

**GREENBRIER
COVENANTS**

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STREETS, EASEMENTS AND UTILITIES – Section 1

1.1 PUBLIC STREETS AND GENERAL UTILITY EASEMENTS

The owner/developer does hereby dedicate for the public use the streets, as designated on the accompanying plat, and does further dedicate for the public use the utility easements as designated on the accompanying plat, for the purposes of constructing, maintaining, operating, repairing, and/or removing any and all lines and transformers, gas lines, water lines, and cable television lines, together with all fittings, including the poles, wires, conduits pipes, valves, meters and equipment for each of such facilities and any other appurtenances thereto with the rights of ingress and egress to and upon said utilities, easements and rights-of-way for the uses and purposes aforesaid. No building, structure, or other above or below ground obstruction will be placed, erected, installed or permitted upon the easements or rights-of-way as shown:

Provided, however, that the owner/developer hereby reserves the right to construct, maintain, operate, lay and relay, water lines and sewer lines, together with the right of ingress and egress for such construction, maintenance, operation, laying and relaying over, across and along all the utility easements, shown in said plat, for the purposes of furnishing water, and/or sewer services to the area included in said plat. The owner of each lot shall be responsible for the repair and replacement of any landscaping and paving located within the utility easements in the event it is necessary to repair any underground water or sewer mains, electric, natural gas, communication or telephone service.

1.2 ELECTRIC, GAS AND COMMUNICATION SERVICE

(A) Street light poles or standards shall be served by underground cable and elsewhere throughout, all supply lines shall be underground in the easement ways reserved for general utility services, shown on the attached plat. Service pedestals and transformers, as sources of supply at secondary voltages and communication pedestals, may also be located in said

easement ways. Overhead pole lines are allowed on the west perimeter of the subdivision adjacent to 145th East Avenue.

- (B) Underground service cables and gas lines to all houses which may be located on all lots in Greenbrier may be run from the nearest service pedestal, transformer or gas main to the point of usage determined by the location and construction of such house as may be located upon each said lot; provided that upon the installation of such a service cable or gas line to a particular house, the supplier of electric, communication or gas service shall thereafter be deemed to have a definitive, permanent and effective right-of-way easement on said lot, covering a five foot (5') strip extending 2.5 feet on each side of such service cable or gas line, extending from the service pedestal, transformer or gas main to the service entrance on said house.
- (C) The supplier of electric, communication or gas service, through their proper agents and employees shall at all times have right of access to all such easement ways shown on said plat, or provided for in this deed of dedication for the purpose of installing, maintaining, removing or replacing any portion of said underground electric, communication or gas facilities so installed by them.
- (D) The owner of each lot shall be responsible for protection of all the underground electric, communication or gas facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric, communication or gas facilities. The companies will be responsible for ordinary maintenance of underground electric, communication or gas facilities, but the owner will pay for damage or relocation of such facilities caused or necessitated by acts of the owner or his agents or contractors.
- (E) The foregoing covenants concerning underground electric, communication and gas facilities shall be enforceable by the supplier of electric, communication and gas service, and the owner of each lot agrees to be bound hereby.

1.3 WATER AND SEWER SERVICE

- (A) Water and sanitary sewer service shall be purchased from and provided by the City of Broken Arrow.
- (B) The owner of each lot shall be responsible for the protection of the public water and sewer mains located on or in their lot.
- (C) Within the depicted utility easement areas, if the ground elevations are altered from the contours existing upon the completion of the installation of a public water or sewer main, all ground level apertures, to include: valve boxes, fire hydrants and manholes will be adjusted to the new grade by the owner or at the owner's expense.
- (D) The City of Broken Arrow or its successors will be responsible for ordinary maintenance of public water and sewer mains, but the owner will pay for damage or relocation of such facilities caused or necessitated by acts of the owner, his agents or contractors.
- (E) The City of Broken Arrow or its successors, through its proper agents and employees, shall at all times have right of access with their equipment to all such easement ways shown on said plat, or provided for in this deed or dedication for the purpose of installing, maintaining, removing or replacing any portion of said underground water or sewer facilities.
- (F) The owner of the lot shall be responsible for the repair or damage to landscaping and paving occasioned by necessary maintenance or repair of the public water or sewer facilities within the easement areas; provided, however, the City of Broken Arrow shall use reasonable care in the performance of such activities.
- (G) The foregoing covenants set forth in this paragraph 1.3 shall be enforceable by the City of Broken Arrow or its successors, and the owner of each lot agrees to be bound hereby.

