

STATE OF KANSAS } ss  
SEDCWICK COUNTY }  
FILED FOR RECORD AT  
7-30 P M

Nov 3 1988 0978467

PAT KETTLER  
REGISTER OF DEEDS

*Ed Reed  
Deputy*

DECLARATION OF COVENANTS  
OF BARRINGTON PLACE

The undersigned, Ritchie Development Corporation, a Kansas corporation ("Declarant"), being the owner of all of the following described real property, to-wit:

Barrington Place, an Addition to Sedgwick County, Kansas,

does hereby impose the following protective restrictions and covenants upon the above-described real estate; and each of these covenants, conditions, reservations and restrictions is for the benefit of each owner of land, or any interest therein, and shall inure to and pass with each and every building lot, and shall bind the present owner and its respective successors in interest, and are to be construed as restrictive covenants running with the title to such lots.

1. Definitions. (a) "Residential building lot", or "building lot" shall mean any lot, or two or more contiguous lots, upon which a dwelling unit, with appurtenances, may be erected in conformance with these covenants.

(b) "Detached single family dwelling unit", or "dwelling unit", shall mean and include on integral unit, with appurtenant structures, designed and constructed for use as a residence for one family.

(c) "Accessory structure" shall mean any enclosed, covered structure not directly attached to a dwelling unit to which it is appurtenant. Such shall not be defined to mean a carport, which structures are expressly prohibited.

(d) "Improvements" shall mean and include a new dwelling unit as herein defined, accessory structures, fences,

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700 Fourth Financial Center - 1 -

walls, hedges, and other usual appurtenances now common to dwelling usage.

(e) "Front and side street building set-back line or lines" shall mean the minimum distance which a dwelling unit must be set back from the front and/or side street lines, respectively.

(f) "Side lot building line" shall mean the boundary or property line dividing two adjoining lots.

(g) "Side lot building set-back line" shall mean the minimum distance which a dwelling unit must be set back from the side lot building line.

2. Use. All lots are for residential purposes only. No retail, wholesale, manufacturing or repair business of any kind, nor so-called home occupations, nor any other business or profession shall be maintained, practiced or permitted on any building lot or in any detached single-family dwelling or appurtenant structure erected on any lot, nor in any other outbuilding, even though it does not include the employment of any additional persons in the performance of such business, trade or profession. No activity which may be or become an annoyance or nuisance to the neighborhood shall be carried on upon any building lot or in any dwelling unit or appurtenant structure or accessory structure erected therein.

3. Structures. No garage or basement may be converted into apartments or living quarters. No previously constructed building, dwelling unit or accessory structure may be moved onto a building lot. No dwelling unit, or any part thereof, nor any appurtenant structure to be used in conjunction with a dwelling unit may be occupied in any manner while in the course of construction, nor any any time prior to its being fully completed. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, or other temporary structure shall be placed or erected upon any lot, provided, however, temporary construction sheds or the like may be utilized during the period of construction of a dwelling unit or units upon any lot or lots.

4. Set-backs. (a) Front and side street set-back lines are shown on the plat of Barrington Place Addition and the minimum front and side street set-backs shall be the same as the distances shown on said plat.

(b) There shall be a six foot (6') side yard building set-back line from each side lot building line.

(c) Accessory structures shall be located in compliance with the side yard requirements for each building lot, however, an accessory structure shall not be required to be set back more than three feet (3') from a side lot building line when all parts of the accessory structure are located more than one-half of the depth of the lot behind the front set-back line, provided, however, no accessory structure shall be located on any platted or recorded easement, or over any known utility.

5. Tanks. No elevated tanks of any kind shall be erected, placed or permitted on any part of any building lot.

6. Livestock and Pets. No livestock, chickens, fowl, or other animals, except the usual and ordinary number of family pets, shall be kept by the occupants of any dwelling unit.

7. Utility Lines and Cable Television. All electrical service, telephone lines and cable television service shall be placed under ground and no overhead outside service to any dwelling unit shall be permitted, provided, however, overhead electric lines may be permitted to serve lighting of the streets and common area. Any part or all of this restriction may be waived by the undersigned.

8. Signs, etc. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the building lots herein restricted, provided, however, permission is hereby granted for the erection and maintenance of not more than one signboard on each building lot, which signboard shall not be more than five (5) square feet in size and may be used for the sole and exclusive

purpose of advertising for sale or lease the building lot upon which it is erected. Any part or all of this restriction may be waived by the undersigned.

9. Nuisance. No lot shall be used in whole or in part for the storage of any property or thing that will cause such lot to appear in an unclear or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property.

10. Mining. No derrick or other structure designed for use on boring for oil or natural gas shall be erected, placed, or permitted upon any part of such premises, nor shall any oil, natural gas, petroleum, asphaltum or other hydrocarbon products or minerals of any kind be produced or extracted therefrom.

