

Brook Forest Community Association

**SECOND AMENDED AND RESTATED DECLARATION
OF
CONDITIONS, COVENANTS, RESTRICTIONS,
RESERVATIONS AND EASEMENTS AFFECTING THE
PROPERTY
OF
BROOK FOREST IN OAK BROOK, ILLINOIS**

**SECOND AMENDED AND RESTATED DECLARATION
OF
CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS
AND EASEMENTS AFFECTING THE PROPERTY
OF
BROOK FOREST IN OAK BROOK, ILLINOIS**

THIS SECOND AMENDED AND RESTATED DECLARATION (“Declaration”) made as of this ____ day of _____, A.D. 2006 by the Brook Forest Community Association, hereinafter sometimes called the Association, shall become effective as of the date hereof.

WITNESSETH:

WHEREAS, a Declaration of Protective Covenants for Brook Forest was recorded by Chicago Title and Trust Company, as Trustee under Trust Agreement dated June 8, 1964 and known as Trust Number 46940, on September 24, 1965, in the Office of the Recorder of Deeds of DuPage County, Illinois, as Document R65-37368; and

WHEREAS, Oak Brook Development Company (“the Company”) and Chicago Title and Trust Company, as Trustees under Trust Agreement dated June 8, 1964, and known as Trust Number 46940, were the successors in interest to all of the rights, privileges, easements, powers and duties retained or reserved by them under the said Declaration; and

WHEREAS, Oak Brook Development Company and Chicago Title and Trust Company, as Trustees, have assigned all of their rights, privileges, easements, powers and duties under the Declaration to the Association by Document R74-10920 recorded March 12, 1974 in the Office of the Recorder of Deeds of DuPage County, Illinois; and

WHEREAS, the Declaration of Protective Covenants was amended and restated on December 22, 1989, having been approved in writing by at least two-thirds (2/3) of the members of the Association, as successor in interest to the Company, and such amended and restated Declaration was recorded in the Office of the DuPage County Recorder of Deeds in 1990 as Document R90-125474 (and became effective as of September 23, 1995); and

WHEREAS, the Declaration requires that the Declaration may be further amended by two-thirds (2/3) of the members attending in person or proxy any annual or special meeting called for such purpose, and such approval has been obtained;

NOW, THEREFORE, the Association hereby amends and restates the Declaration, as amended December 22, 1989, and declares that the real property described in and referred to in Article I hereof is, and shall be, held, transferred, sold, conveyed and occupied

subject to the conditions, covenants, restrictions, reservations and easements (sometimes hereinafter collectively referred to as "Covenants") hereinafter set forth.

ARTICLE I

PROPERTY SUBJECT TO THIS DECLARATION

The real property described in this Declaration which is, and shall be, held, transferred, sold, conveyed and occupied subject to the Covenants set forth in this Declaration is located in the Village of Oak Brook, York Township, DuPage County, Illinois, and is more particularly described as follows, to-wit:

Brook Forest, being a Subdivision in Section 27, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded July 26, 1965 as Document R65-27092 and Certificate of Correction filed September 24, 1965 as Document R65-37405, in DuPage County, Illinois.

Brook Forest Unit Two, being a Subdivision in Section 27, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded May 26, 1967 as Document R67-16877, in DuPage County, Illinois.

Brook Forest Unit Three, being a Subdivision of part of Section 27, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded May 26, 1967 as Document R67-16879, in DuPage County, Illinois.

Brook Forest Unit Four, being a Subdivision of part of Section 27, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 11, 1967 as Document R67-50498, in DuPage County, Illinois.

Brook Forest Unit Five, being a Subdivision of part of Section 27, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded February 20, 1969 as Document R69-7180, in DuPage County, Illinois.

Brook Forest Unit Six, being a Subdivision of part of Section 27, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded February 9, 1970 as Document R70-4053, in DuPage County, Illinois.

All of which real property is hereafter referred to collectively as "Brook Forest", a subdivision plat of which is recorded in the office of the Recorder of Deeds of DuPage County, Illinois. The permanent index numbers for the individual lots are itemized on Exhibit A attached hereto.

ARTICLE II

GENERAL PURPOSES OF THIS DECLARATION

- 2.1 Statement of Purpose. The real property in Article I hereof is subject to the Covenants of this Declaration to insure proper use and appropriate development and improvement of Brook Forest and every part thereof; to protect the Owners of Lots (as defined herein) in Brook Forest against improper use of Lots which may depreciate the value of surrounding Lots; to guard against the erection of Buildings constructed of improper or unsuitable materials; to insure adequate and reasonable development of Lots; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; in general to provide adequately for the highest type and quality of improvements in Brook Forest; and to insure high standards of maintenance and operation of community facilities and services to benefit all Owners of Lots by maintaining and promoting the desired character of Brook Forest and the convenience of all residents.
- 2.2 Burden upon the Property. This Declaration and the Covenants established herein shall be Covenants to run with the land and may not be severed or alienated from such ownership. The Covenants shall inure to the benefit of and be binding upon each and every Owner of a Lot, and the Owner's respective heirs, representatives, successors, purchasers, lessees, grantees and mortgagees. By the recording or acceptance of the conveyance of a Lot or any interest therein, the person or entity to which such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration and the By-Laws of the Association.

