

AMENDED AND RESTATED
PROTECTIVE COVENANTS RELATING TO
BEECHER TRAILS SUBDIVISION, DOWNS, MCLEAN COUNTY, ILLINOIS

KNOW ALL MEN BY THESE PRESENTS:

MM BOWERS, INC., hereinafter called the "Developer" is setting forth the following as its Amended and Restated Protective Covenants Relating to Beecher Trails Subdivision, Downs, McLean County, Illinois.

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 of this declaration, is situated in the county of McLean, State of Illinois, and is more particularly described as follows, to-wit:

A part of the Southeast Quarter of Section 32, Township 23 North, Range 3 East of the Third Principal Meridian, McLean County, Illinois, more particularly described as follows: Beginning at the Southeast Corner of the North Half of the Southeast Quarter of the Southeast Quarter of said Section 32. From said Point of Beginning, thence north 600.15 feet along the East Line of said Southeast Quarter which forms an angle to the right of 88°-43'-08" with the South Line of said North Half; thence west 1599.01 feet along 600 feet north of and parallel with said South Line which forms an angle to the right of 91°-16'-52" with the last described course; thence northerly 625.75 feet along a line which forms an angle to the right of 279°-09'-32" with the last described course to the South Line of the North 24 acres of the Northwest Quarter of said Southeast Quarter; thence west 1178.77 feet along said South Line of the North 24 acres which forms an angle to the right of 80°-27'-02" with the last described course to the Northeast Corner of Lot 44 in the Second Addition to Hill-N-Dale Subdivision, McLean County, Illinois, according to the plat recorded as Document No. 1976-16586 in the McLean County Recorder's Office; thence south 671.35 feet along the East Line of said Second Addition and the southerly extension thereof which forms an angle to the right of 88°-49'-59" with the last described course to the Northeast Right-of-Way Line of the Penn Central Railroad; thence southeast 1198.61 feet along said Northeast Right-of-Way Line which forms an angle to the right of 118°-15'-41" with the last described course to a stone on the South Line of the Northeast Quarter of the Southwest Quarter of said Southeast Quarter; thence east 1602.55 feet along said South Line and the South Line of the North Half of the Southeast Quarter of said Southeast Quarter which forms an angle to the right of 153°-17'-46" with the last described course to the Point of Beginning.

Part of PIN 22-32-426-002.

Said property above described to be identified as "the Subdivision" for the purposes of this instrument.

CLAUSE II

To insure the best use and most appropriate development and improvement of each building site therein; to protect the owners of building sites against such improper use of surrounding land as will depreciate the value of the property; to preserve as 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 obtain harmonious appearances; to encourage and secure the erection of attractive homes with appropriate setbacks from streets and adequate free-spaces between structures; to coordinate grade-lines in conformance with such plans as prepared by Farnsworth Group, Engineers; and in general to provide adequately for a high-type and quality of improvement 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:

A. LAND USE AND BUILDING TYPE. No lot 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.

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

Single Family Residences:

RANCH-STYLE (Square feet on one level)	1,500 sq. ft.
1 ½ STORY	1,800 sq. ft.
2 STORY	2,100 sq. ft.
OTHER PLANS – square footage as approved by developer	

C. APPROVAL OF PLANS- All building plans must be submitted for review by the Developer, or its designated successor. Proposed building plans must be submitted prior to obtaining any building permit and approval is a condition precedent to the commencement of any construction activity. Approval shall be registered by way of a letter of approval from the Architectural Design Committee or its designated successor and said letter will be made a part of the final approved plans, a copy of which will be retained by the Design Committee until the completion of the subdivision.

Plans will be reviewed for compliance with these covenants and architectural and aesthetic compatibility with other homes in the development.

The Developer or its designated successors reserve the right to make recommendations to exterior design that will be adequate to gain approval of the plans and to achieve its objective of a consistent and architecturally compatible subdivision.

D. GRADE ELEVATION CONTROL. No building initially 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 by the Developer or its designated successor. Said approval shall be received prior to obtaining any building or excavation permit and shall be evidenced by way of the above mentioned letter of approval.

The minimum finish grade and front foundation of the house shall be as established by the grade map prepared by Farnsworth Group, and accepted by the Village of Downs so as to provide the minimum requirements above the top of the curb at the center of the lot.

Lot owner agrees to assume any responsibility for manhole variations that might be required as a result of lot owner's grading, for making such adjustment and for the costs of making said adjustment. Adjustment shall be completed within ninety (90) days following written notice from the developer.

E. GARAGE REQUIREMENTS. Each residence must be improved with not less than a two-car garage attached to the residence, and each garage shall have a concrete driveway from the street to the garage floor.

F. CONSTRUCTION MATERIALS. Only new building materials shall be used for construction. No modular construction shall be allowed; however, pre-cut and/or preassembled components may be used.

