

Unofficial Document  
BROOKFIELD ESTATES  
DECLARATION OF RESTRICTIONS

THIS DECLARATION (the "Declaration"), made and entered into this 29<sup>th</sup> day of November, 2001, by Keith Samuel and Chastity Samuel, husband and wife, 1680 South Louisville Drive, Columbia, Missouri 65203 (hereinafter collectively called the "Developer");

WITNESSETH:

WHEREAS, Developer is the owner of that certain tract of land legally described on Exhibit A attached and incorporated herein by reference (the "Parent Tract") has executed and filed with the Recorder of Deeds of Boone County, Missouri, a plat of the subdivision known as Brookfield Estates, Plat I, recorded in Plat Book 35 at Page 81 of the Records of Boone County, Missouri, subdividing a portion of Parent Tract into lots (the "Plat"); and

WHEREAS, the Plat creates the subdivision of Brookfield Estates, containing the following described lots and tracts, to-wit:

Lots 1 through 11 of Brookfield Estates, Plat I, as shown by the Plat thereof recorded in Plat Book 35, Page 81 of the Records of Boone County, Missouri

and;

WHEREAS, Developer, as the present owner and developer of the above-described lots, desires to place certain restrictions on such lots to preserve and enhance the value, desirability and attractiveness of the Development and improvements constructed thereon and to keep the use thereof consistent with the intent of the Developer and to provide for and govern the use and maintenance of all common areas provided for herein, , all for the use and benefit of the Developer and its future grantees of the lots and their successors and assigns;

NOW, THEREFORE, in consideration of the premises contained herein, Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the above-described lots shall be, and they hereby are, restricted as to their use and otherwise in the manner hereinafter set forth.

1: **Definitions.** For purposes of this Declaration, the following definitions shall apply:

(a) "Approving Party" shall mean (i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees from time to time) and (ii) subsequent to the recording of the Certificate of Substantial Completion, the Owners Association.

(b) "Architectural Committee" shall mean (i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees from time to time) and (ii) on and after the recording of the Certificate of Substantial Completion, a committee comprised of three members of the Owners Association who shall be appointed by the Board.

(c) "Board" shall mean the Board of Directors of the Owners Association.

(d) "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged, and recorded by the Developer stating that all, or at the Developer's discretion, substantially all, of the Lots in the Development (as then composed or contemplated by the Developer) have been sold by the Developer.

(e) "Common Areas" shall mean all areas, together with all improvements thereon and thereto which are intended for the use, benefit, or enjoyment of all of the Owners within the Development and designated by the Developer as Common Areas on the Plat or otherwise, whether or not any Common Area is located on any Lot. Common Areas shall also mean any common areas in any adjacent property within the Development developed by Developer which are, by recorded declaration or agreement, subjected to the provisions of this Declaration. Common Areas shall include lakes and surrounding areas, Lots, or portions of Lots over which easements have been established for the benefit of the Owners or the Owners Association.

(f) "Developer" shall mean and refer to Keith Samuel and Chastity Samuel, husband and wife, and their successors, and assigns.

(g) "Development" shall mean all of the above-described Lots shown on the Plat, all Common Areas, and all additional property within the Parent Tract which hereafter may be made subject hereto in the manner provided herein.

(h) "Exterior Structure" shall mean any structure or other improvement erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse or other animal shelter or run, outbuilding, fence, patio, wall, privacy screen, boundary or retaining wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, basketball goal, swing set, trampoline, sandbox, playhouse, tree house, or other recreational or play structure.

(i) "Owners Association" shall mean the Missouri not-for-profit corporation to be formed by the Developer for the purpose of serving as the Owners Association for the Development.

(j) "Lot" shall mean any Lot shown as a separate Lot on the Plat and any Lot shown on the plats of subdivisions of property within the Parent Tract made subject to this Declaration by Developer; provided, however, Lot 11 to be conveyed by Developer to the Boone County Regional Sewer District shall not be considered a Lot nor shall said Sewer District be an Owner for purposes of this Declaration.

(k) "Owner" shall mean the record Owner in fee simple of any Lot, including the Developer, and for purposes of all obligations of the Owner hereunder, shall include, where appropriate, all family members and tenants of such Owner and all of their guests and invitees.

(l) "Street" or "Streets" shall mean any public street, road, terrace, circle, boulevard, or cul-de-sac shown on any recorded plat of all or part of the Development.

2. **Use of Land.** None of the Lots may be improved, used, or occupied for other than single-family, private residential purposes, and no duplex, flat, boarding house, rooming house, apartment house, or other multi-family or multi-unit residential structure, or any non-residential structure or other improvement (except Exterior Structures approved by the Architectural Committee), may be erected thereon. No more than one single-family residence shall be located on any Lot. All residences in the Development shall be of new construction on-site; no residential building which has previously been at another location shall be moved onto any Lot, and no "prefabricated," "modular," or "manufactured" or otherwise preassembled or preconstructed homes or structures of any nature or kind whatsoever (except Exterior Structures approved by the Architectural Committee) shall be permitted. No camper, trailer, mobile home, vehicle, tent, outbuilding, exterior structure, or any other apparatus or structure whatsoever except the permanent residence shall at any time be used for human habitation, temporarily or permanently, nor shall any residence or other structure or improvement of a temporary character be erected, moved onto, or maintained upon any of such Lots or any Common Areas. Nothing herein shall prevent the Developer or others (including, without limitation, builders and real estate sales agencies) authorized by the Developer from using temporary buildings or structures or any residence for model, office, sales, or storage purposes prior to the recording of the Certificate of Substantial Completion. In addition all Lots shall be subject to the following additional use restrictions:

A. No dwelling shall be permitted on any Lot unless the following requirements are met:

- (i) The finished living area of the ground floor of a slab one-story dwelling shall contain not less than 2,000 square feet; unless the dwelling includes a walk-out basement in which event the ground floor or main level shall contain not less than 1,900 square feet.
- (ii) The finished living area of the ground floor of a two-story dwelling shall contain not less than 900 square feet on the ground floor and not less than a total of 1,800 square feet on both floors.