ARTICLE III

DEFINITIONS

- 3.1 **ARCHITECTURAL REVIEW COMMITTEE.** The committee appointed by the Board of Governors to carry out the functions described in Article VII of this Declaration.
- 3.2 **ASSOCIATION.** The Brook Forest Community Association, an Illinois Not-for-Profit Corporation, its successors and assigns.
- 3.3 **BASEMENT.** A portion of a Building located partly under grade, but having 7 feet or more floor-to-clear-ceiling heights.

- 3.4 BOARD OF GOVERNORS. The body carrying out the functions of a board of directors under the Illinois Not for Profit Corporation Act of Illinois, selected pursuant to the terms of this Declaration, the Articles of Incorporation and By-Laws of the Association.
- 3.5 BUILDABLE AREA. For the purpose of measuring Lot width, the narrowest width within the 30 feet of Lot depth immediately in back of the front yard set back line.
- 3.6 BUILDING. Any structure having a roof designed or built for the shelter, protection or enclosure of any person, animal or chattel and which is permanently affixed to the land.
- 3.7 BUILDING, ACCESSORY. A subordinate Building or portion of a principal Building the use of which is incidental to that of the principal Building and customary in connection with that use.
- 3.8 BUILDING HEIGHT. The vertical distance measured from the established ground level to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of rafters between the eaves and the ridge of a gable, hip or gambrel roof. Chimneys and ornamental architectural projections shall not be included in calculating the height.
- 3.9 BY-LAWS. The By-Laws of the Association, as the same may be amended from time to time by the Board of Governors of the Association.
- 3.10 CELLAR. The portion of a Building located partly or wholly underground and having more than half of its floor-to-clear ceiling height below the average grade of the adjoining ground.
- 3.11 DWELLING. A Building or portion thereof designed or used exclusively for residential uses, but not including hotels, motels, rooming houses, nursing homes, tourist homes, or trailers.
- 3.12 FAMILY. One or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling.
- 3.13 COMMUNITY GROUNDS. The real property and improvements thereon, including the landscaped areas, parks, creeks, beaches, tennis courts and other real property within BROOK FOREST reserved by the Association for the common use of all residents and Lot Owners.
- 3.14 LOT. A parcel of land consisting of adjoining parts which (at the time of filing for a building permit) is designated by its Owner or developer as a parcel to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "Lot" may or may not coincide with a lot of record.

- 3.15 LOT AREA. The area of a horizontal plane, bounded by the vertical planes through front, side and rear Lot lines.
- 3.16 LOT LINE, FRONT. That boundary line of a Lot abutting a street. On corner Lots, the Owner may select either street Lot line as the Front Lot Line.
- 3.17 LOT LINE, REAR. That boundary of a Lot which is most distant from and is, or is approximately parallel to, the Front Lot Line. If the Rear Lot Line is less than ten feet in length, or if the Lot forms a point at the rear, the Rear Lot Line shall be deemed to be a line ten feet in length within the Lot, parallel to and at the maximum distance from the Front Lot Line.
- 3.18 LOT LINE, SIDE. Any boundary of a Lot which is not a Front or Rear Lot Line.
- 3.19 MEMBERS. Each record Owner of a fee simple interest in BROOK FOREST shall be considered a Member of the Association to include beneficiaries of trust.
- 3.20 OWNER. Shall refer to the record owner (or the beneficiaries of a trust which may be a record owner) whether one or more persons or entities, of a fee simple title to any Lot as defined herein (or shall otherwise become subject to the terms hereof), including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 3.21 RULES AND REGULATIONS. The rules and regulations which may be adopted from time to time by the Board of Governors in accordance with Section 8.10.
- 3.22 STORY. That portion of a Building, other than a Cellar or Basement, included between the top surface of the next floor or roof above, except that a space used exclusively for the housing of mechanical services of the Building shall not be construed to be a story if access to such space may be had only for maintenance of such services. The floor of a Story may have split levels provided that there are not more than four feet difference in elevation between the different levels of the floor.
- 3.23 STORY, HALF. A partial Story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story.
- 3.24 STRUCTURE. Anything erected or constructed, the use of which requires more or less permanent location on, in or above the ground, or attached to something having a permanent location on or in the ground. A sign or other advertising device, detached or projecting, shall be construed to be a separate structure.
- 3.25 VOTING MEMBER. Refers to every person or entity who is an Owner of a Lot and has paid in full all assessments and special assessments prior to or on the due date for payment; provided, however, that any exercise of voting rights shall not be prohibited if such Owner has paid all such assessments at least ten (10) days prior to the date of any

meeting (or the execution of a proxy) at which an Owner is otherwise entitled to vote. Any failure to pay such assessments shall not relieve any person or entity from obligations contained in this Declaration.

