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McLean County, IL  
H. Lee Newcom Recorder

File **2009-00028674**

**PROTECTIVE COVENANTS RELATING TO THE GROVE ON KICKAPOO CREEK SECOND ADDITION, BLOOMINGTON, ILLINOIS**

KNOW ALL PERSONS BY THESE PRESENTS:

That undersigned Grantors, Declarants and Developers being ARMSTRONG GROVE, INC., RAVE HOMES, INC., DOUD LAND DEVELOPMENT, INC., KAISNER CORPORATION, FRANKE GROVE, INC. and R & H HOMES, INC., (hereinafter referred to as the "Developer") being all of the owners and developers of said land hereinafter described and referred to as THE GROVE ON KICKAPOO CREEK SECOND ADDITION, BLOOMINGTON, ILLINOIS, and being desirous of subjecting said property to the restrictions, covenants, reservations, and charges hereinafter set forth, each of which shall inure to the benefit of and pass with said property and each and every parcel and lot thereof, and shall apply to and bind the undersigned and its successors and assigns, hereby declares that the property described in Clause I hereof is held and shall be transferred, sold, and conveyed subject to the conditions, restrictions, covenants, reservations, and charges hereinafter set forth.

**CLAUSE I**

The real property, which is and shall be held and which shall be transferred, sold, and conveyed subject to the conditions, restrictions, covenants, reservations, and charges with respect to the various portions thereof set forth in the several clauses and subdivisions of this declaration, is situated in the County of McLean, State of Illinois, and is more particularly described as follows, to-wit:

**Lots 243, 244 and 245 in The Grove on Kickapoo Creek Second Addition Phase II, Bloomington, Illinois, according to the plat thereof recorded on the 31<sup>st</sup> day of August, 2009, as document number 2009- 27933 , situated in McLean County, Illinois;**

P.L.N: part of 22-08-400-004

(The above described real estate is sometimes referred to herein as "the subdivision").

**CLAUSE II**

To insure the best use and most appropriate development and improvement of each building site within the subdivision; to protect the owners of building sites within the subdivision against such improper use of surrounding land as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials; to guard against erosion; to obtain harmonious appearances; to encourage and secure the erection of attractive homes with appropriate set back from streets; to coordinate grade-lines in conformance with such plans as prepared by Farnsworth Group, Inc.; and in general to provide adequately for high quality improvements on said property and thereby enhance the values of investments made by purchasers of building sites therein, the real property described in Clause I hereof is hereby subject to the following conditions, restrictions, covenants, reservations, and charges, to-wit:

**A. LAND USE AND BUILDING TYPE.** No lot within the subdivision shall be used except for residential purposes. No building shall be erected, placed, or permitted to remain on any lot other than a single-family dwelling. No lot within the subdivision shall be used for commercial purposes. No intoxicating liquor shall be sold within the subdivision.

**B. MINIMUM SQUARE FOOTAGE.** The minimum square footage of living space (exclusive of enclosed porch, breeze way, or garage) above the ground of each residence constructed within the subdivision shall be as follows:

RANCH STYLE (square feet on one level)	1,790
TWO-STORY (square feet on two floors)	2,300
ONE and ONE-HALF STORY (square feet above grade)	1,967

For any other style of residence, the square footage must be approved in writing prior to the request for a building permit by one of the two representatives of the Developer, being William C. Doud and Laurence F. Hundman.

**C. APPROVAL OF PLANS.** All building plans must be approved in writing by either William C. Doud or Laurence F. Hundman. Approval of building plans must be received prior to obtaining any building or excavation permit, and such approval is a condition precedent to the commencement of construction. No bi-level plans are allowed. Any plan may be rejected by William C. Doud or by Laurence Hundman, if the plan in general, or any part thereof, is determined not to be in the best interest of The Grove on Kickapoo Second Addition, Bloomington, Illinois, in the sole discretion of William C. Doud or Laurence F. Hundman.

**D. BRICK REQUIREMENT.** The front of each home within the subdivision shall have a minimum of 400 square feet of brick or stone.