11. Construction. All dwelling units or structures upon any of the lots subject to these restrictions must be constructed by a licensed contractor licensed by the City of Wichita, Kansas, and no used building materials may be incorporated in any improvement.

12. Vehicles. No commercial vehicles, construction vehicles or like equipment or mobile or stationary trailers of any kind shall be permitted on any lot unless the same is kept completely enclosed. No junk or temporarily disabled vehicle shall be stored on the street.

13. Fences and Screening. No fences or other screening shall be allowed in the front set-backs of any of the lots. No vehicles, vehicles being herein defined to include automobiles, motor homes, trailers, motorcycles, boats, tractors, or other means of conveyance, shall be parked or stored in either the front, side street or side yard set-backs except on driveways leading directly from the public street to an attached garage or other accessory structure.

14. Association. (a) The Barrington Place Owners' Association (the "Association") shall be organized as a nonprofit corporation for a perpetual term under the laws of the State of Kansas. Membership in the Association shall be mandatory for each owner of a lot. Each of such landowners is hereinafter referred to as an "Owner". "Member" shall be defined as every person or entity who or which is a record Owner of a fee or undivided fee interest in any lot, but not including any Owners who have sold their interest under executory contract. During such time as such contract is in force, the contract vendee shall be considered to be the member of the Association.

(b) There shall be two (2) votes for each Lot. When more than one person holds an interest in any Lot, all such persons shall be Members. The votes for such Lot shall be exercised as the Owners of such Lot may determine among themselves. Notwithstanding the foregoing, Declarant shall be entitled to eight (8) votes for each Lot of which it is the Owner.

(c) The initial operation of the Association shall be by Declarant until such time as Declarant turns over the operations thereof to the Association. All actions of the Association shall be taken on its behalf by the Board of Directors (the "Board"), except for when a vote of the members of the Association is specifically required by this Declaration, the Articles of Incorporation, or the Bylaws.

15. Assessments. (a) All of the Lots shall be subject to an annual assessment charge to be paid by the respective Owners thereof to the Association annually in advance on the 1st day of January, in each year. The Board may permit the annual assessment charge to be paid either annually, semiannually, or quarterly. Each year the Board shall, prior to November 1, determine the total amount to be raised by the annual assessment charge for the next succeeding year. This sum so determined shall be divided by the total number of Lots, and each Lot shall be assessed an equal amount. Should the Board at any time determine, in its sole discretion, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Common Area, or in the event of emergencies, the Board shall have the authority to

levy such additional assessment or assessments as it shall deem to be necessary.

(b) The assessment fund shall be used for such of the following purposes as the Association shall determine necessary and advisable: for improving and maintaining any Common Area and other property of the Association; for planting trees and shrubbery and the care thereof; for expenses incidental to the proper operation and maintenance of any recreational facilities located within the Common Area; for collecting and disposing of garbage, ashes, and rubbish; for caring for vacant property; for removing grass or weeds; for constructing, purchasing, maintaining, or operating any community service including publishing a directory of the membership of the Association; for purchase of insurance; for doing any other thing necessary or advisable in the opinion of the Association for the general welfare of the Members; for expenses incidental to the enforcement of these restrictions; for the payment of operating expenses of the Association; or for any other purpose within the purpose for which the Association is incorporated.

(c) All assessment charges which shall remain due and unpaid thirty (30) days after they are due shall thereafter be subject to interest at the rate of fifteen percent (15%) per annum or at such other rate as established by the Board.

(d) The annual assessment charge shall be a lien and encumbrance on the Lot with respect to which said charge is made. By the acceptance of title to any Lot, the Owner (not including a mortgagee as long as it is not the Owner) from the time of acquiring title thereto shall be held to have covenanted and agreed to pay to the Association all charges provided for herein which were then due and unpaid to the time of acquiring the title thereto and all such charges thereafter falling due during his ownership thereof. A certificate in writing issued by the Association or its agent shall be given on demand to any Owner or prospective purchaser liable, or who may be liable, for said charges, which shall set forth the status of said charges. This certificate shall be binding upon said parties.

(e) The lien provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot, which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any conveyance in lieu of foreclosure thereof, however, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

(f) By the acceptance of title, each Owner shall be held to vest in the Association the right and power in its own name to take and prosecute all suits, legal, equitable, or otherwise, which may in the opinion of the Association be necessary or advisable for the collection of such charge or charges, and the Association shall have the right to sue for and collect a reasonable sum to reimburse it for its attorneys' fees and any other expenses reasonably incurred in enforcing the Association's rights hereunder.

