

3 Page Document

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
WALNUT ESTATES SUBDIVISION**

This Fourth Amendment to the Declaration of Covenants, Conditions, and Restrictions of the Walnut Estates Subdivision, Inc. a Colorado nonprofit corporation, is made this 18 day of September 2019.

**AMENDMENTS**

1. Article II, Section 2, C. Replace the letter "C. The Association, Membership and Voting Rights" with:  
**ARTICLE III**  
**THE ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS**

2. Article VII, Section 2 of the Declaration of Covenants, Conditions, and Restrictions shall be deleted and replaced in its entirety with following:

Section 2. No store, detached office or place of retail business of any kind and no hospital, sanitarium or any medical facility nor theater or similar type of entertainment, no church, fraternal association, or other similar associations where normal or regular gathering of people in groups larger than a normal family occupancy. No business of any kind or character whatever shall be conducted thereon or in or from any building thereon, except occupations or business as may be allowed by the City of Grand Junction, CO zoning regulations.

3. Article VII, Section 6, paragraph 2 of the Declaration of Covenants, Conditions, and Restrictions shall be deleted and replaced in its entirety with the following:
4. Section 6. No unlicensed vehicles or trucks shall be parked on any lot except while engaged in transport. For the purpose of this paragraph, a One (1) ton or smaller vehicle, commonly known as a non-commercial pickup truck shall be allowable. No recreational vehicles including, but not limited to campers, boats, snowmobiles, jet skis, ATVs, and motorhomes shall be parked on or about any lot or street in Walnut Estates Subdivision, Filing(s) 1 and 2, longer than 72 hours in a 2 week period unless parked inside a garage or out of plain site from any street or streets adjoining the lot behind a privacy fence or at the back of the lot. No major vehicle repairs shall be conducted upon any lot, Common area or street in Walnut Estates Subdivision, Filing(s) 1 and 2, except, within enclosed garages. "Major vehicles repair" shall include, without limitation, those which render the vehicle inoperable for more than 24-hour period. Trucks or other commercial vehicles necessary within the property for construction, or used during the period of construction, shall be permitted.

5. Article VII, Section 10, of the Declaration of Covenants, Conditions, and Restrictions shall be deleted and replaced in its entirety with the following:

Section 10. Clotheslines, equipment, service yards, dog runs, wood piles, compost piles, drying yards or storage areas shall be adequately screened by planting, fencing or construction. Garbage can storage will be in a garage or behind a fence. No structure, tower or antenna shall be erected, altered, placed or permitted on the site which exceeds the height of the peak of the roof of the residence constructed on the Lot. No more than one (1) satellite dish per residence. Placement to be determined by homeowner and satellite company.

6. Article VII, Section 15, of the Declaration of Covenants, Conditions, and Restrictions shall be deleted and replaced in its entirety with following:

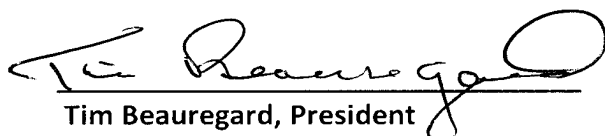
Section 15. No fencing shall be constructed with any materials or in any manner that may obstruct or impede the natural flow of surface or drainage water across any Lot or Common Area with Walnut Estates Subdivision, Filing(s) 1 and 2. No chain link or masonry fencing shall be allowed in Walnut Estates Subdivision, Filing(s) 1 and 2. Only vinyl fencing will be allowed. Fencing shall be a maximum height of six (6) feet and shall otherwise be constructed in accordance with City of Grand Junction zoning requirements. Fencing shall be approved by the Architectural Control Committee, prior to construction.

7. Article VIII, Section 6. Enforcement, sentence 2 of the Declaration of Covenants, Conditions, and Restriction shall be deleted and replaced with the following:

The Board shall proceed with its enforcement authority pursuant to this Article and in conjunction with the Bylaws'.

Walnut Estates Subdivision  
Declarants' Certification of Vote

The undersigned Declarants of the Walnut Estates Subdivision, Homeowners Association, being duly sworn, deposes and says there are currently eighty-five (85) developed single family residential units within the Walnut Estates Subdivision. Notice and Voting forms related to the Fourth Proposed Amendments to the Declaration of Covenants, Conditions and Restrictions were mailed to each owner within the subdivision. I also certify that at least fifty (50) percent of the homeowners, pursuant to C.R.S. 38-33.3-217(1)(a)(I), with voting rights pursuant to Article II of the Declarations approved the proposed amendments. Voting records are available for inspection and/or copy upon request.

  
 Tim Beauregard, President

  
 Judy Faunce, Vice President

STATE OF COLORADO  
 COUNTY OF MESA

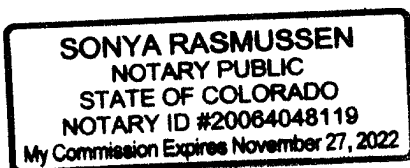
STATE OF COLORADO  
 COUNTY OF MESA

This instrument was acknowledged before  
 me this 19 day of September, 2019

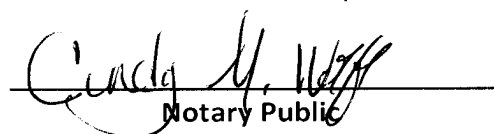
  
 Notary Public

My commission Expires

September 27, 2022

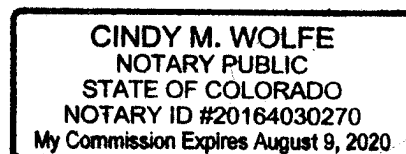


This instrument was acknowledged before  
 me this 18 day of September, 2019

  
 Notary Public

My commission Expires

August 9, 2020



RECEPTION#: 2758564, at 4/29/2016 10:49:31 AM, 1 of 2

Recording: \$16.00, Sheila Reiner, Mesa County, CO. CLERK AND RECORDER

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PAGE DOCUMENT

**THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
WALNUT ESTATES SUBDIVISION**

This Third Amendment the Declaration of Covenants, Conditions and Restrictions of the Walnut Estates Subdivision, Inc. a Colorado nonprofit corporation, is made this 15<sup>th</sup> day of April, 2016

**AMENDMENTS**

1. Article VII, Section 29 of the Declaration of Covenants, Conditions, and Restrictions shall be deleted and replaced in its entirety with the following:

**Section 29, Declarants' Rights to Future Development.**

Declarants, and/or Assigns, shall have the right, through replat of Lots C and D of Walnut Estates Subdivision Filing 2, to future development for residential single family building sites within the subdivision. Future development shall be for a maximum of ninety (90) residential single family lots within the Walnut Estates Subdivision, inclusive of previously developed lots within Filings 1 and 2. Said development shall conform to all City of Grand Junction Planning and Development requirements, zoning requirements and for the requirements of the infrastructure. The Declaration of Covenants, Conditions and Restrictions for Walnut Estates Subdivision, Filing 1, and Walnut Estates Subdivision, Filing 2, shall be applicable any future development of residential lots with the Subdivision. Declarants, and/or Assigns, shall have a maximum of fifteen (15) years in which to exercise this right to future development.

2. Article X, Section 3 of the Declaration of Covenants, Conditions, and Restrictions shall be deleted and replaced in its entirety with the following:

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of fifteen (15) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may only be amended by a written instrument signed by not less than fifty (50) percent of the Class A voters as defined in these Declarations in Article III. No amendment shall serve to adversely affect the terms of priority of any existing, validly recorded Deed of Trust or Mortgage. Such amendment shall not be effective until recorded in the Mesa County, Colorado Clerk and Recorder's Office.



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**Walnut Estates Subdivision**  
**Declarants' Certification of Vote**

The undersigned Declarants of the Walnut Estates Subdivision, being duly sworn, deposes and says there are currently forty-five (45) developed single family residential units within the Walnut Estates Subdivision. Notice and Voting Forms related to the Third Proposed Amendments to the Declaration of Covenants, Conditions and Restrictions was either mailed or hand delivered to each owner within the subdivision. I also certify that at least fifty (50) percent of the homeowners, pursuant to C.R.S. 38-33.3-217(1)(a)(I), with voting rights pursuant to Article II of the Declarations approved both proposed amendments. Voting records are on file and available for inspection and/or copy at the office of LaCroix & Hand P.C., 725 Rood Avenue, Grand Junction, CO 81501.

Maxwell Sneddon  
Maxwell Sneddon, Declarant

STATE OF COLORADO ) ss.  
COUNTY OF MESA )

Subscribed and sworn to before  
me on 15 April, 2016,  
Maxwell Sneddon.

My commission expires: 7/16/16

Thomas W. Sylvester  
Notary Public



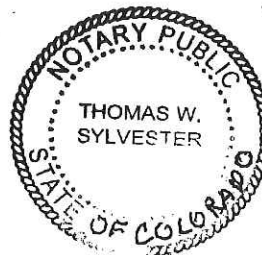
Carole M. Sneddon  
Carole M. Sneddon, Declarant

STATE OF COLORADO ) ss.  
COUNTY OF MESA )

Subscribed and sworn to before  
me on 15 April, 2016, by  
Carole M. Sneddon.

