

Berwick Fairways II

RESTRICTIVE COVENANTS

(Sections II and III from the Deed of Dedication and Restrictive Covenants)

We believe and have made every effort to ensure that this document contains the final covenants for Berwick Fairways II. However, the Deed of Dedication of Berwick Fairways II together with any amendments thereto is the controlling document and is the only document which may be fully relied upon.

SECTION II
PLANNED UNIT DEVELOPMENT RESTRICTIONS.

WHEREAS, the Planned Unit Development provisions of the Broken Arrow Zoning Ordinance require the establishment of covenants of record, inuring to and enforceable by the City of Broken Arrow, Oklahoma sufficient to assure continued compliance with the approved planned unit development and amendments thereto; and

WHEREAS, the Owner desires to establish restrictions for the purpose of achieving an orderly development for the mutual benefit of the Owner, the Owner's successors in title and the City of Broken Arrow, Oklahoma;

NOW, THEREFORE, the Owner does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Owner, its successors in title, each Lot Owner and the City of Broken Arrow, Oklahoma, and shall be enforceable as hereinafter set forth.

The development of "Berwick Fairways II" (PUD-No. 182) shall be subject to the Planned Unit Development provisions of the Broken Arrow Zoning Ordinance, as subsequently amended, and the provisions of PUD No. 182.

A. Use of Land.

1. Residential Lot Use.

All lots shall be known and described as residential lots and shall be limited to use for detached single-family residences and purposes. No trade or business shall be permitted on any lot.

2. Fronting and Access Limitation.

Each dwelling shall face the private street and derive its access solely from the private street.

3. Yards and Setbacks.

a. Minimum Front Yard from Private Street Right-of-Way.

No building shall be constructed nearer than 25 feet from the right-of-way of the private street in the front of the residence as shown on the accompanying Plat.

b. Minimum Side Yard from a Private Street Right-of-Way.

No building shall be constructed nearer than 20 feet from the right-of-way of a private street to the side of the residence as shown on the accompanying Plat, provided that any garage door will be set back a minimum of 25 feet from the private right-of way.

c. Minimum Side Yards.

One side yard 5 feet and other side yard 10 feet.

d. Minimum Rear Yard.

The minimum rear yard shall be 20 feet.

4. Minimum Lot Area.

No lot shall have a lot area less than 8,000 square feet.

5. Maximum number of dwelling units.

The maximum number of dwelling units shall be 170

6. Minimum Lot Width and Lot Frontage.

The minimum lot width shall be 70 feet measured at the building line except that the width of any cul-de-sac lot may be less than the minimum frontage at the right-of-way providing the lot width at the building line is a minimum of 60 feet. All lots shall have at least 30 feet of frontage along the street right-of-way.

7. Maximum Structure Height.

No structure may be constructed or erected on any lot in excess of the height permitted by the requirements of the R-2 District of the Broken Arrow Zoning Ordinance.

8. Other Bulk and Area Requirements.

Except as modified above, all lots shall, at a minimum, meet the requirements of the R-2 District of the Broken Arrow Zoning Ordinance.

B. Utility and Governmental Services Access Easement.

The Owner hereby grants to the City of Broken Arrow, Oklahoma, the United States Postal Service, any public utility providing utility service to the Subdivision, and any refuse collection service which provides service within the Subdivision, the right to enter and traverse the private streets and to operate thereon all service, emergency and governmental vehicles, including, but not limited to, police and fire vehicles and equipment.

C. Sidewalks, Fencing and Landscaping.

Sidewalks will be installed by the Owner along all Reserve Areas and shall be maintained by the Association.

D. Off-Street Parking.

A minimum of two, enclosed off-street parking spaces shall be provided on each lot by each Lot Owner, within the garage of the house.

E. Site Plan and Landscaping Plan.

The accompanying Plat shall constitute the required site plan of the Planned Unit Development included within the Plat.

F. Maintenance of Reserve Areas and Common Areas.

All Reserve Areas, the private streets, landscaping areas and easements and all other common areas shall be maintained by the Association in accordance with the terms and conditions of the Declaration.

G. Definitions.

In the event of an ambiguity or conflict of any word or term set forth in this Section II, the meaning thereof, shall be deemed to be defined as set forth in the City of Broken Arrow Zoning Ordinance, as subsequently amended.

SECTION III
PRIVATE BUILDING AND USE RESTRICTIVE COVENANTS.

For the purpose of providing an orderly development of the Subdivision, to protect the desirability of the Subdivision and the values thereof, and for maintaining conformity of the improvements therein, the following restrictions and covenants are hereby imposed upon the use and occupancy of the lots within the Subdivision, which shall be covenants running with the land and shall be binding upon the Owner, its successors and assigns and shall be enforceable as hereinafter provided.

