



Larry D. Ehmen, County Recorder

Envelope

**PROTECTIVE COVENANTS FOR DEVELOPMENT OF
SINGLE FAMILY DETACHED DWELLINGS OF BROOK STONE ESTATES**

DECLARATION OF RESTRICTION

This Declaration of Restrictions is made this 16 day of August, 2004, by Lawrence V. Maas and Suzanne R. Maas, hereinafter referred to as "Declarants".

WITNESSETH:

WHEREAS, Declarants are the owners of the following described real estate, which specifically includes Lots 1 thru 6, inclusive, and is more specifically described, to wit:

Lots One (1) through Six (6) inclusive of Brook Stone, a Subdivision, described more particularly as follows:

A tract of land lying in and being a part of the Northwest Quarter of Section 6, Township 2 South, Range 6 West of the 4th Principal meridian, Adams County, Illinois and being more fully described as follows:

Commencing at a point marking the Northwest corner of the aforementioned Section 6; Thence South 00 degrees 21 minutes 37 seconds West (along the West line of the Northwest Quarter of said Section 6) a distance of 979.11 feet to the True Point of Beginning; Thence South 89 degrees 20 minutes 24 seconds East (leaving said West line) 586.23 feet to a point on the southwesterly right of way of Illinois Route #104; Thence South 36 degrees 35 minutes 30 seconds East (along said right of way) 48.66 feet; Thence South 26 degrees 46 minutes 08 seconds East (along said right of way) 380.50 feet; Thence South 66 degrees 31 minutes 00 seconds West (leaving said right of way) 255.59 feet; Thence North 89 degrees 20 minutes 24 seconds West 55.21 feet to a point on the West line of the Northwest Quarter of said Section 6; Thence North 00 degrees 21 minutes 37 seconds East (along said West line)

481.00 feet to the Point of Beginning; containing 7.59 Acres m/l; with the above described subject to that portion now being used for public road purposes; As per survey during April of 2004 of Marvin J. Likes, Illinois Professional Land Surveyor #35-2150, recorded on August 13, 2004, in Book 704 at page 9932, in Office of the Recorder of Adams County, to which reference is made for greater certainty.

WHEREAS, it is the desire and intention of Declarants to sell the lots in the real estate described hereinabove and to subject and impose upon such real estate mutual, beneficial restrictions under a general plan or scheme of improvement for the benefit of all lands in the tract in the future owners thereof.

NOW THEREFORE, Declarants hereby declare that all of the real estate described hereinabove shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and approved subject to the following limitations, conditions, covenants, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvements and sale of lands and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the land and every part thereof. All limitations, restrictions, conditions and covenants shall run with the land and shall hereinafter be binding upon Declarants and upon all parties having or requiring any right, title or interest in and to the real estate specifically described herein above or any part or parts thereof.

A. **Purpose:** The purpose is to contribute to the establishment of the character of a neighborhood and to the maintenance of valued levels through the regulation of type, size and placement of buildings, lot sizes, reservations of easements and prohibition of nuisances and other land uses that might affect the desirability of a residential area.

B. **Area of Application:** The residential subdivision shall be known as Brook Stone Estates and these Protective Covenants and Declaration of Restrictions shall apply all real estate described herein, including but not limited to, all lots in said subdivision, namely Lots 1 through 6, inclusive.

C. **Term and Amendment:** These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of Twenty (20) years from the date these Declarations are recorded, after which time said Declaration shall automatically be extended for successive periods of Five (5) years unless by agreement eighty percent (80%) of the then owners of the real estate described herein above sign and record an instrument revoking, altering or otherwise changing said Declarations in whole or in part. In determining Eighty percent (80%) of the then owners, each platted lot shall have one vote regardless of the number of owners of such lot.

D. Violations and Enforcement: If the parties hereto or any of them or their heirs or transferees or assigns shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person or persons owning any lot or parcel of said real estate to prosecute any proceeding at law or in equity against any party violating or attempting to violate any such covenant to prevent that party from so doing or to recover damages for such violation or violations or for such other legal or equitable relief as may be allowed. In addition, the party found to be in violation of any covenant shall be liable to the person or persons prosecuting such violations for the expenses of such prosecution, including, but not limited to, reasonable attorneys fees, court costs, other litigation costs and all other costs of enforcement of the covenants and the prosecution thereof incurred. Any judgment against any party found to be in violation shall include the amount of such expenses in favor of the person or persons prosecuting such violation. The rights and responsibility for enforcement of these covenants is with each property owner.

E. Covenants: The covenants are as follows:

1. No buildings shall be erected, placed or altered nor construction commenced on any lot until construction plans and specifications, including but not limited to a plan showing the location of the structure, site elevation and exterior and interior plans, have been approved in writing by the Architectural Control Committee as to the quality of workmanship and materials, harmony of external design with existing structures and as to location with respect to topography and finished grade elevation. It is intended that the Architectural Control Committee when considering approval of the plans and specifications may consider reasonable factors beyond those set forth in these covenants appropriate to overall development of the subdivision. The designation of the committee, the powers procedures and duties shall be described in Paragraph F herein.