My commission expires: 7/16/16

Thomas W. Sylvester  
Notary Public



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## DECLARATION

### OF COVENANTS, CONDITIONS AND RESTRICTIONS

**As An Admendment of Declaration of Covenants, Conditions and Restrictions for  
Walnut Estates Subdivision, Filing No. 1, as recorded at Book 4755, Page 547,  
Reception No. 2465974, dated 11/09/2008, Mesa County Clerk and Recorded,  
State of Colorado:**

THIS DECLARATION, to become effective upon the recordation date hereof, is made by, **MAXWELL AND  
CAROLE M. SNEDDON**, hereinafter referred to as "Declarant".

### RECITALS:

WHEREAS, the undersigned, is the owner of certain property in the City of Grand Junction, County of Mesa, State of Colorado, which is more particularly described as follows; all lots within the subdivision named **Walnut Estates Subdivision, Filing 1, A Planned Residential Community with a maximum of 23 single family residential lots and One (1) "Out Lot B", which consists of approximately 14.63 acres for the future Filing(s) of Walnut Estates Subdivision and now to INCLUDE Filing 2, a Planned Residential Community with a maximum of 22 single family residential lots and one out lot, C which consists of approximately 9.8 acres for the future filing(s) of Walnut Estates Subdivision.**

NOW, THEREFORE, the undersigned hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof in accordance with and pursuant to the Colorado Common Interest Ownership Act, 38-33.3-101et. seq. C.R.S., each and all of which is and or for the benefit of said Property and each owner thereof.

Declarant has deemed it desirable for the preservation of the values and amenities in said Community, to create an agency with the power of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

Declarant will convey the Property subject to the protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth.

## ARTICLE I

### Definitions

Section 1. "Association" shall mean and refer to, **Walnut Estates Homeowners Association**, its 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 lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" or "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions.

Section 4. "Irrigation System" shall mean the easements and improvements installed therein to permit delivery of irrigation water to a Lot. The said irrigation water is appurtenant to the land.



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Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 6. "Declarant" shall mean and refer to **MAXWELL AND CAROLE M. SNEDDON** their successors and assigns if such successor or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the Mesa County Clerk.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9. "Architectural Control Committee" shall mean the committee appointed by the Board of Directors of **Walnut Estates Subdivision Homeowners Association**, for the control of architectural style and construction within the Property.

Section 10. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, duly elected pursuant to the By-Laws of the Association or appointed by Declarant, or Assigns, as therein provided.

Section 11. "Association Expenses" shall mean the Owner's pro rata share of the expenses including, but not limited to, repairs, irrigation system(s), management costs, reserves, capital improvements, assessments and all other charges which the Association may levy upon the Owners in accordance with this Declaration.

Section 12. "By-Laws" shall mean the By-Laws adopted by the Association as amended from time to time.

Section 13. "Subdivision" shall refer to the Property within **Walnut Estates Subdivision, Filings 1 and 2.**

Section 14. "Common Area" means all the real property and improvements thereon, if any, in which the Association owns an interest for the common use and enjoyment of all the Owners on a non-exclusive basis. Such interest may include, without limitation, estates in fee, for terms of years or easements.

Section 15. "Common Expenses" means all expenses expressly declared to be common expenses by this Declaration, any supplemental declaration or by the Bylaws of the Association; all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the common area; insurance premiums for the insurance carried by the Board or insuring Common Areas and all expenses lawfully determined to be common expenses by the Board of the Association.

## **ARTICLE II**

### **SCOPE OF DECLARATION AND RIGHTS RESERVED BY DECLARANT**

Section 1. Property Subject to Declaration. Declarant, as the owner of fee simple title to the Properties, expressly intends to, and, by recording this Declaration, does hereby subject the Properties to the provisions of this Declaration.

Section 2. Conveyances Subject to Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant to and running with the land, and shall at all times inure to the benefit of and binding on any person leaving at any time any interest or estate in the Properties, and their respective heirs, successors, representatives or assigns. This recording of this Declaration shall be sufficient to create and reserve on the Property all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared herein. Each Owner, by acceptance of a deed or other conveyance vesting in him an interest in a Lot or Lots, consents to notices from the Association to be sent by regular mail to the person(s) shown as the Owner of such Lot(s), at the last address shown on the books and records of the Association.

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**Section 3. Owners' Easements of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the Irrigation System, 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 suspend the voting rights and right to use of the Irrigation System by any Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty days for any infraction of its published rules and regulations, if any;  
The right of and Association to dedicate or transfer all or any part of the Irrigation System to any public agency, authority, or utility for such purposes and subject to such conditions and may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to such dedication or transfer has been recorded.

- B. Irrigation water shall be delivered to each lot within an easement for utility, irrigation and drainage. Each individual lot owner shall be responsible for the maintenance and perpetual care of such irrigation riser located within each owner's lot. The maintenance and perpetual care of the irrigation line delivering water to Walnut Estates Subdivision, Filings 1 and 2, shall be the responsibility of the Walnut Estates Homeowners Association.

**C. The Association, Membership and Voting Rights**

**Section 1. Purposes and Powers.** The Association shall be a corporation organized pursuant to the Colorado Nonprofit Corporation Act, section 7-20-101, et. seq., C.R.S., to be and constitute an entity for the exercise of the powers for the purposes set forth in this Declaration, including the appointment and removal of the Architectural Control Committee, the management and delivery of water, the repair and maintenance of irrigation ditches, common spaces, the levy and collection of assessments, the enforcement of the covenants, conditions and restrictions set forth in this Declaration and such rules and regulations as may be adopted by the Board, and to otherwise exercise such other powers as are set forth in this Declaration, or reasonably necessary to fulfill its objectives and purposes.

**Section 2. Membership.** Every owner of a Lot shall be a member of the Association by acceptance of a deed. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

**Section 3. Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A member shall be all Owners with the exception of Declarant, or Assigns, and shall be entitled to one 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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B members shall be the Declarant, or Assigns, and shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on 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 December 1, 2018.  
B. Upon conversion of Class B membership to Class A membership, a Board of Directors shall be elected by a majority vote of Class A members. Said Board of Directors shall serve as the officers of Walnut Estates Subdivision Homeowners Association, as well, and shall consist of three (3) members as President, Vice President and Secretary Treasurer. Board members shall each serve a one (1) year term. The Board of Directors shall, additionally, act and have the power as designated to the Architectural Control Committee.



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**Section 4. Indemnification of Officers and Directors.** Neither the Association, any member of the Board, any officer of the Association nor any agent or employee of the Association, shall be liable to any other or other person or entity for any action or any failure to act with respect to any matter, if the action taken or failure to act was in good faith and without willful intentional misconduct. The Association shall indemnify and hold harmless any member of the Board, any officer of the Association or any agent or employee of the Association from any and all reasonable costs, damages, charges, liabilities, attorneys' fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such person or of the Association, the Board or any committee of the Association, provided that such person has acted in good faith and without willful or intentional misconduct.

**Section 5. Limitation Upon Liability of Association.** The Association shall not be liable for injury or damage caused by any latent condition of the Properties or by the conduct of other Owners or persons or by casualties for which insurance pursuant to these Declarations is not required, or for which insurance is not provided by the Association.

## ARTICLE IV

### Insurance

**Section 1. Association Insurance.** The Association shall be empowered to obtain and maintain the following insurance as far as such insurance coverage is obtainable:

- A. Insurance coverage upon all property owned or leased by the Association.
- B. Insurance coverage against loss or damage by irrigation water.
- C. Comprehensive liability insurance insuring the Association, Board of Directors, Managers and agents in connection with their duties.
- D. Such other insurance as the Board may deem desirable for the benefit of the Owners or the Association.

## ARTICLE V

### Covenant for Maintenance/ Assessments

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The undersigned, for each Lot owned within the Properties and each Lot hereafter made subject thereto, hereby covenant, 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: (1) The annual and special assessments, together with interest, cost, 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, cost, and reasonable attorney 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 assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the association shall be used exclusively for defraying the costs of irrigation water, maintenance of the irrigation ditches, facilities and improvements, common area maintenance and repair, if any, maintenance of fencing and landscaping. The Assessments shall include Walnut Estates Subdivision, Filing 1, Filing 2, and any subsequent filings for Walnut Estates Subdivision.

**Section 3. Regular Assessments.** At least 30 days (30) prior to the commencement of each fiscal year, the Board shall estimate the cost and expenses to be incurred by the Association during such fiscal year.

The sum or net estimate so determined shall be assessed to the Owners as an operation and maintenance assessment by dividing the total estimate by the total number of Lots within the Subdivision. Assessments shall be

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paid in a single annual installment due on or before thirty (30) days following notice of assessment given to the Owner of each Lot by regular mail according to the address of such Owner shown on the records of the Association. Assessments not paid when due shall be delinquent, and shall accrue interest upon the delinquent amount at a rate of interest to be set by the Board.