A. Architectural Committee – Plan Review.

1. Formation.

Owner hereby forms an architectural committee (the "Architectural Committee") that shall:

- a. approve all plans for any structure to be built on any lot and any modifications or alterations thereto; and
- b. be responsible for interpreting the development and construction standards contained herein and any building guidelines developed by the Architectural Committee.

2. Membership.

The Architectural Committee shall consist of not less than one (1) nor more than five (5) members to be appointed by Owner until Owner, in its sole discretion,

assigns and transfers the responsibility for the appointment of the Architectural Committee to the Association to be formed pursuant to Section IV below.

3. Submission of Plans.

No building, fence, wall, free standing mailbox or any other improvements or structure may be commenced, erected, constructed or placed on any lot in the Subdivision without the written approval of the Architectural Committee. The architectural plans to be submitted and approved in accordance herewith shall be submitted in duplicate and shall include, at a minimum, the following with regard to each improvement to be constructed on any lot in the Subdivision, which must be approved prior to submittal to the City of Broken Arrow.

- a. An accurate site plan;
- b. An accurate floor plan;
- c. All exterior elevations;
- d. A fencing plan showing the composition, location and height of fencing;
- e. A landscaping plan;
- f. A “hardscape” plan, showing the location and composition of all driveways, walkways and patios.

- g. Any other plans or information requiring the approval of the City of Broken Arrow or the Broken Arrow Planning Commission pursuant to Section II of this Deed of Dedication;
- h. Details regarding the composition of all roofing and external building materials, including color schemes;
- i. Drainage and grading plans; and
- j. Any other plans or details required by the Architectural Committee.

In passing upon such plans, specifications, plot plans, drainage and grading plans, the Architectural Committee may take into consideration the suitability of the proposed building or other structures and of the material of which it is to be built to the site upon which it is proposed to erect the same, the harmony thereof with the surrounding buildings and lots and the effect of the building or other structures as planned on the view from the adjacent or neighboring lots.

4. Variance.

The Architectural Committee may authorize in writing variances from compliance with any of the design guidelines or the provisions of Section III when circumstances peculiar to the property in question, including, but not limited to, topography, obstructions, hardship or aesthetic, environmental or other considerations would allow a variance from the provisions of Section III without any detriment to the Subdivision, but only in accordance with specific conditions imposed by the Architectural Committee. No variance shall be contrary to any

specific restriction set forth herein other than the provisions of Section III or the design guidelines nor estop the Architectural Committee from denying a variance in any other circumstances. For purposes of this section, the inability to obtain approval of any governmental agency, issuance of any permit or the terms of any financing shall not be considered a hardship warranting a variance. This section shall not be construed so as to confer on any Owner any entitlement to a variance or waiver.

B. Floor Area.

Single story dwellings shall have a minimum of 3,500 square feet of living area. Multi-story dwellings shall have a minimum of 4,000 square feet of living area; provided, however, that the first floor shall have a minimum of 3,000 square feet of living area.

The computation of square feet of living area shall exclude garages, open spaces and breeze ways.

C. View Obstructions.

No structure, outbuilding, fence or wall shall be so situated that, in the opinion of the Architectural Committee, it unreasonably obstructs a view of the golf course or of a greenbelt area or a water feature from another lot.

D. Foundations.

All exposed foundations shall be of brick, stucco or stone. No concrete blocks, poured concrete or any other foundation will be exposed. No stem walls shall be exposed.

E. Garages and Driveways.

An attached garage providing spaces for a minimum of two (2) automobiles shall be provided on each lot. Garages shall be enclosed and carports are prohibited. All driveways shall be concrete or other masonry approved by the Architectural Committee. Garage doors shall be wood veneer. Windows in garage doors are prohibited.

If a garage has spaces for more than two cars, the garage door for the additional space(s) (after the first two) shall be offset and located further back on the lot, unless otherwise approved by the Architectural Committee.

F. Masonry.

For Blocks 2, 3 and 4.

One hundred percent (100%) of the surface of exterior walls (excluding windows and doors) shall be brick, stone or stucco except under covered porches and patios, provided that the exterior walls above the first floor elevation wall may be constructed of wood, masonite or a comparable siding product. Notwithstanding the foregoing, brick, stone or stucco shall extend to the top of gables on the front of the home.

For Block 1.

One Hundred percent (100%) of the exterior walls (excluding windows and doors) shall be brick, stone or stucco except under covered porches and patios.

G. Windows and Doors.

All window frames and doors shall be of either wood, vinyl clad wood or vinyl. Aluminum windows having a mill finish are prohibited.