(iii) ~~Unofficial Document~~ The total finished living area of all floors of a dwelling containing three or more levels shall contain not less than 1,800 square feet.

The term "finished living area" as used herein shall be exclusive of and not include open porches, patios, garages, and basements.

B. No dwelling shall be permitted on any Lot unless it contains an attached garage for two (2) or more automobiles.

C. No detached building, barn, outside storage shed (permanent or portable), fence, satellite dish, swimming pool, television antenna, or radio antenna shall be permitted on any Lot without the prior written consent of the Architectural Committee.

D. No dwelling with attached garage, or other structure permitted by the Architectural Committee, shall be located closer to the boundary lines of any Lot than fifty (50) feet from the front boundary line of a Lot, twenty-five (25) feet from the side boundary lines of a Lot and fifty (50) feet from the rear boundary lines of a Lot; and the first 50 feet of driveways, measured from the street right-of-way, shall be paved.

E. No less than fifty percent (50%) of the front exterior walls of all dwellings shall be stucco, dryvit (or comparable material), rock, or brick, or such other material as may be approved by the Architectural Committee provided the front exterior walls shall not be clad with vinyl siding.

F. No partially dismantled, non-operating, wrecked, junked, or discarded vehicle of any kind shall be permitted to remain upon any Lot or upon any of the public roadways abutting any Lot.

G. No dog house, dog pen, or dog run may be constructed upon any Lot without the prior written consent of the Architectural Committee.

H. No noxious or offensive activity shall be carried on upon any Lot.

I. No temporary structure, basement, tent, shack, trailer, or mobile home shall be placed on any Lot at any time except for construction trailers, which construction trailer shall not remain on a Lot for more than six months during any twelve-month period during construction.

J. No animals, livestock, swine, poultry, reptiles, or pets of any kind shall be raised, kept, or bred on any Lot except two dogs or two cats or one dog and one cat may be kept on a Lot provided they are kept within the boundaries of the Lot or under the control of the Owner of a Lot and provided they are not kept, bred, or maintained for any commercial purpose.

K. No sign of any kind shall be displayed to the public view upon any Lot, except signs not more than 18" x 24" in size may be used to advertise the property for sale or rent or used to advertise the name of a builder performing construction work during the time that said construction work is being performed.

L. No Lot shall be used or maintained as a dumping ground, and rubbish, trash, garbage, or other waste shall not be kept on the premises of any Lot except in sanitary containers. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

M. No rubbish, trash, garbage, or other waste material shall be burned upon any Lot.

N. The construction work on any dwelling including the attached garage on any Lot must be completed within one year after the work commenced to include the final grading and seeding of the lawn, and in the event the dwelling including attached garage on any Lot is damaged by fire, windstorm, or other casualty the same must either be totally removed or restored to as good a condition as existing prior to said damage within one year after said damage occurred.

O. No dumping from or washing of concrete trucks shall be permitted on any public road right-of-way located within any subdivision subject to the provisions of this Declaration of Covenants nor on any adjacent property but any said dumping from or washing of concrete trucks shall be conducted on the Lot where the construction work is being performed, and further, the

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Owner of a Lot shall be fully liable for any damages inflicted by said Owner's contractor on the public roadways, public road ditches, culverts, and utility lines located in each subdivision subject of the provisions of these Declaration of Covenants.

P. No more than one recreational vehicle or one camper or one trailer or one boat shall be stored on any Lot in an area which is visible from the public roadway without the prior written consent of the Architectural Committee.

Q. No private on-site sewage disposal system shall be maintained on any Lot and all improvements on all Lots shall be hooked up to and served by the public sewer lines maintained by the Boone County Regional Sewer District.

### 3. **Approval of Plans and Post-Construction Changes.**

(a) Notwithstanding compliance with the provisions set forth above, no residence or Exterior Structure may be erected upon any Lot unless and until the building plans and specifications therefor, including elevations, designs, floor plan dimensions, color of roof, color of exterior walls, construction materials, and other necessary data have been submitted to and approved in writing by the Architectural Committee. No change or alteration in or deviation from the approved building plans or specifications shall be made until such change, alteration, or deviation has been submitted to and approved in writing by the Architectural Committee. The Architectural Committee shall have the power and authority to, in its discretion, and without liability to any person or entity owning or having an interest in any Lot, approve building plans, specifications, materials, location, elevation, grading plans, landscaping plans, or exterior color schemes even though the same do not comply with the provisions of this Declaration.

(b) Following the completion of construction of any residence or Exterior Structure, no exterior colors shall be changed and no exterior additions or alterations shall be made unless and until the changes have been submitted to and approved in writing by the Architectural Committee. All replacements of all or any portions of a structure because of age, casualty loss, or other reason, including, without limitation, roofs and siding, shall be of the same materials, location, and elevation as the original structure unless the changes have been submitted to and approved in writing by the Architectural Committee.

4. **Set Backs.** No residence (exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys, and other similar projections) or Exterior Structure shall be located closer to any street than the building set back lines, if any, shown on the Plat; provided, however, that the Architectural Committee, in its discretion, may waive or alter any such building set back lines to the extent they are greater than the minimum set backs, if any, required by the ordinances of Boone County, Missouri.

5. **Commencement and Completion of Construction.** Unless the following time period is expressly extended by the Developer in writing, construction of the residence on a Lot shall be completed within one year after the commencement of construction.

6. **Exterior Structures.** No Exterior Structure shall be erected upon, moved onto, or maintained upon any Lot except with and pursuant to the advance written approval of the Architectural Committee as to the plans, specifications, materials, location, elevations, landscaping plans, and color scheme.

