lessee to comply with any of the Governing Documents, in any respect, shall be a default under the lease, subject to enforcement by the Board, and (ii) the lease term shall be for a period of not less than thirty (30) days. Notwithstanding anything to the contrary in this Section 2.25, the Board may but shall not be required to grant exceptions to these leasing restrictions due to a hardship suffered by an Owner, including but not limited to hardship due to death, disability, divorce, loss of employment or other hardship, but not including a self-imposed hardship.

**Article III**  
**OWNERS ASSOCIATION**

**3.01. The Association.**

Each Owner of each Lot within the Property shall be a member ("Member") of the Association. Owning a lot is the sole qualification for membership in the Association, such membership being deemed incidental to Lot ownership. For purposes of this Section, individuals who jointly own a lot shall be deemed to constitute a single Owner of a Lot, so that each Lot has only one Owner and one Member for the purposes of membership in the Association. Membership in the Association shall commence on the date that an Owner obtains title to a Lot and shall terminate on the date that such ownership is conveyed, terminated, or relinquished.

**3.02. Voting Rights.**

As to all matters with respect to which Members are given the right to vote under the Governing Documents, each Member, including Declarant, shall be entitled to one (1) vote for each Lot owned; provided there shall be only one vote for each Lot. In the event a Lot is owned by two (2) or more persons, whether by joint tenancy, tenancy in common, or otherwise, the vote for such Lot shall be exercised as the owners of that Lot shall determine, but the vote attributable to such Lot shall be cast by only one (1) of the owners of the Lot, who shall be designated by the several owners of the Lot in writing prior to or at the time the vote is cast. In the absence of such designation by the owners and until such designation is made, the Board of the Association shall make such designation. No vote may be cast or counted for any Lot for which assessments, fees, dues, or other monies are in default of payment at the time votes are counted.

**3.03. Board of Directors.**

The affairs of the Association shall be conducted by the Board. The powers and duties of the Board shall include, but not be limited to, the following:

- (a) To enforce all of the applicable provisions of this Declaration.

- (b) To maintain the Common Elements.
- (c) To contract and pay for the maintenance of the Common Elements out of funds collected by the Board.
- (d) To levy and collect the costs of maintenance of the Common Elements and to make or authorize the expenditures for the same.
- (e) To receive and process complaints from Owners with respect to any provisions of this Declaration.
- (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.
- (g) To render such discretionary decisions as are vested in the Board pursuant to this Declaration.
- (h) To comply with and fully perform any requirements related to the waters detained on or flowing over or through the Common Elements.
- (i) To impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments, and other actions to enforce the powers and duties of the Association, regardless of whether or not suit was initiated, and after notice and an opportunity to be heard, levy appropriate fines for violations of the Governing Documents, and to establish the rate of interest to be assessed for all sums which may be payable to the Association.
- (j) 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 Board acting on behalf of the Association, and such other insurance that the Board may deem appropriate.
- (k) To exercise all powers and rights granted to the Association by CCIOA.
- (l) To take such other actions or to incur such other obligations, whether or not expressly specified, as shall be reasonably necessary to perform the Association's obligations, subject to the approval of the Members of the Association.

### **3.04 Implied Rights; Board Authority.**

The Association may exercise any right, privilege, or power expressly given to it by the Governing Documents, the Colorado Revised Nonprofit Corporation Act, or CCIOA, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Members.

**3.05. Declarant Control of Board of Directors; Election of Board Members.**

Declarant shall have all of the powers reserved in Section 303(5) of CCIOA to appoint and remove officers and members of the Board during the Declarant Control Period. During the Declarant Control Period, there shall be at least three (3) directors, all of whom shall be appointed by Declarant; provided, however, not later than sixty (60) days after the conveyances to Owners other than Declarant of fifty percent (50%) of the Lots, the Board shall expand from three (3) directors to five (5) directors. Any director appointed by Declarant shall not be required to be an Owner, a Member, or the authorized representative of an Owner or Member. The Declarant Control Period shall expire no later than the earlier of (i) sixty (60) days after seventy-five percent (75%) of the Lots have been conveyed to persons or entities other than Declarant and have certificates of occupancy issued for the dwellings built on the Lots; (ii) six (6) years after the last conveyance of a Lot by Declarant in the ordinary course of business; (iii) twenty (20) years after the recordation of this Declaration; or (iv) when, in its discretion, Declarant so determines; provided however, that in this last event, Declarant may require that, for the balance of what would have been the Declarant Control Period had Declarant not terminated the same, certain actions of the Association or the Board, as described in the recorded instrument executed by Declarant, be approved by Declarant before they become effective. Except as otherwise provided in CCIOA, from and after the end of the Declarant Control Period, the Board will consist of five (5) directors (or such other number, but never less than three (3) directors, as may from time to time be set in the Bylaws), elected by the Members, at least a majority of which directors must be Members other than Declarant or authorized representatives of Members other than Declarant. Directors elected under this Section shall take office upon termination of the Declarant Control Period.