**Section 4. Special Assessments.** If at any time during the fiscal year the regular assessment proves inadequate for any reason, including non-payment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy. The special assessment shall be assessed to the Owners by dividing the total estimate by the total number of Lots in the Subdivision and assessing the resulting amount to the owner of each lot, such assessment to be paid in installments or a lump sum as the Board shall determine.

**Section 5. Capital Improvements.** In addition to the regular and special assessments, the Association may levy, in any assessment year, a special assessment for the purpose of defraying in whole or part the cost of any capital improvement to the irrigation ditches, irrigation facilities or improvements, provided that such assessment shall have the consent of two thirds (2/3) of the votes of each class of Members of the Association subject to such assessments.

**Section 6. Enforcement.** In the event any assessment is not paid when due, the Association may enforce payment of such obligation by any or all of the following remedies:

- A. For any assessment payable in installments, the Association may elect to accelerate and declare immediately due and payable the remaining balance of such assessment.
- B. The Association may bring a suit at law to collect the delinquent assessments, including any accelerated assessment. Any judgement rendered in such action shall include a sum for costs of suit, including reasonable attorney's fees.
- C. All delinquent assessments shall constitute a lien on the delinquent Owner's Lot from the date of delinquency, which lien shall remain a lien on the Lot until paid. At any time following delinquency in the payment of any assessment, the Board may prepare and record in the Mesa County Clerk and Recorder's office a certificate claiming and giving public notice of such lien, which certificate shall state the name and address of the delinquent owner, the legal description of the Lot subject to the lien, the amount claimed due, and the claim of lien is made pursuant to this Declaration. The lien created hereunder may be foreclosed in the manner provided by Colorado law foreclosure of judgement liens upon real property. Nothing contained herein, however, shall be or constitute a limitation upon any other foreclosure remedy, whether pursuant to statute or in equity, available to the Association.
- D. The lien for assessments provided in this section shall be subordinate to the lien of any first Mortgage Deed of Trust or perfected tax lien. The lien of the assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado. The lien for assessments shall remain in full force and effect notwithstanding the sale or transfer of any Lot nor shall any such transfer extinguish the lien for such assessment for payments which become due prior to such sale or transfer. No sale, transfer or foreclosure proceeding brought by the holder of any first Deed of Trust or mortgage shall extinguish the personal obligation of the Owner for delinquent and unpaid assessments.
- E. The Association may refuse to deliver water to any Owner's Lot whose assessment is delinquent.
- F. The Association may suspend the voting rights of any Owner, for the period of time during which any assessment against the Owner's Lot remains unpaid.
- G. The Association may prevent the use of any open space by any owner whose assessment is unpaid.

## ARTICLE VI

### Association Water



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**Section 1. Management of Association Water.** The Association shall have the exclusive authority to allocate, deliver, manage, control and bill the Lot Owners for the use of Association water. Further, the Association shall have the exclusive right and authority to operate, repair and maintain the irrigation ditches and other irrigation facilities or improvements, to include the irrigation pond, for the sole use and benefit of Lot Owners in the Subdivision. The Association's authority hereunder shall be sole and absolute, subject to the reasonable requirements of the water provider and shall include the promulgating of rules, regulations, policies and procedures, not inconsistent with this Declaration, concerning the application and use of irrigation water, including conversation measures, measures to reduce peak demand and measures to allocate water among users.

**Section 2. Easements for Ingress and Egress.** All irrigation ditches and other irrigation facilities and improvements, if any, may be operated and maintained by the Association. Each Owner grants the Association ingress and egress in, under and upon each Owner's Lot for the purpose of operating, repairing or maintaining irrigation ditches, facilities or improvements. No Owner shall construct, erect or maintain any improvement or structure, which shall interfere with the Association's ownership, operation and maintenance of irrigation ditches and/or facilities or other improvements. The Association shall have the authority to remove or alter any structure or improvement which shall interfere with the ownership, operation and maintenance of the irrigation ditches, facilities or improvements, the costs of such removal to be borne by the owner of the interfering improvement or structure.

## ARTICLE VII

### ***Architectural Control, Building and Use Restrictions***

**Walnut Estates Subdivision, Filings 1 and 2** shall be subject to the following architectural control, building and use restrictions:

**Section 1.** Use of lots is restricted to high quality, single family detached residences with attached garages for not more than 3 cars, subject to the terms and provisions hereof relating to Architectural Control. All residences shall have exterior materials of vinyl siding, brick, stone, or stucco. Roofs shall be pitched and shingled using an asphalt composition shingle of architectural (dimensional) design. The designs of all foundations shall be engineered. All homes shall be ranch style. Prior to the start of construction of any home to be built in **Walnut Estates Subdivision, Filings 1 and 2**, Owner or Owner's Builder, shall be required to submit to the Architectural Control Committee the or the Declarant, or Declarant's Assigns, the exterior elevation(s), (front, side and rear) of the subject home to be built, the exterior color scheme for siding, roof and brick, stone or stucco for approval. The Declarant, or Assigns, shall serve as the Architectural Control Committee until such a time as the Class B Stock has been deleted and becomes only Class A, at which time the Architectural Control Committee shall become as duly appointed by the elected Board of Directors.

Approval or denial of plans for any new home to be constructed within **Walnut Estates Subdivision, Filings 1 and 2**, shall be given in writing by the Architectural Control Committee within (five) 5 business days after receipt by the Architectural Control Committee or Declarant, or Assigns.

No temporary building or structure of any type or kind shall be used at any time for a residence, either temporary or permanent.

The total finished living area of any residence with one level shall be not less than 1600 square feet. The square footage shall be determined by outside measurements for the living area totally above ground and that garages porches and patios shall be excluded.

**Section 2.** No Store, detached office or place of retail business of any kind and no hospital, sanitarium, or other place of care or treatment of the sick or disabled, physically, or mentally, nor any theater, or other place of entertainment, nor any church, club, fraternal association, or other association normally or regularly involving the gathering of people in groups larger than the family will be erected or permitted upon the sites, and no business of any kind or character whatever shall be conducted thereon or in or from any building thereon, except for home occupations or businesses as maybe allowed by the City of Grand Junction zoning regulations.



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Section 3. Maintenance, upkeep and repairs of any residence, or other improvements, on each lot shall be the sole responsibility of the individual Owner thereof, except for maintenance and upkeep of grass areas and/or landscaping to the extent such responsibility is expressly assumed by the Association. The exterior of residences shall be maintained in good condition and repair.

All landscaping, steps and porches shall be aesthetically pleasing and reasonably consistent with the landscaping of the surrounding Lot Owners. Landscaping shall be of a type complimentary to the residential character of the Subdivision and be acceptable to the Architectural Control Committee.

All landscaping of each Lot which will be visible from the street or any other Lot shall be completed by or on behalf of the Owner of such Lot, in accordance with the plans approved by the Architectural Control Committee, within one hundred eighty (180) days from and after the date in which a dwelling on such Lot is occupied or permitted occupancy, whichever is earlier; provided, for good cause, the Architectural Control Committee may allow a Lot Owner a one-time extension of time for an additional ninety (90) days in which to comply with this subparagraph.

Section 4. All utilities, fixtures and equipment installed within the perimeter of any Lot, commencing at a point where the utility lines, pipes, wires, conduits, or systems enter the perimeter lot line, shall be maintained and kept in repair by the Lot Owner thereof, except for the maintenance and repair of common irrigation lines and/or equipment. A Lot Owner shall do not act or any work that will impair any easement nor any act nor allow any condition to exist which will adversely affect the other Lots and improvements or their Owners.

Section 5. Refuse piles or other unsightly objects or materials shall not be allowed to be placed on or to remain on any Lot. All receptacles or other equipment for storage or disposal of refuse materials shall be kept in a clean and sanitary condition.

Section 6. All residences shall be constructed so as to provide sufficient off-street parking to accommodate not less than four automobiles, inclusive of garage and driveway. The driveways shall be composed of asphalt, concrete or other dust free surface. Dirt driveways are expressly prohibited.

No unlicensed vehicles or trucks shall be parked on any Lot except while engaged in transport. For the purposes of this paragraph, a  $\frac{3}{4}$  ton or smaller vehicle, commonly known as a pickup truck shall be allowable. No recreational vehicles including, but not limited to campers, boats, snowmobiles, jet skis, 4-wheelers and motor homes, shall be parked on or about any Lot or street in Walnut Estates Subdivision, Filings 1 and 2, unless parked inside a garage or out of plain sight from any street or streets adjoining the Lot behind a privacy fence or at the back of the Lot. No major vehicle repairs shall be conducted upon any Lot, Common Area or street in Walnut Estates Subdivision, Filings 1 and 2, except, within enclosed garages. "Major vehicles repairs" shall include, without limitation, those which render the vehicle inoperable for more than a 24 hour period. Trucks or other commercial vehicles necessary within the property for construction, or used during the period of construction, shall be permitted.

Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on or within the property. An abandoned or inoperable vehicle shall be defined as any automobile, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of two (2) weeks or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Owners while on vacation or during a period of illness, shall not constitute abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Owner thereof (if such owner can reasonably be ascertained), or shall be conspicuously placed upon the vehicle (if the other thereof cannot be reasonably ascertained), and if the abandoned or inoperable vehicle is not moved within 72 hours, thereafter, the Association shall have the right to remove the vehicle at the sole expense of the Owner thereof.

All recreational vehicles, including motorhomes, trailers, campers, boats, snowmobiles, motorcycles, or other recreational vehicles of any kind that are stored on any Lot shall be kept behind the principal building front setback line, provided such stored recreational vehicles do not bar access to adjoining Owners for roof eaves, water drainage and building maintenance. The Architectural Control committee shall have the



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authority to require any Owner to install screening approved by the Committee to shield the stored vehicles from public view or the view of the other owners.

The foregoing restrictions shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motor driven cycle, together with those activities normally incident and necessary to general maintenance, washing and polishing.

Section 7. No Lot or easement shall be used or maintained as a dumping ground for rubbish. All trash, garbage or other waster shall be disposed of in a sanitary manner.

Section 8. City of Grand Junction setback requirements shall be enforced.

- |           |  |
|-----------|--|
| Primary   | (1) No Residence shall be nearer than 20 feet of the front property line.          |
| Primary   | (2) No Residence shall be nearer than 25 feet from the rear property line.         |
| Primary   | (3) No Residence shall be nearer than 5 feet from each side of the property line.  |
| Accessory | (1) No Accessory Building shall be nearer than 25 feet of the front property line. |
| Accessory | (2) No Accessory Building shall be nearer than 5 feet from the rear property line. |
| Accessory | (3) No Accessory Building shall be nearer than 3 feet from the side property line. |

Section 9. No elevated tanks of any kind (gas, oil, water, etc.) shall be constructed on any Lot.

Section 10. Clotheslines, equipment, garbage cans, service yards, dog runs, wood piles, compost piles, drying yards or storage areas shall be adequately screened by planting, fencing or construction. No structure, tower or antenna shall be erected, altered, placed or permitted on the site which exceeds the height of the peak of the roof of the residence constructed on the Lot. Cable placement and color of satellite dishes shall be subject to prior approval of the Architectural Committee, to the extent permissible under applicable federal, state and local laws, rules and regulations. To the extent feasible, satellite dishes and antennas shall be placed in locations which are not visible from the street or streets bordering any Lot on which placement occurs.

Section 11. No obnoxious, offensive or other activity, which would constitute a public or private nuisance or annoyance to the neighborhood, will be permitted.

Section 12. No dangerous or wild animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that a reasonable number of dogs, cats or other household pets may be kept if they are not kept, bred or maintained for commercial purposes. All pets shall be under the control of their owner, whether by containment on the Owner's property on a leash. No pet shall be allowed to run at large, endanger, or harass people's property, or other animals, or constitute a nuisance or annoyance to other Lot Owners or occupants. The Board of Directors of the Association, when requested by any Owner, shall have the authority to determine whether or not the number of pets is unreasonable, or whether any animal or pet is a nuisance to any other Lot Owner.

Section 13. No firearms, unlawful fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged.

Section 14. No advertising signs, billboards or unsightly objects shall be maintained or erected. "For Sale" signs may be posted no larger than those allowed by the then existing City of Grand Junction zoning restrictions. Nothing contained in this paragraph shall be construed to prohibit the temporary placement of political signs for reasonable periods before and after the elections or otherwise permitted by applicable law. Signs used by a builder to advertise the property during the construction and sales period shall be allowable.

Section 15. No fencing shall be constructed with any materials or in any manner that may obstruct or impede the natural flow of surface or drainage water across any Lot or Common Area within Walnut Estates Subdivision, Filings 1 and 2. No chain link or masonry fencing shall be allowed in Walnut Estates Subdivision, Filings 1 and 2. Wooden privacy or vinyl fencing shall be allowed. Fencing shall be a maximum height of six (6) feet and shall otherwise be constructed in accordance with City of Grand Junction zoning requirements. Fencing shall be approved by the Architectural Control Committee, prior to construction.



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**Section 16.** Detached storage buildings and or accessory buildings shall be erected within the requirements of the City of Grand Junction code for "accessory buildings". All detached storage buildings and or accessory building shall be required to be constructed, on the exterior, with siding and shingles to match the exterior color scheme of the residence on the Lot. No detached storage building and/or accessory building shall exceed a maximum height of twelve (12) feet. All "accessory buildings" shall be approved by the Architectural Control Committee, prior to construction.

**Section 17.** In the event any Owner maintains and keeps his or her yard in a condition which violates any of the use restrictions hereinabove set forth, the Board of Directors of the Association shall have the power to contract with an independent third party to remedy the use violation. Said right to remedy shall arise after seven (7) days, written, notice of the nature of the violation is given to the Owner of the Lot, and the Owner has failed to remedy the violation said seven (7) day period. The cost of correcting the violation shall be paid as a "Special Assessment" and is enforceable by the Association against the Owner of the Lot in violation.

**Section 18.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures shall be installed. The maintenance of utilities that may change the direction of flow of water through drainage channels in the easements is prohibited. 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 a public authority or utility company is responsible.

There shall be a privacy fence, installed by the Declarant, along the North side of LOT 37, Filing No 2 Walnut Estates Subdivision that shall include **two (2) ten foot (10') wide gates**, centered on the storm drain pipe that runs North from the storm drain manhole located in the Northeast region of LOT 37, Filing No. 2 Walnut Estates Subdivision. The **two (2) ten foot (10') gates** are for the intended sole use of The Grand Valley Drainage District for access to and for the maintenance of the storm drain line and manhole. These gates may include a security lock, however, in the event a security lock is used for the gates, The Grand Valley Drainage District **MUST** be notified for the purpose of approval of the lock type and to be given access code, key or combination to said lock.

Additionally, a fifteen feet (15') long by twenty feet (20') wide **NON-IRRIGATED** surface shall be installed to provided for access and maintenance by The Grand Valley Drainage District to the storm drain manhole. The twenty feet (20') wide access surface shall align with twenty foot (20') wide gates. The access surface shall be installed for the full fifteen feet (15') depth of the Drainage and Irrigation Easement, centered on the storm drain manhole. The non-irrigated surface may be compacted aggregate base course or dry Xeriscape landscaping. The surface must be maintained to support The Grand Valley Drainage District maintenance equipment and trucks. Perpetual care of the fencing, two (2) twenty foot (20) wide gates and the non-irrigated surface shall be the responsibility of the Association.

**Section 19.** No structure of a temporary character such as trailer, basement, tent, shack, garage, barn, or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently.

**Section 20.** The moving of second hand structures onto any Lot in the subdivision is prohibited.

**Section 21.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, no oil wells, tanks, tunnels, mineral excavations or shafts, be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

**Section 22.** No individual water-supply system shall be permitted on any Lot. No outdoor toilets, nor cesspools or septic tanks shall be permitted within the subdivision, except outdoor toilets, as required by Mesa County, during development and or construction.

**Section 23.** No fence, wall, hedge or shrub planting, which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The

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same sight-line limitations shall apply on any Lot within ten feet from the intersection of the street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**Section 24.** The Association shall be responsible for a weed control program for the control of both unsightly weed problems throughout the subdivision and the control and removal of weeds determined as "noxious weeds", as designated by the Mesa County Pest and Weed Inspections and the State of Colorado Department of Agriculture. Said control program shall make provisions for both the control and/or the removal of weeds.

**Section 25.** The Association shall be responsible for maintaining and repairing the fencing and landscaping within the five- (5) foot landscape easement on the edge of the subdivision, abutting the right-of-way, and additionally, The Association will be responsible for the maintenance of the unimproved F ½ Road right-of-way, to the edge of the asphalt. The Association will be responsible for maintaining all platted drainage easements.

**Section 26.** Present and subsequent owners of property within this subdivision are subject to and bound by present and future Grand Valley Rural Power tariffs applicable to street lighting filed with the Public Utilities Commission of the State of Colorado.

**Section 27. Miscellaneous.**

- A. No Lot shall be used in any manner whatsoever to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substances or other mineral of any kinds.
- B. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee.

**Section 28. Declarants' Exemption.**

Nothing contained in this Declaration shall be construed to prevent construction, installation or maintenance by Declarant, or their duly authorized agents or contractors, of improvements, structures or signs necessary or convenient to the development, sale, operation or other disposition of the Lots or Improvements situated within the **Walnut Estates Subdivision, Filings 1 and 2**, in accordance with the Grand Junction Zoning and Development Code.