ARTICLE IV

GENERAL RESTRICTIONS ON LAND USE

- 4.1 Land Use and Building All Lots in Brook Forest shall be used for single family, private residence purposes only, except ASSOCIATION Community Grounds which shall be used for recreational purposes only. No Building, except as specifically authorized elsewhere in this Declaration, shall be erected, re-erected or maintained thereon, except one Dwelling, designed by a licensed architect and erected for occupancy by one family, and a private garage containing no more than four parking spaces for the sole use of the Owner or occupants of the Dwelling. Such other detached accessory Buildings may be erected in such manner and location as approved in writing by the Architectural Review Committee (see Rules and Regulations and Architectural Review Guidelines).
- 4.2 Dwelling, Quality and Size. It is the intention and purpose of this Declaration to assure that all Dwellings shall be of a quality of design, workmanship and materials approved by the Architectural Review Committee. All Dwellings shall be constructed in accordance with the applicable governmental building codes and with more restrictive standards that may be required by the Architectural Review Committee. The ground floor area of a Dwelling, exclusive of attached garages, carports, open terraces and breezeways, shall be for one story Dwellings --not less than 1,800 square feet, and for dwellings of more than one story--not less than 1,250 square feet, and the total living area in the Dwelling shall be not less than 2,000 square feet.
- 4.3 Tennis Courts; Swimming Pool. Tennis courts and swimming pools shall be screened from the street or streets by a wall, solid fence, evergreen hedge or other visual barrier as approved in writing by the Architectural Review Committee. No tennis court or swimming pool shall be located on a Lot line nearer to the Front Lot Line, or a Side Lot Line adjoining a street, than the minimum setback shown on said recorded plat or 40 feet, whichever is greater.
- 4.4 Driveways. Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted gravel, crushed stone or other approved base material, and shall have a wearing surface of asphalt, concrete, paving bricks or blocks, or the equivalent thereof. Plan and specifications for driveways, culverts, pavement edging or markers shall be as approved in writing by the Architectural Review Committee.
- 4.5 Natural Drainage Ways. Where there exists on any Lot or Lots a condition of accumulation of storm water remaining over an extended period of time, the Lot Owner

may, with the written approval of the Architectural Review Committee, take such steps as shall be necessary to remedy such condition provided that no obstructions or diversions of existing storm water drainage swales or channels over and through which surface storm water naturally flows upon or across any Lot shall be made by the Lot Owner in such manner as to cause damage to other property.

- 4.6 Home Occupations. No gainful occupation or profession, or other non-residential use, shall be conducted on property or in any Building located in Brook Forest which results in any traffic or parking congestion and then only by persons resident in such Building and incidental to home occupation.
- 4.7 Noxious or Offensive Activities. No noxious or offensive activity shall be carried on, in or upon any premises, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. No livestock, poultry, or more than two dogs or cats over four months of age, shall be kept or maintained on any Lot. No burning of refuse shall be permitted outside the Building.
- 4.8 Parking. The use of any garage, carport, driveway, or parking area which may be in front or adjacent to or part of any Lot or street as a habitual parking space for commercial vehicles is prohibited. Commercial vehicles shall not remain continually parked in substantially the same area for more than one week. The parkway located between the pavement and the Lot line of each Lot shall not be used for the parking of any vehicle, boat or trailer. The term "commercial vehicles" shall include all automobiles, station wagons, trucks and vehicular equipment which shall bear signs or have printed on the side of same, reference to any commercial undertaking or enterprise, including vehicles with any commercial class license plates.
- 4.9 Plant Diseases or Noxious Insects. No plants or seeds, or other things or conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.
- 4.10 Nameplate. There shall be not more than one nameplate on each Lot. A nameplate shall be not more than 48 square inches in area, and shall contain only the name of the occupant and/or the address of the Dwelling. It may be located on the door of the Dwelling or the wall adjacent thereto, or upon the wall of any accessory Building or structure, or free-standing in the front or side yard, provided that the height of the nameplate is not more than 12 inches above the adjoining ground grade.
- 4.11 Lightposts. A Lot Owner may install up to two hospitality lights or lightposts in the front yard and of a design as approved by the Architectural Review Committee.
- 4.12 Exterior Poles, Antennae, Laundry. No television or radio antennae, or tower (except flush-mounted receiver type equipment), or laundry-drying equipment shall be erected or used outdoors, whether attached to a Building or structure, or otherwise. Flag poles are permitted provided the pole is not more than 30 feet in height, unless otherwise approved by the Architectural Review Committee. Satellite dishes must not exceed one meter or

less in diameter. Locations are subjected to the Rules and Regulations established by the Board of Governors.

