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2014072649

## **RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR WALNUT RIDGE**

THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR WALNUT RIDGE is made by the Lot Owners signed below, representing seventy-five percent (75%) of the Lot Owners.

### **RECITALS**

**WHEREAS**, Walnut Ridge was developed by ROGERS DEVELOPMENT, INC., a Nebraska corporation ("Declarant") in four phases and was divided into one hundred twenty-four (124) separate lots in Phase I, one hundred seventeen (117) lots in Phase II, fifty (50) lots in Phase III, and eighty-nine (89) lots in Phase IV (referred to as the "Lots").

**WHEREAS**, the Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Walnut Ridge, a Subdivision in Douglas County, Nebraska, was recorded by Declarant in the office of the Register of Deeds of Douglas County, Nebraska, on or about September 16, 1993, at Book 1096 Page 34 ("Phase I Declaration"), and encumbered Lots 1 through 124, inclusive, in Walnut Ridge, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

**WHEREAS**, the Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Walnut Ridge, a Subdivision in Douglas County, Nebraska, was recorded by Declarant in the office of the Register of Deeds of Douglas County, Nebraska, on or about August 15, 1995, at Book 1153 Page 602 ("Phase II Declaration"), and encumbered Lots 125 through 154, inclusive, and Lots 156 through 242, inclusive, in Walnut Ridge, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

**WHEREAS**, the Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Walnut Ridge, a Subdivision in Douglas County, Nebraska, was recorded by Declarant in the office of the Register of Deeds of Douglas County, Nebraska, on or about January 31, 2001, at Book 1367 Page 383 ("Phase III Declaration"), and encumbered Lots 244 through 293, inclusive, in Walnut Ridge, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

**WHEREAS**, the Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Walnut Ridge, a Subdivision in Douglas County, Nebraska, was recorded by Declarant in the office of the Register of Deeds of Douglas County, Nebraska, on or about July 12, 2002, at Book 1449 Page 478 (“Phase IV Declaration”), and encumbered Lots 294 through 382, inclusive, in Walnut Ridge, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

**WHEREAS**, the Phase I Declaration and the Phase II Declaration will expire by their own terms in the near future; and

**WHEREAS**, the Phase III Declaration and the Phase IV Declaration will expire by their own terms in the future; and

**WHEREAS**, the various Declarations provide that they may be amended by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots covered by the Declarations; and

**WHEREAS**, the Owners below desire to continue providing for the preservation, protection and enhancement of the values and amenities of such community and for the maintenance of the character, value, desirability, attractiveness and residential integrity of the Lots in Walnut Ridge, and find that the impending expiration of covenants in Phase I and Phase II will have a negative impact on Walnut Ridge.

**WHEREAS**, the Owners below desire to amend, consolidate and restate the Phase I Declaration, Phase II Declaration, Phase III Declaration, and Phase IV Declaration (collectively, “the Original Declarations”) upon the terms and conditions stated herein.

**NOW, THEREFORE**, the Owners below hereby declare that the Original Declarations should be and hereby are amended, consolidated and restated in the following manner and shall supersede the Original Declarations. The Owners below further declare that each and all of the Lots shall be held, sold and conveyed subject to the following restriction, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots. These restrictions, covenants, conditions and easements shall run with such real estate and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots and each Lot is and shall be subject to all and each of the following conditions and other terms:

## **ARTICLE I**

### **RESTRICTIONS AND COVENANTS**

1. Each Lot shall be used exclusively for residential purposes except for such Lots or parts thereof as may hereafter or previously have been conveyed or dedicated by Declarant, for use as a school or park.

2. The exposed front foundation wall as well as any foundation wall facing a street of all main residential structures must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete, brick, paving stone, and asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding.
3. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no retail business activities of any kind whatsoever shall be conducted on any Lot.
4. No exposed exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot.
5. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of fortyeight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operation, and then only in as neat and inconspicuous a manner as possible.
6. No boat, camper trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) except that during the months of May through September vehicles may be parked in the driveway only. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semi tractors/trailers shall be stored, parked, kept or maintained in any yards driveways or streets. However, this restriction shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.
7. No outside trash or garbage pile, burner, receptacle shall be erected, placed or permitted on any Lot. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. No clothes line shall be permitted outside of any dwelling at any time except one umbrella-type clothes line per residence. No firewood storage shall be maintained on any lot in excess of two (2) cords and only in the rear yard on a flat.
8. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted

to extend beyond the front line of a main residential structure unless written approval is first obtained from Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. All produce or vegetable gardens shall be maintained only in rear yards.

9. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.
10. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built upon corner Lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof.
11. No swimming pool may extend more than one foot above ground level.
12. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except that a dog house constructed for one (1) dog shall be permitted. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view. No livestock or agricultural-type animals shall be allowed in Walnut Ridge subdivision, including pot-bellied pigs.
13. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of eight (8) inches.
14. No structure of a temporary character, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings or modular housing improvements shall be moved from outside Walnut Ridge to any Lot.
15. At the time of initial occupancy of the main dwelling, the then owner shall plant, and there shall thereafter be maintained in a growing state by the then owners, at least two deciduous trees with a minimum trunk diameter of one and one-half inches; such tree to be located in the front yard at least ten feet from the front Lot line.
16. No residence shall be constructed less than thirty feet (30') from the front property line, except Lots 44 through 50, inclusive, may be twenty-five feet (25').
17. ADDITIONAL RESTRICTIONS ON LOTS 44 THOUGH 50, INCLUSIVE, ARE AS FOLLOWS: No residence shall be constructed on Lots 44 through 50, inclusive, less

than sixty feet (60') from the south line of the Walnut Ridge subdivision, in Douglas County, Nebraska. Such restricted area is shown on the plat of Walnut Ridge; this restriction shall only apply to inhabited portions of residences, but not related accessory improvements.