1.4 LIMITS OF NO ACCESS

The undersigned owner/developer hereby relinquishes right of vehicular ingress or egress from any portion of the property adjacent to Aspen Avenue, within the bounds designated as limits of no access (LNA) as shown on the attached plat, which limits of no access may be modified, amended, or released by the concurring approval of the Department of Public Works and the Broken Arrow Planning Commission, or its successor, or as otherwise provided by the statutes and laws of the State of Oklahoma pertaining thereto.

1.5 LANDSCAPE EASEMENT

The owner herein establishes for the benefit of the Property Owners' Association a perpetual easement as depicted on the accompanying plat as landscape easement, for the purposes of the erection and maintenance of decorative fencing and walls, and landscaping and irrigation system. Maintenance of such facilities shall be the obligation of the Property Owners' Association.

PLANNED UNIT DEVELOPMENT RESTRICTIONS – Section 2

Whereas, Greenbrier was submitted as a planned unit development (designated as PUD No. 94 Battle Creek) as provided in the revised ordinances of the City of Broken Arrow, Oklahoma (Broken Arrow zoning code), as the same existed on July 10, 1989, which PUD No. 94 was approved by the City of Broken Arrow Planning Commission on September 28, 1995, and by the City Council of the City of Broken Arrow, Oklahoma on November 15, 1995.

Whereas, the planned unit development provisions of the City of Broken Arrow zoning code require the establishment of covenants of record, inuring to and enforceable by the City of Broken Arrow, Oklahoma, sufficient to assure the implementation and continued compliance with the approved planned unit development; and

Whereas, the owner/developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the owner/developer, its successors and assigns, and the City of Broken Arrow, Oklahoma;

Therefore, the owner/developer does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the owner/developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

2.1 USE OF LAND

- (A) The development of Greenbrier shall be subject to the planned unit development provisions of the City of Broken Arrow zoning code, as the same existed on July 10, 1989, or as subsequently amended.
- (B) All lots shall be known and described as residential lots and shall be limited to use for detached single-family residences and customary accessory uses.
- (C) The number of dwellings within the subdivision shall not exceed ninety three (93).

2.2 FRONTING AND ACCESS LIMITATIONS

Any dwelling erected on any of the lots herein shall front or present a good frontage on the streets, and for this purpose as applied to inside lots, it shall mean that the dwelling shall front on the street adjoining, and on any corner lot the dwelling shall front towards the greatest building setback line and shall present a good frontage on both streets adjoining.

2.3 YARDS AND SETBACKS

- (A) Street setback: no building shall be erected or maintained nearer to a street (public or private) than the building setback lines depicted on the plat unless subsequently modified by the City of Broken Arrow Planning Commission.

(B) Side yard: each lot shall be required to have one side yard not less than five feet (5') in width with the other side yard being not less than ten feet (10') in width.

(C) Rear yard: each lot shall maintain a rear yard of at least twenty-five feet (25;) or as depicted on the plat; provided, however, the customary accessory structures may be located in the required rear yard, but no building shall be erected nearer than ten feet (10') to rear lot line nor encroach upon any utility easement. For the exact rear yard setback, consult the final plat.

2.4 BUILDING HEIGHT

The maximum structure height shall be thirty-five feet (35').

2.5 MINIMUM LOT SIZE

No lot shall be lot-split or subdivided into any lot having an area of less than 7,500 square feet; provided, however, that a lot may be divided into a parcel having less than 7,500 square feet if such parcel be held in common ownership with an adjoining parcel and the resulting area of the two parcels is not less than 7,500 square feet, with the City of Broken Arrow Planning Commission approval.

