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Dottie D. Gresham, Recorder of Deeds



*Dottie D. Gresham*

**DECLARATION OF RESTRICTIONS, EASEMENTS  
LIENS AND COVENANTS OF TURKEY CREEK ESTATES**

THIS DECLARATION OF RESTRICTIONS, EASEMENTS, LIENS AND COVENANTS FOR TURKEY CREEK ESTATES is made by Bernard E. Menne and Jeanette Menne, hereinafter referred to as Grantors.

WHEREAS, the tract known as TURKEY CREEK ESTATES is described as tract of ground in Lincoln County, State of Missouri, to-wit:

**TRACT 1:**

A 30.511 ACRE TRACT OF LAND WITHIN PART OF THE NORTH ¼ OF SECTION 29 TOWNSHIP 49 NORTH, RANGE 2 WEST OF THE 5<sup>TH</sup> P.M. AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE EAST ¼ CORNER OF SECTION 29 THENCE S 89 DEG. 55' 00" W 652.41 FT. TO A POINT; THENCE N 01 DEG. 08' 14" W 239.99 FT. TO A POINT; THENCE S 87 DEG. 58' 33" W 201.06 FT. TO A POINT; THENCE S 01 DEG. 15' 26" W 233.21 FT. TO A POINT; THENCE S 89 DEG. 55' 00" W 517.58 FT. TO A POINT; THENCE N 15 DEG. 19' 51" W 91.54 FT. TO A POINT; THENCE N 21 DEG. 41' 56" W 161.32 FT. TO A POINT; THENCE N 28 DEG. 02' 36" W 69.25 FT. TO A POINT; THENCE N 39 DEG. 11' 27" W 37.91 FT. TO A POINT; THENCE N 40 DEG. 43' 08" W 82.51 FT. TO A POINT; THENCE N 46 DEG. 32' 52" W 100.95 FT. TO A POINT; THENCE N 25 DEG. 05' 04" W 50.54 FT. TO A POINT; THENCE N 01 DEG. 09' 42" E 94.91 FT. TO A POINT; THENCE N 17 DEG. 54' 52" E 140.92 FT. TO A POINT; THENCE N 16 DEG. 04' 44" E 115.19 FT. TO A POINT; THENCE N 24 DEG. 22' 01" E 45.65 FT. TO A POINT; THENCE S 89 DEG. 55' 18" E 1574.52 FT. TO A POINT; THENCE S 00 DEG. 03' 11" W 883.50 FT. TO THE POINT OF THE BEGINNING. ALL AS SHOWN ON A PLAT BY FITCH AND ASSOCIATES.

**TRACT 2:**

A 25.235 ACRE TRACT OF LAND WITHIN PART OF THE NORTH ¼ OF SECTION 29 AND PART OF THE N.W. ¼ OF SECTION 28 TOWNSHIP 49 NORTH, RANGE 2 WEST OF THE 5<sup>TH</sup> P.M. AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE EAST ¼ CORNER OF SECTION 29 THENCE N 00 DEG. 03' 11" E 883.50 FT. TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE N 89 DEG. 55' 18" W 1574.52 FT. TO A POINT; THENCE N 24 DEG. 22' 01" E 138.62 FT. TO A POINT; THENCE N 19 DEG. 44' 51" E 431.91 FT. TO A POINT; THENCE N 89 DEG. 13' 08" E 1834.59 FT. TO A POINT; THENCE S 16 DEG. 11' 48" E 583.38 FT. TO A POINT; THENCE N 89 DEG. 55' 18" W 625.55 FT. TO THE POINT OF BEGINNING. ALL SHOWN ON A PLAT BY FITCH AND ASSOCIATES.

WHEREAS, the above tract has been subdivided and the plat of it recorded in the Recorder's Office of Lincoln County, Missouri, in Plat Book 14, Page 37, and known as Turkey Creek Estates; and

WHEREAS, it is the purpose and intent of this Declaration to protect Turkey Creek Estates against certain uses by the adoption of restrictions; and

WHEREAS, Grantors want to make legal provisions which relate to the roadway and fifty foot wide (50') utility easement running through the subdivision.