- 4.13 Temporary Structures. No trailer, basement of an uncompleted Building, tent, shack, garage, (except as permitted in Section 4.1), barn and no temporary Building or structure of any kind shall be used at any time for a residence either temporary or permanent. Temporary Buildings or structures used during the construction of a Dwelling shall be on the same Lot as the Dwelling, and such Buildings or structures shall be removed promptly upon the completion of construction.
- 4.14 Community Grounds. The Community Grounds within Brook Forest may be used by all Owners of Lots in Brook Forest and their guests for recreational purposes. The Board of Governors may from time to time adopt Rules and Regulations restricting or governing the use of the Community Grounds by Owners of Lots in Brook Forest and their guests.
- 4.15 Storage. No rubbish, storage piles, trash, garbage or material shall be dumped or allowed to remain on a Lot at any time except as shall be necessary to facilitate its pick up and disposal. All such storage shall be screened from view and shall otherwise be subject to any such rules and regulations as may be enacted by the Board of Governors from time to time. Notwithstanding the provisions of Section 7.5, any construction rubbish or debris shall be placed in containers by the Owner or Owner's contractor on a daily basis and such Owner shall use reasonable efforts to keep such Lot free of garbage and debris.
- 4.16 Landscaping. No tree or shrub shall be removed from the Community Grounds without the express consent of the Board of Governors. No planting of any kind shall be placed on any Lot in such a manner as to interfere with the use of neighboring Lots or the Community Grounds, or to present any safety hazard, and foliage and landscaping shall be neatly maintained. Further, each Owner shall keep the Lot free from weeds and shall not permit any unsightly plants, underbrush or plants breeding infectious plant diseases or noxious insects to remain on the Lot.
- 4.17 Underground Wiring. No lines or wires for communication or the transmission of electric current or power shall be constructed, placed or permitted to be placed anywhere in Brook Forest other than within Buildings or structures or attached to their walls, unless the same shall be contained in conduits, or approved cables constructed, placed and maintained underground.
- 4.18 Parkways. The Owners of Lots in Brook Forest shall be responsible for the maintenance of parkways located between their Lot lines and edges of street pavements on which said Lot adjoins. Nothing in this paragraph shall prohibit the Association from landscaping, maintaining and improving the parkways or cul-de-sacs. The Board of Governors may from time to time adopt Rules and Regulations with respect to harmonious landscaping in the parkways and cul-de-sacs.
- 4.19 Mailboxes. The Association may install and maintain uniform mail boxes and posts for placement in the front of the Lots in Brook Forest. The cost thereof shall be included in

the Lot Owners' assessments; provided, however that the Association may charge a Lot Owner for damage to such mailbox beyond normal wear and tear and as provided in Article IX(i).

- 4.20 Additional Rules and Regulations. The Board of Governors may, from time to time, adopt and amend additional rules and regulations governing the operation, maintenance, beautification and use of the Lots not inconsistent with the terms of this Declaration as it deems advisable, and rules and regulations shall have the same force and effect as the Covenants contained herein. Written notice of such rules and regulations shall be given to all Owners. A violation of such rules and regulations shall be deemed a violation of the terms of this Declaration.

ARTICLE V

DEVIATIONS BY AGREEMENT WITH ASSOCIATION

The Association, by and through its Board of Governors, hereby reserves the right to enter into agreements with the Owner of any Lot or Lots (without the consent of the Owner or Owners of any adjoining or adjacent Lot or Lots) to deviate from any or all of the Covenants or provisions set forth in this Declaration, provided there are practical difficulties or particular and identifiable hardships evidenced by the Owner or there are substantial burdens resulting therefrom and the Owner or Owners do not share in a benefit or improvement enjoyed by other Owners of Lots in Brook Forest. Any such deviation (which shall be manifested by an agreement in writing) shall not constitute a waiver of any such Covenant or provision in this Declaration as to the remaining Lots in Brook Forest.

ARTICLE VI

EASEMENTS

In the recorded Plat of Subdivision of Brook Forest, created the following easements:

- a. granted an easement to certain utility companies, and their respective successors and assigns, within the area as shown by dotted lines on the plat and marked "Utility Easement" to install, lay, construct, renew, operate and maintain underground wires, utility pipes and conduits and other underground equipment for the purpose of serving the subdivision with utility services; also the right to use the streets for said purposes, the right to enter upon the Lots at all times to install, lay, construct, renew, operate and maintain within said easement areas said wires, pipes and conduits and other underground equipment and finally the right to cut down and remove any trees, shrubs, or saplings that interfere or threaten to interfere

with any of the aforesaid uses or rights therein granted. No permanent Buildings or trees shall be placed on said easement areas but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with said uses or rights therein granted;

- b. created an easement for surface drainage swales in and along the streets and such other locations as shown by dotted lines and marked "Drainage Easement" on the plat; and
- c. reserved an assignable easement for the planting and maintenance of evergreens, trees, shrubs, grass and other landscaping and the maintenance of cul-de-sacs, sidewalks, parkways and woods in and along the streets as shown on the plat.

ARTICLE VII

ARCHITECTURAL REVIEW

- 7.1 Architectural Controls. No Building, fence, wall or other structure shall be commenced, erected, or maintained, nor shall any addition to or change or alteration therein be made, except interior alterations, until the construction plans and specifications, showing the nature, kind, shape, height and materials, color scheme, location on Lot and approximate cost of such Building or other structure, and the grading plan and landscape plan of the Lot to be built upon shall have been submitted to and approved in writing by the Architectural Review Committee. The Architectural Review Committee shall have the right to refuse to approve any such construction plan, which is not suitable or desirable, in its opinion, for aesthetic or other reasons; and in so passing upon such construction plans and specifications, grading plan, or landscape plan, the Architectural Review Committee shall have the right to take into consideration the suitability of the proposed Building or other structure on the outlook from adjacent or neighboring properties. In no instance shall a Building of a design substantially similar to any other in Brook Forest be permitted except as permitted by the Architectural Review Committee with the consent of the Board of Governors. Within one year of substantial completion or occupancy of a Dwelling, both the landscaping and the driveway construction must be completed. It is understood and agreed that the purpose of architectural controls is to secure an attractive and harmonious residential development having continuing appeal. In consideration of the eventual overall aspect of the community, for the benefit of the Owners, the Architectural Review Committee will be guided by the principle that the exterior surface of the structure will have a substantial area in white material or earth-tone colors. The quality of architectural design will be considered in relation to this principle.
- 7.2 Architectural Review Committee. The Board of Governors shall appoint an Architectural Review Committee from among its members or other Lot Owners; provided, however, that such committee shall consist of at least two members of the Board of Governors.

