


When recorded return to preparer



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 Polk County Iowa  
 TIMOTHY J. BRIEN RECORDER  
 File# 2002-00015139

BK 9270 PG 625-629

**RETURN TO:**

Prepared by: Jeremy C. Sharpe, The Financial Center, 666 Walnut Suite 2000, Des Moines, IA, 50309-3989, 515-243-7100

**LANDSCAPE SETBACK RESTRICTIVE COVENANT  
 FOR COLBY WOODS WEST PLAT NO. 7**

**WHEREAS**, the undersigned are the record titleholders of all of the real estate included within the plat known as Colby Woods West Plat No. 7 in the City of Urbandale, Polk County, Iowa; and

**WHEREAS**, the undersigned owners deem it desirable for the efficient preservation of the value of their property within the plat and in the surrounding areas, and in order to comply with the requirements of the City of Urbandale, Iowa, to adopt the following covenant for the mutual benefit and protection of themselves and all others who may purchase, acquire or have any interest in such property or any portion thereof.

**NOW, THEREFORE**, in consideration of the premises, the undersigned by their execution and recording of this Restrictive Covenant declare the following covenant to be binding upon the land described herein and upon its owners and their heirs, successors and assigns, as follows:

1. All existing trees and shrubs and other plant material currently located within the 30-foot wide landscape setback running across Lots 1 through 7 of Colby Woods West Plat No. 7 shall be maintained in a healthy, neat, clean and weed free condition. Dead plant material shall be replaced with plant material of substantially equal size and maturity, and any tree replacements shall be made with equivalent caliper inches of new trees.
2. Each owner of a lot within Colby Woods West Plat No. 7 shall be responsible for the performance of this covenant with regard to the portion of the landscape setback area located on their lot.
3. The covenant herein shall be deemed appurtenant to and shall run with the land, and the owner of any lot to which this covenant applies, or the City of Urbandale, may bring an action in any court of competent jurisdiction to enforce this covenant and enjoin its violation, or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity.
4. This covenant may be amended from time to time by an affirmative vote of all of the then owners of lots within Colby Woods West Plat No. 7 and the approval of the City of Urbandale.

- 5. The foregoing covenant shall continue and remain in full force and affect for a period of 21 years from the date of the recording of this document, subject to such covenant being extended within such 21-year period by the filing of a claim with the recorder of Polk County to extend the period of the effectiveness of such covenant in accordance with the provisions of Section 614.24 of the Code of Iowa, the proper filing of which claim shall extend for the period of 21 years the time within which covenant herein may be enforced.

The covenant herein relates to, is appurtenant to, and runs with the following described real estate:

Lots 1 through 7 of Colby Woods West Plat No. 7, an Official Plat, now included in and forming a part of the City of Urbandale, Polk County, Iowa.

IN WITNESS WHEREOF, the undersigned have caused this document to be executed as of June 20, 2002.

CHARLES I. COLBY AND RUTH COLBY INVESTMENT TRUST

By [Signature]  
Charles I. Colby, Jr., Trustee

By [Signature]  
Clark A. Colby, Trustee

By [Signature]  
R. Edith Claiborne, Trustee

By [Signature]  
Carol L. Clarke, Trustee

STATE OF IOWA, COUNTY OF POLK, ss:

On this 20 day of June, 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Charles I. Colby, Jr., Clark A. Colby, R. Edith Claiborne and Carol L. Clarke, as Trustees of the Charles I. Colby and Ruth Colby Investment Trust, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that those persons, as the fiduciaries, executed the instrument as the voluntary act and deed of those persons and of the fiduciaries.

[Signature]  
Notary Public in and for the State of Iowa

My commission expires 4-12-04

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K. C. HOLDINGS, INC.

By: [Signature] President

STATE OF Iowa )  
COUNTY OF Polk ) SS:

This instrument was acknowledged before me on the 17th day of June, 2002  
by Gregory P. Sidas as President of K. C. Holdings, Inc.  
on behalf of whom the instrument was executed.

[Signature]  
Notary Public in and for said State