**E. MAILBOX REQUIREMENT.** The owner of each home within the subdivision shall be required to maintain a mailbox. The Developer does hereby require that all mailboxes be uniform in style and identical in appearance. The Developer shall select the mailbox to be used within the subdivision and each owner shall use the mailbox selected by the Developer. The owners may purchase the mailboxes at Hundman Lumber and other retail location(s) in and around McLean County, Illinois.

**F. GRADE ELEVATION CONTROL.** No building shall be erected and placed on any lot until the location of the structure on the lot, topography and finish grade elevation shall have been approved in writing by either William C. Doud or Laurence F. Hundman. Said approval shall be received prior to obtaining any building or excavation permit. The minimum finish grade and the front foundation of the house shall be as established by the grade map prepared by Farnsworth Group, Inc., and accepted by the City of Bloomington, so as to provide the minimum requirements above the top of the curb at the center of the lot. Each lot owner agrees to assume any responsibility for manhole variations that might be required as a result of lot owner's grading, including, but not limited to (i) making such adjustment; and (ii) paying the actual costs of making such adjustment, within ninety (90) days following written notice from either William C. Doud or Laurence F. Hundman.

**G. GARAGE REQUIREMENTS.** Each residence within the subdivision must be improved with a garage attached to the residence that is not less than a two-car garage and not more than a three-car garage. Each garage shall have a paved driveway from the street to the garage.

**H. CONSTRUCTION MATERIALS.** New building materials shall be used in any and all construction within the subdivision. No completely modular construction shall be allowed; however, precut and/or preassembled components may be used. Construction materials, including but not limited to all exterior siding must be approved with the building plans as provided for in Paragraph C above.

**I. FOUNDATION REQUIREMENTS.** All residences shall have basements or crawl spaces. No construction shall be allowed on slabs. No concrete or concrete block foundation shall be exposed to an excessive height taking into account the type of construction involved.

**J. FOOTING TILE REQUIREMENTS.** Footing tile systems shall be installed off the footings and so that the bottom of the inside diameter is a minimum of one-half inch below the top of the footings. No footing tile or down spouts shall be

connected to the sanitary sewer system. No surface water shall be allowed in the footing tile drainage system except upon written approval of developer.

**K. SET BACK REQUIREMENTS.** All residences within the subdivision shall be set back from the lot line as follows:

FRONT YARD SETBACK	30 feet
SIDE YARD SETBACK	6 feet
REAR YARD SETBACK	30 feet

**L. DETACHED BUILDINGS.** No detached buildings or outbuildings shall be constructed or permitted within the subdivision.

**M. TEMPORARY STRUCTURES.** No structure of temporary character, trailer, basement, or garage shall be used on any lot within the subdivision at any time as a residence, either temporary or permanently. No building shall be occupied until the exterior surface has been completed, including final painting if such construction calls for same. No basement shall be occupied as a residence without an above grade home first being constructed.

**N. SURPLUS DIRT.** No surplus dirt shall be moved from the subdivision. All surplus dirt arising from construction shall be dumped in the area provided for same within the subdivision (or a future phase of the subdivision), unless approved in writing by William C. Doud or Laurence F. Hundman.

**O. LANDSCAPING.**

1. Sod and Seed. All lots within the subdivision must be sodded in the front yard and sodded or seeded in side and rear yards prior to occupancy, or if inclement weather prohibits, as soon as the weather permits after occupancy. The Developer does not provide sod or seed. All sod and seed shall be the responsibility of the owner of the lot.

2. Trees. Within one year of the initial occupancy permit for each lot within the subdivision, the lot owner must plant trees as follows: Two trees (one in front yard and one in back yard) at least two inches in diameter with at least one of the trees being an Oak tree. Other than the Oak trees, the other trees which are planted to satisfy the requirements of this paragraph must come from the following varieties of trees: Maple, Ohio Buckeye, River Birch, Oak (white, chinkapin & red), Basswood, Hornbeam, Sassafras, and Black Gum.