PRIVATE BUILDING AND USE RESTRICTIONS – Section 3

Whereas, the owner/developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the owner/developer, its successors and assigns.

Wherefore, the owner/developer does hereby impose the following restrictions and covenants which shall be covenants running with the land, and shall be binding upon the owner/developer, its successors and assigns:

3.1 ARCHITECTURAL CONTROL COMMITTEE-PLAN REVIEW

- (A) No building, fence or wall shall be erected, placed or altered on any lot in this subdivision until the building plans and specifications, drainage and grading plans, exterior color scheme and materials thereof, and plot plan, which plot plan shows the location and facing of such building have been approved in writing by a majority of an Architectural Control Committee (Committee) composed of Buford Williams, Helen Williams, Lexie Johnson, or their duly authorized representative(s), assign(s) or successors. In the event of the death or resignation of any member of the above named Committee, the remaining member(s) shall have authority to fill any vacancy or vacancies created by the death or resignation of any of the aforesaid members, and said newly appointed member shall have the same authority hereunder as their predecessors, as above set forth. In the event the Architectural Control Committee fails to approve or disapprove any such plans, specifications, color scheme, materials and plot plan submitted it is as herein required within thirty (30) days after such submission, or in the event no suit to enjoin the erection of such building or the making of such alteration has been commenced prior to the completion thereof, such approval shall not be required and this covenant shall be deemed to have been fully complied with.
- (B) The Architectural Control Committee's purpose is to promote good design and compatibility within the subdivision and in its review of plans or determination of any waiver as hereinafter authorized, may take into consideration the nature and character of the proposed building or structure, the materials of which is to be built, the availability of alternative materials, the site upon which it is proposed to be erected and the harmony thereof with the surrounding area. The Architectural Control Committee shall not be liable for any approved, disapproved or failure to approve hereunder, and its approval of building plans shall not constitute a warranty of responsibility for building methods, materials, procedures, structural design, geotechnical design, foundation design, grading or drainage, or code violations. The approval, disapproval or failure to

approve of any building plans shall not be deemed a waiver of any restriction, unless the Architectural Control Committee is hereinafter authorized to grant the particular waiver. Nothing herein contained shall in any way be deemed to prevent any of the owners of property in this subdivision for maintaining any legal action relating to improvement within this subdivision which they would otherwise be entitled to maintain.

- (C) The powers and duties of the Committee or its designated representative shall cease on the first day of January 2007, or when one-hundred percent (100%) of the lots have been closed, whichever occurs first. Thereafter, the powers and duties of the Committee shall be exercised by the Property Owners' Association hereafter provided for.
- (D) The respective owner of each dwelling and the owner's builder shall be responsible for all structure design, geotechnical design, foundation design, grading, drainage, and all other structural aspects of the dwelling independent of the developer and the developer's engineer. Said owner and builder shall construct all aspects of the dwelling in accordance with all federal, state, county, and the City of Broken Arrow building codes.

3.2 FLOOR AREA OF DWELLINGS

- (A) Single-story: A single-story dwelling shall have at least 1,500 square feet of finished heated living area.
- (B) Two-story and story-and-a-half: If a dwelling has two levels or stories said dwelling shall have at least 1,800 square feet of combined heated living area.
- (C) Computation of living area: the computation of living area shall not include any basement or attic area used for storage. All living area measurements shall be taken horizontally at the top plate level to the face of the outside wall. Required living areas must average at least seven feet six inches (7'6") in height. Except that in the computation of second or upper story living areas, the height shall be seven feet six inches (7'6") for at least one-half of

the required living area and any area of less than five feet (5') shall be excluded.

- (D) Waiver: The Architectural Control Committee may waive, in the particular instance, the floor area requirements set out in paragraphs A and B of this section.

3.3 GARAGE

Each dwelling shall have an enclosed garage for at least two automobiles.