2. All platted lots, except lot number 4 to which this covenant does not apply, shall be known as residential lots and all buildings constructed thereon are to be used for single family residential purposes only.

3. No buildings shall be erected, altered, placed or permitted to remain on any lot, except lot number 4 to which this covenant does not apply, other than one single family dwelling not to exceed Two and one-half (2 ½) stories in height plus basement and attached garage.

4. Any dwelling located on any lot shall not exceed Two and one-half (2 ½) stories in height. Each one story dwelling shall contain ground floor area, excluding open porches, breeze ways, garages and basements if any, of at least One thousand three hundred (1,300) square feet. Each two story dwelling shall contain a minimum floor space, excluding open porches, breeze ways, garages and basements, if any, of at least One thousand (1,000) square feet thereof being located on the ground floor area. An attached garage shall be at

least a two car garage.

5. The dwelling and garage constructed on any lot shall be completed within Twelve (12) months after the beginning of such construction or placement, unless permitted by weather or an act of God, or because of the size or nature of the construction project. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than Three (3) months from the time of such destruction or damage. Each dwelling, whether a one or two story dwelling shall contain a covered front porch. No part of any building shall be located on any lot nearer to the front or side lot lines from the minimum building set back lines shown on the recorded plat, nor nearer than Ten (10) feet to any interior lot line. Additionally, no dwelling shall be located on any interior lot nearer than Ten (10) feet to the rear lot line. For the purposes of this covenant, steps, porches and decks shall be considered a part of the building. With the approval of the Architectural Control Committee, retaining walls may be constructed within the Ten (10) foot set back area.

6. All residences and attached garages must be completed, and all parts thereof constructed of wood, have at least two coats of paint, siding or other preservative, have the front of the residence constructed of brick and have a covered front porch. No metal frame homes or homes having a vehicle title shall be used, constructed or erected as residences either temporarily or permanently on any lot at any time.

7. The owner of any lot shall be individually responsible for installation and maintenance of a private entrance from any public road and within One (1) year of occupancy of any residence, the owner shall have a poured concrete driveway, and thereafter maintain, maintain said driveway.

8. No fence or wall shall be erected or constructed on any lot, except in the back yard of said lot, and said fence or wall shall be subject to the minimum building set back lines shown on the recorded subdivision plat and contained herein. No fence shall be constructed of chain link or be known as a chain link fence. No fence or wall shall exceed Six (6) feet in height and to preserve the natural quality and aesthetic appearance of the existing geographical area within the subdivision and all property lines said wall or fence shall not be erected, placed or altered on any lot without first having received approval of the Architectural Control Committee.

9. Easements for installation of utilities, drainage facilities and other purposes are reserved as shown on the Plat recorded August 13, 2004, and any amendments thereto. Easements reserved on the recorded Plat for any purpose whatsoever shall remain as permanent easements to the benefit of all parties owning lots or parcels of land in said described tract of real estate, and no structure, building, planting or other improvements shall be placed or permitted to remain which may damage or interfere with the installation of

maintenance of utilities or which may change the direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the lot owner except for the improvements for which a public authority or utility company is responsible. Utilities for the purposes herein shall include, but not be limited to, water, sewer, gas, electric, cable vision and similar services provided to lots and pipelines, conduits, pedestals, transfers or other items and accessories necessary to conduct or provide such utilities.

10. All utilities shall be underground and shall be constructed prior to any bituminous concrete surface course construction. After the street surface is constructed, no openings in the pavement shall be made for a period of five years. All underground house services, such as gas and water services, shall be bored or tunneled and shall be sand backfilled to insure no street settlement. Permits for street openings made during the above period of five years shall be obtained from the Township Road Commissioner.

11. All lots must be kept mowed to a height of 10" or less, except any area which cannot be mowed because of topography or other natural obstruction. The Architectural Control Committee is authorized to notify violators of this covenant in writing, and unless the lot owner shall correct the violation in Fourteen (14) days of the date or such notice, the Architectural Control Committee shall cause all necessary mowing to be completed at the expense of the lot owner.

12. No above ground swimming pools shall be permitted without first having received written approval of the Architectural Control Committee.

13. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

14. No structure of temporary character, partially completed dwelling, trailer, mobile home, basement, tent shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently.

15. One out building or shed is permitted subject to Paragraph 1 herein and the other portions of the declaration and so long as it does not exceed Ten (10) feet by Ten (10) feet in size.