H. Roof Pitch.

No dwelling shall have a roof pitch of less than 9/12; providing, however, that a roof over a porch shall have a roof pitch of no less than 6/12 if gable or 4/12 if shed. All front and rear gables shall have no less than a 12/12 pitch.

I. Roofing Materials.

Roofing shall be self-sealing Tamko Heritage 30 year, oxford gray composition shingles or approved equivalent; providing, however, in the event such roofing should hereinafter not be reasonably available, alternative roofing of comparable quality shall be permitted upon a determination of the Architectural Committee that the proposed alternative is of comparable or better quality and of a design and quality which is compatible with the roofing first described.

J. Antenna.

Exterior antennas or other devices (including supporting structures) for the transmission or reception of radio, television, satellite signals or other forms of electro-magnetic radiation are prohibited, except that within each lot one satellite dish, not exceeding twenty-four inches (24") in diameter, is permitted. The location of any such satellite dish must be approved by the Architectural Committee and shall be, wherever possible, such that the satellite dish is not visible from any public or private street.

K. Materials and Storage.

No lot will be used for the storage of materials for a period of greater than thirty (30) calendar days prior to the start of construction, and then the construction shall be completed within six (6) months. All lots shall be maintained in a neat and orderly condition at all times.

L. Recreational Vehicles.

No campers, boats, trailers, motor homes, recreational or other vehicles shall be parked or stored in the Subdivision for a period to exceed twenty-four (24) hours unless stored or parked in an enclosed garage.

M. Inoperative Vehicles.

No inoperative vehicle or machinery shall be stored on any lot, except within an enclosed garage, which garage door must be closed except for normal operation for entering and exiting the garage.

N. Maintenance of Lots.

Each lot shall be maintained free of rubbish, trash or other debris and shall be cut, trimmed or mowed to prevent growth of weeds or tall grass. Grass and landscaping shall be maintained on a regular basis. Trash containers, except during periods of collection, shall be stored out of view from the public and from adjoining property owners. No exposed garbage cans, trash can or any trash burning apparatus or structure shall be placed on any lot.

O. Surface Drainage.

The owner of each lot shall maintain the surface drainage, either natural or artificial, over and across such lot. No Lot Owner shall construct or permit any fencing or other obstruction which would impair the draining of storm water over and across the lot. No Lot Owner shall modify or change the direction of surface storm water from the original, approved drainage plan constructed on the lot.

P. On-Site Construction.

Each dwelling must be constructed on-site and no dwelling built off-site shall be placed on any lot.

Q. Outbuildings.

Outdoor storage buildings are not permitted. Other outbuildings, such as gazebos or cabanas, may be permitted subject to the approval of the location, style and materials used in the construction by the Architectural Committee prior to construction, and providing that the outbuilding is compatible in material and style with the primary residence. No outbuilding shall be erected on a location that the Architectural Committee determines would unreasonably obstruct a view of the golf course, a greenbelt area or a water feature from another lot.

R. Swimming Pools.

Above ground swimming pools are prohibited. Any pool or spa shall be in-ground and permanent. Lots with swimming pools shall have sufficient security fencing as required by code. Swimming pool ancillary equipment shall be shielded from view from the street and adjacent lots.

S. Interior Fences.

1. Restriction Applicable to All Lots -

All fences and walls must be approved by the architectural committee. Each owner of a lot shall be responsible for the maintenance of fencing on such lot. No fence shall extend beyond the front building line.

All fences shall conform to the design guidelines established by the Architectural Committee and shall be constructed entirely of Wood, brick, stone, wrought iron or other metal giving the appearance of wrought iron (“wrought iron-style”), or some combination thereof as approved by the Architectural Committee. Vinyl, chain link, barbed wire, meshed or other metal fences are prohibited. Wood fences shall be constructed with metal posts and shall include cap and trim.

No fence shall exceed six (6) feet in height.

No fence or wall shall be allowed which, in the opinion of the Architectural committee, unreasonably obstructs a view of the golf course, a greenbelt area, or a water feature from another lot.

Any wood fence (where allowed) which is constructed adjacent to a street shall be double sided or shall be constructed with the pickets facing the street side of the fence, and shall be positioned at least five (5) feet inside the property line. If such fence running adjacent to a street is more than twenty (20) feet long, landscaping outside the fence must be installed by the Lot Owner pursuant to a landscape plan submitted to and approved by the Architectural Committee.