## **ARTICLE II.**

### **HOMEOWNERS' ASSOCIATION**

1. The Association. Declarant has caused the incorporation of WALNUT RIDGE HOMEOWNERS ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots, including:
  - (a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas; and signs and entrances for Walnut Ridge. Common Facilities may be situated on property owned or leased by the Association, on public property, on private property subject to an easement in favor of the Association, or on property dedicated to a Sanitary Improvement District.
  - (b) The promulgation, enactment, amendment and enforcement of rules and regulation related to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.
  - (c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Walnut Ridge; and the protection and maintenance of the residential character of Walnut Ridge.
2. Membership and Voting. Walnut Ridge is divided into one hundred twenty four (124) separate lots in phase I, one hundred seventeen (117) lots in Phase II, fifty (50) lots in Phase III, and eighty-nine (89) lots in Phase IV (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be

considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot. The Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

From time to time without the consent or approval of the Owners, the Association may be expanded by Declarant to include additional residential Lots in any subdivision which is contiguous to any of the Lots, or which is developed as a phase of the Walnut Ridge subdivision. Such expansions may be effected from time to time by Declarant's recordation with the Register of Deeds of Douglas County, Nebraska, of a Declaration of Covenants, Conditions, Restrictions and Easement setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration"). Upon the recording of a Subsequent Phase Declaration which expands the residential lots included in the Association, additional lots identified in the Subsequent phase Declaration shall be included in the "Lots" for the purposes of this Article II, and the owners of the additional residential lots shall be Members of the Association with all rights, privileges and obligations afforded or accruing to Members of the Association.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:
  - (a) The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.
  - (b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within or near Walnut Ridge.
  - (c) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
  - (d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverage for the Association, the Board of Directors of the Association and the Members.
  - (e) The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

- (f) The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real personal property, wherever located, in connection with the affairs of the Association.
  - (g) The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.
  - (h) The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in performance of their duties and responsibilities for the Association.
  - (i) General administration and management of the Association and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.
  - (j) The doing and performing of such acts, and the execution of such instrument and documents, as may be necessary or appropriate to accomplish the purposes of the Association.
4. Mandatory Duties of Association. The Association shall maintain and repair any fence and/or signs which have been installed and facilitated by the Developer within Walnut Ridge Subdivision in generally good and neat condition.
5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.
6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect.
7. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be charged and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Sections 3 and 4 of this Article.
9. Minimum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 11, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:
  - (a) Sixty and no/100 Dollars (\$60.00) per Lot.
  - (b) In each calendar year beginning on January 1, 1998, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.
10. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred and no/100 Dollars (\$200.00) per Lot.
11. Excess Dues and Assessments. With the approval of seventy-five percent (75%) of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.
12. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Lots, but dues may be abated as to individual Lots, as provided in Section 5, above.
13. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first became due and payable.
14. Effect of Nonpayment of Assessment Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorney's fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Lot. The mortgagee of any Lot shall have the right



to cure any delinquency of an Owner by payment of all sums due together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

### **ARTICLE III.** **EASEMENTS**

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Century Link Telephone Company, and any company which has been granted a franchise to provide a cable television system within the Lots, Metropolitan Utilities Company, and Sanitary and Improvement District No. 375 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior lots that are adjacent to presently platted and recorded Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary line of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, plated and recorded.
2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting al cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void to such unused or abandoned easement ways. No permanent buildings, trees, retaining walls or loose rock walls shall be place in the easement ways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.
3. A perpetual easement is further reserved in favor of the Declarant and the Association, its successors and assigns to create, install, repair, reconstruct, paint, maintain, and renew a fence, standards and related accessories located on, over and upon the rear most ten (10)

foot wide strip of land abutting the rear boundary lines of Lots 137 through 143, inclusive.

4. Other easements are provided for in the final plat of Walnut Ridge which is filed in the Register of Deeds of Douglas County, Nebraska (Book 2011, Page 238).

**ARTICLE IV.**  
**GENERAL PROVISIONS**

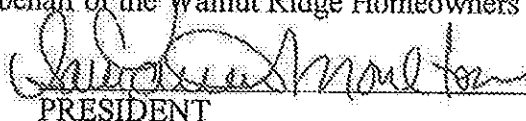
1. The Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, and shall thereafter renew for successive ten (10) year periods. This Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.
3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

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### CERTIFICATION


I, Sara Moulton, the duly elected President of the Walnut Ridge Homeowners Association, certify that the foregoing Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Walnut Ridge, consisting of 11 total pages including ~~signature pages~~ and this certification, contains the necessary signatures of the Walnut Ridge Homeowners Association members and lot owners agreeing to be bound thereby, and the same shall be recorded on behalf of the Walnut Ridge Homeowners Association.

  
\_\_\_\_\_  
PRESIDENT

FOR WALNUT RIDGE HOMEOWNERS ASSOCIATION

Be it known that this 5<sup>th</sup> day of September, 2014, before me personally appeared Sara Moulton, President for Walnut Ridge Homeowners Association, who acknowledged and affirmed that her signature hereon is the act and doing of Walnut Ridge Homeowners Association and that she has full power and authority to sign on behalf of said entity.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal, the day and year last above written, in Douglas County, Nebraska.

  
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NOTARY PUBLIC