**Section 29. Declarants' Rights.**

Declarants', and or Assigns, shall have the right, through a replat of Lot C of **Walnut Estates Subdivision, Filing 2**, as future development for residential single family building sites, as prescribed by Colorado State Revised Statute 38-33.3-205 and Colorado State Revised Statute 38-33.3-210. Said development shall be conforming to all City of Grand Junction Planning and Development requirements, zoning requirements and for the requirements of the infrastructure. The Declaration of Covenants, Conditions and Restrictions for **Walnut Estates Subdivision, Filing 1**, and **Walnut Estates Subdivision, Filing 2**, shall be applicable to this said replat and future development. Declarants', and or Assigns, shall have a maximum of fifteen (15) years in which to execute this right of future development.

## **ARTICLE VIII**

### **Architectural Control Committee**



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Section 1. Structures. No structure, fence or wall, exterior lighting or other improvement(s) shall be erected, altered or maintained within the Subdivision until the plans and specifications showing the nature of such improvements shall have been submitted to and approved by the authority having jurisdiction and the Architectural Control Committee as established in the By-Laws of the Association as to the placement, quality, materials, harmony of exterior design with existing structures, the topography and finish grade elevation. To seek approval, the plans and specification(s) must be submitted in writing or drawn for the Committee.

Section 2. Other Considerations. Careful attention shall be given to aesthetic consideration of any design submitted in order to enhance the entire Subdivision. The Architectural Control Committee will consider the following:

- A. The overall nature and character of the site and appearance of the structure, including orientation with regard to sun, wind, view, slopes and privacy and the consistent quality use of exterior materials.
- B. The minimal grading of building sites to preserve natural terrain and foliage.
- C. The use of earthen colors and discouragement or prohibition of bright colors.
- D. The installation of patio structures designed such that they will blend and compliment the appurtenant structure.
- E. The use of landscaping and plantings complimentary to the residential character of the neighborhood and sensitive to environmental considerations, including but not necessarily limited to water conservation.

Section 3. Material to be submitted. Plans and specifications shall be submitted to the Committee for review and final approval before construction may be started. Plans and specifications shall contain a plot plan showing lot layout, including set back, final finish and natural grade elevation, floor plans showing overall dimensions, roof plans showing pitch, roof materials and color, exterior elevations showing doors, windows and exterior materials and color, and a perspective sketch if requested, and any other details necessary to explain design features or components as well as written approval of any and all governmental authorities having jurisdiction over the activity to be undertaken.

Section 4. Approval Period. The Architectural Control Committee shall approve or disapprove, in writing, all plans and requests with five (5) business days after submission of documentation as described in Section 3. In the event the Committee fails to take any action within five (5) days after requests have been submitted, approval will not be required, and the provisions of this Article will be deemed to have been met.

- A. A majority vote of the Committee is required for approval or disapproval of proposed improvements.
- B. The Committee shall maintain written records of all applications submitted to it and all actions it may have taken.

Section 5. Liability. The Committee shall not be liable in damage to any person submitting requests for approval or  
To any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request.

Section 6. Enforcement. The Committee shall notify the Board of any violations under the jurisdiction of the Association. The Board shall proceed with its enforcement authority pursuant to this Article. Upon violation of any of the conditions contained in this Declaration by any Owner, or by any renter, invitee, guest or family member of any Owner, the Board shall have the following power: The Board shall notify the owner in writing of the specific violation and shall set a time in the notice when the Owner may appear before the Board to review the facts of the violation. Within twenty (20) days after such hearing, the Board shall enter its decision and shall notify the Owner, in writing. Included in the decision will be a statement by the Board on what action must be taken by the Owner to correct the violation and a time period for completion of the remedial action. If the Owner does not complete the remedial action as set forth in the decision, then the Board may commence legal proceedings in the Mesa County District Court seeing damage and/or specific performance of the covenants in this Declaration. The prevailing party may recover all costs and attorney fees incurred in any such proceeding.

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## ARTICLE X

### General Provisions

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or the right to do so thereafter, or a waiver of any other or subsequent breach of any covenant, condition or restriction herein contained.

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

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of fifteen (15) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This declaration may be amended by Declarant or Assigns, at any time prior to the recording of the first deed from Declarant, or Assigns, to any Owner. After the recording of the first deed from Declarant, or Assigns, to an Owner, this Declaration may only be amended by a written instrument signed by not less than Owners of fifteen (15) Lots. If an Owner owns more than one Lot, then the Owner may cast one vote for each Lot owned. For purposes of amending these covenants, the Declarant, or Assigns, shall have such voting rights as are set forth in Article III. No amendment shall serve to adversely affect the terms of priority of any existing, validly recorded Deed of Trust or Mortgage. Such amendment shall not be effective until recorded in the Mesa County Colorado Clerk and Recorder's office.

**Section 4. Conflict Between Documents.** In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control.

IN WITNESS WHERE, the undersigned have hereunto set their hand this 30<sup>th</sup> day of August, 2013.

Maxwell Sneddon  
MAXWELL SNEDDON

Carole M. Sneddon  
CAROLE M. SNEDDON

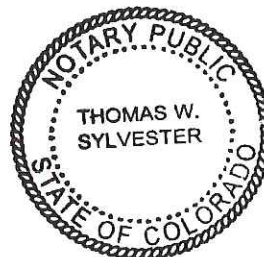
STATE OF COLORADO

COUNTY OF MESA

This instrument was acknowledged before me this 30<sup>th</sup> day of August, 2013 by Maxwell Sneddon and Carole M. Sneddon

Thomas W. Sylvester  
Notary Public

My Commission Expires: 7/16/14





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12 PAGE DOCUMENT

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, to become effective upon the recordation date hereof, is made by, **SNEDDON CONSTRUCTION INC., MAX F. SNEDDON, PRESIDENT**, hereinafter referred to as "**Declarant**".

### RECITALS:

WHEREAS, the undersigned, is the owner of certain property in the City of Grand Junction, County of Mesa, State of Colorado, which is more particularly described as follows; all lots within the subdivision named **Walnut Estates Subdivision, Filing 1**, a Planned Residential Community with a maximum of 23 single family residential lots and one out lot, "B", which consists of approximately 14.63 acres for the future filing(s) of **Walnut Estates Subdivision**.

NOW, THEREFORE, the undersigned hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof in accordance with and pursuant to the Colorado Common Interest Ownership Act, 38-33.3-101 et. seq. C.R.S., each and all of which is and or for the benefit of said Property and each owner thereof.

Declarant has deemed it desirable for the preservation of the values and amenities in said Community, to create an agency with the power of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

Declarant will convey the Property subject to the protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth.

### ARTICLE I

#### Definitions

Section 1. "Association" shall mean and refer to, **Walnut Estates Homeowners Association**, its 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 lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" or "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions.

Section 4. "Irrigation System" shall mean the easements and improvements installed therein to permit delivery of irrigation water to a Lot. The said irrigation water is appurtenant to the land.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, excepting any areas dedicated as common areas/tracts or areas owned or dedicated to the **Walnut Estates Homeowners Association**.

Section 6. "Declarant" shall mean and refer to **SNEDDON CONSTRUCTION, INC., MAX F. SNEDDON, PRESIDENT**, its successors and assigns if such successor or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

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Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the Mesa County Clerk.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9. "Architectural Control Committee" shall mean the committee appointed by the Board of Directors of Walnut Estates Homeowners Association, for the control of architectural style and construction within the Property.

Section 10. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, duly elected pursuant to the By-Laws of the Association or appointed by Declarant, or Assigns, as therein provided.

Section 11. "Association Expenses" shall mean the Owner's pro rata share of the expenses including, but not limited to, repairs, irrigation system(s), management costs, reserves, capital improvements, assessments and all other charges which the Association may levy upon the Owners in accordance with this Declaration.

Section 12. "By-Laws" shall mean the By-Laws adopted by the Association as amended from time to time.

Section 13. "Subdivision" shall refer to the Property within Walnut Estates Subdivision, Filing 1.

Section 14. "Common Area" means all the real property and improvements thereon, if any, in which the Association owns an interest for the common use and enjoyment of all the Owners on a non-exclusive basis. Such interest may include, without limitation, estates in fee, for terms of years or easements.

Section 15. "Common Expenses" means all expenses expressly declared to be common expenses by this Declaration, any supplemental declaration or by the Bylaws of the Association; all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the common area; insurance premiums for the insurance carried by the Board or insuring Common Areas and all expenses lawfully determined to be common expenses by the Board of the Association.

Section 16. "Easements" shall mean as those as described with the recorded plat for Walnut Estates Subdivision, Filing 1.

## ARTICLE II

### SCOPE OF DECLARATION AND RIGHTS RESERVED BY DECLARANT

Section 1. Property Subject to Declaration. Declarant, as the owner of fee simple title to the Properties, expressly intends to, and, by recording this Declaration, does hereby subject the Properties to the provisions of this Declaration.

