

WHEREAS, the maker of the Indenture, F. & F. Development Corp., a corporation of the County of St. Louis, State of Missouri is the owner of all the lots contained in Barrett Brae Subdivision in Sections 9 and 10, Township 44 North, Range 5 East in Kirkwood, Missouri, a real estate subdivision lying and being situated in the County of St. Louis in the State of Missouri, as per plat thereof prepared by Rapp & Rapp, Surveyors and recorded at the office of the Recorder of Deeds in and for said County of St. Louis, State of Missouri, which said plat and the lots shown thereon shall become and be, and the same are hereby made a part of this instrument, with the same force and effect as if said plat had been filed simultaneously herewith: and

WHEREAS, said F. & F. Development Corp. desires to impose on said lots certain easements, conditions, restrictions, reservations and limitations;

NOW, THEREFORE, in consideration of the mutual advantages and other valuable considerations to accrue to the said F. & F. Development Corp., as well as to the future owners of said lots, it is hereby declared and provided that said lots shall be subject to the easements, conditions, restrictions, reservations and limitations as hereinafter set forth, to-wit:

(1) **BUILDING LINES:** Building lines are hereby established as shown on said plat. No building or structure or any part thereof may be erected or maintained between any building line as shown on said plat and the adjacent street except that chimneys, roof cornices, gutters, downspouts, and window bays may extend not more than three (3) feet into said space, and, except further, that unenclosed porches, verandas, platforms, terraces, and steps (but not including enclosed porches or sunrooms) may extend not more than ten (10) per cent of the average width of the lot to the line of any adjacent lot.

2) **EASEMENTS:** All easements as shown on said plat shall be and the same are hereby set aside and reserved for wires, poles, water and gas mains, sewers and other subdivision utilities, essentials and facilities. No building or structure or any part thereof, or walk or retaining wall, or other interfering obstruction may be erected, constructed, or maintained, within on or over any easement, as shown on said plat, or which may hereafter be established. Such establishment or the elimination of this or other easements, or any part or parts thereof, shall become effective upon the execution by the makers of this covenant, or other covenants which shall be duly acknowledged and filed for record in the St. Louis County Recorder's Office. A driveway may be constructed across any easement in the subdivision but such driveway shall be covered only with rock, macadam or black top. A concrete driveway shall not be placed across any easement.

3) **FENCES:** No fence may be placed or extended between any building line, as shown on said plat, and the adjacent street, except of hedge which shall not have had the prior express approval in writing from the Board of Trustees, and which shall not exceed three (3) feet in height nor be nearer than two (2) feet to the line of any sidewalk adjacent to any street. Fences of wire (which may be supported by wood) wood of lattice fifty per cent (50%) open, or other open design, none of which shall exceed four (4) feet in height may be placed or extended between any building line as shown on said plat and the rear lot line; or such fences as may be approved by the Board of Trustees of Barrett Brae Subdivision. It is provided further that the placing or extending of any such fence of wood, wire or other semi-permanent construction within, on, or over any easement shall not prevent the use of the easement for any utility. The placing of any fence within, on, or over any easement as shown on said plat, or which may hereafter be established, shall be at the sole risk of the owner of such fence, and subject at all times to removal and damage for which the owner thereof shall not be entitled to recover any indemnity in case of the removal or damage of any such fence in the making of installations or repairs or incidental to any use of any easement for any purpose for which it was established.

4) **SEWERS:** No storm water drainage shall be put into the sanitary sewer system under any condition.

5) **NUISANCES:** No person may dwell in, or occupy on any of said lots, any garage, outbuilding or tent or any other structure not designed as permanent and stationary, nor may any person use any of said lots or any building or structure at any time situated thereon for any purpose prohibited by law or ordinance, or for the commission or maintenance of any nuisance. All future owners of said lots shall be obligated to care for properly the appearance of and keep free from unsightly accumulation, weeds, debris, and other waste matter, not only on that parcel of property owned by them but also that property which is covered by the easement or easements, lying within the lots owned by them respectively, and any failure to comply with this provision shall constitute a nuisance within the meaning of this covenant.