NOW, THEREFORE, in consideration of the premises and of the benefits that shall accrue to Grantors and to the subsequent Lot Owners, Grantors subject Turkey Creek Estates to the terms, conditions and restrictions of the Declarations, to-wit:

**I. DEFINITIONS**

- A. "Trustees" are the persons responsible for running the Homeowners Association.
- B. "Grantors" are Bernard E. Menne and Jeanette Menne.
- C. "Lot" is each lot shown on the record plat of Turkey Creek Estates in the Recorder's Office of Lincoln County, Missouri.
- D. "Lot Owner" is the person or persons whose estates or interests, individually or collectively, aggregate fees simple absolute ownership of a Lot.

**II. CREATION OF THE ASSOCIATION**

- A. Grantors by this document form an association known as "Turkey Creek Estates Homeowners Association", which shall exercise all the rights, duties, powers, and privileges granted the Association under the following terms.

The Association is vested with the right in its own behalf and on behalf of each Lot Owner to enforce all the restrictions, easements, liens, and covenants contained in this Declaration, but nothing in this document will prohibit an individual lot owner from proceeding on his/her/their own to enforce the same.

- B. Every right, duty, power and privilege that this Declaration gives the Association is given to the Association for its purposes, and is vested with the Trustees, unless otherwise specified.
- C. Grantor will quit claim to the Association all of its interest in the roadways, easements and other real property interests in the common areas of Turkey Creek Estates at a point in time when 90% of the lots of the subdivision are sold. Until that time Grantors retain all of the powers delivered over to the Association by this document.
- D. The Trustees of the association shall be chosen by vote at a meeting called by the Grantor as to time, date and place, but no later than January 1 of the year following that point in time when ninety percent (90%) of the lots of the subdivision are sold. At the meeting, the lot owners shall elect three (3) trustees, one (1) to a three (3) year term, one (1) to a two (2) year term, and one (1) to a one (1) year term. Thereafter, on the first Saturday of January, the three (3) trustees shall call and hold an annual meeting of the association. Each lot is entitled to one (1) vote. The trustees shall each hold their office for a full three (3) year term thereafter or until there successor is elected and qualified. At that meeting, the trustees shall address all the business of the association. Notices shall be by ordinary mail.

### III. POWERS OF THE ASSOCIATION

The Association shall have the power to:

- A. Adopt and amend rules and regulations;
- B. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for Association expenses;
- C. Institute, defend, or intervene in litigation or administrative proceedings in its name on behalf of itself or two or more lot owners on matters affecting Turkey Creek Estates;

- D. Make contract and incur liabilities;
- E. Regulate the use, maintenance, repair, replacement, and modification of the road and streets and any utilities (including sewers and water lines) which may be constructed in the road easement and the utility easement of which are shown on the recorded plat for Turkey Creek Estates. The Association has no responsibility for the lateral water lines serving each lot which lateral taps in to the main service water line; each lot owner has responsibility for installation, maintenance, repair and replacement of the lateral water line serving each lot;
  - 1. The roadway through the subdivision as shown on the recorded plat is 50' wide. The entire 50' width (and more, at the turnarounds) is subject to the placement of utilities at any time for providing services to the lot owners.
  - 2. There shall be an area 10 feet wide on either side of the 50-foot roadway meandering through the subdivision, which shall be used for utilities in the discretion of Grantors and the Trustees.
- F. Cause additional improvements to be made as part of the road easement and the utility easements;
- G. Impose charges for late payment of assessments and after notice and an opportunity to be heard.
- H. Assign its right to future income, including the right to receive assessments;
- I. Exercise any other powers conferred by this Declaration or the Bylaws; and
- J. Exercise any other powers necessary and proper for the governance and operation of the Association.

The above paragraphs are grants of powers only and the Association may or may not exercise them from time to time, as it may deem proper under the circumstances then prevailing in its sole discretion.

**IV. ASSESSMENTS AND LIENS**

The Association (and Grantors before it) is authorized to make assessments upon and against Lots in accordance with the provisions of these instruments.

A. 1. The Association is authorized to make uniform Annual Assessments in an amount initially not to exceed Four Hundred Dollars (\$400.00) per Lot in each calendar year upon and against each Lot, beginning at date of lot purchase, with no prorations. The purpose of this assessment is to allow the Association to carry out all of the general duties and powers of the Association; to enable the Association to defend and enforce the rules and regulations, and restrictions of Turkey Creek Estates; to maintain the roadways, the entrance ways, landscaping and shrubbery; or to perform or execute any powers or duties provided for in this instrument. This assessment may be used for the maintenance of capital improvement fund, a replacement reserve, or a contingency fund. Assessments are due on or by April 1 of each year and are considered delinquent by May 1 thereafter.