- 7.3 Architectural Review. If an Owner desires to alter, add or change the exterior of any structure or Dwelling located on a Lot in any manner, or construct a new Dwelling, structure, ancillary Building, fence or wall upon a Lot, then, such Owner shall submit plans and specifications showing the nature, kind, height, shape, material, color scheme and proposed location and landscape plan of the same to the Board of Governors. The Board of Governors shall refer the Owner's request to the Architectural Review Committee for review. The Architectural Review Committee shall consider any such request on the basis of its harmony of exterior design and location in relation to surrounding structures and topography, and shall, further, within thirty (30) days after the submission of such plans and specifications recommend the approval or disapproval of such request in writing to the Board of Governors. In the event the Architectural Review Committee recommends that said plans and specifications be disapproved, the Architectural Review Committee shall specify the reasons therefor to the Board of Governors. In the event the Board of Governors fails to so approve or disapprove such a request within forty-five (45) days after such plans and specifications are submitted to the Board of Governors by the Owner, such request will be deemed approved. The Board of Governors may charge a reasonable fee for administering the review process. Failure of an Owner to obtain Board of Governor's approval as required by this paragraph shall constitute a default under this Declaration. The Association shall, in that event, have the right to pursue all remedies set forth in this Declaration.
- 7.4 Right to Require Construction Bond. In the event that the Board of Governors, approves a proposed improvement or addition or modification on the Lot, the Board of Governors may, at its sole option, require the Owner to purchase a construction bond in favor of, or deposit a cash bond with, the Association in the amount reasonably set by the Board of Governors from time to time. Failure to complete the construction in strict accordance with the approval granted by the Board of Governors could result in the forfeiture of part or all of the construction bond.
- 7.5 Undue Delays; Debris. An Owner shall use best efforts to cause the construction process to proceed as expeditiously as possible. If the Board of Governors determines that an Owner has abandoned the construction process or the Owner otherwise allows unreasonable delays in the construction process, the Board of Governors may draw upon the construction bond required above. If an Owner fails to maintain and keep in a safe and clean manner any Lot during the construction process for more than five (5) days, the Board of Governors may draw upon the construction bond or cause such Lot to be cleaned in which case the Owner shall be responsible for the costs thereof. Within five (5) days after a draw on the construction bond, the Owner shall be required to increase the amount of the construction bond to its balance prior to the date on which the Board of Governors made a draw. The Board of Governors may impose such additional penalties as it deems advisable for a violation of this paragraph, including the assessment of an amount equal to one and one-half (1 1/2) times the cost of such clean up.

ARTICLE VIII

**BROOK FOREST COMMUNITY ASSOCIATION
MEMBERS AND BOARD OF GOVERNORS**

- 8.1 Purposes. The purposes of the Association shall be to insure high standards of maintenance and operation of all Lots and Community Grounds in Brook Forest and to insure the provision of services and facilities of common benefit, and in general to maintain and promote the desired character of Brook Forest. The Association shall be the governing body for all the Owners of Lots in Brook Forest and for the administration and operation of Brook Forest as provided in this Declaration, the By-Laws and the Rules and Regulations.
- 8.2 Membership and Voting. Every Owner shall be entitled to designate a Voting Member of the Association. Each such Voting Member shall be entitled to one vote on each matter submitted to a vote of Voting Members for each Lot owned by said Owner, provided, all annual and special assessments of such Owner have been paid in full at least 10 days prior to the date of any such vote. Where title to a Lot is in more than one person, such co-owners acting jointly shall be entitled to designate the Voting Member who shall be entitled to one vote per Lot owned. The Association shall be given written notice of any change of ownership of a Lot or Voting Member within 10 days after such change.
- 8.3 Board of Governors. The direction and administration of Brook Forest shall be vested in the Board of Governors, consisting of nine (9) persons who shall be appointed or elected in the manner herein provided. Each member of the Board of Governors shall be one of the Lot Owners and shall reside on a Lot.
- 8.4 Voting. In all elections for members of the Board of Governors, Voting Members shall not be entitled to cumulate votes. Members of the Board of Governors shall be elected by the Voting Members for a term of three (3) years. The Voting Members having at least two-thirds (2/3) of the total votes may increase or decrease such number of persons on the Board of Governors or may increase or decrease the term of office of the members of the Board of Governors at any annual or special meeting provided that such number shall not be less than three (3), and that the term of at least one-third (1/3) of the persons on the Board of Governors shall expire annually. Members of the Board of Governors shall receive no compensation for their service, unless expressly authorized by the Board of Governors, with the approval of Voting Members having two-thirds (2/3) of the total votes.
- 8.5 Vacancies. A vacancy on the Board of Governors, including vacancy due to any increase of the number of members of the Board of Governors, shall be filled by the members of the Board of Governors and such person shall serve until the next annual meeting or a special meeting of the Voting Members called for such purpose.
- 8.6 Board of Governor Action. The Board of Governors shall act under this Declaration by majority vote of those present at its meeting when a quorum exists. A majority of the total members of the Board of Governors shall constitute a quorum. Meetings of the

Board of Governors may be called, held, and conducted in accordance with such resolutions as the Board of Governors may adopt. No member of the Board of Governors may act by proxy.