3.4 BUILDING MATERIAL REQUIREMENTS

- (A) Stem walls: All exposed faces of foundation or stem walls shall be of brick or stone or stucco. No concrete blocks, poured concrete or any other foundation will be exposed. No concrete face of stem walls will be exposed.
- (B) Roofing: No building shall have a roof pitch of less than 8/12 except that it may have a flat roof equal to no more than twenty percent (20%) of the area covered by all roof surfaces, subject to approval of owner. Wood grained composition roofing material having a thirty-five (35) year or more rating (such as "Tamko Heritage 30 Weathered Wood") and slate with a weathered wood color and appearance, shall be used on all homes in the subdivision. The Committee may, but shall not be obligated to waive this restriction. Provided, however, such waiver to be effective must be in writing, dated and signed by the Committee.
- (C) Exterior walls: The first story exterior walls of the dwelling erected on any lot shall be of at least seventy five percent (75%) masonry; provided, however, that the area of all windows and doors located in said exterior walls and the area adjacent to patios and under porches shall be excluded in the determination of the area of exterior walls and further provided that where a part of the exterior wall is extended above the interior room ceiling line due to the construction of a gable-type roof, then that portion of the wall extending above the interior room ceiling height may be

constructed of wood material and shall be excluded from the determination of the area of the exterior walls (exclusive of fireplace).

- (D) Windows: All dwellings with windows other than wood will be either anodized or electro statically painted or vinyl. Metal window frames will be in color harmony with the exterior color and texture of the residence. No unpainted aluminum will be permitted for window framing; wood frames will be painted, sealed and stained.
- (E) Chimneys: All chimneys visible from the street shall be brick, stone or stucco. Chimney caps shall be rectangular and shall be a dark earth tone.
- (F) Mail Boxes: All mail boxes visible from the street shall be cast aluminum or cast iron, black in color and shall be Ames design. Mail box will be purchased from developer at closing.
- (G) Waiver: The Architectural Control Committee may waive, in a particular instance, the building materials requirements set out in this subsection; provided, such waiver to be effective must be in writing, dated and signed by a majority of such Committee.

3.5 COMMERCIAL STRUCTURES

No building or structure shall be placed, erected or used for business, professional, trade or commercial purposes on any portion of any lot, except for model homes used for the sale and marketing of homes in the development.

3.6 NOXIOUS ACTIVITY

No noxious or offensive trade or activity shall be carried on upon any lot, nor shall any trash or other refuse be thrown, placed or dumped upon any vacant lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

3.7 SIGNS PROHIBITED

The construction or maintenance of advertising signs or other advertising structures on any lot is prohibited, except as follows:

- (A) Signs advertising the sale or rental of a property are permitted, provided they do not exceed nine (9) square feet in display surface area. Model home signs may exceed this limitation while designated a model home.
- (B) During the development period of Greenbrier, signs advertising the subdivision or the initial offering of a lot may be located at the entrances to Greenbrier.
- (C) Permanent signs identifying the subdivision may be located at the entrances to Greenbrier.

3.8 EXISTING BUILDING

No existing building of any sort may be moved onto or placed on any lot.

3.9 TEMPORARY STRUCTURES AND OUTBUILDINGS

- (A) No trailer, tent, garage, barn, outbuilding, nor any structure except that attached to the house is allowed.
- (B) No above ground pools of any type.
- (C) All outbuildings shall match the exterior surface of the main dwelling, constructed with like materials and matching color. Outbuildings shall not be closer to the street than the main dwelling.

3.10 VEHICLE STORAGE AND PARKING

No inoperative vehicle shall be stored on any lot except within an enclosed garage. No boats, boat trailers, house trailers, campers, motor homes, panel trucks, camper trailers, recreational vehicles or similar vehicles shall be located, parked or stored within a side, front, or rear yard, and if not located within an enclosed garage, shall be screened sufficiently to prevent any view thereof from the street or neighboring lot within Greenbrier.

