



BK 0822 PG 460



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AMENDMENT TO

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR LOTS 1-31, INCLUSIVE,
OF RALSTON VILLAGE, A SUBDIVISION
AS SURVEYED, PLATTED AND RECORDED IN THE
CITY OF RALSTON, DOUGLAS COUNTY, NEBRASKA

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GEORGE A. HENNINGZ
REGISTERED CLERK
DOUGLAS COUNTY, NEBR.

This amendment, made this 30th day of July, 1987, is made by Donald M. Vervaecke and Michael McCormack, hereinafter referred to as "Declarant", who are the owners of Lots 1-31, inclusive, Ralston Village, and are intended to amend the Declaration of Covenants, Conditions and Restrictions for Lots 1-31, Ralston Village, dated December 9, 1986, and filed at Book 811 Page 500 through 509 of the records of the Register of Deeds of Douglas County, Nebraska. The amendments are as follows:

1. No. 21 of the original Covenants, Conditions and Restrictions dated December 9, 1986 is hereby deleted, and in its place and stead No. 21 shall read:

Easements for sewers are hereby granted as shown on the plat signed by Declarant November 18, 1986.

2. No. 23 of the original Covenants, Conditions and Restrictions dated December 9, 1986 is hereby deleted, and in its place and stead shall read:

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean and refer to the Ralston Village Homeowners Association, it's successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any one or more

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lots among Lots 1 through 31, inclusive, Ralston Village, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property herein before described as Lots 1 through 31, inclusive, Ralston Village, and in such additions thereto as may here after be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the association for the common use and enjoyment of the owner. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Lot 32, Ralston Village, a subdivision to the City of Ralston, as surveyed, platted and recorded in Douglas County, Nebraska, except the portion of Lot 32 described as a tract of land commencing at the southwest corner of Lot 32, Ralston Village, as the Point of Beginning; thence north $00^{\circ}06'15''$ west a Distance of 71.60 feet; thence south $72^{\circ}47'35''$ east a distance of 85.90 feet; thence south $00^{\circ}06'39''$ east a distance of 46.41 feet to a point on the south line of said Lot 32; thence north $85^{\circ}50'49''$ west along the south line of said Lot 32 a distance of 82.01 feet to the Point of Beginning.

Section 5. "Lot" shall mean and refer to any plot of land shown upon the recorded plat of Ralston Village with the exception of the following: Lot 33; the Common Area, vacated Ralston Avenue, and that portion of Lot 32 described as a tract of land commencing at the southwest corner of Lot 32, Ralston Village, as the Point of Beginning; thence north $00^{\circ}06'15''$ west a Distance of 71.60 feet; thence south $72^{\circ}47'35''$ east a distance of 85.90 feet; thence south $00^{\circ}06'39''$ east a distance of 46.41 feet to a point on the south line of said Lot 32; thence north $85^{\circ}50'49''$ west along the south line of said Lot 32 a distance of 82.01 feet to the Point of Beginning.

Section 6. "Declarant" shall mean and refer to Donald M. Vervaecke and Michael McCormack, their successors and assigns; if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

ARTICLE II.

PROPERTY RIGHTS

Section 1. Owners Easements of Enjoyment. Every owners shall have a right and easement of enjoyment into the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- B. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of it's published rules and regulations;
- C. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 75% of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of the family, his tenants, or contract purchasers who reside on the property.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall all be Owners, with the exceptions of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

- A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- B. On July 1, 1991.

ARTICLE IV.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the lien and personal obligation of assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefore, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association:

- A. Annual assessments or charges; and
- B. Special assessments for capital improvements, such as assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of Lots 1 through 31, inclusive, Ralston Village, and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$100.00 per Lot.

- A. From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- B. From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of 75% of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of

defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related to, provided that any such assessment shall have the assent of 75% of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and quorum for any action authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meetings shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be reflected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a Certificate signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed Certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclosure the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not effect the assessment lien. However, the sale or transfer or any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any such assessments thereafter becoming due or from the lien thereof.

3. Section 26 shall be amended by deleting the entire paragraph and substituting therefore the following:

The Covenants and Restrictions of this Declaration shall run with and bind the land for a term of 20 years from the date of this Declaration as recorded after which time they shall be automatically extended for successive periods of ten years. This Declaration may be amended by an instrument signed by not less than 75% of the Lot Owners. Any amendment must be recorded.

4. There shall be added to these Covenants the following:

28. Annexation. Additional residential property and Common Area may be annexed to Lots 31-38 with the consent of 2/3rd of each class of members.

29. FHA/VA Approval. As long as there is a Class B membership, the following actions will require prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional Lots or Common Area of additional Lots or area, dedication of Common Area and amendment