7. **Easements for Public Utilities; Drainage; Maintenance; Pedestrian Walkways.** The Developer shall have, and does hereby reserve, the right to locate, relocate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance, and use of drains, pipelines, sanitary and storm sewers, gas and water mains and lines, electric, telephone and cable television lines and other utilities, and to give or grant rights-of-way or easements therefor, over, under, upon, and through all easements, rights-of-way, Lots and Common Areas shown on the Plat or any future plats subdividing other parts of the Development. All utility easements and rights-of-way shall inure to the benefit of all utility companies or utility districts for purposes of installing, maintaining, or moving any utility lines or services and shall inure to the benefit of the Developer,

all Owners in the Development and the Owners Association as a gross easement for utility line or service maintenance. Further Developer shall have and does hereby reserve the right to grant blanket easements over all or any part of the Parent Tract and all Lots and Common Areas in the Development for installation and maintenance of utility lines and facilities if required by any utility company or district as a condition of accepting such lines or facilities for maintenance.

The Developer shall have and does hereby reserve for itself, its successors and assigns, and the Owners Association and its successors and assigns an easement over and through all unimproved portions of each Lot in the Development and all unplatted portions of the Parent Tract for the purpose of obtaining access to, performing the duties of the Owners Association, and maintaining the Common Areas. Such easements over any unplatted portions of the Parent Tract shall expire at such time as access to the Common Areas is provided by dedicated streets or specifically described access easements providing reasonably convenient access to the Common Areas for such purposes.

## 8. Common Areas.

(a) The Developer and its successors, assigns, and grantees, the Owners of Lots in the Development and the Owners Association shall have the right and easement of enjoyment in and to all of the Common Areas, but only for the intended use or uses thereof. Such right and easement in favor of the Owners shall be appurtenant to, and shall automatically pass with, the title to each Lot. All such rights and easements shall be subject to the rights (including ownership) of any governmental authority or any utility therein or thereto.

(b) The Developer covenants and agrees to convey or assign all of its right, title, and interest in the Common Areas shown on the Plat or on Exhibit A attached hereto or other areas designated by the Developer to the Owners Association, without any cost to the Owners Association provided Developer shall not be obligated to make such conveyance or assignment until after the Developer has recorded the Certificate of Substantial Completion. The Owners Association shall, thereafter, at all times, be responsible for the proper maintenance of all Common Areas. Notwithstanding anything herein to the contrary, unless a Common Area is established on a Lot by an easement in favor of Developer and the Owners Association over a Lot, no Owner shall have any ownership interest in any designated Common Area, but shall only have easement rights to use such Common Area consistent with this Declaration and further no such rights shall commence to exist unless and until Developer actually conveys or assigns Developer's interest in such Common Area to the Owners Association. Regardless of whether rights in the Common Areas are transferred to the Owners Association by a conveyance of fee simple title, by the grant of an easement, or otherwise, all such rights in the Common Areas held by the Owners Association shall be held by the Owners Association as trustee for the benefit of the Owners Association, its members, the Owners of Lots in the Developments and the Developer, for the uses and purposes described herein and subject to the duties and responsibilities of the Owners Association with respect to the Common Areas set forth herein. Until such time as rights in the Common Areas shown on the Plat or any future plats subdividing portions of the Development or shown on Exhibit A hereto are transferred or conveyed to the Owners Association by the Developer by a conveyance in fee simple, by grant of an easement or otherwise, Developer shall hold title thereto, as trustee for the benefit of the Developer and the Owners of Lots shown of the Plat or any such future plats, subject to the rights of the Owners Association in any such Common Areas, with the duty to maintain the same at the Developers cost as more specifically provided for in subsection 16 (iv ) below.

(c) No Owner shall improve, destroy, or otherwise alter any Common Area without the express written consent of the Approving Party.

(d) The Approving Party shall have the right from time to time to make, alter, and revoke additional rules, regulations, and restrictions pertaining to the use of any Common Areas.

(e) The Board of Directors of the Owners Association shall have the authority and responsibility to maintain, manage, and collect funds for maintenance and management of the Common Areas as provided herein.



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9. **Architectural Committee.** A majority of the members of the Architectural Committee shall constitute a quorum for the transaction of business at a meeting. Every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Architectural Committee, and no act or decision made at any other time or in any other manner by the Architectural Committee or any member or members thereof shall be valid or binding or constitute waiver of any provision of this Declaration. In making its decisions, the Architectural Committee may consider any and all aspects and factors that the committee members, in their reasonable discretion, determined to be appropriate to establish and maintain the quality, character, and aesthetics of the Development, including but not limited to the consistency and harmony of the proposed work and improvements with the Developer's overall plans for the Development and existing improvements in and the general appearance of the Development, the potential impact on property values within the Development and compliance with the specific requirements of this Declaration. All decisions of the Architectural Committee shall be in writing and delivered to the applicant.

10. **No Liability for Approval or Disapproval.** Neither the Developer, nor the Owners Association, nor any member of the Architectural Committee or the Board shall be personally liable to any person for any discretionary or other approval, disapproval, or failure to approve any matter submitted for approval, for the adoption, amendment, or revocation of any rules, regulations, restrictions, or guidelines or for the enforcement of or failure to enforce or waiver of any of the restrictions contained in this Declaration or any of such rules, regulations, restrictions, or guidelines. The Developer and the Architectural Committee shall, in their discretion, have the power and authority to waive application of any of the restrictions as to any Lot, or as to any residence or Exterior Structure on any Lot and any such waiver shall be binding on all Owners and the Owners Association.

11. **Covenants Running with Land; Enforcement.**

(i) The agreements, restrictions, and reservations herein set forth are, and shall be, covenants running with the land into whosoever hands any of the property in the Development shall come, for the benefit of all the land in the Development. The Developer, and its successors, assigns, and grantees, and all parties claiming by, through, or under them, shall conform to and observe such agreements, restrictions, and reservations; provided, however, that no person shall be obligated to enforce any such agreements, restrictions and reservations. No agreement, restriction, or reservation herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during such Owner's seizin of title to such Lots; provided, however, that the immediate grantee from the builder of the residence on a Lot shall be personally responsible for breaches committed during such builder's ownership of such Lot.