**3.06. Homeowner Control of Board of Directors.**

Not later than sixty (60) days after the conveyance to Owners other than Declarant and issuance of certificates of occupancy for the dwellings built on twenty-five percent (25%) of the ninety-seven (97) Lots, or more such Lots as may be added by Declarant during the Declarant Control Period, at least one (1) member of the Board must be elected by Members other than Declarant. Not later than sixty (60) days after the conveyance to Owners other than Declarant and issuance of certificates of occupancy for the dwellings built on fifty percent (50%) of the Lots, or more such Lots as may be added by Declarant during the Declarant Control Period, no less than two (2) of the members of the Board must be elected by Members other than Declarant.

**3.07. Meetings of the Association and Officers.**

The number and type of officers, and the provisions for regular and special meetings of the Association, shall be as provided from time to time by the Bylaws of the Association.

**3.08. Coordination with Bylaws.**

The provisions of this Declaration provide the minimum substantive terms for the enforcement of this Declaration by the Board and the Architectural Review Committee. Further additional provisions for the operation of the Board and the Architectural Review Committee may in the future be set forth by the Bylaws of the Association, and by appropriate resolutions or rules and

regulations adopted by the Board or the Architectural Review Committee, which rules and regulations will supplement and further the intent and purposes of this Declaration. In the event any conflict occurs between the provisions of this Declaration and such Bylaws or resolutions, then this Declaration shall control and to the extent possible, the conflicting Bylaws, resolutions, or rules and regulations shall be construed to be effective where it promotes the interest of the provisions of this Declaration and invalid where in derogation of these Declarations.

**3.09. Transfer.**

The membership held by any Member shall not be transferred, pledged, or alienated in any way, except upon the sale of the Owner's Lot, and then only to the purchaser of such Lot. A prohibited transfer is void and will not be reflected upon the books and records of the Association; provided, however, that a lessor or tenant of a Lot may serve as the Member's proxy for the purposes of participating in the Association and serving on the Board.

**3.10. Delegation of Use.**

The Board may from time to time establish rules and regulations regarding the delegation by an Owner of rights of use and enjoyment of Common Elements to such Owner's tenants or purchasers.

**3.11. Insurance.**

The Association shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(a) Blanket property insurance for all insurable improvements to the Common Elements and other common areas to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes. The Association shall be deemed trustee of the interests of all Members in all insurance proceeds paid to the Association under any such policies and shall have full power received and to deal with such proceeds. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, unless otherwise determined by the Board;

(b) Commercial general liability insurance on the Common Elements and common areas. Coverage shall include, without limitation, liability for personal injuries and activities in connection with the ownership, operation, maintenance, and other use of the Common Elements. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) should have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage, although the Board may exercise its business judgment in determining whether additional coverage or different limits need be obtained. To the extent reasonably available, the liability insurance shall name, as separately protected insureds, Declarant, the Association, the Board, the Architectural Review Committee, the Owners, any property manager, and their respective representatives, members, agents, and employees with

respect to claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of the Common Elements;

(c) Directors' and officers' liability coverage for the Board, the Architectural Review Committee, and any other persons or entities as the Board deems appropriate; and

(d) If deemed necessary by the Board for any reason, and to the extent required by law, workers' compensation insurance and employers' liability insurance;

(e) Such additional insurance as the Board, in its business judgment, determines advisable.

Premiums for all insurance on the Common Elements shall be a common expense shared amongst all Members. The Association shall include such premiums in the assessments it levies. The Board shall review the limits of all insurance policies of the Association at least once a year and shall adjust the policy limits as the Board deems necessary or appropriate.

### **3.12. Indemnification of Officers, Directors and Others.**

Subject to Colorado law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. Such obligation shall be limited to those actions due to an officers', directors', or committee members' mistake of judgment, negligence or otherwise, but shall not include an individual willful misfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

## **Article IV** **MAINTENANCE, BUDGET, AND ASSESSMENTS**

### **4.01. Maintenance of Common Elements.**

The Common Elements shall be maintained by the Association; provided, however, any repairs due to inadvertence or neglect shall be the responsibility of the individual or individuals causing the damage. Berthoud shall be responsible for the maintenance of the streets within the Property. The Town shall also be responsible for providing for snow removal during winter months. In the event that the Town does not maintain the streets or provide snow removal for any reason, the Association may do so like any other Common Element.

#### **4.02. Costs of Maintenance; Purpose of Assessments.**

The costs of maintenance functions imposed on the Association pursuant to Section 4.01, together with the expenses of administration and operation of the Association and its boards and committees (including any appropriate indemnity to members thereof), shall be divided equally between all of the Owners. Each Owner, by the acceptance of a conveyance of a Lot, shall be obligated to pay their share of such costs. An Owner shall be responsible for their full share of maintenance costs whether or not the Lot is improved with a residential dwelling.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of Harvest, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration, or by law.