“Wrought iron-style” fences shall be Ameristar Montage Plus Three Rail Classic or approved equivalent. In the event such fencing should hereafter not be reasonably available, alternative fencing shall be permitted upon a determination of the Architectural Committee that the proposed alternative is of comparable or better quality and of a design which is similar to the fencing first described

2. Restrictions Applicable Only to Block 1 -

All fences on lots within Block 1 shall be Wrought Iron-Style, and shall be of a consistent style throughout the Subdivision as specified by the Architectural Committee. No fence in Block 1 shall exceed four (4) feet in height. However, notwithstanding the foregoing, other types of fencing allowed under the provisions of Section III.S.1., above, may be erected on the side lot lines only separating lots 1 and 2 and lots 2 and 3 of Block 1.

The Lot Owner of any lot abutting Cedar Ridge Country Club may connect side yard fences to Cedar Ridge Country Club’s fence in accordance with the terms and conditions of the Fence Agreement by and between Cedar Ridge Country Club, Inc. and the Owner filed of record in the Office of the County Clerk of Tulsa County,

Oklahoma. Gates providing access to the Cedar Ridge County Club's property are not allowed.

3. A fence will be installed along the entire outer boundary of the Subdivision (excluding the boundary between the Subdivision and Berwick Fairways I) and shall be maintained by the Association.

T. Clotheslines.

Exposed clothesline poles or other outside drying apparatus are prohibited.

U. Mailboxes.

All mailboxes shall be constructed of materials, size, location and style approved by the Architectural Committee and shall be uniform for the neighborhood.

V. Animals.

No animals, livestock or poultry of any kind may be maintained, bred, sold or kept on any lot, except that no more than four (4) dogs, cats or other customary and normal household pets may be kept, provided that they are not used for commercial purposes. All pets must be leashed, except in an enclosed fenced area and each Lot Owner shall be responsible for not permitting barking or other noise or activity by such pets which are a nuisance to adjoining lot owners. No exotic wild life shall be permitted.

W. Noxious Activities.

No noxious, loud, annoying or offensive activity shall be carried out upon any lot nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood.

X. Signage.

No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than six (6) square feet in area advertising the property for sale; providing, however, nothing contained herein shall be construed to prohibit signs advertising the Subdivision and homes for sale by the Owner or its designated builders.

Y. Exterior Lighting, Alarms and Video.

No spotlights, flood lights or other high intensity lighting or alarms and video and audio equipment shall be placed upon or utilized upon any lot in a manner which unreasonably interferes with the enjoyment of adjoining lots.

Z. Chimneys.

All chimney caps shall be copper or clay. All chimneys shall be of masonry or masonry veneer construction, except that the side facing the roof may be constructed of wood, Masonite or a comparable siding product.

AA. Guttering, Flashing and Roof Vents.

All dwellings shall be fully guttered with “tight-lines” to drain in accordance with the drainage plan. All exposed exterior roof vents, flashing and valleys shall be either copper or aluminum painted to match the rooftop. All exterior venting shall be in the rear of the residence, if possible.

BB. Landscaping.

Restrictions Applicable to All Lots -

A Hardscape plan for each lot must be submitted to and approved by the Architectural Committee prior to the commencement of construction on any lot. No cottonwood, mimosa, mulberry or other aesthetically undesirable trees or plants shall be used in the landscaping of any lot. No trees under three (3) inches in diameter shall be planted or maintained on a lot as part of the initial, approved landscaping. All yards shall be fully sprinkled with an underground, permanent system regulated by an interior control system. Any terracing must be accomplished with Hardscape materials approved by the Architectural Committee. The use of railroad ties is prohibited. Trees installed in the Subdivision shall be a minimum of 2.5 inches in diameter.

Additional Restrictions Applicable to Lots 3 through 19 of Block 1 -

All lots must be completely sodded on the completion of a residence and prior to the occupancy thereof. The front of all homes must be landscaped upon completion and prior to occupancy of the home on each lot. The initial landscaping shall be at a cost of no less than \$3,500.00 for the front yard and \$2,500 for the rear yard. A minimum of two trees will be planted in the front yard and one tree in the rear yard.

Additional Restrictions Applicable to all other Lots -

All lots must be completely sodded on the completion of a residence and prior to the occupancy thereof. The front and rear of all lots must be landscaped upon completion and prior to occupancy of the home on each lot. The initial landscaping shall be at a cost of no less than \$3,500.00 for the front yard. A minimum of two trees will be planted in the front yard.

CC. Exterior Heating, Ventilation and Air Conditioning Equipment.

All exterior heating, ventilation and air conditioning equipment shall be screened from view. No window units shall be permitted.

DD. Utility Transformers.

All transformers and similar equipment located on a lot shall be screened from view.

EE. Trash Containers.

Trash containers shall be screened from view at all times except on days when containers are required to be placed near the street for collection, in which case containers shall be returned to their usual location and screened from view by the end of the collection day.

FF. Side Yard Setbacks.

A minimum of 15 feet between houses is required.