6) No animals or birds of any description, except a reasonable number of household pets may be maintained or kept on any one lot or improvement thereon. Said animal or animals shall have received all shots, inoculations, etc. as required by the St. Louis County Health Department and shall be restrained and kept on their owner's lot by some adequate means at all times. Any property owner or Trustee shall have the right and authority to obtain an injunction or institute suit to see that this clause shall be effective if such procedure should become necessary. It shall be the duty of the Board of Trustees to establish what is a reasonable number of pets. Any lot owner shall be entitled to recover damages for inconvenience caused by a pet.

7) BOARD OF TRUSTEES, BARRETT BRAE SUBDIVISION: The makers of this covenant hereby name, constitute and appoint:

John J. Fischer, Box 555, Route 2, Robertson, Missouri
Lawrence H. Frichtel, Box 554-B, Route 2, Robertson, Missouri
Edward F. Fischer, 9528 Old Bonhomme Road, Olivette, Missouri

as members of the Board of Trustees who shall have the following rights and authority to-wit:

a) To maintain any future lights, gates and shrubbery at subdivision approaches and make, levy and collect such assessments as may be necessary to pay for these services without profit.

b) To consider, approve or reject any and all plans and specifications for any and all buildings and structures proposed for erection on said lots and improvements or additions after original construction, it being hereby provided that no building or structure may be erected on any of said lots unless there shall first be had the written approval, after a majority vote in favor, by the Board of Trustees to the plans and specifications therefore. All plans, specifications and grades shall, after approval thereof by the Board of Trustees as aforesaid, be strictly followed and adhered to in the erection of buildings and structures on said lots and no building or structure may be changed or altered so as to violate any provision of this covenant.

c) To establish and fix minimum costs based upon cost levels consistent with cost levels prevailing on the date these covenants are recorded which shall apply to buildings and structures which may be erected on said lots as the Trustees deem necessary and desirable in order to maintain an appropriate high character of the buildings and structures which may be erected on said lots. Minimum costs so established and effected shall at all times be subject to revision or abandonment at the discretion of the Trustees in order to provide that the buildings and structures which may be erected on said lots shall be fairly uniform in character irrespective of cost or other circumstances.

d) To require a reasonable deposit in connection with the proposed erection of any building or structure on any of said lots in order to provide that upon completion of the project, all debris shall be removed from the site and from adjacent lots and any and all damages to subdivision improvements shall be required

e) To exercise such control over the easements shown on the record plat except those easements which are now dedicated to public bodies and agencies as it necessary to maintain, supervise and insure the proper use of said easements by the necessary public utilities, including the right (to themselves and to others to whom they may grant permission) to construct, operate and maintain on, under and over said easements and streets, sewers, pipes, wires and other facilities and public utilities for service to the lots shown on said plat.

f) The Board of Trustees shall not be liable in any respect for the performance omission to perform any act or provision hereunder or failure in such performance in any act or provision in this covenant.

g) The members of the Board of Trustees, Barrett Brae Subdivision, shall not be entitled to any compensation for services performed pursuant to this covenant.

h) Abandon an easement or portion thereof by executing and recording a proper and appropriate instrument in the Office of the Recorder of Deeds of St. Louis County, Missouri, but such easement or portion thereof may be abandoned only when all the trustees unanimously agree that there is no further use for same.

i) To clean up rubbish and debris and remove grass and weeds from, and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon vacant or neglected lots or property, and the owners thereof may be charged with the reasonable expenses so incurred. The trustees or officers, agent or employees shall not be deemed guilty or liable for any manner of trespass for any such injury, abatement, removal or planting.