#### **4.03. Establishment of Budget for Common Expenses; General Assessments.**

The Board will establish a maintenance and operations budget each year for common expenses and shall submit such budgets to the members of the Association for review and approval prior to the end of each year. Notice of such budget and meetings for adoption shall be in accordance with the provisions of CCIOA. The amount of each maintenance budget shall be assessed equally against each Lot in installments ("General Assessment") to be determined by the Board of Directors. Should the Association fail to approve a budget and set the amount of the General Assessment prior to the commencement of any calendar year, the Board shall continue to levy and collect General Assessments at the level of the previous calendar year, plus an increase of not more than twenty-five percent (25%), until the Association shall adopt the current budget. Without in any way limiting the nature and type of expenses upon which the budget may be based, the budget may include anticipated expense for reasonable contingency reserve and working capital and sinking funds, legal and other professional expenses, for casualty and liability insurance for the Common Elements, and for errors and omission or other insurance protection designed to provide defense and insurance coverage to the officers of the Association in connection with any matters arising from Association business and the performance of the officers of the Association or related to their status as officers.

#### **4.04. Special Assessments and Specific Assessments.**

In addition to the General Assessment, the Board may, from time to time, levy and collect special assessments to cover extraordinary charges or expenses not anticipated by the annual budget approved by the Association ("Special Assessment"). Unless approved by a majority of the Owners, the aggregate of all Special Assessments levied in any calendar year shall not exceed twenty-five percent (25%) of the budgeted gross expenses of the Association for such fiscal year. Notwithstanding the foregoing, the costs incurred by the Association to remedy any default by an Owner of the Owner's obligation under this Declaration may be assessed against such Owner without establishment of any Special Assessment or other procedure ("Specific Assessment"). Any Specific Assessment may be collected from such Owner in the same manner as other assessments. Any charges imposed for late payment, attorneys' fees and costs, and fines, shall be

deemed to be assessments against the Owner's lot and recoverable and subject to the same rights and remedies available to the Association for all other assessment.

#### **4.05. Accounting.**

All funds collected by the Association shall be promptly deposited into a commercial bank account and/or a savings and loan account in an institution to be selected by the Board. No withdrawal shall be made from said account except to pay the obligations of the Association. No later than ninety (90) days from the end of each calendar year, the Board shall distribute to each Owner an operating statement reflecting the income and expenditures of the Association for the previous calendar year. The Board shall maintain complete and accurate books and records of its income and expenses in accordance with generally accepted accounting principles consistently applied and shall file such tax returns and other reports as shall be required by any governmental entity. The books and records shall be kept at the office of the Association and shall be open for inspection by any Owner or by the holder of any first deed of trust or mortgage of record at any time during normal business hours following reasonable advance notice of the request for inspection.

#### **4.06. Creation of Lien and Foreclosure.**

The General Assessment, together with any Special Assessment, Specific 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 becomes due. In the event of the default of any Owner in the payment of any General Assessment, Special Assessment, or Specific 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 or her Lot. Such lien shall be perfected upon the recordation of this Declaration. Such lien shall be superior to all other liens, except (a) the liens of all real estate taxes, and other governmental assessments (as provided in CCIOA); (b) except as otherwise provided by applicable law, the lien or charge of any recorded first mortgage made in good faith and for value prior to the date that assessments being enforced against the lot became delinquent; provided, the Association's assessment lien shall have priority over such security interests to the extent of the assessments based on the annual budget adopted by the Association pursuant to Section 4.03 which would have become due during the six months immediately preceding institution of an action to enforce the lien for assessments; (c) liens and encumbrances recorded prior to this Declaration and (d) labor or materialmen's liens, to the extent required by law.

The Association may, but is not required to, execute and record with the Clerk and Recorder a Notice of Assessment Default setting forth the name of the defaulting Owner, the amount of the delinquency, the fact that additional delinquencies may accrue and increase such amount, and a legal description of the defaulting Owner's 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, the defaulting Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses

for filing any notice or claim of lien, and all reasonable attorneys' fees in connection with such foreclosure. The lien shall include, and the defaulting Owner shall be required to pay to the Association, the General Assessment charge, and any other assessments for the lot whose 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 Members, 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 CCIOA. The Association may, but is not required to, send notice of default to the 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.

#### **4.07. Owner's Obligation for Payment of Assessments.**

The amounts assessed by the Association against each Lot and any interest, costs, and attorneys' fees in connection with default in payment thereof, shall be the personal and individual debt of the Owner at the time the assessment is made. Each person, if more than one (1), comprising the Owner shall be jointly and severally liable for paying any assessments. Suit to recover a money judgment for unpaid assessments and related expenses shall be maintainable without foreclosing or waiving the lien securing same. No Owner may exempt himself from liability for paying the General Assessment by a waiver of the use or enjoyment of the Common Elements or by abandonment of a Lot.

#### **4.08. 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 issue a written statement setting forth the amount of unpaid assessments and any other charges outstanding with respect 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 CCIOA.

#### **4.9. Liability upon 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 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 CCIOA, 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 attorneys' 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.

**4.10. Surplus Funds.**

Subject to the limitations of CCIOA, any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves may, at the election of the Board, (i) be retained by the Association as reserves, (ii) paid to the Owners in proportion to their Common Expense liability, or (iii) credited to the Owners to reduce their future assessments.