16. No truck of any size, boat, trailer of any kind, motorized recreational vehicle, van, mobile campers, or other properly licensed recreational vehicles or craft of such nature may be parked overnight on any street or on the front yard or side yard of any lot or on any other part of the property, except in an enclosed garage. Any camping trailers,

folding campers, truck campers, habitable motor homes, boats, boat trailers or other properly licensed recreational vehicles or crafts of such nature may be parked overnight, kept or stored outside at each dwelling if on a poured concrete pad in the back yard. The only exception to this covenant shall be allowed when trucks or storage equipment are necessary and utilized during building construction.

17. No satellite dishes or antennas of any type shall be allowed in front yard areas, but the same shall be permitted provided any antenna shall not extend more than Twenty (20) feet above the roof line of the residence, in back yard sites after first having received approval of the Architectural Control Committee.

18. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets not to exceed a combined total of two (2) in number, provided no more than one (1) of which may be kept indoors and provided one (1) may be kept in an outside fencing area in the back yard provided that they are not kept, bred or maintained for any commercial purposes.

19. All outside lights must be approved by the Architectural Control Committee. If street lights are installed, each lot shall be responsible for and each lot owner agrees to pay upon request an equal share of the cost of operating and maintaining such street lights for the subdivision.

20. No lot shall be used or maintained as a dumping ground for anything, including grass, rubbish or other material. Trash, garbage or other waste shall not be kept except in sanitary containers. All garbage cans or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition out of public view. All lots shall be kept in good appearance including the cutting of grass and weeds and removal of all rubbish, weeds and dead trees.

21. No individual water-supply system shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirement, standards and recommendations of the Adams County Public Health Department.

22. No dirt shall be removed from the subdivision, and disposal of surplus dirt shall be arranged through the Architectural Control Committee.

23. No individual disposal system shall be permitted on any lot unless such system is designed and constructed in accordance with the requirements, standards and recommendations of the Adams County Public Health Department and approval of such system as installed shall be obtained from such authority.

24. No oil drilling, oil development operations, oil refining, quarrying or

mining operations of any kind shall be permitted on or in any lot, nor shall oil wells, tanks, tunnels, or excavation or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

25. No building shall be placed nor shall any material or refuse be placed or stored on any lot.

26. No industry, business, trade, occupation or profession of any kind, commercial or religious, educational or otherwise, designed for profit, altruism exploration or otherwise shall be conducted, maintained or permitted on any part of any lot, except lot number 4 to which this covenant does not apply, at any time.

27. Lots may not be redivided except to increase the size of the adjoining lots. If redivided, the appropriate adjoining lot combined with the redivided lot shall thereafter be treated as a single lot with side-yard and other setback lines considered appropriately altered.

28. Each lot shall be subject to supervision by the Architectural Control Committee as described below herein.

F. The Architectural Control Committee:

1. Powers of Committee:

(a) **Generally:** No dwelling, building structure or improvements of any kind or type may be constructed or placed on any lot in the subdivision without the prior written approval of the Architectural Control Committee, hereinafter referred to as "Committee". Such approval shall be obtained only after written application has been made to said Committee by the owner of the lot requesting authorization from the Committee.

(b) **Power of Disapproval:** The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(i) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these restrictions:

(ii) The design or color scheme of the proposed residence, building, construction, or improvement is not in harmony with the general surroundings of said lot or with adjacent building or structures:

(iii) the proposed construction, building, improvement, or any part thereof would be in the opinion of the committee, contrary to the interests, welfare or rights of all or any part of the owners or other lots in the subdivision.

(c) Power to Grant Variances: The Committee may allow reasonable variances or adjustments of these restrictions or where literal application thereof would result in unnecessary hardship, provided, however, that any such variance or adjustment is granted in conformity with the general intent and purposes of these restrictions and also, that the granting of a variance or adjustment will not be materially detrimental or injurious to other lots in the subdivision.

2. Duties of Committee: The Committee shall approve or disapprove of proposed improvements within Thirty (30) days after all required information shall have been submitted to it. All notifications to applicants shall be in writing and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such refusal. In the event the Architectural Control Committee fails to approve or disapprove any plans and specifications within Thirty (30) days after such plans and specifications have been submitted to the Committee or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

3. Composition of Committee: The Committee shall be composed of three (3) members: Lawrence V. Maas, Suzanne R. Maas and Lawrence M. Maas for the initial term of Three (3) years, and thereafter for Three (3) year terms. All members of the Committee shall serve without compensation for services performed pursuant to these covenants. Any vacancies from time to time existing shall be filled by appointment of the remaining members of the Committee provided that in the event a vacancy cannot be filled by a majority vote of the remaining members of the Committee, a vacancy may be filled by the majority vote of the then owners of each lot. In any such event, each platted lot shall have one vote regardless of the number of owners of such lot. The Committee shall act by majority rule of its members.

4. Liability of Committee, Etc.: Neither the Committee nor any agent thereof, nor the Declarants, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

G. Severability: Each covenant shall be severable. That is, invalidation of any one of these covenants by a judgment or Court order shall in no way affect any of the other provisions which shall remain in full force and effect.