**P. FENCES AND WALLS.** No fence shall exceed in height the limitations set by the municipal code of the City of Bloomington. Any boundary fence shall be a minimum of six inches inside the property line of the lot owner so constructing same. Notwithstanding any other provision contained herein, prior to construction, all fencing materials, locations, and plans must be approved in writing by either William C. Doud or Laurence F. Hundman. Said approval shall be received prior to obtaining any building permit and such approval is a condition precedent to the commencement of construction. The type of fence eligible for approval shall be shadow box, black aluminum, black iron, and white vinyl for perimeter lot fencing. All lots shall be required to have white vinyl fencing or black iron fencing around any patio with a swimming pool and/or exterior hot tub. No lot shall contain any rail fence. No lot shall contain a dog run.

**Q. UTILITY SERVICES.** All buildings within the subdivision must be supplied by underground electrical systems and utility distribution systems and services.

**R. EROSION CONTROL AND LOT MAINTENANCE.**

1. All lot owners within the subdivision shall maintain their lots in such a manner as to control and reduce erosion on the lot owner's lot and the other lots within the subdivision. All lot owners shall comply with the Erosion and Sediment Control Provisions of the City Code of Bloomington, Illinois (Chapter 24, Division VI) and any amendments thereto. The Developer is not responsible for erosion control measures on any lot the Developer has conveyed to a lot owner. Each and every lot owner hereby agrees that the failure of a lot owner to comply with this provision shall be authorization to the Developer, without notice to the lot owner, to take action to control erosion on any lot for the benefit of that lot and other lots within the subdivision and to charge the cost thereof to the owner in which the erosion control measures were taken.

2. All lot owners within the subdivision shall maintain the lots in such manner as to keep grass and weeds mowed so that they do not exceed a height of eight inches (8"). Each and every lot owner within the subdivision hereby agrees that the failure of a lot owner to comply with this provision shall be authorization to the Developer, without notice to the lot owner, to have the lot mowed and to charge the cost thereof to the lot owner.

3. All lot owner further agree that Developer may, but shall not be obligated to, take legal action against the lot owner to collect the cost incurred by Developer in enforcing this provision, taking erosion control action and/or mowing and that Developer shall be entitled to collect from the lot owner all of Developer's court costs and reasonable attorney's fees incurred in collecting the costs Developer incurs herein whether through negotiation or litigation.

S. **PETS.** No pets shall be kept in exterior pens or cages, including but not limited to dog runs, within the subdivision and only common household pets shall be allowed. No commercial or barnyard animals shall be allowed within the subdivision.

T. **PARKING RESTRICTIONS.** No trucks, travel trailers, recreational type vehicles, mobile homes, boats, boat trailers, motor bikes or trail bikes, etc., shall be kept within the subdivision, except entirely within an approved garage attached to a residence.

U. **BURNING TRASH, ETC.** Trash, garbage, paper or other waste shall not be burned within the subdivision.

V. **SIGNS.** No billboards or advertising signs, whether on a separate structure or on buildings, shall be permitted, except those permitted by city ordinance and the usual contractor, real estate, and house promotion signs during initial construction of home. No interior advertising or signage shall be visible from the exterior of any residence. One customary unlighted for sale sign may be permitted on the premises when a home is for sale, whether placed by a realtor or a homeowner.

W. **RECREATIONAL FACILITIES.** Each lot owner within the subdivision shall obtain written approval from William C. Doud or Laurence F. Hundman prior to constructing or installing any recreational facilities, such as swimming pools, tennis courts, etc.,. No pools above ground level will be permitted within the subdivision under any circumstance.

X. **SATELLITE DISHES.** No satellite dishes or other similar type transmission and/or reception facilities in excess of eighteen inches (18") in diameter shall be allowed within the subdivision, whether attached to any structure or free standing. Unless adequate reception is unavailable, permitted satellite dishes or other similar type transmission and/or reception facilities shall be placed in the back of house. No ham radio tower or other type of tower is permitted at any location within the subdivision. No reception or transmission device for television signals or other purposes is permitted on the front of a home or in the front yard.