- 8.7 Officers. The Board of Governors shall elect from among its members a President who shall preside over both its meetings and those of the Voting Members, a Secretary and a Treasurer and such Vice Presidents as the Board of Governors may from time to time determine. The President shall be the chief executive officer of the Board of Governors and the Association, and shall execute all documents on behalf of the Board of Governors and the Association. The Secretary shall keep the minutes of all meetings of the Board of Governors, and the Association, shall mail and receive all notices, and shall, in general, perform all the duties incident to the office of Secretary. The Treasurer shall keep the financial records and books of account. Any officer may be removed at any meeting by the affirmative vote of the majority of the members of the Board of Governors, either with or without cause, and any vacancy in the office may be filled by the Board of Governors at any meeting thereof. It is permissible for an officer to hold more than one of the offices mentioned herein.
- 8.8 Removal. Any member of the Board of Governors may be removed from office by affirmative vote of the Voting Members having at least two-thirds (2/3) of the total votes at any special meeting called for that purpose. The successor to fill the unexpired term of a member of the Board of Governors removed may be elected by the Voting Members at the same meeting or any subsequent annual meeting or special meeting called for that purpose.
- 8.9 By-Laws. The By-Laws of the Association shall govern the Association and its Board of Governors absolutely. As a Member of the Association, each Owner hereby covenants and agrees to be bound by the provisions of the By-Laws of the Association as such may be properly adopted, altered, or amended from time to time by the Board of Governors.
- 8.10 Adoption of Rules and Regulations. The Board of Governors may from time to time adopt rules and regulations governing the Lots and Community Grounds and use of the Lots and Community Grounds, by the Owners and by all other persons ("Rules and Regulations"). All users of the Lots and Community Grounds shall comply with the Rules and Regulations, and no use shall be made of the Lots and Community Grounds by any person which does not comply with the Rules and Regulations. Although the Rules and Regulations shall apply to, and be effective throughout Brook Forest, including the Lots located therein, the rights, powers and duties of the Board of Governors shall be primarily concerned with the Community Grounds, and the primary responsibility of the Board of Governors is the management and the operation of the Community Grounds and enforcement of the provisions of this Declaration. The Rules and Regulations to be adopted by the Board of Governors in respect of the Lots and Community Grounds may cover, among other things and without limitation, matters pertaining to use, admission of guests, pets, discipline and disciplinary measures against violators of said Rules and Regulations.

- 8.11 Meetings of the Owners. The Owners shall meet annually in accordance with the By-Laws for the purpose of electing members of the Board of Governors at a date, time and place in DuPage County to be designated by the Board of Governors and as provided in the By-Laws. Special Meetings of Owners may be called by the President of the Board of Governors or by a majority of the members of the Board of Governors or by 20% of the Voting Members of the Association. Written notice shall be given to all Voting Members, stating the place, hour, day and purpose of such meeting not less than five or more than sixty days before such meeting date.
- 8.12 Meetings of the Board of Governors. The Board of Governors shall meet at a reasonable time after the annual meeting of the Voting Members of the Association at a place in DuPage County to be designated by the Board of Governors for the purpose of electing officers and transacting any other business which may properly come before the annual meeting. In addition to the said annual meeting, the Board of Governors may hold special meetings when business before the Board of Governors makes it necessary. Special meetings of the Board of Governors shall also be held on the written request of the President or one third (1/3) of the members of the Board of Governors.
- 8.13 Board of Governor's Determination Binding. In the event a disagreement arises between Owners related to Brook Forest or the interpretation and application of this Declaration, the By-Laws or the Rules and Regulations, the review and determination thereof by the Board of Governors shall be final and binding upon each and every Owner.

ARTICLE IX

POWERS AND DUTIES OF THE ASSOCIATION

In addition to those powers and duties specified elsewhere herein, the Association shall have the following powers and duties:

- a. To manage and control the Community Grounds within Brook Forest
- b. To the extent such services are not provided by any governmental body:
 1. to care for, spray, trim, protect and replant trees on all public right of ways and in other public places where trees have once been planted, and to care for, protect and replant shrubbery and grass in cul-de-sacs, parkways adjacent to the streets and in the Community Grounds set aside for the general use of residents and Owners of Lots in Brook Forest;

2. to provide for the plowing and removal of snow from public sidewalks and streets;
 3. to provide for the cleaning of streets, catch basins, public sidewalks, and for the repair and maintenance of storm sewers and appurtenant drainage facilities;
 4. to spray and to take other measures for mosquito and fly abatement within Brook Forest; and
 5. to employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that provided by any governmental body.
- c. To mow, care for, and maintain vacant and unimproved property and remove rubbish from same and to do any other things necessary or desirable in the judgment of the Board of Governors of the Association to keep any vacant and unimproved property and parkways in front of any property in Brook Forest neat in appearance and in good order; with costs charged back to the Owners..
 - d. To provide for the maintenance of facilities in any public street or park, or on any land set aside for the general use of the property Owners and residents in Brook Forest.
 - e. To provide for the maintenance of the entranceway signage, tennis courts, streets, cul-de-sacs and streams within Brook Forest.
 - f. To own, lease, sell or purchase such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by it.
 - g. To make such improvements to the Community Grounds, cul-de-sacs and parkways within streets in Brook Forest and provide such other facilities and services as may be authorized from time to time by the affirmative vote of the Board of Governors provided, however, that any such action so authorized shall always be for the express purpose of keeping Brook Forest a highly desirable and exclusive residential community.
 - h. To insure that the use, maintenance and landscaping of the land and improvements on each Lot in Brook Forest is carried on in a manner that meets the high standards of maintenance and operation of all property in Brook Forest, and that said use, maintenance and landscaping on each Lot continues to promote the desired character of Brook Forest.