**Article V**  
**ARCHITECTURAL REVIEW AND CONTROL**

**5.01. Architectural Review – By Declarant.**

Each Owner, by accepting a deed or other instrument conveying any Lot, acknowledges that, as the developer and owner of real estate within and in the vicinity of the Property, Declarant has a substantial interest in ensuring that improvements within the Property enhance Declarant's reputation and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on a Lot unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion. In reviewing and acting upon any request for approval, Declarant or its designee shall act solely in Declarant's interest and shall owe no duty to any other person.

Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of the Property, unless earlier terminated in a written instrument executed and recorded by Declarant. Until such time, Declarant shall serve as the Architectural Review Committee for the Association and shall have all powers and obligations are provided for in this Article.

Declarant may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications under this Article. Declarant may also delegate all or a portion of its reserved rights under this Article to any other person or committee, including the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

**5.02. Architectural Review – Architectural Review Committee.**

Upon expiration or termination of Declarant's rights under this Article, the Association shall assume jurisdiction over architectural matters through its appointment and control of the Architectural Review Committee. When appointed, the Architectural Review Committee shall consist of at least three (3) but not more than seven (7) persons who shall serve and may be removed and replaced in the Board's discretion. The members of the Architectural Review

Committee need not be Owners and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Association or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

**5.03. Powers of the Architectural Review Committee.**

So long as this Declaration is in force and effect, the Architectural Review Committee shall have the following powers and privileges:

(a) The Architectural Review Committee shall have such powers, privileges and immunities as are set forth in this Declaration and shall, additionally, have the power to adopt, from time to time, rules and regulations for the conduct and exercise of its business and rules and regulations for the conduct and exercise of its powers, privileges and immunities which shall not conflict with this Declaration.

(b) The Architectural Review Committee shall have sole authority to approve or disapprove any of material change or alterations on or to a Lot, including but not limited to the following: (i) the construction or expansion of any building structure or other improvement, including the utility facilities, upon any Lot; (ii) the destruction by voluntary action or the abandonment of any building, structure, or other improvement upon the Lot; (iii) the excavation, filling, or similar disturbance of the surface land; (iv) the landscaping or planting of trees, shrubs, lawns, or plants or the clearing, marring, defacing, or damaging of trees, shrubs, or other growing things upon any Lot; (v) any change or alteration of any improvement upon any Lot, including without limitation, any change of color, texture, or exterior appearance. Any such change or alteration of this nature shall be referred to as a "Material Change".

(c) The Architectural Review Committee shall have the power to adopt or amend Design Guidelines providing such adoptions or amendments do not conflict with this Declaration or the quality and character of Harvest.

(d) The Architectural Review Committee shall have the power to delegate the responsibility for reviewing any application submitted to the Architectural Review Committee to a professional architect, landscape architect, engineer or other professional person who is qualified to pass on the issues raised in the application. The Architectural Review Committee shall also have the power to require that the applicant pay the fees reasonably incurred by the Architectural Review Committee in retaining such professional to review the application submitted.

(e) The approval by the Architectural Review Committee of any proposal or plan for and specifications for any work to be done on a Lot shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans, specifications, drawings, or other matters subsequently or additionally submitted for approval by the same Owner or by any other Owner.

**5.04. Architectural Review Approval Required.**

The approval of the Architectural Review Committee shall be required for any Material Change. No work shall be commenced to impact any Material Change until the Architectural Review Committee approves the change. No proposed Material Change shall be deemed to have been approved by the Architectural Review Committee unless such approval is in writing. Any such request shall contain plans and specifications in such form and with such information as may be required by the Architectural Review Committee

The Architectural Review Committee shall review the plans for quality of workmanship, quality and type of materials, the aesthetics and harmony of exterior design with the character of the community and the existing structures, the location of structures with respect to topography and finished grade elevation, and compliance with this Declaration.

**5.05 Design Guidelines.**

The Architectural Review Committee may prepare and furnish to any Owner written Design Guidelines which shall set forth the general purposes of the Architectural Review Committee in reviewing proposed Material Changes, basic building and landscaping restrictions and requirements, architectural review procedures and requirements, and regulations pertaining to construction.

**5.06. Rules of Procedure.**

The Architectural Review Committee may adopt rules and regulations, which may be amended from time to time, establishing design criteria consistent with this Declaration. The Architectural Review Committee shall meet at the convenience of its members as often as necessary to transact its business. Request for approval of design shall be made to the Architectural Review Committee in writing accompanied by two (2) complete sets of plans and applicable specifications for all proposed improvements to be constructed on any lot. Such plans shall include plot plans showing drainage and grading, the location on the lot of the building, wall, fence, or other structure proposed to be constructed, altered, placed, or maintained thereon, together with the proposed construction material, color scheme for roofs and exteriors, architectural renderings, and proposed landscape plantings. The Architectural Review Committee may require submission of additional plans, specifications, and of samples of materials and colors prior to approving or disapproving the proposed improvement. Until receipt by the Architectural Review Committee of all the required materials in connection with a proposed improvement to a Lot, the Committee may postpone review of any material submitted for approval.

**5.07. Approval of Plans.**

The Architectural Review Committee shall approve or disapprove plans, specifications, and details within thirty (30) days from the receipt of all materials requested by the Committee and shall notify the Owner submitting them of such approval or disapproval in writing. If all samples, plans, specifications, and details requested by the Committee have been submitted and are not approved or disapproved within such thirty (30) day period, they shall be deemed disapproved as submitted.