Section 2. Conveyances Subject to Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant to and running with the land, and shall at all times inure to the benefit of and binding on any person leaving at any time any interest or estate in the Properties, and their respective heirs, successors, representatives or assigns. This recording of this Declaration shall be sufficient to create and reserve on the Property all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared herein. Each Owner, by acceptance of a deed or other conveyance vesting in him an interest in a Lot or Lots, consents to notices from the Association to be sent by regular mail to the person(s) shown as the Owner of such Lot(s), at the last address shown on the books and records of the Association.

Section 3. Future Development Rights. The Declarant is the owner of certain property in the City of Junction, County of Mesa, State of Colorado, which is more particularly described as follows: "all lots within the Subdivision named Walnut Estates Subdivision, Filing 1, a planned residential community with a maximum of 23 single family residential lots and "Outlot B", which consists of approximately 14.63 acres for the future filing(s) of Walnut



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**Estates Subdivision.** Future filing(s) may contain up to 62 single family residential lots for a total number of lots within **Walnut Estates Subdivision** of 85 single family residential lots, as per the Preliminary Plan approved by the City of Grand Junction.

### ARTICLE III.

#### THE ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

**Section 1. Purposes and Powers.** The Association shall be a corporation organized pursuant to the Colorado Nonprofit Corporation Act, section 7-20-101, et. seq., C.R.S., to be and constitute an entity for the exercise of the powers for the purposes set forth in this Declaration, including the appointment and removal of the Architectural Control Committee, the management and delivery of water, the repair and maintenance of irrigation ditches, common spaces, the levy and collection of assessments, the enforcement of the covenants, conditions and restrictions set forth in this Declaration and such rules and regulations as may be adopted by the Board, and to otherwise exercise such other powers as are set forth in this Declaration, or reasonably necessary to fulfill its objectives and purposes.

**Section 2. Membership.** Every owner of a Lot shall be a member of the Association by acceptance of a deed. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

**Section 3. Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A member shall be all Owners with the exception of Declarant, or Assigns, and shall be entitled to one 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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B members shall be the Declarant, or Assigns, and shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on 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 on December 1, 2010.
- B. Upon conversion of Class B membership to Class A membership, a Board of Directors shall be elected by a majority vote of Class A members. Said Board of Directors shall serve as the officers of **Walnut Estates Homeowners Association**, as well, and shall consist of three (3) members as President, Vice President and Secretary Treasurer. Board members shall each serve a one (1) year term. The Board of Directors shall, additionally, act and have the power as designated to the Architectural Control Committee.
- C. The right of the Association to suspend the voting rights and right of the use of the Irrigation System by any Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations, if any.
- D. The right of the Association to dedicate or transfer all or any part of the Irrigation System to any public agency, authority, or utility for such purposes and subject to such conditions and maybe agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to such dedication or transfer has been recorded.
- E. Irrigation water shall be delivered to each lot within an easement for utility, irrigation and drainage. Each individual lot owner shall be responsible for the maintenance and perpetual care of such irrigation water to **Walnut Estates Subdivision, Filing 1**, or any lots developed in any and all future filings for **Walnut Estates Subdivision**, shall be the responsibility of the **Walnut Estates Homeowners Association**.

**Section 4. Indemnification of Officers and Directors.** Neither the Association, any member of the Board, any officer of the Association nor any agent or employee of the Association, shall be liable to any other or other person or entity for any action or any failure to act with respect to any matter, if the action taken or failure to act was in good faith and



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without willful intentional misconduct. The Association shall indemnify and hold harmless any member of the Board, any officer of the Association or any agent or employee of the Association from any and all reasonable costs, damages, charges, liabilities, attorneys' fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such person or of the Association, the Board or any committee of the Association, provided that such person has acted in good faith and without willful or intentional misconduct.

Section 5. Limitation Upon Liability of Association. The Association shall not be liable for injury or damage caused by any latent condition of the Properties or by the conduct of other Owners or persons or by casualties for which insurance pursuant to these Declarations is not required, or for which insurance is not provided by the Association.

## ARTICLE IV

### Insurance

Section 1. Association Insurance. The Association shall be empowered to obtain and maintain the following insurance as far as such insurance coverage is obtainable:

- A. Insurance coverage upon all property owned or leased by the Association.
- B. Insurance coverage against loss or damage by irrigation water.
- C. Comprehensive liability insurance insuring the Association, Board of Directors, Managers and agents in connection with their duties.
- D. Such other insurance as the Board may deem desirable for the benefit of the Owners or the Association.

## ARTICLE V

### Covenant for Maintenance/ Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The undersigned, for each Lot owned within the Properties and each Lot hereafter made subject thereto, hereby covenant, 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: (1) The annual and special assessments, together with interest, cost, 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, cost, and reasonable attorney 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 assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the association shall be used exclusively for defraying the costs of irrigation water, maintenance of the irrigation ditches, facilities and improvements, common area maintenance and repair, if any, maintenance of fencing and landscaping. The Assessments shall include Walnut Estates Subdivision, Filing 1 and any subsequent filings for Walnut Estates Subdivision.

Section 3. Regular Assessments. At least 30 days (30) prior to the commencement of each fiscal year, the Board shall estimate the cost and expenses to be incurred by the Association during such fiscal year.

The sum or net estimate so determined shall be assessed to the Owners as an operation and maintenance assessment by dividing the total estimate by the total number of Lots within the Subdivision. Assessments shall be paid in a single annual installment due on or before thirty (30) days following notice of assessment given to the Owner of each Lot by regular mail according to the address of such Owner shown on the records of the Association. Assessments not paid when due shall be delinquent, and shall accrue interest upon the delinquent amount at a rate of interest to be set by the Board.

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**Section 4. Special Assessments.** If at any time during the fiscal year the regular assessment proves inadequate for any reason, including non-payment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy. The special assessment shall be assessed to the Owners by dividing the total estimate by the total number of Lots in the Subdivision and assessing the resulting amount to the owner of each lot, such assessment to be paid in installments or a lump sum as the Board shall determine.

**Section 5. Capital Improvements.** In addition to the regular and special assessments, the Association may levy, in any assessment year, a special assessment for the purpose of defraying in whole or part the cost of any capital improvement to the irrigation ditches, irrigation facilities or improvements, provided that such assessment shall have the consent of two thirds (2/3) of the votes of each class of Members of the Association subject to such assessments.

**Section 6. Enforcement.** In the event any assessment is not paid when due, the Association may enforce payment of such obligation by any or all of the following remedies:

- A. For any assessment payable in installments, the Association may elect to accelerate and declare immediately due and payable the remaining balance of such assessment.
- B. The Association may bring a suit at law to collect the delinquent assessments, including any accelerated assessment. Any judgement rendered in such action shall include a sum for costs of suit, including reasonable attorney's fees.
- C. All delinquent assessments shall constitute a lien on the delinquent Owner's Lot from the date of delinquency, which lien shall remain a lien on the Lot until paid. At any time following delinquency in the payment of any assessment, the Board may prepare and record in the Mesa County Clerk and Recorder's office a certificate claiming and giving public notice of such lien, which certificate shall state the name and address of the delinquent owner, the legal description of the Lot subject to the lien, the amount claimed due, and the claim of lien is made pursuant to this Declaration. The lien created hereunder may be foreclosed in the manner provided by Colorado law foreclosure of judgement liens upon real property. Nothing contained herein, however, shall be or constitute a limitation upon any other foreclosure remedy, whether pursuant to statute or in equity, available to the Association.
- D. The lien for assessments provided in this section shall be subordinate to the lien of any first Mortgage Deed of Trust or perfected tax lien. The lien of the assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado. The lien for assessments shall remain in full force and effect notwithstanding the sale or transfer of any Lot nor shall any such transfer extinguish the lien for such assessment for payments which become due prior to such sale or transfer. No sale, transfer or foreclosure proceeding brought by the holder of any first Deed of Trust or mortgage shall extinguish the personal obligation of the Owner for delinquent and unpaid assessments.
- E. The Association may refuse to deliver water to any Owner's Lot whose assessment is delinquent.
- F. The Association may suspend the voting rights of any Owner, for the period of time during which any assessment against the Owner's Lot remains unpaid.
- G. The Association may prevent the use of any open space by any owner whose assessment is unpaid.

## ARTICLE VI

### Association Water

**Section 1. Management of Association Water.** The Association shall have the exclusive authority to allocate, deliver, manage, control and bill the Lot Owners for the use of Association water. Further, the Association shall have the exclusive right and authority to operate, repair and maintain the irrigation ditches and other irrigation facilities or improvements for the sole use and benefit of Lot Owners in the Subdivision. The Association's authority hereunder shall be sole and absolute, subject to the reasonable requirements of the water provider and shall include the promulgating of rules, regulations, policies and procedures, not inconsistent with this Declaration, concerning the



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application and use of irrigation water, including conservation measures, measures to reduce peak demand and measures to allocate water among users.

