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By

RICHARD N TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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**DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
OF LAKE CUNNINGHAM RIDGE, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA**

THIS Declaration is made on the date hereinafter set forth by Lake Cunningham Ridge, L.L.C., a Nebraska Limited Liability Corporation of Omaha, Nebraska, who is hereinafter referred to as the "Declarant".

WHEREAS, the Declarant is the owner of Lots 1 through 93, and Outlots "A" and "B", Lake Cunningham Ridge, a subdivision in Douglas County, Nebraska.

NOW, THEREFORE, the Declarant hereby declares that all of Lots 1 through 93, and Outlots "A" and "B", Lake Cunningham Ridge, a subdivision in Douglas County, Nebraska, shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements (covenants). These covenants shall run with such lots and shall be binding upon all parties having or acquiring any right, title or interest in such lots, or any part thereof, and they shall inure to the benefit of each Owner thereof.

ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Lot, except Outlots A and B, shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a church, school, park or for other nonprofit use.

2. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height, a private garage, and attached breezeways incidental to residential uses.

Please Return to:
FULLENKAMP, DOYLE & JOBEUN
11440 WEST CENTER ROAD
OMAHA, NEBRASKA 68144-4482
Attn: KKIC

1893

3. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No outside radio, television or other electronic antenna shall be erected on any Lot without recorded written consent of owners of record of all property within two hundred feet of any Lot line on which such structure is sought to be placed. No outside above-ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any Lot.

4. 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 "For Sale" or "For Rent"; nor shall the Lot or dwelling thereon 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 dwelling thereof. Further, no business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing shall not apply to the business activities, signs and billboards or the construction and maintenance of dwellings, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots or homes thereon. Nothing in this provision shall prohibit Declarant or assignee from constructing its usual signage for its model home area.

5. No repair of any boats, automobiles, motorcycles, trucks, campers, or similar vehicles requiring a continuous time period in excess of forty-eight (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 operations, 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, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot, other than in an enclosed structure, unless it is on concrete pad at the rear of the dwelling in which case the rear yard shall be enclosed by a wood fence of not less than six feet in height. No motor vehicles 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, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Paragraph 6 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of dwellings during their period of construction. All Lots shall provide at least the minimum number of off-street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

7. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling nor shall refuse, rubbish or cutting be deposited on any street, road or Lot. No permanent clothes line shall be permitted outside of any dwelling at any time.

8. A public sidewalk shall be constructed of concrete four (4) feet wide by three and one-half (3 ½) 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 dwelling and before occupancy thereof, provided, however, this provision shall vary to comply with any requirements of the City of Omaha. It is understood, however, that from time to time because of weather or material shortages the Owner may be allowed to move in prior to sidewalk construction, but only after an escrow has been established to assure such construction when weather and material availability permits.

9. 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, provided always that the construction plans, specifications and the location of the proposed structure have first been approved by all of the Owners of Lots located in whole or in part within one hundred feet of the Lot on which such dog house is to be placed. In any event, dog houses shall only be allowed at the rear of the dwelling, concealed from public view. No dog runs or kennels of any sort shall be allowed.

10. Except as provided herein, all exposed side and rear concrete block or masonry foundation walls must be painted. All driveways shall be full width concrete construction. Fireplace chimneys shall be covered with brick or wood. The roof of all dwellings shall be covered with asphalt or wooden shingles.

11. All telephone cable television, electric, power and any other service lines from property line to dwelling shall be underground.

12. A perpetual license and right is hereby reserved unto and granted to Sanitary and Improvement District No. 445 of Douglas County, Nebraska and to the City of Omaha, Nebraska, their respective employees, representatives, successors, assigns and the employees, and representatives of its successors or assigns, to enter upon said property to construct, reconstruct, repair, maintain, improve, and inspect each sewer, and to inspect sewage thereof or therein.

13. Declarant shall be allowed to operate and maintain model homes in Lake Cunningham Ridge. This right shall not expire with the sale of the last buildable Lot in Lake Cunningham Ridge.

14. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

15. The following provisions may be enforced by the Lake Cunningham Hills Neighborhood Association, a Nebraska not for profit corporation or its successors:

A. **Landscaping:** Declarant, as soon as weather reasonably permits after the paving is installed in Phase I of Lake Cunningham Ridge, will install a landscaping buffer along the rear 20 feet of Lots 11 through 19, inclusive. Such landscaping shall be in accordance with the Landscaping Plan prepared by Purdy & Slack, a copy of which is attached hereto. In the event any of such landscaping shall die, the Homeowner's Association created herein shall replace such dead landscaping within ninety (90) days or as soon thereafter as weather permits. At least one (1) tree shall be planted with each home.