3.11 ANTENNAS

No facilities, including poles and wires, for the transmission or generation of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any lot, and no external or outside

antennas of any kind shall be allowed. No activity shall be conducted on any lot which interferes with television or radio reception on any other lot. Satellite dishes shall not exceed twenty four inches (24") in diameter.

3.12 INTERIOR FENCES OR WALLS

Interior fences situated along the sides and rear lot lines shall comply with the following:

- (A) No such fence shall exceed four feet (4') in height. No fence shall be erected or maintained nearer to the streets within the subdivision than the building setback lines depicted on the plat except for decorative fences set forth in paragraph (B) immediately below. Except as set forth in paragraphs (B) and (C) immediately below. All four foot (4') fences occurring on the lot or property lines and tying back to the house structure will be constructed of four foot (4') green vinyl chain link with treated wood posts with top and bottom rails.
- (B) Decorative fences or walls shall be permitted on that portion of any lot in front of the building setback line. Decorative fencing or walls shall not exceed three feet (3') in height and shall be of the same décor, materials (i.e. wrought iron, etc.) and styling as used in the architecture and construction of the dwelling situated on the lot. Note: screening fences and baffles may be erected up to six feet (6') in height but must be an extension of the house structure line from front to back and side to side and not located on the lot line.
- (C) No fence or wall shall be erected on any lot until the plans, specifications, and design thereof have been approved by the architectural control committee as provided in this section. Architectural control committee may waive in a particular instance the requirement of limitations set forth in paragraph 3.12 (A) and 3.12 (B) of this section.

3.13 LANDSCAPING REQUIREMENTS

- (A) Each lot owner shall completely sod the yard from the rear of the lot to the street curb after completion of construction of the house.
- (B) Each lot owner shall plant a minimum of two (2) trees of two and one-half inch (2-1/2") caliper or larger in the front yard.
- (C) Each lot owner shall plant the equivalent worth of \$1,000 in landscaping materials (trees, shrubs, bushes, ground cover, etc.) exclusive of sodding and the two trees required above. A landscaping plan shall be submitted to the architectural control committee for approval prior to planting.

3.15 RESERVE AREAS

- (A) Reserve areas "B", "C", "E" on the attached plat are a part of the public street right-of-way and will be used for traffic calming devices and for landscaping and signage for the use and benefit of all lots in the addition and these reserve areas will be maintained by the homeowners association of "Greenbrier." The city of Broken Arrow shall have no liability for any damage to landscaping including irrigation systems, occasioned by the maintenance or reconstruction of the adjoining public street. Said reserve areas shall not be sold or used as a building site for a dwelling.
- (B) Reserve area "A" on the attached plat shall be used for landscaping of the use and the benefit of all lots in the addition and reserve area "A" will be maintained by the homeowners association of "Greenbrier." Said reserve area "A" shall not be sold or used as a building site for a dwelling.
- (C) Reserve area "D" will be for storm water drainage facilities that will be deeded to and maintained by the "Greenbrier" Homeowners Association and construction shall be in accordance with the current standards and specifications of the city of Broken Arrow, Oklahoma. No wall, fence, building or other structure shall be placed or maintained on the easement area nor shall there be any alteration of grade or contours in the easement area unless approved by the city of Broken Arrow, Oklahoma.

PROPERTY OWNERS' ASSOCIATION – Section 4

4.1 FORMATION OF ASSOCIATION

The owner/developer has formed or shall cause to be formed the Greenbrier Property Owners' Association, Inc. (Hereinafter referred to as the association) a nonprofit entity established pursuant to the general corporation act of the state of Oklahoma and formed for the general purposes of maintaining the common areas and enhancing the value, desirability and attractiveness of Greenbrier and within any subdivision into which the adjacent property is platted.

4.2 MEMBERSHIP

Every person or entity, who is a record owner of the fee interest of a lot in Greenbrier, shall be a member of the association and membership shall be appurtenant to and may not be separated from the ownership of a lot. The acceptance of a deed to a lot shall constitute acceptance of membership to the association as of the date of incorporation or as of the date of recording of the deed, whichever occurs last.