**Section 2. Easements for Ingress and Egress.** All irrigation ditches and other irrigation facilities and improvements, if any, may be operated and maintained by the Association. Each Owner grants the Association ingress and egress in, under and upon each Owner's Lot for the purpose of operating, repairing or maintaining irrigation ditches, facilities or improvements. No Owner shall construct, erect or maintain any improvement or structure, which shall interfere with the Association's ownership, operation and maintenance of irrigation ditches and/or facilities or other improvements. The Association shall have the authority to remove or alter any structure or improvement which shall interfere with the ownership, operation and maintenance of the irrigation ditches, facilities or improvements, the costs of such removal to be borne by the owner of the interfering improvement or structure.

## ARTICLE VII

### **Architectural Control, Building and Use Restrictions**

Walnut Estates Subdivision, Filing 1 shall be subject to the following architectural control, building and use restrictions:

**Section 1.** Use of lots is restricted to high quality, single family detached residences with attached garages for not more than 3 cars, subject to the terms and provisions hereof relating to Architectural Control. All residences shall have exterior materials of vinyl siding, brick, stone, or stucco. Roofs shall be pitched and shingled using an asphalt composition shingle of architectural (dimensional) design. The designs of all foundations shall be engineered. All homes shall be ranch style. Prior to the start of construction of any home to be built in Walnut Estates Subdivision, Filing 1, Owner or Owner's Builder, shall be required to submit to the Architectural Control Committee the or the Declarant, or Declarant's Assigns, the exterior elevation(s), (front, side and rear) of the subject home to be built, the exterior color scheme for siding, roof and brick, stone or stucco for approval. The Declarant, or Assigns, shall serve as the Architectural Control Committee until such a time as the Class B Stock has been deleted and becomes only Class A, at which time the Architectural Control Committee shall become as duly appointed by the elected Board of Directors.

Approval or denial of plans for any new home to be constructed within Walnut Estates Subdivision, Filing 1, shall be given in writing by the Architectural Control Committee within (five) 5 business days after receipt by the Architectural Control Committee or Declarant, or Assigns.

No temporary building or structure of any type or kind shall be used at any time for a residence, either temporary or permanent.

The total finished living area of any residence with one level shall be not less than 1600 square feet. The square footage shall be determined by outside measurements for the living area totally above ground and that garages porches and patios shall be excluded.

**Section 2.** No Store, detached office or place of retail business of any kind and no hospital, sanitarium, or other place of care or treatment of the sick or disabled, physically, or mentally, nor any theater, or other place of entertainment, nor any church, club, fraternal association, or other association normally or regularly involving the gathering of people in groups larger than the family will be erected or permitted upon the sites, and no business of any kind or character whatever shall be conducted thereon or in or from any building thereon, except for home occupations or businesses as maybe allowed by the City of Grand Junction zoning regulations.

**Section 3.** Maintenance, upkeep and repairs of any residence, or other improvements, on each lot shall be the sole responsibility of the individual Owner thereof, except for maintenance and upkeep of grass areas and/or landscaping to the extent such responsibility is expressly assumed by the Association. The exterior of residences shall be maintained in good condition and repair.

All landscaping, steps and porches shall be aesthetically pleasing and reasonably consistent with the landscaping of the surrounding Lot Owners. Landscaping shall be of a type complimentary to the residential character of the Subdivision and be acceptable to the Architectural Control Committee.



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All landscaping of each Lot which will be visible from the street or any other Lot shall be completed by or on behalf of the Owner of such Lot, in accordance with the plans approved by the Architectural Control Committee, within one hundred eighty (180) days from and after the date in which a dwelling on such Lot is occupied or permitted occupancy, whichever is earlier; provided, for good cause, the Architectural Control Committee may allow a Lot Owner a one-time extension of time for an additional ninety (90) days in which to comply with this subparagraph.

**Section 4.** All utilities, fixtures and equipment installed within the perimeter of any Lot, commencing at a point where the utility lines, pipes, wires, conduits, or systems enter the perimeter lot line, shall be maintained and kept in repair by the Lot Owner thereof, except for the maintenance and repair of common irrigation lines and/or equipment. A Lot Owner shall do not act or any work that will impair any easement nor any act nor allow any condition to exist which will adversely affect the other Lots and improvements or their Owners.

**Section 5.** Refuse piles or other unsightly objects or materials shall not be allowed to be placed on or to remain on any Lot. All receptacles or other equipment for storage or disposal of refuse materials shall be kept in a clean and sanitary condition.

**Section 6.** All residences shall be constructed so as to provide sufficient off-street parking to accommodate not less than four automobiles, inclusive of garage and driveway. The driveways shall be composed of asphalt, concrete or other dust free surface. Dirt driveways are expressly prohibited.

No unlicensed vehicles or trucks shall be parked on any Lot except while engaged in transport. For the purposes of this paragraph, a  $\frac{3}{4}$  ton or smaller vehicle, commonly known as a pickup truck shall be allowable. No recreational vehicles including, but not limited to campers, boats, snowmobiles, jet skis, 4-wheelers and motor homes, shall be parked on or about any Lot or street in **Walnut Estates Subdivision, Filing 1**, unless parked inside a garage or out of plain sight from any street or streets adjoining the Lot behind a privacy fence or at the back of the Lot. No major vehicle repairs shall be conducted upon any Lot, Common Area or street in **Walnut Estates Subdivision, Filing 1**, except, within enclosed garages. "Major vehicles repairs" shall include, without limitation, those which render the vehicle inoperable for more than a 24 hour period. Trucks or other commercial vehicles necessary within the property for construction, or used during the period of construction, shall be permitted.

Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on or within the property. An abandoned or inoperable vehicle shall be defined as any automobile, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of two (2) weeks or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Owners while on vacation or during a period of illness, shall not constitute abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Owner thereof (if such owner can reasonably be ascertained), or shall be conspicuously placed upon the vehicle (if the other thereof cannot be reasonably ascertained), and if the abandoned or inoperable vehicle is not moved within 72 hours, thereafter, the Association shall have the right to remove the vehicle at the sole expense of the Owner thereof.

All recreational vehicles, including motorhomes, trailers, campers, boats, snowmobiles, motorcycles, or other recreational vehicles of any kind that are stored on any Lot shall be kept behind the principal building front setback line, provided such stored recreational vehicles do not bar access to adjoining Owners for roof eaves, water drainage and building maintenance. The Architectural Control committee shall have the authority to require any Owner to install screening approved by the Committee to shield the stored vehicles from public view or the view of the other owners.

The foregoing restrictions shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motor driven cycle, together with those activities normally incident and necessary to general maintenance, washing and polishing.

**Section 7.** No Lot or easement shall be used or maintained as a dumping ground for rubbish. All trash, garbage or other waste shall be disposed of in a sanitary manner.

**Section 8.** City of Grand Junction setback requirements shall be enforced.

**Section 9.** No elevated tanks of any kind (gas, oil, water, etc.) shall be constructed on any Lot.



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Section 10. Clotheslines, equipment, garbage cans, service yards, dog runs, wood piles, compost piles, drying yards or storage areas shall be adequately screened by planting, fencing or construction. No structure, tower or antenna shall be erected, altered, placed or permitted on the site which exceeds the height of the peak of the roof of the residence constructed on the Lot. Cable placement and color of satellite dishes shall be subject to prior approval of the Architectural Committee, to the extent permissible under applicable federal, state and local laws, rules and regulations. To the extent feasible, satellite dishes and antennas shall be placed in locations which are not visible from the street or streets bordering any Lot on which placement occurs.

Section 11. No obnoxious, offensive or other activity, which would constitute a public or private nuisance or annoyance to the neighborhood, will be permitted.

Section 12. No dangerous or wild animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that a reasonable number of dogs, cats or other household pets may be kept if they are not kept, bred or maintained for commercial purposes. All pets shall be under the control of their owner, whether by containment on the Owner's property on a leash. No pet shall be allowed to run at large, endanger, or harass people's property, or other animals, or constitute a nuisance or annoyance to other Lot Owners or occupants. The Board of Directors of the Association, when requested by any Owner, shall have the authority to determine whether or not the number of pets is unreasonable, or whether any animal or pet is a nuisance to any other Lot Owner.

Section 13. No firearms, unlawful fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged.

Section 14. No advertising signs, billboards or unsightly objects shall be maintained or erected. "For Sale" signs may be posted no larger than those allowed by the then existing City of Grand Junction zoning restrictions. Nothing contained in this paragraph shall be construed to prohibit the temporary placement of political signs for reasonable periods before and after the elections or otherwise permitted by applicable law. Signs used by a builder to advertise the property during the construction and sales period shall be allowable.

Section 15. No fencing shall be constructed with any materials or in any manner that may obstruct or impede the natural flow of surface or drainage water across any Lot or Common Area within **Walnut Estates Subdivision, Filing 1**. No chain link or masonry fencing shall be allowed in **Walnut Estates Subdivision, Filing 1**. Wooden privacy or vinyl fencing shall be allowed. Fencing shall be a maximum height of six (6) feet and shall otherwise be constructed in accordance with City of Grand Junction zoning requirements. Fencing shall be approved by the Architectural Control Committee, prior to construction.