(ii) The Developer, its successors, and assigns, the Owner of any Lot, and the Owners Association, shall have the right (but not the obligation) to sue for and obtain an injunction prohibitive or mandatory, to prevent the breach of or to enforce the observance of the agreements, restrictions, and reservations herein set forth, in addition to any action at law for damages. The failure to enforce any of the agreements, restrictions, or reservations 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.

12. **Owners Association Membership, Voting, and Management.** Membership in the Owners Association shall be limited to the Owners of Lots within the Development. The Owners Association shall have only one class of membership. Each member shall have one vote for each Lot for which he or she is the Owner and upon which he or she shall not be delinquent in the payment of any assessment; provided, however, that when more than one person is an Owner of any particular Lot, all such persons shall be members and the vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall the vote be divided nor shall more than one vote be cast with respect to such Lot.

13. **Powers and Duties of the Owners Association**

(i) In addition to the powers granted by other portions of this Declaration, by any deeds, declarations, or plats covering the property in the Development or adjacent property outside the Development that is subdivided by Developer and made subject to this Declaration or by law, the Owners Association shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by its Board of Directors to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in its own name, any and all building, use, or other restrictions, obligations, agreements, or reservations which have been or hereafter may be imposed upon any of the Lots; provided, however, that this right of enforcement shall not serve to prevent changes, releases, waivers, or modifications of restrictions, obligations, agreements, or reservations from being made by the parties having the right to make such changes, releases, waivers, or modifications under the terms of the deeds, declarations, or plats in which such restrictions, obligations, agreements, and reservations are set forth. The expense and cost of any such enforcement proceedings by the Owners Association may be paid out of the general fund of the Owners Association, as herein provided. Nothing herein contained shall be deemed or construed to prevent the Developer or any Owner from enforcing any building, use, or other restrictions in its or his or her own name.

(b) To acquire and own title to or interests in, to obtain easements for the use of, and exercise control over, the Common Areas, subject to the rights (including ownership) of any governmental authority, utility, or any other person or entity therein or thereto.

(c) To maintain public liability, worker's compensation, fidelity, fire, and other casualty, director and officer liability, indemnification, and other insurance with respect to the activities of the Owners Association and the property within the Development.

(d) To levy and collect the assessments which are provided for in this Declaration and to maintain accounts and accounting records with respect thereto.

(e) To enter into and perform agreements from time to time with the Developer and other parties regarding the performance of services and matters benefitting both the Developer and the Owners Association and its members and the sharing of the expenses associated therewith.

(f) To enter into and perform agreements with the Developer, other developers, other home associations, and other parties relating to the joint use, operation, and maintenance of any recreational facilities and other similar common areas, whether in or outside the Development and the sharing of expenses related thereto.

(g) To engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Owners Association, including, without limitation, keeping of books and records, operation and maintenance of Common Areas and maintenance of lawns and landscaping.

(h) To make, amend, and revoke reasonable rules, regulations, restrictions, and guidelines (including, without limitation, regarding the use of Common Areas) and to provide means to enforce such rules, regulations, and guidelines for the purpose of adequately and properly carrying out the provisions and purposes of this Declaration.

(i) To exercise such other powers as may be set forth in the Articles of Incorporation or Bylaws of the Owners Association.

14. **Formation.** Notwithstanding anything herein contained, the Developer shall not be obligated to form the Owners Association, nor shall the Owners Association be empowered to exercise any of the authority provided for herein, until after the Certificate of Substantial Completion has been recorded unless the Developer determines, in Developer's discretion, to form the Owners Association at an earlier time.

## 15. ~~Method of Providing General Funds~~ **Unofficial Document**

(i) For the purpose of providing a general fund to enable the Owners Association to exercise the powers, maintain the improvements, and render the services provided for herein, all Lots in the Development, other than Lots then owned by the Developer, shall be subject to an annual assessment to be paid to the Owners Association by the respective Owners thereof as provided in this Section 15. The amount of such assessment per Lot shall be fixed periodically by the Owners Association, and until further action of the Owners Association, shall be One Hundred Dollars (\$100) per year, payable on January 1 of each calendar year, in advance. In the calendar year that a Lot is conveyed to an Owner by the Developer, there shall be an initial assessment in the amount of One Hundred Dollars (\$100) payable to the Developer at the closing of the conveyance by the Developer to such Owner. Until the Owners Association is empowered to act, all assessments shall be payable to the Developer on January 1 of each calendar year.

(ii) The rate of assessment upon each Lot in the Development may be increased or decreased (a) annually by the Board of Directors to an amount not to exceed twenty-five percent (25%) of the rate of assessment then in effect, or (b) at any time or times at a meeting of the members specially called for that purpose and of which advance notice is given and if at least fifty-one percent (51%) of the members present at such meeting and entitled to vote authorize such increase or decrease by an affirmative vote therefor; provided, however, that the rate of assessment may not be less than an amount that is necessary to permit the Owners Association to perform its duties as specified herein.

(iii) The assessment provided for herein shall be due and payable to the Owners Association on such dates as shall be determined by the Board of Directors from time to time, and may be made payable in installments at the discretion and in such manner as the Board of Directors shall determine. No Owner of any Lot shall be entitled to receive any services to be provided by and through the Owners Association or to use any Common Areas until such time as the first assessment has been paid.

## 16. **Lien on Real Estate.**

(i) Each Owner (other than the Developer) shall be personally liable for payment of all assessments becoming due and payable during the time such Owner holds fee title to a Lot, and the assessments shall become a lien on such Lot as soon as it is due and payable. In the event of the failure to any Owner to pay any assessment within sixty (60) days of the due date thereof, then such assessment shall bear interest at the rate of nine percent (9%) per annum from the due date until paid. Should an attorney be engaged to collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorney's fees, shall, to the extent permitted by applicable law, be added to the amount of the assessment and the lien on the Lot.