4.3 COVENANT FOR ASSESSMENTS

After a house has been constructed on a lot and title to such lot and house has been transferred, the owner and subsequent owner of same, by acceptance of a deed thereof, is deemed to covenant and agree to pay to the association an annual assessment as established by the board of directors not to exceed \$85.00 per year per lot owned; provided, however, the board of directors may increase each year subsequent to the initial assessment year, the maximum assessment by the percentage increase, if any, of the consumer price index occurring over the twelve (12) months ending sixty (60) days prior to the current assessment period or five percent (5%) whichever is greater.

Consumer price index shall mean the index published by the U.S. department of Labor for the areas including Broken Arrow, Oklahoma. Annual assessments exceeding the amount above set forth shall require the assent of seventy-five percent (75%) of the lot owners within the subdivision. Annual

assessments together with ten percent (10%) interest, costs and reasonable attorney's fees shall be a continuing lien on the lot and the personal obligation of the ownership of the lot at the time of the assessment. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Annual assessments shall not apply to lots owned by the developer or unoccupied lots owned by others.

4.4 CERTAIN RIGHTS OF THE ASSOCIATION

Without limitation of such other powers and rights as the association may have, the association shall be deemed a beneficiary to the same extent as a lot owner, of the various covenants within this document contained, and shall have the right to enforce said covenants and agreements.

4.5 ADDITIONAL AREAS

The owner may acquire additional property adjacent to Greenbrier, consequently, he, his successors and assigns reserve the right to develop and add additional land in this area, to this development and the property owners' association. The lot owners of the combined areas shall be considered as one entity for the mutual enjoyment and responsibilities of the total area.

4.6 BONDING

It shall be required that the secretary/treasurer of the property owners' association of Greenbrier be bonded. The association will be responsible for obtaining and paying for said appropriate bonding.

ENFORCEMENT, DURATION, AMENDMENT AND SEVERABILITY – Section 5

5.1 ENFORCEMENT

The restrictions herein set forth are covenants to run with the land and shall be binding upon the owner/developer, their successors and assigns and all parties claiming under them, within the provisions of subsection 1.1, public street and general utility easements; subsection 1.2, electrical, gas and

communication service; subsection 1.5, water and sewer service; subsection 1.4, limits of no access, and subsection 1.6 the covenants within section III shall inure to the benefit of owners of residential lots within the subdivision, and the property owners' association provided for in section IV. If the owner/developer or owners of lots within Greenbrier, or their successors or assigns shall violate any of the covenants within section III, it shall be lawful for any person or persons owning any lot situated within the subdivision or the property owners' association to maintain any action in law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent him or them from so doing or to compel compliance with the covenants or to recover damages for such violations.

5.2 DURATION

These restrictions shall remain in full force and effect until January 1, 2024 and shall automatically be continued thereafter for successive periods of ten (10) years each unless terminated or amended as hereafter provided.

5.3 AMENDMENT OR TERMINATION

The covenant contained within sections I and II may be amended, modified, changed or canceled only by a written instrument signed and acknowledged by the owners of more than ninety-five percent (95%) of the lots within the subdivision, approved by the city of Broken Arrow, and the provisions of such instrument shall be binding from and after the date it is properly recorded. The covenants of section III and IV herein established may be amended, modified, changed or cancelled only by a written instrument signed and acknowledged by the owners of more than ninety-five percent (95%) of the residential lots within the subdivision, and the provisions of such instrument shall be binding from and after the date it is properly recorded.

5.4 DEVELOPER AMENDMENTS

The developer/owner reserves the right in its sole discretion and without joinder of any owner at any time so long as it is an owner of any lot to amend, revise, or abolish any one or more of the covenants and restrictions by

instrument duly executed and acknowledged and filed in the office of the county clerk of Tulsa County, Oklahoma.

5.5 SEVERABILITY

Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein which shall remain in full force and effect.