Section 16. Detached storage buildings and or accessory buildings shall be erected within the requirements of the City of Grand Junction code for "accessory buildings". All detached storage buildings and or accessory building shall be required to be constructed, on the exterior, with siding and shingles to match the exterior color scheme of the residence on the Lot. No detached storage building and/or accessory building shall exceed a maximum height of twelve (12) feet. All "accessory buildings" shall be approved by the Architectural Control Committee, prior to construction.

Section 17. In the event any Owner maintains and keeps his or her yard in a condition which violates any of the use restrictions hereinabove set forth, the Board of Directors of the Association shall have the power to contract with an independent third party to remedy the use violation. Said right to remedy shall arise after seven (7) days, written, notice of the nature of the violation is given to the Owner of the Lot, and the Owner has failed to remedy the violation said seven (7) day period. The cost of correcting the violation shall be paid as a "Special Assessment" and is enforceable by the Association against the Owner of the Lot in violation.

Section 18. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures shall be installed. The maintenance of utilities that may change the direction of flow of water through drainage channels in the easements is prohibited. 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 a public authority or utility company is responsible.

Section 19. No structure of a temporary character such as trailer, basement, tent, shack, garage, barn, or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently.

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Section 20. The moving of second hand structures onto any Lot in the subdivision is prohibited.

Section 21. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, no oil wells, tanks, tunnels, mineral excavations or shafts, be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 22. No individual water-supply system shall be permitted on any Lot. No outdoor toilets, nor cesspools or septic tanks shall be permitted within the subdivision, except outdoor toilets, as required by Mesa County, during development and or construction.

Section 23. No fence, wall, hedge or shrub planting, which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten feet from the intersection of the street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 24. The Association shall be responsible for a weed control program for the control of both unsightly weed problems throughout the subdivision and the control and removal of weeds determined as "noxious weeds", as designated by the Mesa County Pest and Weed Inspections and the State of Colorado Department of Agriculture. Said control program shall make provisions for both the control and/or the removal of weeds.

Section 25. The Association shall be responsible for the maintenance of any/all common areas and, additionally, the maintenance of "Tract A".

Section 26. Present and subsequent owners of property within this subdivision are subject to and bound by present and future Grand Valley Rural Power tariffs applicable to street lighting filed with the Public Utilities Commission of the State of Colorado.

Section 27. Miscellaneous.

- A. No Lot shall be used in any manner whatsoever to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substances or other mineral of any kinds.
- B. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee.

Section 28. Declarants' Exemption.

Nothing contained in this Declaration shall be construed to prevent construction, installation or maintenance by Declarant, or their duly authorized agents or contractors, of improvements, structures or signs necessary or convenient to the development, sale, operation or other disposition of the Lots or Improvements situated within the Walnut Estates Subdivision, Filing 1, in accordance with the Grand Junction Zoning and Development Code.

## ARTICLE VIII

### Architectural Control Committee

Section 1. Structures. No structure, fence or wall, exterior lighting or other improvement(s) shall be erected, altered or maintained within the Subdivision until the plans and specifications showing the nature of such improvements shall have been submitted to and approved by the authority having jurisdiction and the Architectural Control Committee as established in the By-Laws of the Association as to the placement, quality, materials, harmony of exterior design with existing structures, the topography and finish grade elevation. To seek approval, the plans and specification(s) must be submitted in writing or drawn for the Committee.



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Section 2. Other Considerations. Careful attention shall be given to aesthetic consideration of any design submitted in order to enhance the entire Subdivision. The Architectural Control Committee will consider the following:

- A. The overall nature and character of the site and appearance of the structure, including orientation with regard to sun, wind, view, slopes and privacy and the consistent quality use of exterior materials.
- B. The minimal grading of building sites to preserve natural terrain and foliage.
- C. The use of earthen colors and discouragement or prohibition of bright colors.
- D. The installation of patio structures designed such that they will blend and compliment the appurtenant structure.
- E. The use of landscaping and plantings complimentary to the residential character of the neighborhood and sensitive to environmental considerations, including but not necessarily limited to water conservation.

Section 3. Material to be submitted. Plans and specifications shall be submitted to the Committee for review and final approval before construction may be started. Plans and specifications shall contain a plot plan showing lot layout, including set back, final finish and natural grade elevation, floor plans showing overall dimensions, roof plans showing pitch, roof materials and color, exterior elevations showing doors, windows and exterior materials and color, and a perspective sketch if requested, and any other details necessary to explain design features or components as well as written approval of any and all governmental authorities having jurisdiction over the activity to be undertaken.

Section 4. Approval Period. The Architectural Control Committee shall approve or disapprove, in writing, all plans and requests with five (5) business days after submission of documentation as described in Section 3. In the event the Committee fails to take any action within five (5) days after requests have been submitted, approval will not be required, and the provisions of this Article will be deemed to have been met.

- A. A majority vote of the Committee is required for approval or disapproval of proposed improvements.
- B. The Committee shall maintain written records of all applications submitted to it and all actions it may have taken.

Section 5. Liability. The Committee shall not be liable in damage to any person submitting requests for approval or To any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request.

Section 6. Enforcement. The Committee shall notify the Board of any violations under the jurisdiction of the Association. The Board shall proceed with its enforcement authority pursuant to this Article. Upon violation of any of the conditions contained in this Declaration by any Owner, or by any renter, invitee, guest or family member of any Owner, the Board shall have the following power: The Board shall notify the owner in writing of the specific violation and shall set a time in the notice when the Owner may appear before the Board to review the facts of the violation. Within twenty (20) days after such hearing, the Board shall enter its decision and shall notify the Owner, in writing. Included in the decision will be a statement by the Board on what action must be taken by the Owner to correct the violation and a time period for completion of the remedial action. If the Owner does not complete the remedial action as set forth in the decision, then the Board may commence legal proceedings in the Mesa County District Court seeking damage and/or specific performance of the covenants in this Declaration. The prevailing party may recover all costs and attorney fees incurred in any such proceeding. The City of Grand Junction, by and through its officers, agents or employees may, but shall have no duty, obligation or requirement to enforce against each and every owner, including the Declarant, or Assigns, including but not necessarily limited to the foregoing provision. In the event of enforcement or commencement of an action by the City, pursuant to its rights to enforce under this provision or in accordance with its general civil or criminal jurisdiction, the Owner, Declarant, or Assigns, (if an Owner as defined herein) or the Association shall pay the cost, fees and expenses of the action. Such costs, fees and expenses to include, but not limited to, the City's reasonable attorney's fees or reasonable value of the time expended by the City Attorney.

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## ARTICLE IX

### General Provisions

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or the right to do so thereafter, or a waiver of any other or subsequent breach of any covenant, condition or restriction herein contained.

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

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of fifteen (15) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This declaration may be amended by Declarant or Assigns, at any time prior to the recording of the first deed from Declarant, or Assigns, to any Owner. After the recording of the first deed from Declarant, or Assigns, to an Owner, this Declaration may only be amended by a written instrument signed by not less than Owners of fifteen (15) Lots. If an Owner owns more than one Lot, then the Owner may cast one vote for each Lot owned. For purposes of amending these covenants, the Declarant, or Assigns, shall have such voting rights as are set forth in Article III. No amendment shall serve to adversely affect the terms of priority of any existing, validly recorded Deed of Trust or Mortgage. Such amendment shall not be effective until recorded in the Mesa County Colorado Clerk and Recorder's office.


**Section 4. Conflict Between Documents.** In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control.

**City of Grand Junction.** In order to prevent the diminution in the enjoyment, use or property value of the development, thereby impairing the health, safety and welfare of the Owners therein, the City of Grand Junction by and through its duly authorized officers and employees is hereby granted the right to take such action as the City may deem necessary to enforce the covenants, conditions, or restrictions contained in this Declaration with the respect to use of the Lots, protection of the easements, maintenance of tract A, landscaping, fencing, and for the purpose of ensuring the Association's and the Lot Owner's compliance with the zoning and other applicable ordinances of the City of Grand Junction. The Association shall not be dissolved without the consent of the City of Grand Junction. Upon request the Association shall convey to the City of Grand Junctions such easements and/or rights-of-way over or through the Common Areas required by the City for public purposes. Such conveyances shall be without compensation to the Association. The provisions set forth in this paragraph shall constitute a permanent covenant which shall not be modified, amended, or revoked without the written consent of the City of Grand Junction through a majority of City Council.



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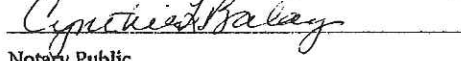
IN WITNESS WHERE, the undersigned have hereunto set their hand this 14 day of November 2008.

  
SNEDDON CONSTRUCTION, INC.  
MAX F. SNEDDON, PRESIDENT

STATE OF COLORADO

COUNTY OF MESA

This instrument was acknowledged before me this 14 day of Nov. 2008

  
Notary Public

My Commission Expires: January 11, 2012