(ii) All liens on any Lot for assessments provided for herein shall be inferior and subordinate to the lien of any valid purchase money first mortgage or deed of trust now existing or which may hereafter be placed upon such Lot.

(iii) Nonpayment of any assessment provided for herein within sixty (60) days from the due date thereof shall cause such assessment to become delinquent. Payment of both principal and interest of a delinquent assessment may be enforced as a mortgage lien on such Lot or collected from such Owner through proceedings in any court in Boone County, Missouri, having jurisdiction of suits for the enforcement of such liens, or by any other appropriate proceedings allowed by law. In any such proceedings, the Developer or the Owners Association shall be entitled to recover from the Owner who has failed to pay such assessment all court costs and attorneys' fees incurred in prosecuting such action. The Developer or the Owners Association may file certificates of nonpayment of assessments in the office of the Recorder of Deeds of Boone County, Missouri, whenever any assessment is delinquent. For each certificate so filed, the Developer or the Owners Association shall be entitled to collect from the Owner of the Lot described therein a fee established by the Developer or the Owners Association from time to time, which initially shall be One Hundred



Dollars (\$100), which fee shall be added to the amount of the delinquent assessment and the lien on the Lot.

(iv) Such liens shall continue for a period of three (3) years from the date of delinquency and no longer, unless within such period suit shall have been instituted for collection of the assessment, in which case the lien shall continue until payment in full or termination of the suit and sale of the property under execution of judgment, provided, however, expiration of such lien shall not extinguish the obligation of the Owner who has failed to pay an assessment from personal liability therefor, plus interest thereon, and court costs and attorneys' fees incurred in any action to collect such unpaid assessment.

(v) The Owners Association may cease to provide any or all of the services to be provided by or through the Owners Association with respect to any Lot during any period that the Owner is delinquent in the payment of any assessment (including special assessments) due under this Declaration, and no such cessation of services shall result in a reduction of any amount due from the Owner before, during, or after such cessation. No Owner shall be entitled to use any Common Areas (other than streets) during such period of delinquency.

(vi) Notwithstanding the foregoing provisions of this Section 16, until such time as the Owners Association is organized and is empowered to act hereunder, Developer shall have the right and the obligation to keep and maintain the Common Areas at the Developer's sole cost and expense without contribution from any of the Owners.

(vii) Notwithstanding anything in this Declaration to the contrary, for purposes of the assessments provided for in Section 15 above and this Section 16, Developer shall be considered to own one Lot for each 2 ½ acres of land located within any unplatted portion of the Parent Tract and shall be subject to the same per Lot assessment as the Owners of Lots in the Development for each such 2 ½ acres.

17. **Special Assessments.** In addition to the other assessments provided for herein, the Board of Directors (a) shall have the authority to levy from time to time a special assessment against any Lot (other than any Lot when owned by the Developer) and its Owner (other than the Developer) to the extent the Owners Association expends any money (whether for services or materials or otherwise) to correct or eliminate any breach by such Owner of any agreement, obligations, reservation, or restriction contained in any deed, declaration, or plat covering such Lot (including, without limitation, to maintain or repair any Lot or improvement thereon) and (b) shall levy from time to time special assessments against each and every Lot (other than any Lot then owned by the Developer) in an equal amount that is sufficient, when aggregated, to enable the Owners Association to perform its duties as specified herein that require any expenditure during any period in an amount in excess of the general funds of the Owners Association available therefor. In addition, special assessments against each and every Lot (other than any Lot then owned by the Developer) to pay the costs of constructing, maintaining, altering, or repairing any Common Area or improvement thereon may be levied (i) if fifty-one percent (51%) of the Owners (other than the Developer if it is then an Owner) present and entitled to vote at a meeting of the members specially called for that purpose and of which advance notice is given authorizing such special assessments by an affirmative vote therefor, and (ii) if the Developer, if then an Owner, approves such special assessments in writing. Special assessments shall be due and payable, shall be the personal obligation of the then-Owner of each Lot and shall become a lien on such Lot upon notice to such Owner of the assessment. Such lien shall be enforced and terminated in accordance with the provisions set forth above.

18. **Limitation on Expenditures.** The Owners Association shall, at no time, expend more money within any one year than the total amount of the assessments (including special assessments) for that particular year, plus any surplus and available reserves which it may have on hand from prior years; nor shall the Owners Association have the power to enter into any contract which binds the Owners Association to pay for any obligation out of the assessments for any future year, except for

contracts for utilities, maintenance, or similar services or matters to be performed for or received by the Owners Association or its members in subsequent years.

**19. Notices.**

(i) At least thirty (30) days prior to any meeting of the Owners Association, it shall give written notice to all members of the place, time, and purpose of the regular or special meeting of the Owners Association.

(ii) The Owners Association shall designate from time to time, by notice to all Owners, the place where payment of assessments shall be made and the place or places where other business in connection with the Owners Association may be transacted and where the Owners Association may be contacted.

(iii) All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, postage prepaid, and addressed to the person entitled to such notice at the last address listed with the Owners Association for such person. Notice to one co-Owner shall constitute notice to all co-Owners.

**20. Extension of Development.** The Developer shall have, and expressly reserves, the right, from time to time, to add to the existing Development and to the operation of the provisions of this Declaration such other adjacent (without reference to streets and rights-of-way) lands as it may now own or hereafter acquire by executing, acknowledging, and recording an appropriate written declaration or agreement subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions, and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Developer in good faith.