- i. To enter upon any Lot within Brook Forest at the option of the Board of Governors upon proper notice as set forth herein upon the construction of any Building or improvement not in accordance with this Declaration or the failure of any owner of the Lot to maintain the same and the improvements thereon in a manner satisfactory to the Board of Governors, or in a manner that fails to promote the desired character of Brook Forest, to make rehabilitation, upkeep, landscaping or restoration of the Lots and improvements as may be necessary. The cost thereof and the reasonable attorney's fees, expenses and costs associated therewith shall be charged against the Owner of said Lot by invoice in a manner hereinafter set forth in Article X below and the Association shall have a lien on such Lot, enforceable in the manner and to the extent set forth in Article X below. The vote of the Board of Governors to place a lien upon a Lot that is in violation of this subparagraph shall in no way limit the remedies provided for the enforcement of assessments or any other remedy set out in any other portion of this Declaration and any amendment.

ARTICLE X

GENERAL FUNDS AND ASSESSMENTS

- 10.1 Annual Assessment. For the purpose of providing a general fund to enable the Association to exercise the powers and make and maintain the improvements and render the services herein provided for, the Board of Governors of the Association shall determine for each year the total amount required of such fund for such year and may levy an annual assessment uniformly against each Lot in Brook Forest in any amount necessary to fund the year's anticipated expenditures.
- 10.2 Association's Rights for Failure to Pay Assessments. In the event of failure of any Owner of a Lot to pay any assessment (annual or special) on or before sixty (60) days following notice to such Owner of such assessment or the scheduled due date thereof, if later, then such assessment shall become delinquent and shall bear interest, computed at an annual rate equal to two (2%) percent over the highest annual prime rate of interest published in *The Wall Street Journal* or the highest rate of interest allowed by law, if greater, calculated daily from the due date thereof to the day of payment. The Association shall have a lien on each Lot against which such assessment is levied to secure payments thereof, plus interest and reasonable expenses and costs of enforcement, including but not limited to, attorney's fees.
- 10.3 Enforcement of Delinquent Assessments; Liens. When delinquent, payment of the delinquent assessment (annual, special or excess special, as defined herein), interest and said expenses and costs of enforcement may thereafter be enforced against the Owner or Owners personally, and/or by foreclosing a lien on the Lot or Lots. It shall be the duty of the Association to bring suits to collect such delinquent assessments. The Association

may, at its discretion, file a lien evidencing non-payment of assessments in the office of the Recorder of Deeds whenever any such assessments are delinquent. The Association will further, at its option, have the right to foreclose the lien therefor as hereinafter provided or sue the Owner or owners personally for the delinquent amounts due. There shall be added to the amount due the costs of said suit plus fees and expenses together with interest (as provided in Section 10.2 above) and reasonable attorney's fees to be fixed by the court. The enforcement action may be brought in the name of the Association. In addition to the foregoing, the Association or its agents shall have such additional rights and remedies to enforce such collection as may otherwise be provided or permitted by law from time to time. The liens for assessments herein provided shall be subject and subordinate to the lien of any valid mortgage or deed of trust now existing or which may hereafter be placed on said Lot. Such liens shall continue for a period of five years from the date of delinquency and no longer unless within such time suit shall have been filed for the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment in such suit.

- 10.4 Special Assessments. The Board of Governors shall establish and maintain a reasonable reserve for contingencies and replacements. Any extraordinary or nonrecurring common expense, any common expense not set forth in the annual budget as adopted, and any increase in assessments over the amount adopted shall be separately assessed against all Lot Owners ("special assessment"). Any such special assessment, levied by the Board of Governors, may be for an amount up to, but not exceeding, the amount of the then levied annual assessment. No special assessment, in an amount higher than the then levied annual assessment ("excess special assessment") may be levied by the Board of Governors, unless the excess special assessment is approved by the affirmative vote of at least two-thirds (2/3) of the Voting Members present, voting in person or by proxy, at a special meeting duly called for the purpose of approving the excess special assessment.
- 10.5 No Excess Expenditures. The Association shall not expend more money within any one year than the total amount of the annual and special assessment for that particular year, plus any surplus which it may have on hand from previous assessments, unless an excess special assessment is approved pursuant to Section 10.4; nor shall said Association enter into any contract binding the assessment or assessments of any future year, except for contracts for utilities, and no such contract shall be valid or enforceable against the Association.