One set of plans, specifications, and details with the approval or disapproval of the Architectural Review Committee endorsed thereon shall be returned to the owner submitting them and the other copy shall be retained by the Architectural Review Committee for its permanent file. Applicants for Architectural Review Committee action may, but need not, be given the opportunity to be heard in support of their application. Refusal of approval of plans, location, or specifications may be based upon any reasonable grounds, including purely aesthetic considerations, which in the sole discretion of the Architectural Review Committee shall seem sufficient, reasonable, and not capricious. The Architectural Review Committee may condition its approval of any proposed improvement to a Lot upon the making changes as the committee may deem appropriate.

Submittal requirements shall include, at minimum, the following:

For New Homes and Structural Remodel Plans:

- Homeowner's name(s), address, and phone number(s)
- Lot layout with location of existing structures
- North arrow
- Detailed building plans, including floor plans, elevations, and building sections
- Engineered foundation plans
- Elevations showing specifications, including trim, siding, windows, and doors
- Description and color of outside material, including trim, siding, and brick
- Paint sample board, minimum 8" square

For Roof Plans:

- Homeowner's name(s), address, and phone number(s)
- Specific roofing material – name and manufacturer
- Roofing material color

For Landscape Plans:

- Homeowner's name(s), address, and phone number(s)
- Scale – both written and graphic
- North Arrow
- Location of residence, existing decks, patios, fences, and lot lines
- Common names of all proposed plant material
- Location of any existing or proposed landscape elements
- Location of any existing or proposed landscape lighting
- Detailed specifications and picture of any structures or large features
- Related grading and drainage information
- Table showing required vs provided for all trees and plantings
- Type, size, and color of mulch or decorative rock

#### **5.08. Review and Filing Fees.**

The Architectural Review Committee may require a reasonable filing fee to accompany the submission of plans to it in an amount to be fixed by the Board, which fee shall be reviewed and may be adjusted from time to time. Additional fees may be required if resubmitted plans have not

been revised in accordance with Architectural Review Committee recommendations. Such filing fees shall be used to pay for engineers, architects, or other consultants, and to cover other expenses of this nature that arise from the direct costs and expenses incurred in reviewing applications.

**5.09. Completion of Improvements.**

Any improvements approved by the Architectural Review Committee shall be timely commenced, and in no event, commenced later than one (1) year from the date of such approval. If not commenced within such time, the approval of the Architectural Review Committee shall automatically expire, and the applicant must thereafter resubmit all plans to the committee for reconsideration. The fact that a proposed improvement has previously been approved by the Architectural Review Committee shall not require the committee to again approve such proposed improvement if the approval has expired pursuant to the terms of this paragraph. Once approved improvements have been commenced, all such improvements shall be completed no later than one (1) year from the date of commencement or sooner if deemed necessary by the Architectural Review Committee.

**5.10. Inspection of Work and Notice of Completion.**

The members of the Architectural Review Committee, and any agent or representative thereof, shall have the right to inspect any improvement prior to and after completion, provided that the right of inspection shall terminate three days after the committee has received a Notice of Completion from the applicant, which certifies that the work is complete consistent with the plans approved by the committee.

**5.11. Estoppel Certificates.**

Upon the reasonable request of any interested party, and after confirming any necessary facts with the Architectural Review Committee, the Board shall furnish a certificate with respect to the approval or disapproval of any improvement to property or with respect to whether any improvement to property is made in compliance with this Article and the plans approved by the committee. Any person without actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

**5.12. Non-Liability.**

No member of the Architectural Review Committee, the Board, the Association, or any other agents, shall be liable for any loss, damage, or injury arising out of or in any way connected with the acts or omissions of the Architectural Review Committee. In reviewing any matter, the Architectural Review Committee is not responsible for reviewing, nor shall its approval of any improvement to property, be deemed to be an approval of the improvement to property from the standpoint of safety, whether structural or otherwise, or conformance with any building, zoning, or other codes or governmental laws or regulations.

**Article VI**  
**GENERAL PROVISIONS**

**6.01. Term.**

The covenants set forth in this Declaration are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date they are recorded, after which time said covenants shall be automatically extend for successive periods of ten (10) years unless an instrument signed by at least sixty-seven percent (67%) of the then Owners of the Lots has been recorded agreeing to terminate said covenants or change them in whole or in part and the Town has approved the assignment, assumption, sale, or transfer of the Common Elements, as may be required by Berthoud at that time.

**6.02. Addition of Harvest Ridge South.**

Declarant has the right to acquire all the real property referred to as Harvest Ridge South and legally described on Exhibit B, which constitutes additional property which may be subjected to this Declaration. Declarant reserves all rights necessary to apply this Declaration to Harvest Ridge South, and to otherwise develop Harvest Ridge North and Harvest Ridge South together as contemplated by this Declaration. Annexation of the Harvest Ridge South property into Harvest shall be accomplished by filing a Supplemental Declaration in the real property records of Larimer County for these purposes. No Supplemental Declarations may be recorded without the consent of Declarant during the Declarant Control Period. Such Supplemental Declaration shall be sufficient if it: (a) describes the additional property to be annexed; (b) states that such additional property shall thereafter be subject to the terms of this Declaration; and (c) is properly acknowledged by Declarant or by the transferee of such annexation right. Declarant may transfer this right to annex specified property so long as such transfer is accomplished by a written instrument executed by Declarant and recorded in the real property records of Larimer County, Colorado.