**21. Applicable Law.** The Owners Association shall, at all times, observe all applicable federal, state, county, city, or other laws, rules, regulations, and ordinances. If, at any time, any of the provisions of this Declaration shall be found to be in conflict with such law, rules, regulations, or ordinances, such provisions shall be of no force or effect to the extent of such conflict for so long as such conflict exists, but no other parts of this Declaration not in conflict therewith shall be affected thereby.

**22. Covenants Running with the Land.** All provisions of this Declaration shall be deemed to be covenants running with the land and into whosoever hands any of the property in or adjacent to the Development shall come, for the benefit of all the land in the Development and all land adjacent to the Development declared by the Developer to be subject to this Declaration as provided herein.

**23. Severability.** Invalidation of any of the provisions set forth herein, or any part hereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions, or any part hereof, but they shall remain in full force and effect.

**24. Assignment of Developer's Rights.** The Developer shall have the right and authority from time to time, by appropriate agreement made expressly for that purpose and recorded in the office of the Recorder of Deeds of Boone County, Missouri, to assign, convey, transfer, and set over to any person or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties, and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for all purposes by the Developer hereunder with respect to the assigned rights, benefits, powers, reservations, privileges, duties, and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer, and set over the rights, benefits, powers, reservations, privileges, duties, and responsibilities hereunder.

**25. Duration, Release, and Modification of Restrictions.** The provisions of this Declaration shall remain in full force and effect for a period of twenty (20) years from the date hereof, and shall automatically be continued thereafter for successive periods of ten (10) years each; provided, however, the provisions of this Declaration may be amended, modified, or supplemented,

# Boone County, Missouri


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Unofficial Document

in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both (a) the Owners (excluding therein the Developer if it is then an Owner) of Sixty-six and two-thirds percent (66 2/3%) of the Lots (excluding those owned by the Developer) within the Development as then constituted and (b) the Developer if it is then an Owner.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed the day and year first written above.

Developer:



Keith Samuel



Chastity Samuel

STATE OF MISSOURI

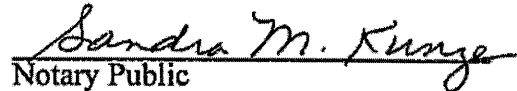
COUNTY OF BOONE

} ss.

On this 27<sup>th</sup> day of Nov., in the year 2000, before me, Sandra M. Kunze, a Notary Public in and for said state, personally appeared Keith Samuel and Chastity Samuel, husband and wife, known to me to be the persons who executed the within Declaration of Restrictions, and acknowledged to me that they executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Columbia, Missouri, the day and year first above written.

(SEAL)

  
Notary Public

My commission expires:

SANDRA M. KUNZE  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Howard County  
My Commission Expires: June 10, 2002

WARRANTY DEED

Boone County, Missouri 763

THIS DEED, Made and entered into this 5th day of May, A.D. 2000 by and between CARL T. TRAXLER and MARTHA M. TRAXLER; husband and wife,

of Boone County, State of Missouri, Parties of the First Part, and KENNETH SAMUEL and CHRISTY D. SAMUEL, husband and wife,

Unofficial Document

(Grantee's mailing address is): 1680 South Louisville Drive Columbia, MO 65203

of Boone County, State of Missouri, Parties of the Second Part;

WITNESSETH. That the said Parties of the First Part, for and in consideration of the sum of ten dollars and other valuable considerations paid by the said Parties of the Second Part, the receipt of which is hereby acknowledged, do by these presents Grant, Bargain and Sell, Convey and Confirm, unto the said Parties of the Second Part, the following-described real estate situated in the County of Boone, in the State of Missouri, to-wit:

Tracts One (1) and Two (2) of Survey recorded in Book 1471, Page 172, Boone County Records and Tract Three (3) of survey recorded in Book 1496, Page 500, Boone County Records, ALL located in the Northeast Quarter (NE 1/4) of Section 24, Township 47 North, Range 13 West, Boone County, Missouri, and containing in the aggregate 94.04 acres, more or less.

Subject to easements and restrictions of record.

(Grantors hereby affirm that Grantor, CARL T. TRAXLER, is also known as CARL THOMAS TRAXLER and Grantor, MARTHA M. TRAXLER is also known as MARTHA MAE TRAXLER.)

Subject to taxes for 2000 and thereafter.

TO HAVE AND TO HOLD the same together with all the rights, immunities, privileges and appurtenances to the same belonging unto the said Parties of the Second Part, and to the heirs and assigns of such Parties; the said Parties of the First Part hereby covenanting that they, and their heirs, executors, administrators, and personal representatives shall and will warrant and defend the title to the premises unto the said Parties of the Second Part and to the heirs and assigns of such Parties forever, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said Parties of the First Part have hereunto set their hands on the day and year first above written.

Carl T. Traxler  
CARL T. TRAXLER

Martha M. Traxler  
MARTHA M. TRAXLER

STATE OF MISSOURI

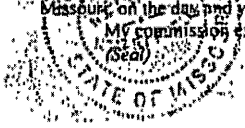
SS. On this 5th day of May, 2000,

COUNTY OF BOONE

before me personally appeared CARL T. TRAXLER and MARTHA M. TRAXLER, husband and wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Columbia, Missouri, on the day and year first above-written.

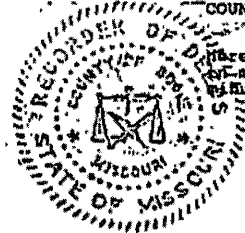
My commission expires: 22 Sept. 2001



David L. Knight  
DAVID L. KNIGHT, Notary Public

STATE OF MISSOURI )  
COUNTY OF BOONE ) SS.

Document No. 8726

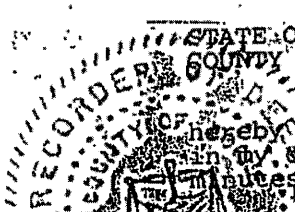


I, the undersigned Recorder of Deeds for said county and state do hereby certify that the foregoing instrument of writing was filed for record at my office on the 9th day of May, 2000 at 9 o'clock and 17:37 minutes AM and is truly recorded in Book 1618 Page 763.