The association may change the annual assessment for the initial Four Hundred Dollars (\$400.00) per year beginning with the assessment for calendar year 2006.

2. The procedures to be followed in establishing the assessments and the budget may be set by the Association and its Bylaws or Rules and Regulations.
3. The Association is further authorized to levy specific assessments against any particular Lot, including but not limited to, damage to facilities and property for which the Association is responsible caused by the Lot Owner, Lot Owner's children, Lot Owner's tenants, Lot Owner's trustees, or Lot Owner's guests.

B. 1. Any delinquent assessment together with late charges, to be established by the Trustees, interest not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

2. Each such delinquent assessment together with late charges, interest, costs and reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Lot Owner of such Lot at the time any assessment arose, and his or her grantee shall be jointly and severally liable for such portion as may be due and payable at the time of conveyance.
3. Recording in the Recorder's Office of Lincoln County, Missouri of the resolution of the Board setting out the account of the lien (assessment) shall constitute perfection of the lien. Notice of same shall be sent by certified mail to the lot owner's last known address as shown on the Lincoln County records, before any suit may be filed to foreclose the lien.
4. In the event the assessment remains unpaid after sixty (60) days from the due date. The Association may, as the Trustees shall determine, institute an action to collect such amounts and/or foreclose its lien.
5. Each Lot Owner, by acceptance of deed or as a party to any type of a conveyance, vests in the Association, or its agents, rights and power to bring all actions against him or her, personally for the collection of such charges as a debt and/or to foreclose the lien in the same manner as a mortgage on real estate on a power of sale under Sections 443.290-443.380 R.S.MO., or any successor provisions or to collect such sums in any other legal manner. The lien provided for in this article shall be in favor of the Association and shall be for the benefit of all Lot Owners.
6. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the Lot.
7. No Lot Owner may waive or otherwise escape liability for the assessments provided for in this Declaration including by way of illustration, but not limitation, abandonment of the Lot, or non-use of the road.
8. All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessments, additional assessments, or special assessments which are not the subject matter of suit in the order of their coming

due, and then to any unpaid installments of the annual or specific assessment, which is the subject matter for suit in the order of their coming due.

9. There will be no assessments against Grantors before the lots are initially sold. Assessments will begin against the developer on the developer's lots only after the developer initially sells that lot then later comes back into ownership thereof.
- C.1. Should there be any damage to the subdivision roadway during construction or placement of a home on the lot, the owner of said lot shall be responsible for the cost of repairs thereto and such costs shall be as provided for in paragraph IV.B8., above.

#### V. RESTRICTIVE COVENANTS

Grantor does by this Declaration impose upon the Lots the following restrictions and conditions, to-wit;

- A. The land to be restricted by these covenants is located in Lincoln County, Missouri and is described as shown on Exhibit A attached hereto and made part hereof. These Restrictions are to run with the ownership of each Lot and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date this Declaration is recorded, after which time the Restrictions shall be automatically extended for continuing successive periods of ten (10) years each unless such Restrictions are modified or removed as provided below; provided however, that nothing stated herein shall affect the existence of the easements discussed in Article III above.
- B. Utility Easements for the installation and maintenance of utilities have been reserved on the fifty-foot roadway, as well as on a 10-foot strip on either side of the fifty-foot roadway.
- C.1. All lot owners shall provide and maintain, at their own expense, road entrances to their respective tracts; such private entrances shall be constructed so as not to obstruct the side or cross drainage of the roadway. There shall be placed in all driveways, to the proper grade and depth, a

pipe culvert of not less than fifteen (15) inches in diameter made of corrugated galvanized metal or standard strength concrete pipe. Such driveways shall be of an easy grade, coinciding with the connecting roadway.

2. No single wide, double wide, or modular mobile homes will be allowed.
3. Only occasional camping on the lots herein is allowed until the owner have completed construction of a residence in accordance with these restrictions.
4. All fire chimneys constructed shall be of the type and construction approved by the fire insurance underwriters. All outside exterior wall of any structure shall be completely finished within 120 days after the foundation of any structure has been completed.
5. With respect to any construction, only new materials may be used. No residential dwellings and other buildings, fences, walls or other structures shall be erected, nor shall any exterior additions, changes or alterations therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to and approved in writing as to the size and the harmony of external design in relation to surrounding structures and topography by the Trustees or an authorized representative thereof.
6. The construction, maintenance and use of outside toilets or latrines is prohibited and no open sewage or drain system shall be permitted for disposal of the sewage or water from internal household purposes. All water or sewage shall be disposed of through systems authorized and permitted by the authorities of Lincoln County, Missouri and the Missouri Department of Natural Resources, under their existing sewer ordinances or any amendments thereto. Outside toilets may be permitted temporarily during the construction of a dwelling unit, but not to exceed a period of one hundred twenty (120) days.
7. No lot or tract of land shall be used for commercial purposes, except upon granting of a variance by the Trustees. The variance may be granted by