NO ASSURANCES ARE MADE THAT HARVEST RIDGE SOUTH WILL BE DEVELOPED OR SUBJECTED TO THIS DECLARATION.

**6.03. Other Amendments.**

Except as set forth in Section 6.04 below, the Owners of at least sixty-seven percent (67%) of the Lots may at any time modify, amend, supplement, or delete any of the provisions of this Declaration; provided, however that: (i) no amendment shall be effective with respect to any person not having actual knowledge thereof until such time as the notice of such amendment is filed for record with the Clerk and Recorder; and (ii) no amendment may be adopted which would be inconsistent with any condition or covenants imposed by Berthoud as a condition of approval of or any matter as set forth in the Plats.

To be effective, any of the following types of amendments must be approved in writing by the record holders of all encumbrances on the lots at the time of such amendment: (i) any amendment which affects or purports to affect the validity or priority of any encumbrance; or (ii) any

amendment which would necessitate a mortgagee after it has acquired a lot to pay any portion of any unpaid assessments accruing prior to foreclosure, to the extent the amounts would exceed the priority of such assessments over that provided by CCIOA.

**6.04. Mortgagee Protection Clause.**

Except as otherwise provided by the terms of CCIOA with respect to the priority of the lien for assessments, no breach of the covenants or restrictions in this Declaration, 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 preexisting liens for General Assessments or otherwise shall be binding upon and effective against any owner whose title is derived through foreclosure or through trustee sale or through deed given in lieu thereof.

**6.05. Compliance and Enforcement.**

The provisions of these covenants may only be enforced by the Board. 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, 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.

Every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and an opportunity for a hearing in accordance with the procedures set forth in the Bylaws or policies adopted by the Board. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines which shall, pursuant to CCIOA, constitute a lien upon the violator's lot. (In the event that any occupants, guest, or invitee of a lot violates the Governing Documents, and a fine is imposed, the fine shall first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
- (b) suspending an Owner's right to vote;
- (c) suspending any Person's right to use any recreational facilities, if any, within the Common Elements and common areas; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (e) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(f) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Lot in violation of this Declaration and to restore the lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Lot, remove the violation, restore the lot to substantially the same condition as previously existed, and levy a Specific Assessment against the Owner's Lot; any such action shall not be deemed a trespass;

(g) levying a Specific Assessment against an Owner to collect any costs incurred by the Association in curing any violation, plus a reasonable administrative fee to discourage noncompliance, or to collect any fine that remains unpaid for a period of ten (10) days or more.

In addition, the Board may be able to take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the notice and hearing procedures set forth in the Bylaws or policies adopted by the Board:

(y) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and

(z) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails to properly perform any maintenance responsibilities required by this Declaration, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment pursuant to Section 4.04. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

#### **6.06. Enforcement Actions.**

The decision to pursue enforcement action in any case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstance of a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision later or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable Berthoud ordinances within the Property for the benefit of the Association and its Members. In addition, Berthoud may enforce its ordinances within the Property.

#### **6.07. Severability.**

Invalidation of any clause, sentence, phrase, or provision of these covenants by judgment or court order shall not affect the validity of any other provisions of this Declaration, which shall remain in full force and effect.

#### **6.08. Application of Colorado Common Interest Ownership Act Conflicts and Provisions.**

In addition to the terms, conditions, duties, and obligations set forth in this Declaration, Declarant hereby adopts those portions of CCIOA which are required by CCIOA, and those other provisions of CCIOA as are referred to in these Declarations. Further, Declarant hereby elects to apply the other provisions of CCIOA, but only to the extent that they are not in conflict with any other provision of this Declaration. Notwithstanding the provisions of C.R.S. § 38-33.3-203, if a conflict arises between the terms of this Declaration and the provisions of CCIOA, this Declaration shall control unless CCIOA specifically provides that such provisions of CCIOA are mandatory or not subject to the ability of the Declarant to elect not to apply such provisions. This Declaration and CCIOA are to be construed and applied in such a way as to be complementary and supplemental to each other, and the remedies provided by this Declaration and CCIOA are cumulative. No conflict between this Declaration and CCIOA shall be deemed to exist by virtue of the lack of any specific provision appearing in either, and a conflict shall only arise if specific provisions of the two cannot be reasonably reconciled. The Board shall have the power and authority to determine and resolve any such conflicts in accordance with the foregoing principles.