ARTICLE XI

COMPLIANCE, BREACH OF COVENANTS AND DEFAULT

- 11.1 Rights and Remedies of the Association. Each Owner is bound by and shall comply with the terms of this Declaration, the By-Laws, and the Rules and Regulations adopted pursuant thereto. A failure by an Owner to comply with this Declaration or with the By-

Laws or with the Rules and Regulations of the Association or any authorized amendment to said Declaration, By-Laws, or Rules and Regulations shall constitute a default by such Owner. If a default occurs, the Association shall have the right to recover damages at law, to procure injunctive relief, to foreclose on any lien rights the Association may have, or to avail itself of all other rights or remedies permitted at law or in the equity including, but not limited to, filing suit pursuant to the Forcible Entry and Detainer Act. All expenses of the Association in connection with any actions or proceedings described herein, including court costs and attorneys' fees and all other expenses of the proceeding, and all damages, liquidated or otherwise, together with interest thereon at the rate set forth in Section 10.2 until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of the Owner's respective share of the annual expenses and the Association shall have a lien for all of the same, as well as for non-payment of the Owner's respective share of the annual expenses upon the Lot of such defaulting Owner and upon all of the Owner's additions and improvements thereto and upon all of the Owner's personal property located on the Owner's Lot or elsewhere on the property. The rights and remedies of the Association shall be cumulative and may be enforceable concurrently in a single proceeding.

- 11.2 Recovery of Suit Expenses. In any proceeding commenced by the Association, based upon or arising out of an alleged default by an Owner, the Association shall be entitled to recover all expenses of the proceeding, including reasonable attorneys' fees.

ARTICLE XII

GENERAL PROVISIONS

- 12.1 Other Provisions. The Covenants herein set forth shall run with the land and bind the Owners, the Association, and their respective successors, grantees and assigns and all parties claiming by, through, or under them. The Association and each Owner or Owners of any Lot from time to time shall have the right jointly and separately to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observation of, the Covenants herein, or any of them, in addition to the right to bring an ordinary legal action for damages. Whenever there shall have been built on any Lot any structure which is and remains in violation of the Covenants set forth herein, or any of them, after a period of thirty (30) days after the transmittal of written notice of such violation to the Owner from the Association, then the Association shall have, in addition to the foregoing rights, the right to enter upon the Lot where such violation exists and summarily abate or remove the same at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of the Association and such Owners to enforce any of the Covenants herein set forth as to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation.

- 12.2 Amendment to Declaration. Two thirds (2/3) of the Voting Members attending in person or by proxy any annual or special meeting called for the purpose may revoke, modify, amend or supplement in whole or in part any or all of the provisions contained in this Declaration and may release from any part or all of said Declaration all or any part of the real property subject thereto. A recordable certificate by an accredited abstractor or title guaranty company doing business in DuPage County, Illinois, as to the record ownership of said property shall be deemed conclusive evidence thereof with regard to compliance with the provisions of this section. Upon and after the effective date of any such change or changes, it or they shall be binding upon all persons, firms, and corporations then owning property in Brook Forest and shall run with the land and bind all persons claiming by, through and under any one or more of them.
- 12.3 Rights of Mortgagees. All Covenants, liens and other provisions herein set forth shall be subject to and subordinate to all mortgages or deeds of trust in the nature of a mortgage now or hereafter executed, encumbering any of the real property in Brook Forest, and none of said Covenants, liens or other provisions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust in the nature of a mortgage. However, if any such property is acquired by deed in lieu of foreclosure, or is sold under foreclosure of any mortgage or under the provisions of any deed of trust in the nature of a mortgage, or under any judicial sale, any such grantee or purchaser at such sale, his or its grantees, heirs, personal representatives, successors, or assigns shall hold any and all such property so purchased or acquired subject to all the Covenants, liens and other provision of this Declaration.
- 12.4 Partial Invalidity; Severability. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any Covenant or provision contained in this Declaration, such holding shall not impair, invalidate or otherwise affect the remainder of this Declaration which shall remain in full force and effect.
- 12.5 Notices. Each Owner shall file the correct mailing address of such Owner and Voting Member with the Association and shall notify the Association promptly in writing of any subsequent change of address. The Association shall maintain a file of such addresses. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any Owner and Voting Member at the last address filed by such Owner with the Association shall be sufficient and proper notice to such Owner and Voting Member wherever notices are required in this Declaration.
- 12.6 Non-Waiver Except by Written Instrument. No conditions, Covenants, restrictions, reservations, grants or other provisions of this Declaration shall be deemed to have been waived by silence, or inaction, or failure to enforce rights or by any other matters whatsoever, other than a writing executed by the party against whom the waiver is asserted, which expressly states that a specified right or remedy is being waived. No waiver shall be deemed to have been affected by the failure to enforce rights or remedies of which a party is possessed, regardless of the number of breaches or violations of said rights which have occurred.

- 12.7 Recordation. This Declaration shall be recorded in the Office of the Recorder of Deeds of DuPage County, Illinois. All amendments to the Declaration shall also be recorded in said Recorder's Office.
- 12.8 Conflicts Between Declaration and Village Ordinance Provisions. In the event there is at any time a conflict between any provision of this Declaration and any provision of any then effective ordinance, rule or regulation of the Village of Oak Brook, the ordinance, rule or regulation of the Village of Oak Brook then in effect shall prevail, but only to the extent it is more restrictive than this Declaration.

IN WITNESS WHEREOF, Brook Forest Community Association has caused this instrument to be executed by its President, attested by its Secretary, and its corporate seal to be hereto affixed, the day and year first above written.

BROOK FOREST COMMUNITY ASSOCIATION

By: _____
Its President

ATTEST:

By: _____
Secretary