(g) The maximum annual assessment may be increased for any subsequent year to an amount which is no more than thirty percent (30%) compounded above the maximum permitted annual assessment for the previous year without a vote of the membership of the Association. The annual assessment for any year may be increased to an amount greater than that permitted by Subsection "a" of this Section only by an affirmative vote of two-thirds (2/3) of the vote of the Members in attendance, who are voting in person or by proxy, at a meeting duly called for such purpose. The Board may fix the annual assessment at an amount not in excess of the maximum amount set forth in this Section. Declarant shall not be bound by any assessment under this Article on any lot owned by it. The initial annual assessment shall be Sixty Dollars (\$60.00) per lot.

16. Architectural Control. No dwelling unit or other improvements, including fences, shall be erected, placed or altered on any building lot in said Addition until the building or other improvements plans, specifications and plot plat showing the location of such improvements on the particular building lot have been submitted to and approved in writing as to conformity and harmony for external design, including the

height of said improvements, with existing structures in the Addition, and as to location of the improvements with respect to topography, grade and finished ground elevation by the Architectural Control Committee as hereinafter provided.

No dwelling shall be erected on any lot in the Addition that contains less than fourteen hundred (1,400) square feet of living space, exclusive of porches and garages. In addition, all roofs shall utilize an asphalt shingle of a color and style determined by the Architectural Control Committee, approval of which shall be obtained with the approval of plans as aforesaid.

The Architectural Control Committee, its successors and assigns, shall not be liable in damages to anyone so submitting plans for approval, or to any other owner or owners of building lots covered by this instrument by reason of mistaken judgment, negligence or non-feasance of themselves arising out of or in connection with the approval or disapproval, or failure to approve any such plans. In the event the Architectural Control Committee fails to approve or disapprove such design, height and location within thirty (30) days after said plans and specifications have been submitted, this covenant will be deemed to have been fully complied with. If construction or alteration of original improvements or any subsequent additional improvements are begun in violation of the terms and conditions of this paragraph or without the written approval required, and no suit to enjoin the erection, establishment or alteration of such improvements has been commenced prior to the completion thereof, this covenant will be deemed to have been fully complied with.

The Architectural Control Committee shall be composed of three (3) persons appointed by Declarant. Until such time as Declarant turns over the operation of the Architectural Control Committee to the Association, Declarant shall have the authority to appoint the members of the Architectural Control Committee. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.



17. Term/Amendment. These restrictive covenants shall run with the land and be binding upon all persons using, occupying or owning such property and their respective heirs, successors and assigns thereof until the 1st day of February, 2005, at which time these restrictive covenants shall be automatically extended for successive periods of ten (10) years each unless by a vote of the owners of a majority of the building lots subject to these restrictions, as shown by the records of the office of the Register of Deeds of Sedgwick County, Kansas, it is agreed to change said restrictions or covenants in whole or in part. If any building lot is owned by more than one person, the owners of such a building lot shall be collectively entitled to one vote. These covenants may be amended at any time upon the written approval of a vote of the owners of a majority of the building lots subject to these restrictions which shall be effective upon recording with the Register of Deeds of Sedgwick County, Kansas. Notwithstanding the foregoing, amendments to this Declaration made prior to the date on which Declarant delivers management of the property to the Association shall become effective when approved in writing by Declarant and recorded in the office of the Register of Deeds of Sedgwick County, Kansas.

18. Violations. In any person shall violate or attempt to violate any of the restrictions herein set forth it shall be lawful for the Association or any other person or persons holding any building lot in said Addition to prosecute in any court of competent jurisdiction, any proceeding at law or in equity against the person or persons so violating or attempting to violate any such restriction, either for the purpose of preventing him or them from doing so, or to recover damages for such violation. Any waiver of the enforcement of any of the restrictions herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter nor shall such waiver be deemed to be a waiver of any future or successive violation.

19. Invalidity. In the event any one or more of the foregoing covenants, conditions, reservations or restrictions shall be declared for any reason, by a court of competent jurisdiction, to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions, reservations and restrictions not so declared to be void, but all of the remaining covenants, conditions, reservations and

restrictions not so expressly held to be void shall continue unimpaired and in full force and effect.

IN WITNESS WHEREOF, we, the undersigned, have caused this instrument to be executed this 29<sup>th</sup> day of OCTOBER, 1988.

RITCHIE DEVELOPMENT CORPORATION

By *Kevin M. Mullen*, President

Attest:

*C. L. Ritchie*, Secretary

STATE OF KANSAS )  
                          ) SS.  
SEDGWICK COUNTY )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of October, 1988, by *Kevin M. Mullen* President of Ritchie Development Corporation, a Kansas corporation, on behalf of the corporation.

*Lonna R. Hansen*  
Notary Public

My Appointment Expires:

*August 25, 1990* 