Y. **DRIVEWAY, SIDEWALK, CURB, AND GUTTER DAMAGE.** All driveway aprons (being that portion of the driveway from the street to the property line) shall be of concrete. Each and every lot owner within the subdivision agrees to be responsible for the installation of the city walks and the condition of the sidewalk, curbs, and gutter on their lot. In the event that a sidewalk, curb and/or gutter is broken or in any way damaged at any time, including during construction, on any lot within the subdivision, the respective lot owner agrees to assume the responsibility to repair same and to pay the actual costs of repair or replacement of same. Said repairs must be done within ninety (90) days following written notice by Developer and/or the City of Bloomington, Illinois.

**Z. PERFORMANCE TIME REQUIREMENT.** Each and every purchaser from a Developer and the purchaser's successors and assigns (hereinafter referred to as "Purchaser") agree to commence construction of a residence on the Purchaser's lot within two (2) years from the date in which Purchaser entered a contract to purchase the lot from Developer. Each and every Purchaser specifically agree that if the Purchaser has not started construction of a residence on a lot purchased from the Developer within two (2) years from the date of the Purchaser's contract to purchase from the Developer, then Developer is herewith given the exclusive right and option to repurchase said lot for the price paid to Developer, free and clear of any and all liens or encumbrances due to the action of the Purchaser. In the event of such repurchase, taxes shall be prorated to the date of repurchase. This provision is set forth to help speed the development of the overall subdivision and each and every Purchaser acknowledges and agrees to comply with the same in total. Construction of a residence on a lot within the subdivision must be completed within one year of after the construction was commenced.

### **CLAUSE III**

All of the foregoing restrictions, reservations, and covenants shall run with the land and shall be binding upon all subsequent owners, and all restrictions, reservations, and covenants shall be enforceable by each and every lot owner by appropriate legal action in courts of law or equity. In the event that Developer or any lot owner must resort to a court of law to enforce any of the foregoing restrictions, reservations, or covenants, the lot owner or owners who have violated the same shall be liable and legally responsible for all court costs and reasonable attorney's fees incurred in the enforcement of same. Any such court actions may be brought to restrain violations, to require corrections or modifications, or to recover damages.

### **CLAUSE IV**

The restrictions, reservations, and covenants set forth herein shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date that same are recorded, after which time such covenants shall be automatically extended to successive periods of twenty (20) years, unless at any time an instrument, in writing and executed by the then record owners of a majority of the lots in the subdivision and any and all additions thereto, shall have recorded in the office of the Recorder of Deeds of McLean County, Illinois, agreeing to change said covenants in whole or in part.

### **CLAUSE V**

Invalidation of any one of the foregoing restrictions, reservations, or covenants by judgment or by court order shall in no way affect any of the other provisions, which shall remain in full force and effect, and a waiver or modification in any of them by Developer as to any particular lot shall not in any way limit, restrict, or bar the enforcement of them as to other lots or lot owners.

## CLAUSE VI

Every owner of a lot within the subdivision shall be member of The Grove on Kickapoo Creek Homeowner's Association (herein referred to as the "Association"). Membership in the Association shall be appurtenant to and may not be separated from ownership of a lot. The members of the Association shall include owners of lots located in The Grove on Kickapoo Creek, The Grove on Kickapoo Creek First Addition and any future additions to The Grove on Kickapoo Creek development in Bloomington, Illinois. The Developer reserves the right to add members to the Association and to subject the Association to additional real estate, common area, outlots and duties by filing with the McLean County Recorder of Deeds one or more declarations similar to this document for the future additions to The Grove of Kickapoo Creek, Bloomington, McLean County, Illinois.

The Association shall have two classes of voting members as follows:

CLASS A. Class A members shall be all owners with the exception of the Developer, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in a given lot, all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot owned by Class A members.

CLASS B. The Class B member shall be the Developer, who shall be entitled to exercise 3 votes for each lot owned. The Class B membership shall cease and be converted to Class A membership when total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or on the 1<sup>st</sup> day of January, 2016, whichever first occurs. Class B Members shall have no assessments owed to the Association.

## CLAUSE VII

Section 1. Lien and Personal Obligation of Assessments. Each and every owner of a lot within the subdivision agrees to pay to the Association (1) annual assessments and (2) special assessments for capital improvements. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and a continuing lien on each lot against which such an assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees incurred to collect same shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons, however, the lien for said assessment shall remain in full force and effect.