#### **6.09. Notice**

All notices required by this Declaration shall be in writing and may be personally delivered; mailed, certified mail, return receipt requested; sent by facsimile with a hard copy sent by regular mail; sent by a nationally recognized receipted overnight delivery service, including, by example and not limitation, United Parcel Service or Federal Express; or sent by electronic mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by facsimile or electronic mail, on the day sent if sent on a business day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next business day; or if sent by overnight delivery service, one (1) business day

after deposit in the custody of the delivery service. The addresses, telephone numbers, and electronic mail addresses for the mailing, transmitting, or delivering of notices shall be as set forth in the books and records of the Association. Notices of a change of address shall be given in the same manner as all other notices as hereinabove provided.

**6.10. Technical Errors.**

The Declarant may amend this Declaration and/or the Plat to correct clerical, typographical, or technical errors, without seeking Board approval.

**6.11. Effective on Recording.**

Any modification, amendment or revocation of this Declaration will be immediately effective upon recording in Larimer County, Colorado, a copy of such amendment, modification, or revocation executed and acknowledged by the necessary number of Owners (and by Declarant, as required), or alternatively, upon the recording in Larimer County, Colorado, of a copy of the amendment, modification or revocation together with a duly authenticated certificate of the Secretary of the Association stating that the required number of consents of Owners were obtained, which will be placed on file in the office of the Association.

**6.12. Captions.**

The captions contained in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit, or prescribe the scope of this Declaration or the intent of any provision thereof.

**6.13. Gender.**

The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Declaration so requires.

**6.14. Waiver.**

No provision contained in this Declaration is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**6.15. Conflict.**

In the event of any conflict between this Declaration and any other document, including the documents of the Association or Architectural Review Committee, this Declaration shall control.

**6.16. Governing Law.**

This Declaration shall be construed in accordance with the laws of the State of Colorado.

*(Signature and notary follow on next page)*

IN WITNESS WHEREOF, this Declaration has been executed by Declarant.

SIGNED AND SEALED THIS 29<sup>th</sup> DAY OF JUNE, 2021.

HT LAND PARTNERS, LLC  
a Colorado Limited Liability Company

  
\_\_\_\_\_  
Alex Hoime, Managing Member

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF LARIMER    )

The foregoing Declaration of Covenants, Conditions, and Restrictions for Harvest, was acknowledged before me this 29 day of June, 2021, by Alex Hoime, as Managing Member of HT Land Partners, LLC, a Colorado Limited Liability Company.

My commission expires DECEMBER 30, 2023

JOSEPH NACCARATO  
Notary Public  
State of Colorado  
Notary ID # 20154044051  
My Commission Expires 12-30-2023

  
\_\_\_\_\_  
Notary Public

**Exhibit A**

(Legal Description of Harvest Ridge North)

HARVEST RIDGE NORTH, TOWN OF BERTHOUD, COUNTY OF LARIMER, STATE OF  
COLORADO

**Exhibit B**

(Legal Description of Lot 1, Johnson Subdivision Filing 2)

LOT 1, JOHNSON SUBDIVISION FILING 2, TOWN OF BERTHOUD, COUNTY OF  
LARIMER, STATE OF COLORADO

**Exhibit C**

(Legal Description of Harvest Ridge South)

HARVEST RIDGE SOUTH, TOWN OF BERTHOUD, COUNTY OF LARIMER, STATE OF  
COLORADO

(Not recorded prior to filing of this document)

## Appendix A: Encouraged and Discouraged Architecture

### General Architectural Design Features:



Encouraged:

Use of Stone

Tasteful use of varied roof pitches

Front Porch

Discouraged:

All standing seam metal roofing

Single car garage



Encouraged:

Exposed wood detailing

Mixed Materials

Architectural articulation

Use of color

Discouraged:

Wood shake roofing (not allowed)



Highlights:

Exposed wood

Mixed roofing materials

Use of lap and board and batton siding

Gable accents

Discouraged:

Use of varied window frame/trim colors

Missing stone or brick accents



Encouraged:

Use of varied siding types

Use of Color

Accent of standing seam metal roofing

Use of varied roof pitches

Shed dormers over windows

Use of stone

Porch with columns

Accents within gables

Side load garage



Encouraged:

Gable Roof pitch

Use of shed dormers

Use of standing seam metal roof

Tasteful use of color and stone accent

Amount of glazing/windows

Discouraged:

All standing seam metal roofing

Symmetrical look



Encouraged:

Prominent front porch with Columns

Use of windows and extended overhang above porch entry roof

Discouraged:

Lack of stone/brick accents



Encouraged:

Articulated architecture

Standing seam metal roof accent

Front porch

Accented roof vents

Bumpout on left gable

Discouraged:

No variation to siding type

Garage extends far past front entry



Encouraged:

Varied roofing material

Use of shed dormers

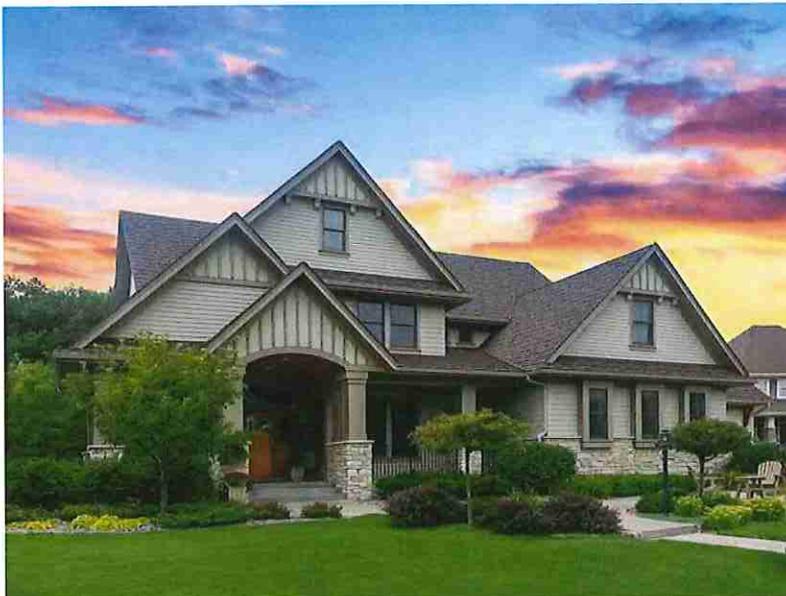
Canopies over windows

Front Porch

Articulation of Architecture

Discouraged:

Lack of accent color



Encouraged:

Articulation of architecture

Accents within gables

Varied siding material

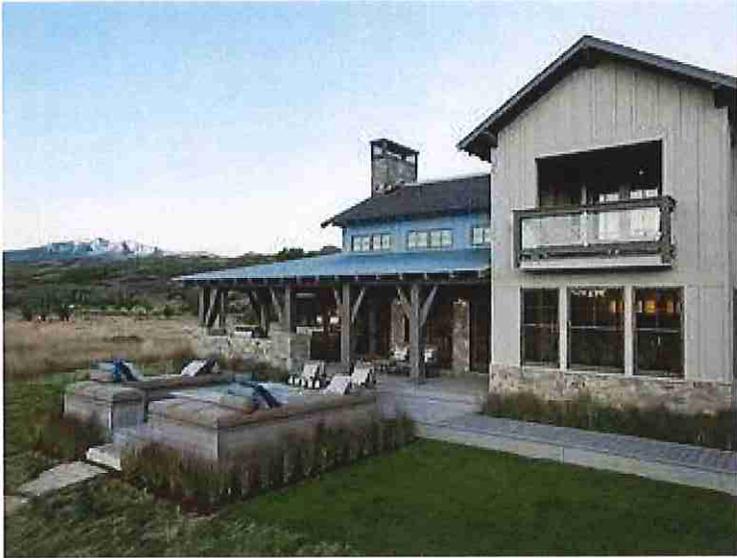
Prominent entry

Accentuated window framing with windows extending into stone

Roof pitch

Tasteful use of color and stone

**Rear Porch/Outside Living Space:**



- Encouraged:
- Recessed balcony
- Mixed material siding
- Detailed wood posts
- Tasteful use of color and stone
- Patio and seating extending past structure
- Covered patio with wood columns
- Outdoor kitchen
- Stone chimney
- Under eave support accents



- Encouraged:
- Detailed wood beams and posts
- Tasteful use of color and stone
- Detailed rear of home to maintain curb appeal from street highly encouraged along lots backing north
- Articulated architecture with ample windows
- Rock landscaped steps
- Walkout patio area below main level covered deck



- Encouraged:
- Metal/mixed material roofing
- Varying roof lines
- Shed dormer
- Varied siding type
- Use of rock to transition elevations
- Tasteful use of stone and color

**Front Porch/ Front Walk Up:**



Encouraged:

Mixed material detailing on front porch/walkup

Light fixtures

Varied Siding type

Enhanced windows

Iron railing

Discouraged:

Awkward window well placement detracts from other architecture



Encouraged:

Prominent front entrance with large columns

Varied roof pitches

Stone and varied siding type

Articulated architecture

Discouraged:

Amount of stairs leading to front porch in one run



Encouraged:

Standing seam metal accent

Varied siding materials

Use of stone

Wide stairs



**Encouraged:**

Mixed siding materials

Use of stone columns

Prominent entry

Lighting within entry beams

Mixed roofing materials

Stamped concrete walkway

Stone chimney



**Encouraged:**

Exposed wood beams, posts, and accents

Stone columns

**Garages:**

**Encouraged:**

Garage door is detailed giving custom feel

Accent lighting above garage

Running roof drain subsurface prior to daylighting is encouraged

Varied siding type





Encouraged:

Side facing garage

Window bump out accent on front facing wall of garage

Shed roof with multiple windows

Detailed garage doors

Living space above garage

Enhanced garage doors

Discouraged:

Cupola

Discharging downspouts to driveway



Encouraged:

Side facing garage

Exposed and detailed wood beams

Mix of vertical and horizontal sidings

Detailed garage doors

Lighting along garage

Custom garage doors

Discouraged:

Gravel driveway (not allowed)

# APPENDIX B: BUILDER REALTY SIGN

10" BUILDER LOGO HARVEST  
WEBSITE GROWING COMMUNITY



48" 26" 48"

12" BROKERAGE LOGO REALTOR NAME  
INFO / WEBSITE 555.555.6792  
EMAIL ADDRESS  
WEBSITE

48"