- j) To prevent in their own names as Trustees of an express trust, any infringement and to compel the performance of any restriction set out in this indenture or established by law. This provision is intended to be cumulative and not to restrict the right of any lot owner to proceed in his own behalf, but the power and authority herein granted to the Trustees is intended to be discretionary and not mandatory.
- k) The Trustees and their successors are hereby authorized, empowered and granted the right to make assessments upon and against the said several lots and said parcels of land in the subdivision for the purpose and at the rates hereinafter provided:
- a) To make and collect annual uniform assessments of not to exceed twenty-five dollars (\$35.00) per lot in any one year upon and against the several lots of parcels of land in said subdivision for the purpose of carrying out the general duties and powers of the Trustees as herein described and for the further purpose of enabling the Trustees to defend and enforce restrictions adequately to maintain streets, sewers, utilities, parking spaces, gates, lights and trees in the cross walks and to dispose of garbage or rubbish or otherwise properly to protect the health, safety and general welfare of the property owners.
- b) The total annual amount of money so required and to be paid by said owners shall be ascertained and determined from year to year by said Trustees, and the obligation to pay the same shall be apportioned equally among the said respective owners of lots. The amount of money required of each lot shall be payable to the said Trustees upon written notice mailed to each of said lot owners not less than ten (10) days before any payment demanded in said notice is required to be made; and from and after the date of payment the said amount of money required to each of said lot owners shall become and be a charge and lien upon lot and said lien shall continue in full force until the said amount is fully paid, and if said amount is not paid when due and payable as above provided, the said Trustees may institute and prosecute proceedings at law or in equity, or both, against the owners of said lots so making default and to compel such payment.
- c) If at any time the Trustees shall consider it necessary to make any expenditure requiring an assessment additional to the assessment above provided, they shall submit in writing to the owners of lots for approval an outline of the plan for the project contemplated and the estimated amount required for completion of the same and the total assessment required. If such project and the assessment so stated be approved at a meeting of the lot owners duly called and held in the manner provided with reference to the election of Trustees by a majority vote of all lot owners in said subdivision, the Trustees shall notify all owners of said tracts of the additional assessment; the limit of twenty five dollars (\$50.00) per lot per year for general purposes shall not apply to any assessment made under the provisions of this paragraph.
- l) The Trustees may receive, hold, convey, dispose of and administer in trust for any purpose mentioned in this indenture any gift, grant, conveyance or donation of money or real or personal property.
- m) The Trustees, in exercising the rights, powers, and privileges granted to them and in discharging the duties imposed upon them by the provisions of this indenture, may from time to time enter into contracts, purchase insurance, employ agents, servants and labor as they deem necessary, and employ counsel to institute and prosecute such suits as they deem necessary or advisable and defend suits brought against them individually or collectively in their capacity as Trustees.
- n) Nothing herein contained shall be construed to compel the Trustees to make any payment or incur any liability in excess of the amount which shall be in their hands as a result of assessments made against lot owners as herein provided.
- o) All rights, duties, powers, privileges and acts of every nature and description which said Trustees might execute or exercise under the terms of this indenture may be executed or exercised by a majority of said Trustees unless otherwise provided in this indenture.
- p) Said Board of Trustees consisting of the three above named persons or such other person or persons as the maker of this covenant may at any time at will appoint in their place and stead, shall continue to have the aforementioned rights and authority so long as the maker of this covenant shall not have sold and conveyed three-fourths (75%) or more in number of said lots but not to exceed a period of three years; the owner resident of the first home to be occupied in Barrett Brae Subdivision shall become a member of the Board of Trustees to replace the first

above-named Trustee for a term to end at the time of the annual election of the Trustees to be held as described below during January of the third year following the date of his appointment. The term of the second above named trustee shall end upon the date of the annual election of Trustees to be held the first year following the date of the appointment to the first owner resident trustee, at which time the successor to the second above-named trustee shall be elected. Thereafter, the term of the third above named trustee shall expire at the time of the annual election of trustees to be held during the second year following the date of the appointment of the first owner resident trustee, at which time the successor to the third above named trustee shall be elected.

q) Thereafter, the terms of all trustees shall be for a period of three years, and said trustees will be elected by a majority of the votes cast at the annual election of trustees to be held at 3 o'clock P.M. on the third Saturday in January at a place within the said subdivision to be designated by the Board of Trustees, through the posting of a notice of said meeting, at or near the subdivision entrance not less than two weeks before each said election meeting. The owners of each lot in said subdivision shall be entitled to one vote at each annual election of Trustees. In the event that any Trustee either named above or elected as described above shall because of death, incapacity, or for any other reason be unable to complete his term as said trustee, the remaining Trustees shall name a successor Trustee to fill and complete the unexpired term of such Trustee.

8) **BUILDING CODES AND ZONING REGULATIONS:** No building, structure, garage or other outbuilding shall be erected on any of said lots except in conformity with the provisions of the building codes and the zoning regulation which by law or ordinance may at the time apply thereto.