B. **Garages:** All homes constructed shall have a two-car attached garage. The garages will be of exterior material that compliments or matches those used on the primary structure.

C. **Pitch of Roof:** The manufactured homes or any home constructed shall have a minimum 3:12 pitch roof. The definition of a 3:12 pitch roof shall be that which is customary in manufactured homes. Exact measurements may vary slightly upward or downward.

D. **Mix of Elevations:** The Declarant will mix the street front elevations so that duplicate units shall be spaced no less than three lots apart.

E. **Front Stoop or Steps:** Each home will have a concrete stoop or concrete stoop with steps. Steps will not be constructed of wood. All stoops and steps will have concrete footings.

F. **Basements:** All homes will have City approved footed foundations and at least 50% will have basements.

G. **Brick Facing:** All exposed foundations will have brick front facades facing the street fronting the home.

H. **Minimum Home Width:** Each residence shall contain a minimum of 1050 square feet of living area, exclusive of basement and garage areas. The exterior width (cross section) of all dwellings, less appurtenances shall be a minimum of 24 feet.

I. **Entry Road:** The subdivision entrance on 80th Street will be landscaped in accordance with the Landscaping Plan attached hereto.

J. **On-Site Built Homes:** Nothing in this covenant prevents what is commonly referred to as a "stick built home" or on-site construction homes. No used homes will be allowed to be moved into the development.

K. **Storage Sheds.** Any storage sheds to be constructed shall be approved in writing by the Declarant before they are permitted to be constructed. All plans shall be submitted to the Declarant in form and size acceptable to the Declarant and shall include a provision for a concrete floor and sided of exterior materials that compliment or match those of the home on the lot.

L. **Pets.** All pets (dogs, cats, etc.) shall be kept in a fenced rear yard or on a leash and not be allowed to roam free.

16. These covenants shall run with the land and shall be binding on the Declarant, all Owners and all persons claiming under them for a period of 25 years from the date these covenants are recorded.

ARTICLE II. **HOMEOWNERS ASSOCIATION**

1. **The Association.** Declarant has or will cause the incorporation of Lake Cunningham 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, including Outlots "A" and "B" for the general use, benefit and enjoyment of the Members. Common Facilities may including recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks dedicated and non-dedicated roads, paths, ways and green areas; and signs and entrances for Lake Cunningham 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 and Improvement District.

B. The promulgation, enactment, amendment and enforcement of rules and regulations relating 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 Lake Cunningham Ridge; and the protection and maintenance of the residential character of Lake Cunningham Ridge.

2. **Membership and Voting.** Lake Cunningham Ridge will be developed in two (2) phases consisting of separate residential lots (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 of 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.

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 Lake Cunningham 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 coverages 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 or 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 the 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 instruments 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 for all of the Lake Cunningham Ridge subdivision signs, maintain Outlots A & B and the trees, bushes and shrubs, comprising the buffer installed on the rear 20 feet of Lots 11 through 19, inclusive, which have been installed in all phases of Lake Cunningham 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 a 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 provisions of this declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

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 a charge 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. **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.

10. **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 6 of this Article.

11. **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 become due and payable.

12. **Effect of Nonpayment of Assessments-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 the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring 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 attorneys' 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.

13. **Subordination of the Lien to Mortgagee.** The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract

or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Lot shall not affect or terminate the dues and assessment lien.

ARTICLE III
GENERAL PROVISIONS

1. **Remedy on Violation.** If the parties hereto or any of their heirs, successors or assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for any person or persons owning any other lot or lots in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction, and either prevent him or them from so doing or to recover damages for such violation. Additionally, as provided in Paragraph 15 of Article I of these covenants, the Lake Cunningham Hills Homeowners Association shall have the right to enforce the provisions contained in said paragraph.

2. **Severability.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

3. **Binding on Successors.** The covenants and restrictions herein contained shall run with the land, and shall be binding upon the Declarant, all Owners and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded. Each of the covenants herein contained is several and separate from the other covenants, and invalidity of any covenant shall not affect the validity of any other provision of this instrument.

4. **Enforcement by Declarant.** Nothing herein contained shall in any way be construed as imposing upon the Declarant or any of the undersigned any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein.

5. **Amendments.** For a period of ten (10) years following the date hereof, Declarant shall have the exclusive right to amend, modify or supplement all of any portion of these Protective Covenants from time to time by executing and recording one or more duly acknowledged Amendments to Protective Covenants in the Office of the Register of Deeds of Douglas County, Nebraska. Any amendment or modification to Paragraph 15, Article I of these covenants shall require the prior written consent of the Lake Cunningham Hills Neighborhood Association or its successor.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 12th day of April, 2000.