the Trustees only upon written application by the Lot Owner. The application must state the nature of the business or commercial use, the impact of the business upon the residential nature of the subdivision, and accompanied by a signed consent of Lot Owners representing 65% of the Lots of the entire subdivision. The variance, if granted shall be personal to the present owner/applicant of that Lot requesting the variance, and shall not be a permanent variance which is transferable, or to become a permanent variance or covenant running with the Lot, and shall constitute a variance for the commercial use or business applied for only.

8. No cattle, horses, swine, sheep, goat, ostriches, llamas, chickens or other poultry shall be permitted at any time. No commercial kennels for pets are permitted. Failure to comply with the direction of the Trustees shall result in an injunction being sought. FFA or 4-H projects will be allowed but must be approved by the lot Trustees. The Trustees shall not be unreasonable in granting this decision.
9. No derelict or unlicensed automobiles or other vehicles, including boats and recreational vehicles, unless garaged, are permitted to be left or stored on any tract. No automobiles or other vehicles shall be parked upon a street or roadway except on brief occasions. There shall not be continuous parking or stopping on the street. Each Lot Owner shall provide off street parking for more than occasional parking. A trailer, boat, boat trailer, camping truck or RV or other recreational vehicle to be parked adjacent to or behind, garage on a poured concrete or gravel pad.
10. All lots or tracts shall be subjected to any easement over, under and across said lots or tracts for utilities required for the benefit of others.
11. All lots must be sold as originally sold; no tract or lot in this subdivision shall be subdivided. Each lot shall be used for single family residential only.
12. The individual lot owner will be responsible for the cost of taking the water line and other utility lines from the street onto the individual lot owner's property.

13. Original Grantors shall control the enforcement of these conditions until 90% of the building lots are sold, at which time the Trustees shall control.
14. Each lot shall have one (1) single family dwelling, which must include at least a 2-car attached garage. Matching detached garage will be permitted if approved by Trustees.
15. No structure of temporary character, portable, storage building, trailer, manufactured home, modular home or mobile home, basement home, tent or shack to be placed upon or used on any lot at any time. Outbuildings, such as barns, sheds and unattached garages must be of good structure and fit in with the surrounding structures and approved by the trustees. These structures must be placed behind the permanent dwelling. No structures allowed in front yard.
16. (a.) A dwelling of the design commonly referred to or known, as one-story dwelling shall have a first floor area, exclusive of the portion encompassed within an attached garage, of not less than 1,500 sq.ft.  
  
(b.) A dwelling of the approved design commonly referred to or known as a split-foyer shall have a floor area of 1,500 sq.ft. Lower level not to be included in square footage requirements.  
  
(c.) A dwelling of the design commonly referred to or knows, as split-level shall have a floor above grade, excluding the area of the attached garage and not less than 1500 sq. ft.  
  
(d.) More than one story (except dwellings of the design commonly referred to or known as split level) shall have a first floor area, exclusive of that portion encompassed within an attached garage, of not less than 1,000 sq. ft. Such dwelling shall have a width, including attached garage upon the street which it fronts of not less than 48 lineal feet and a total living area of not less than 1,500 sq.ft., excluding the basement area.

(e.) Construction of new home is to be completed within one hundred eighty (180) days from start date.

(f.) All plans to be approved by Trustees.

17. Eaves, steps and porches shall not be considered as part of the dwelling and the attached garage.
18. No lot in the subdivision shall be willed, conveyed or transferred in any manner to a civic, social, religious, charitable, fraternal organization or any person or persons other than an individual family unit for the exclusive use as a residence.
19. No noxious, toxic or offensive activity shall be carried on or upon any lot or shall anything be done thereon which may become an annoyance or nuisance to the subdivision.
20. During construction of homes on individual lots advertising signs shall consist of builders, suppliers, lenders, to include "For Sale" or "For Rent" signs and shall not be larger than 3'x3' in size.
21. All grasses and weeds, which may grow up on any lot, shall be cut and trimmed by owner so as not to permit a height greater than ten (10) inches. If this is not done, the Trustees shall have the right to enter said lot and cut the grasses and weeds and an assessment may be made and applicable fine will be charged against the owner.
22. Said premises shall not be used for any unlawful purpose or for any purpose that will injure the reputation of the subdivision or the peaceful enjoyment of others. Off-road vehicles such as ATV's three or four wheeler vehicles, etc. shall not be ridden on any street in subdivision or become a nuisance to neighbors. Dirt bikes are not allowed in subdivision.
23. All fences constructed must be of new material: wood, milling or chain link with new posts set in concrete, with the exception of rail fencing. All board fences shall be of the type with openings aggregating not less than fifty percent (50%) of the fence. No fence will be constructed beyond the