Developer reserves the right to deny the use of any exterior type materials not thought to be in the best interest of the neighborhood and the Subdivision specifically. Brick, stone, "Dryvit" (or similar products), wood siding and vinyl coated steel siding are acceptable. At least 100 square feet of brick or stone shall be used on the front elevation of the house.

G. FOUNDATION REQUIREMENTS. All residences shall have basements. No construction shall be allowed on slabs or crawl spaces.

H. FOOTING TILE REQUIREMENTS. Perimeter footing tile drainage systems are required. Footing tile systems shall be installed in such a way that the bottom of the inside diameter of the perimeter tile is a minimum of one inch (1") below the top of the adjacent footing. No sump pump discharge pipe shall terminate closer than 15 feet from any street right-of-way.

I. SET-BACK REQUIREMENTS. All residences shall be set back from the front lot line a minimum of 25 feet. Interior lots shall have a minimum side yard of 6 feet from the side lot line. Rear yard set-back requirements are 25 feet from the rear lot line.

J. EXTERIOR COLORS. Exterior wall and roof colors shall harmonize with the site and surrounding structures. The predominant tones should tend toward muted, warm, earthy

hues.

K. DETACHED BUILDINGS. No detached structures or outbuildings shall be constructed or permitted in the subdivision, unless they match the exterior of the home and have been approved by the Developer, or its successor.

L. TEMPORARY STRUCTURES. No temporary structure, trailer, basement, or garage shall be used on any lot at any time as a residence. No building shall be occupied as a residence until the exterior surface has been completed, including final painting or staining.

M. SURPLUS DIRT. No surplus dirt shall be removed from the subdivision. Any surplus dirt from site excavations or grading shall be dumped in an area provided for by developer, except as otherwise provided in writing by developer.

N. LANDSCAPING. All lots must be landscaped within six (6) months of the completion of construction or occupancy of the home, whichever shall occur first. Subdivisions minimum landscaping requirements are:

Front yard:

1. New grass sod or grass seed.
2. Two 2" or larger diameter deciduous trees.

Rear and side yard:

1. New grass sod or grass seed.
2. One 2" or larger diameter deciduous trees.

These landscape requirements are intended to establish a permanent minimum landscape quality level for the Subdivision that is consistent with subdivision common area landscaping. Therefore, if minimum required sod, seed or trees do not survive, are damaged or are destroyed, they shall be replaced with at least minimum requirement material during the next growing season. Costs of all replacements will be the sole expense of the lot owner.

O. EXTERIOR LIGHTING. The intent of Developer is to allow for the minimum lighting necessary, beyond existing street lighting, to provide for the safety, security and the enjoyment of outdoor living, while not interfering with the enjoyment of surrounding building sites.

The Developer, and its successors, in its sole discretion, reserves the right to reject any exterior light if it appears excessive, inappropriate or not in conformance with the lighting philosophy of the Developer as described herein.

P. FENCES AND WALLS. In the event that fencing or a wall-type structure is desired for security, safety or privacy reasons, plans showing location and type of construction must be submitted to the Developer or its designated successor, for prior written approval. Chain link fences are not permitted.

Q. UTILITY SERVICES. All buildings on all lots must be supplied by underground

electrical systems and utility distribution systems and services, including but not limited to gas, electric, water, telephone and cable.

R. PRE-CONSTRUCTION LOT MAINTENANCE. Each lot owner shall be responsible to maintain any unoccupied lot in such a manner as to minimize and control wind and water erosion and to minimize the presence of noxious weeds and dust. Grass shall be maintained to not exceed a height of eight inches (8")

A failure of the lot owner to comply with this provision after written notice shall authorize the Developer, or its successor, without further notice to lot owner, to have the lot mowed and to charged the cost thereof to the lot owner, and to take legal action against the lot owner to collect for the cost of mowing and further to collect from the lot owner all court costs and reasonable attorney's fees incurred in collecting the mowing charge whether through negotiation or litigation.

S. STORAGE. Firewood, garbage, refuse, pet foods and other materials shall be stored safely an in totally enclosed structures so as not to be unattractive to neighbors or attractive to rodents and other animals. These storage areas should be integrated into the residential structure.

T. PETS. No pets shall be kept in exterior pens or cages. Only common household pets shall be allowed. No commercial or barnyard type animals shall be allowed in the subdivision.

U. PARKING RESTRICTIONS. No trucks, commercial vehicles, travel trailers, recreational type vehicles, mobile homes, boats, boat trailers, motor bikes, trail bikes or similar equipment shall be kept on the lot or in the subdivision. Such items in the subdivision shall be stored entirely within the garage area with the garage doors closed except when in transit into or out of the subdivision.

V. TRASH. Trash, garbage, paper or other waste shall not be burned in the subdivision as required by Village of Downs ordinance. All trash shall be screened from view except for designated collection days by the Village of Downs.

W. COMMERCIAL ACTIVITY AND INTOXICATING LIQUOR. There shall be no commercial activity permitted on any lot in the subdivision including the sale of intoxicating liquor.