DECLARANT:

LAKE CUNNINGHAM RIDGE, L.L.C.,
a Nebraska Limited Liability Corporation

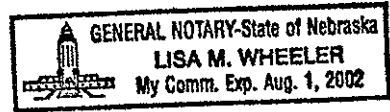
By [Signature] Member
KENNETH S. JANSEN Title

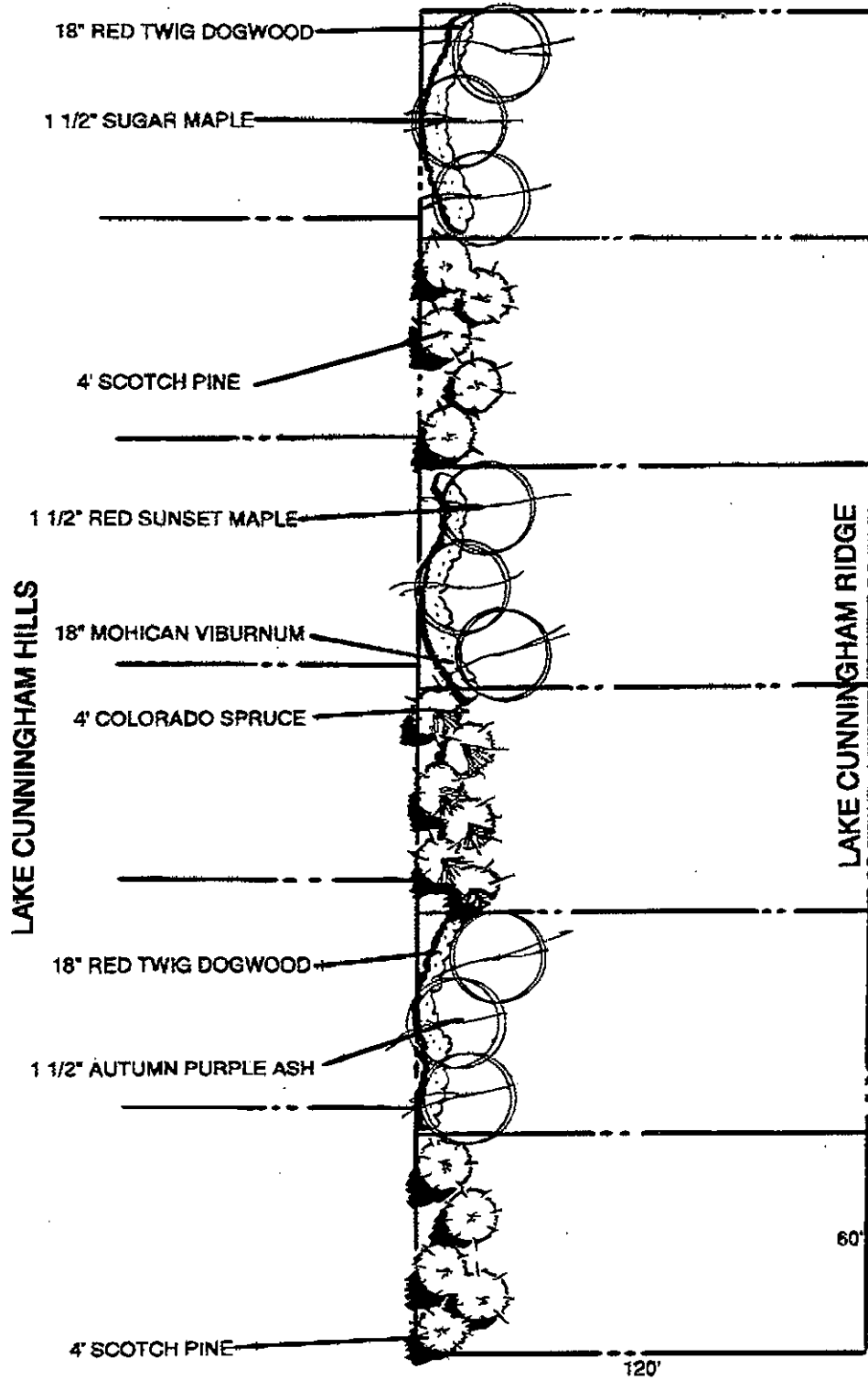
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12 day of April, 2000 by Kenneth J. Jansen, _____ of Lake Cunningham Ridge, L.L.C., a Nebraska Limited Liability corporation, known to me to be the identical person who executed the above instrument and acknowledged the same to be his voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 12 day of April, 1999.

[Signature]
Notary Public





● TYPICAL LANDSCAPE BUFFER ALONG PROPERTY LINE
 BETWEEN LAKE CUNNINGHAM HILLS
 AND LAKE CUNNINGHAM RIDGE SUBDIVISIONS.



● PLANTING REPEATS ITSELF EVERY SIX LOTS.