9) **RESIDENCES:** The lots described as Lots One (1) through One Hundred Ten (110) of Barrett Brae Subdivision, as shown on said plats, shall be devoted exclusively to single family residences one story in height only, not to exceed twenty (20) feet in height, each to be designed for, and to be used and occupied by not more than One (1) family; provided further that the Board of Trustees shall be empowered to approve plans and permit the construction of a two story single family residence not to exceed twenty-five (25) feet in height. Each residence shall be situated on a lot area of not less than fifteen thousand (15,000) square feet, but no building or structure or any part thereof, which may be erected or maintained on any lot in this paragraph described, may be designed, used or occupied for any commercial or business purpose, or for any purpose other than that of a private residence for one (1) family or for some recreational facility available to the residents of said subdivision.

10) **SIGNS:** No signs are permitted within the subdivision, except to advertise property within Barrett Brae Subdivision for sale, which shall not be larger than 2 feet by 3 feet.

11) **PROFESSIONAL PRIVILEGES:** No provision of this covenant shall be construed so as to prohibit any duly licensed professional persons from maintaining in his residence on any of said lots, a consultation room for patients or clients, or from displaying upon the exterior wall of such residence a modest and appropriate sign not exceeding 8 by 24 inches in size.

12) **GARAGES AND OUTBUILDINGS:** A garage (whether integral with, contiguous to or detached from the main building) and other appropriate outbuildings may be erected and maintained in conjunction with and subsidiary to the main building which may be erected or maintained on any said lots, but shall not exceed 30 by 25 feet inside dimension, or be larger than an accommodation for three (3) automobiles.

13) **CONTRACTORS' AND SALES RIGHTS:** It is expressly declared and provided that during the period not to exceed two (2) years, unless approved by the Board of Trustees for a longer period, that the subdivision is under construction, said contractors, sales agents or owners may maintain an office, buildings for storage, stores of building materials, advertising signs in excess of 2 feet by 3 feet or any other building or storage of any machinery or equipment necessary for the construction of said subdivision, of any improvements therein in or on any unimproved property, easement or street within the subdivision.

14) **TRUSTEES:** In consideration of these promises and the sum of One Dollar (\$1.00) to said F. & F. Development Corporation to it in hand paid by the Trustees, the receipt of which is hereby acknowledged, and further in consideration of the mutual advantages to accrue to said F. & F. Development Corporation, as well as to the future owners of the said lots, and with the agreement and consent of the Trustees and of three-fourths (3/4ths) of the lot owners in said subdivision, the said F. & F. Development Corporation hereby Grants, bargains and sells, conveys and confirms unto the said Trustees as joint tenants and not as tenants in common and to the successor and

successors of them as Trustees of Barrett Brae Subdivision, the following: Area designated as "Park" on plat of Barrett Brae Subdivision.

Easements in, over, upon and across such portions of said land as may be now or hereinafter designated as streets, roads, driveways and paths, as follows:

The rights, benefits and advantages of having ingress and egress from and to, over, along and across such streets, roads, driveways and paths, and appropriately beautifying and maintaining the same; also of constructing, maintaining, reconstructing and repairing sewer, gas and water pipes and connections therewith on said roads, driveways and paths; also of using the same for highway purposes of every kind; and of laying, constructing, maintaining and operating in said streets, roads, driveways and paths, either above or under ground, suitable pipes, conduits for telegraph and telephone wires and suitable pipes, conduits or other means of conducting steam, electricity, hot water or other useful agencies.

15) **TERM, MODIFICATION, AMENDMENT, CHANGE, ELIMINATION:** It is declared and provided that all of the restrictions and provisions of this covenant shall become effective simultaneously with the recording of this instrument in the St. Louis County Recorder's Office and shall be and remain in force until the first day of September, 1980, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed as herein provided by the then owners of the lots has been recorded agreeing to change said covenants in whole or in part; but any one or more thereof, or any part or parts thereof, may at any time be modified, amended or changed or eliminated, and any one or more of said restrictions (as herein set forth or as modified, amended or changed in accordance herewith) may be extended beyond said date of September 1, 1980, provided, however, that no such modification, amendment, change, elimination or extension may be effected except in the following manner, to-wit:

A notice, calling a meeting of the owners of all of said lots, shall be given advertisement to be inserted in two (2) consecutive issues of some newspaper printed and published in said County of St. Louis. Such notice, which may be given by any owner or owners of any one or more of said lots, shall state the time fixed for such meetings, shall designate some place in said County of St. Louis where such meeting shall be held, and shall state briefly the general nature of the matter or matters then and there to be considered. Each owner present in person at such meeting (or represented thereat by an agent duly authorized and accredited for the purpose) shall be entitled to one vote for each of said lots owned by him, her or it (as the case may be), and all questions coming before such meeting shall be decided by vote or ballot. If the owners of not less than six-tenths (6/10th) in number of all the lots shown on said plat shall at such meeting vote in favor of any modification, amendment, change, elimination or extension of any one or more of the restrictions against any one or more of the lots or any part or parts thereof, then, the same shall become effective simultaneously with the recording, in the Office of the Recorder of Deeds in and for said County of St. Louis, of a written instrument (reciting the action at such meeting and expressing their consent thereto) executed by the owners of not less than six-tenths (6/10ths) in number of all the lots shown on said plat, which instrument shall be acknowledged as may be prescribed by statute for instruments affecting real estate.

It is hereby declared and provided, however, that in no case shall said restrictions or any part thereof, be made more stringent against any one or more of the lots or any part or parts thereof, nor shall any additional restriction or restrictions be imposed against any one or more of said lots or any part or parts thereof, unless, in each such instance, the owner or owners of the lot or lots affected thereby shall join in the execution of the written instrument to be executed, acknowledged and recorded as aforesaid.

16) **BINDS ALL OWNERS AND LOTS:** Each and every grantee, by accepting any conveyance of or interest in any of said lots or any part or parts thereof, thereby binds himself, herself, or itself (as the case may be) and all heirs, assigns, successors and legal representatives of each and every such grantee, to the observance of and the compliance with the restrictions and provisions of this covenant, and if any violation or attempted violation thereof or failure of observance thereof or failure of compliance therewith be not cured or corrected within ten (10) days after notice thereof by the Board of Trustees mailed or delivered to the offending owner or owners or the person or persons in possession, then, in order that such violation or attempted violation or failure of observance or failure of compliance may be cured and corrected, or to recover damages therefore, it shall be lawful for the owner or owners of any one or more of said lots or any part or parts thereof, or the Board of Trustees, or both, to institute and prosecute any proceedings at law or in equity against any and all parties involved in such violation or attempted violation or failure of observance or failure of compliance as aforesaid including the owner or owners of the involved lot or lots or part or parts thereof. It is hereby expressly declared and provided, however, that the makers

of this covenant shall under no circumstances, be held responsible or liable for the enforcement of the restrictions and provisions of this covenant as against any person or persons who may hereafter own or control any one or more of said lots or any part or parts thereof, which the makers of this covenant shall not at the time own and fully control.

17) ENFORCEABILITY AND VALIDITY: In case any one of the restrictions and provisions of this covenant shall prove to be unenforceable or invalid, the enforceability, validity or binding effect of the other restrictions and provisions of this covenant shall in no wise be effected thereby, but they shall nevertheless remain in full force and effect.

18) DEFINITIONS: A lot, as the term is used in this covenant shall be construed as meaning any full lot as shown on said plat or any part or parts of a residence lot or lots having an area of not less than fifteen thousand (15,000) square feet. A street, as the term is used in this covenant, shall be construed to mean solely the thoroughfares, "Greenock Lane, St. Giles Road, Culloden Road, Cheviot Court and Trossock Lane". Wherever in this agreement reference is made to F. & F. Development Corporation or to the "maker" of this agreement, each such reference shall be construed as meaning to include the successors, assigns, and legal representatives of said F. & F. Development Corporation, the developers of said subdivision.

IN WITNESS WHEREOF, the undersigned F. & F. Development Corporation has executed this covenant this second day of September, 1955.

F. & F. DEVELOPMENT CORPORATION

By

(SIGNED) Edward F. Fischer, President

Plat 1 - Recorded 9/07/55 at 2:45 p.m. in Book 3477, Page 523, St. Louis County Records.

Plat 2 - Recorded 9/26/56 at 4:26 p.m. in Book 3664, Page 564, St. Louis County Records.