Witness my hand and official seal on the day and year aforesaid.

BETTIE JOHNSON, RECORDER OF DEEDS  
by Lois Ashlock deputy

Document No. 31263



STATE OF MISSOURI )  
COUNTY OF BOONE ) SS.

I, the undersigned Recorder of Deeds for said county and state do hereby certify that the foregoing instrument of writing was filed for record at my office on the 29th day of November, 2001 at 2 o'clock and 59:38 minutes PM and is truly recorded in Book 1820 Page 41.

Witness my hand and official seal on the day and year aforesaid.

Filed for record May 9 2000 at 9:17:37 AM in Boone Co. MO. Deeds Johnson, Recorder of Deeds. Document No. 8726 recorded in Book 1618 Page 763

Unofficial Document



Recorded in Boone County, Missouri

Date and Time: 06/10/2002 at 12:30:29 PM

Instrument #: 2002016103 Book: 01934 Page: 0132

First Grantor SAMUEL, KEITH

First Grantee BROOKFIELD ESTATES

Instrument Type. AMEN

Recording Fee \$28.00

*Bette Johnson*  
Bette Johnson, Recorder of Deeds



*June 10 2002* **FIRST AMENDMENT TO BROOKFIELD ESTATES  
DECLARATION OF RESTRICTIONS**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Keith Samuel and Chastity Samuel, husband and wife, 1680 South Louisville Drive, Columbia, Missouri 65203 (the "Developer"), earlier recorded in the Records of Boone County, Missouri, that certain Brookfield Estates Declaration of Restrictions recorded on November 29, 2001, in Book 1820 at pages 41 through 51, both inclusive (the "Original Declaration"); and

WHEREAS, the Original Declaration imposes certain building and land use restrictions and certain covenants on Lots in Brookfield Estates, Plat I, and the ownership thereof, as further described in the Original Declaration (the "Original Lots"); and

WHEREAS, paragraph 20 of the Original Declaration provides that the Developer may subject additional land to the provisions of the Original Declaration; and

WHEREAS, the Developer desires to subject the following additional land to the provisions of the Original Declaration, to-wit:

Lots 22 through 26, both inclusive of Brookfield Estates, Plat 3, as shown by the Plat thereof recorded in Plat Book 36, Page 40 of the Records of Boone County, Missouri (the "Additional Lots").

NOW THEREFORE, in consideration of the premises contained herein, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares: (i) that the Additional Lots shall be, and they hereby are, restricted as to their use and otherwise in the manner set forth in the Original Declaration; (ii) the Additional Lots are hereby made subject to the Original Declaration and all the terms and provisions thereof the same as if the Additional Lots were Original Lots, including, but not limited to, the obligations to pay the fees, dues, and assessments provided for therein; and (iii) owners of the Additional Lots shall be entitled to all the rights and prevlidges provided in the Declaration.

Nora Dietzel, Recorder of Deeds



IN WITNESS WHEREOF the Developer has executed this First Amendment to be effective as of the recordation thereof.

Unofficial Document

Developer:

*[Handwritten signature of Keith Samuel]*

Keith Samuel

*[Handwritten signature of Chastity Samuel]*

Chastity Samuel

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF BOONE )

On this 10th day of June, in the year 2002, before me, Theresa Ann Ivy, a Notary Public in and for said state, personally appeared Keith Samuel and Chastity Samuel, husband and wife, known to me to be the persons who executed the within First Amendment to Brookfield Estate Declaration of Restrictions, and acknowledged to me that they executed the same for the purposes therein stated.

In witness whereof, I have hereunto set my hand and official seal.

*[Handwritten signature of Theresa Ann Ivy]*  
\_\_\_\_\_  
Notary Public

My term expires:

dgh

Theresa Ann Ivy  
Notary Public - Notary Seal  
State of Missouri  
Cooper County  
My Commission Expires: March 9, 2006

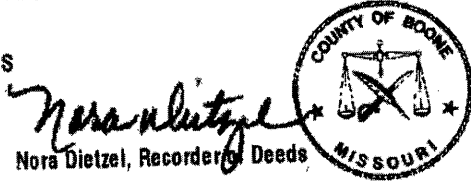
# Boone County, Missouri



Unofficial Document

Recorded in Boone County, Missouri  
Date and Time: 05/16/2016 at 02:30:37 PM  
Instrument #: 2016009731 Book: 4591 Page: 29

Instrument Type: AGR  
Recording Fee: \$33.00 S  
No. of Pages: 4



## REVOCABLE AGREEMENT TO PERMIT BROOKFIELD ESTATES HOMEOWNERS ASSOCIATION ACCESS ON BOONE COUNTY REGIONAL SEWER DISTRICT REAL PROPERTY

THIS AGREEMENT, made this 10<sup>th</sup> day of May, 2016, by and between the Brookfield Estates Homeowners Association, a Nonprofit Corporation, (hereinafter referred to as "HOA"), and the Boone County Regional Sewer District, a political subdivision of the State of Missouri, (hereinafter referred to as "District").

### WITNESSETH:

WHEREAS, the District is engaged in the provision of wastewater collection and treatment services in the unincorporated areas of Boone County, Missouri, and,

WHEREAS, the District owns Lot 11A of a survey recorded in Book 1820, Page 607 of the records of Boone County, Missouri, being part of Brookfield Estates Subdivision, Plat 1, recorded in Plat book 35, Page 81 of the Boone County records;

WHEREAS, the HOA is desirous of accessing the lake shown on the survey recorded in Book 1820, Page 607;

NOW, THEREFORE, the parties agree as follows:

#### 1. Permitted Activities on Land.

For and in consideration of Five Dollars (\$5.00) and the promises hereafter made by HOA, District hereby permits HOA to use the land described in "Exhibit A" for pedestrian access only.