front of any dwelling, unless, the fence is of the front yard ornamental type not reaching more than twenty-four (24) inches in height.

24. Household pets (restricted to three indoor or out door or combination of both pets) may be kept provided they are not kept, bred or maintained for any commercial purpose. No dog, cat or other household pet shall be permitted by a lot owner to be off the lot of the dog owner unless on a leash, controlled by some person physically able to prevent a dog, cat or other household pet from escaping. All outside pets must be kept in a kennel.
25. No motor vehicle requiring what is commonly called a "commercial license" under the laws of the State of Missouri, or vehicle licensed over thirty thousand (30,000) pounds may be parked or permitted to remain in the subdivision
26. No automobile, motorcycle or machinery of any kind may be dismantled, assembled, repaired or worked on in any matter upon any lot or street in this subdivision unless such repairs are conducted inside a private garaged area screened from public view.
27. All licensed motor vehicles remaining in any lot or street longer than fifteen (15) days not in proper operating condition shall be hauled away and stored at the Owner's expense.
28. Any Lot Owner damaging the road or property of others during construction or out of a negligent act that said Lot Owner is responsible for the repairing of the damages at their expense.
29. The front of the dwelling is to be fifty (50) feet or more from the front property line with the main dwelling being ten (10) feet or more from side property line and thirty (30) feet from rear of property line. Outbuildings are to be at least ten (10) feet from side property line and at least ten (10) feet from rear property line. They are also behind the rear corner of main dwelling.

30. No lot shall be used or maintained as a dumping ground for rubble or trash of any kind. Trash, garbage or other waste shall not be kept on any premises except in sanitary containers for disposal at least weekly.
31. Association dues will include streetlights, road, water, well and insurance maintenance.
32. Initially, the Board of Trustees shall be comprised of Bernard E. Menne, Jeanette Menne and 2 new Lot Owners who shall serve until replaced in the manner hereinafter provided.
33. No assessment shall be due from the Developer, Bernard E. Menne or Jeanette Menne, its members or their heirs.
34. All utilities will be under ground, propane tanks must be buried.

#### **VI. MISCELLANEOUS PROVISIONS**

- A. No modifications or amendment to this Declaration shall be valid unless such modification or amendment has the written assent of the Lot Owners representing in the aggregate 65% or more of all Lot Owners present and voting at a meeting having a quorum and duly called for the purpose of such modification or amendment after the Grantor's have sold 90% or more of the lots. Until that time, Grantor is free to amend these restrictions, easements, liens and covenants upon notice to all Lot Owners. Such modification or amendment must be duly recorded in Recorder's Office of Lincoln County, Missouri.
- B. The members of the Association shall be those persons who are the Lot Owners. The memberships are appurtenant to and conjunctive with the ownership of such lots. The rules and provisions relating to the election of Trustees and the government of the affairs of the Association shall be provided for in the bylaws.
- C. In any event and on any vote referred to herein by members of the Association and notwithstanding any language to the contrary each lot in Turkey Creek Estates shall be entitle to one vote and only one vote.

- D. Owners Bernard E. Menne, Jeanette Menne and their son William Menne retain the right for themselves only to add future development property to the existing road in the subdivision if needed in the future and users will pay normal road association fees for use.

IN WITNESS WHEREOF, Grantors have executed this Declaration on the day and year stated below.

Bernard E. Menne  
Bernard E. Menne, Grantor

Jeanette Menne  
Jeanette Menne, Grantor

STATE OF MISSOURI     )  
                                  )SS.  
COUNTY OF LINCOLN    )

On This 5th day of May, 2005, before me personally appeared Bernard E. Menne and Jeanette Menne, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal in the City and County and State aforesaid, on the day and year first above written.

Patricia A. Vanpool  
-Notary Public