X. SIGNS. No billboards or advertising signs, whether free-standing or attached to a house, shall be allowed except those permitted by town ordinance and for contractor and real estate signs during initial construction and subsequent remodel or resale.

Y. RECREATIONAL FACILITIES. Any permanent recreational facility, such as a swimming pool or basketball court requires written approval by the Developer, or its designated successor.

Z. SATELLITE DISHES. No outdoor satellite dishes over 18" in diameter or

other similar type TV, radio or other transmission and/or reception towers or equipment shall be allowed, whether attached to any structure or free standing.

AA. DRIVEWAY AND SIDEWALK DAMAGE. All driveway aprons (that portion of the driveway from the street to the property line) shall be of concrete. The lot owner agrees to be responsible for the condition of the driveway and sidewalk on and appurtenant to the lot. In the event that same is broken or damaged during any construction on the above described lot, the lot owner agrees to assume responsibility for the damage and agrees to pay the actual costs of repair or replacement of the same even though title to the property has transferred. Said repairs must be completed within ninety (90) days following written notice by Developer. In addition, each lot owner will be responsible for the installation of Town sidewalks pursuant to the subdivision code of the Village of Downs, prior to occupancy.

BB. PERFORMANCE TIME REQUIREMENTS. Lot owners specifically agree that if they have not started construction of a residence on the lot contracted for within one (1) year from the date of acquiring title, then in such event Developer is herewith given the exclusive right and option to repurchase said lot for the price paid Developer, free and clear of any and all liens or encumbrances. In the event of such repurchase, real estate taxes shall be prorated to the date of repurchase. This provision is set forth to help speed the development of the overall subdivision, and lot owners acknowledge and agree to comply with the same in total.

Furthermore, construction of a residence on a lot must be completed within one year of commencement of construction.

CC. HOUSE NUMBERS & MAIL BOXES. Each lot will have a street address number assigned by the Village of Downs. Said number will become the permanent house number for the residence constructed on that lot. Mail boxes shall be located according to United Postal Service rules.

CLAUSE III

The undersigned reserves the right from time to time as provided by the subdivision ordinance of the Village of Downs, Illinois to annex, add on, and plat the balance of this subdivision as shown on the Preliminary Plan of Beecher Trails Subdivision, and pursuant to Annexation Agreement pertaining to Beecher Trails Subdivision, or in such other form or configuration as the Developer determines. Lot owners of the add-on lots of subsequent phases of development of Beecher Trails Subdivision shall become members of the Homeowners Association pursuant to the same terms and conditions of these covenants.

CLAUSE IV

Section 1. "Lot" shall mean any plot of land shown on the recorded subdivision map referred to above, with the exception of the common areas and elements.

Section 2. "Maintenance" shall mean the exercise of reasonable care to maintain common areas of the Subdivision, and also including all entrance signs.

Section 3. "Mortgage" shall mean a conventional mortgage or a deed of trust.

Section 4. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Subdivision, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

Section 5. "Mortgagor" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

Section 6. "Subdivision" shall mean the subdivided real property described in these Covenants and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

CLAUSE VI

Section 1. Easements.

A. Easements for the installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision plat. Within these easements, no structure, planting or other materials which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements, shall be placed or permitted to remain.

B. No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation, or right-of-way, and such easements, reservations, and right-of-ways shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors; and shall be open, and accessible to the undersigned, its successors and assigns, all of whom have the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any purpose for which such easements, reservations and rights-of-way are reserved.

Section 2. No Partition.

There shall be no judicial partition of the common areas or of the common elements, nor shall the undersigned, or any owner or any other person acquiring any interest in the subdivision or any part thereof seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of a lot in co-tenancy.

Section 3. Use Restriction.

The Homeowners Association may establish use restriction on the common areas.

CLAUSE VII

These covenants are to run with the land and shall be binding on all parties and also persons claiming under them for a period of twenty-five (25) years from the date that these covenants are recorded, after which time said covenants shall be automatically extended to successive periods of ten (10) years unless an instrument in writing, executed by the then record owners of sixty percent (60%) of all lots subject to these Covenants shall have been recorded in the office, of the Recorder of Deeds of McLean County agreeing to change said covenants in whole or in part.

CLAUSE VII

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant. Proceedings can be either to restrain such violation or to recover damages.

CLAUSE IX

Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions, which shall remain in full-force and effect.

CLAUSE X

All rights of enforcement herein granted to the Developer shall thereafter be enforceable by the not-for-profit Homeowners Association. However, these covenants will remain in effect until all lots are sold and all construction is completed unless otherwise approved by Developer.

IN WITNESS WHEREOF, the undersigned as Owner and Developer of the Beecher Trails Subdivision as described herein has executed this document for the uses and purposes herein set forth on this 28th day of October, 2014.

MM BOWERS, INC., Developer,

BY: 

President

Subscribed and sworn to before me
this ____ day of October, 2014

Notary Public