#### 2. Prohibited Activities on Land.

District expressly prohibits entry by or operation of any and all vehicles with tires on the on the land described in "Exhibit A". District also expressly prohibits the erection of fences and the storage of equipment or boats on the land described herein.

3. Damages. Unofficial Document

Any and all damages to real or personal property owned or lawfully possessed by the District which arise out of and are directly and proximately caused by HOA entry upon the land described in "Exhibit A" during or subsequent to the access by the HOA shall be paid by the HOA to the District as such damages accrue and become ascertainable.

4. Future Cooperation Required.

HOA agrees that it will enter upon the land described in "Exhibit A" for the purposes permitted in Paragraph 1 hereof and no other purpose, and shall not interfere with the activities conducted on said land, except to the extent required for the pedestrian access. District shall continue to use and enjoy the surface of the land described in "Exhibit A" as it did prior to the execution of this Agreement.

5. Duration of Covenants.

The premises and covenants made herein are intended by the parties to endure for as long as District controls, owns or supervises the land described in "Exhibit A". Therefore, in the event the land described in "Exhibit A" is sold, conveyed or bargained away, a condition subsequent of such sale shall be that the buyer/grantee of such property shall grant an easement to HOA which conveys rights and privileges identical to the permitted acts set forth in paragraph 1 of this Agreement, and any other rights necessary and proper to the continued operation and maintenance of HOA's pedestrian access located on the property described in "Exhibit A."

6. No Representations by District.

Notwithstanding any other provision of this agreement, the District expressly makes no representations regarding the status of title to the portion of the land that is the subject of this agreement.

7. Revocation by District.

District may revoke this agreement at any time without cause by giving written notice of such revocation to HOA at the address of its Registered Agent, as shown in the public records maintained by the Missouri Secretary of State.

To acknowledge the solemnity of our covenants and agreements, and in witness of this agreement, we the undersigned officials, being fully authorized and empowered by our governing bodies, having set our hands as indicated below:

Executed by HOA on the 10<sup>th</sup> day of May, 2016.

Executed by BCRSD on this 10<sup>th</sup> day of May, 2016.



# Boone County, Missouri

BOONE COUNTY MO MAY 16 2016

## Unofficial Document

EXHIBIT A

Revocable Pedestrian Access of the following described property:

The south 10 feet of Lot 11A of a survey recorded in Book 1820, Page 607 of the records of Boone County, Missouri, being part of Brookfield Estates Subdivision, Plat 1, recorded in Plat Book 35, Page 81 of the Boone County records.



# Boone County, Missouri



Unofficial Document

Recorded in Boone County, Missouri  
Date and Time: 07/27/2015 at 02:07:53 PM  
Instrument #: 2015015793 Book: 4475 Page: 112

Instrument Type: AMEN  
Recording Fee: \$30.00 S  
No. of Pages: 3

*Nora Dietzel*  
Nora Dietzel, Recorder of Deeds



(Space above reserved for Recorder of Deeds certification)

Title of Document: *Third Amendment to Brookfield Estates Declaration of Restrictions*

Date of Document: *July 22, 2015*

Grantor(s): *see page 1*

Grantee(s): *see page 1*

Statutory Mailing Address(s): *800 Silver Brook Dr.  
Columbia, Mo. 65201*

Legal Description: *see page 1*

Reference Book and Page(s):

(If there is not sufficient space on this page for the information required, state the page reference where it is contained within the document.)

Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

BOONE COUNTY MO JUL 27 2015

## THIRD AMENDMENT TO BROOKFIELD ESTATES DECLARATION OF RESTRICTIONS

KNOW BY ALL MEN BY THESE PRESENTS:

WHEREAS, Keith Samuel and Chastity Samuel, husband and wife, 1680 South Louisville Drive, Columbia Missouri 65203 (the "Developer"), earlier recorded in the Records of Boone County, Missouri that certain Brookfield Estates Declaration of Restrictions recorded on November 29, 2001, in Book 1820 at pages 41 through 51, both inclusive (the "Original Declaration"); and

WHEREAS, the Original Declaration imposes certain buildings and land use restrictions and certain covenants on Lots in Brookfield Estates, Plat I, and the ownership thereof, as further described in the Original Declaration (the "Original Lots"); and

WHEREAS, paragraph 20 of the Original Declaration provides that the Developer may subject additional land to the provisions of the Original Declaration; and

WHEREAS, the Developer amended the Original Declaration on April 23, 2002 to include Lots 12 through 17, both inclusive of Brookfield Estates, Plat II; and

WHEREAS, the Developer amended the Original Declaration on June 10, 2002 to include Lots 22 through 26, both inclusive of Brookfield Estates, Plat III; and

WHEREAS, the Brookfield Estates Homeowners Association (the "Association") was formed on June 26, 2003 and its Board of Directors have the power and authority to do and perform all such acts as may be deemed necessary and appropriate to carry out and effectuate the purposes of the Original Declaration; and

WHEREAS, the Association desires to subject the following additional land to the provisions of the Original Declaration, to-wit:

Lot 1B, Plat 4-A, as shown by the Plat thereof recorded in Plat Book 46, Page 46 of the Records of Boone County, Missouri (the "Additional Lot").

NOW THEREFORE, in consideration of the premises contained herein, the Association hereby agrees and declares: (i) that the Additional Lot shall be and is hereby restricted as to the use and otherwise in the manner set forth in the Original Declaration; (ii) the Additional Lot is hereby made subject to the Original Declaration and all the terms and provisions thereof the same as if the Additional Lot was part of the Original Lots, including, but not limited to, the obligations to pay the fees, dues, and assessments provided for therein; and (iii) owners of the Additional Lot shall be entitled to all the rights and privileges provided in the Declaration.

IN WITNESS WHEREOF, the Association has executed this Third Amendment to be effective as of the recordation thereof.

Nora Dietzel, Recorder of Deeds

