

**PROTECTIVE COVENANTS AND RESTRICTIONS FOR
BROOKBURY WOODS
FAYETTEVILLE, ARKANSAS**

Brookbury Woods does hereby establish and create the following Protective Covenants, which shall apply to said lots as shown on the recorded Plat of the said subdivision found in Plat Book

1. SINGLE-FAMILY RESIDENTIAL LAND USE AND BUILDING TYPE.

All lots with Brookbury Woods shall be governed by the residences as governed by the R1 zone in effect on the date these covenants were executed.

- 2. BUILDING LIMITATIONS.** The subdivision and building codes of the City of Fayetteville, Arkansas, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in Brookbury Woods. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflicts between such ordinances and the provisions of these Protective Covenants shall be resolved in favor of more restrictive provisions. Building, architectural, and design specifications shall be in accordance with those regulations set forth in the Fayetteville Zoning Ordinance designated R1. (Residential 1). No dwelling structure shall be constructed upon any lot within Brookbury Woods of less than 2000 square feet of heated living space. Further, each dwelling shall have a private garage not for less than two (2) cars with dimensions of not less than twenty-two (22) feet by twenty-two (22) feet, and shall have a concrete driveway. All homes or outbuildings constructed on any lot must use tile, wood or architectural roof. Exterior of all homes must have at least 80% brick, stone or stucco. In addition, compliance with the above referenced ordinance shall be judged and determined by and require a prior approval of the Architectural Control Committee (as hereinafter set forth), which shall view all plans and specifications for all structures prior to construction and be given the power to amend or alter any such designs or specifications prior to approval for construction in Brookbury Woods. The specifications and requirements of the above mentioned R1 zoning designation are designed as a minimum requirement for architectural and design specifications any may be supplemented from time to time, where not inconsistent, by the Architectural Control Committee, and such requirements shall be binding for prior approval of construction as required by these covenants. All builders and owners shall contact the Architectural Control Committee prior to commencement of construction to be apprised of current requirements. Revisions to approved architectural plans are discouraged; however, any revision to a prior approved plan should be for upgrade purposes, only. All revisions must be submitted to the Architectural Control Committee as set forth hereinafter.

- 3. ARCHITECTURAL CONTROL COMMITTEE:** To insure that all dwellings and accessory buildings constructed or erected in Brookbury Woods, shall have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in Brookbury Woods, there is

established an Architectural Control Committee (ACC). The initial Architectural Control Committee for Brookbury Woods consists of two (2) members, and the initial membership of the same shall be the President and Secretary of Brookbury Woods, and each shall serve in said capacity until July 31, 1999.

Commencing July 31, 1999, each member shall serve a four year term.

Commencing January 1, 2011, each ACC member shall serve a three year term as outlined in the amended By-Laws.

Two members shall be required for any meeting of the Architectural Control Committee. The ACC may consist of the ACC Chair and any other Director or Officer or it may consist of co-ACC Chairpersons. A committee member may be replaced or removed by a vote of two-thirds majority of the lot owners at any time.

No building shall be erected, placed or altered on any lot in Brookbury Woods, until the Building Contractor, the construction plans and specifications and a plot plan showing the location of the structure and a signed statement by the Building Contractor have been approved by the ACC. Further, it shall be established that there will be no necessity for the cutting of any streets in Brookbury Woods subdivision. The cutting of streets is strictly prohibited.

The name of the Building Contractor, plans and specifications, including a plot plan reflecting the location of all improvements and set back shall be submitted to the Architectural Control Committee, which shall, within thirty (30) days after such submission, act on the request and either approve, or disapprove, the planned construction in writing. A Building Contractor is defined as a general contractor, building contractor, construction consultant, architect, design builder or the owner, if he acts as his own contractor.

If plans properly submitted and the Building Contractor are not either approved or disapproved within the time period above – specified and if no suit to enjoin the proposed construction is commenced prior to the completion of that construction, the written approval of the Architectural Control Committee shall no longer be required and the planned construction shall be deemed to be in compliance herewith.

4. **HOME OCCUPATIONS.** Home occupations as defined by Fayetteville City Codes shall be prohibited.
5. **YARD SPACE RESTRICTIONS AND BUILDING LOCATION.** No building shall be located on any lot nearer than twenty – five (25) feet to the front of the lot line nor nearer than eight (8) feet to the side lot lines. No building or permitted accessory building shall be located nearer than ten (10) feet to the interior side lot line. This provision (interior side lot setback) shall not apply to any dwelling constructed on two (2) adjacent lots as to the side lot line dividing the two (2) lots. No dwelling

shall be located on any lot nearer than twenty (20) feet to the rear lot line. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as part of the building: provided, however, this shall not be construed to permit any portion of the building on a lot to encroach upon another lot or easement. No lot shall be subdivided into smaller lots or parcels than shown on the recorded Plat for the purpose of creating additional building sites or lots, except, that a lot may be divided to combine portions of it with the adjacent lots on both sides to enlarge the building sites on said respective adjacent lots. All front yards are to be fully landscaped, sodded, or hydro mulched within 60 days of completion of home or as approved by Architectural Control Committee.

- 6. FENCES.** Fencing of front yards is prohibited, except that decorative wood or masonry fencing of a maximum height of three (3) feet may be constructed upon approval by the Architectural Control Committee. Rear yard fences must be a brick, decorative wood design or wrought iron. Brick and/or wrought iron fences, including color, must be approved by the ACC. Chain link fences and other forms of wire fencing are specifically prohibited. Dog pens properly screened by walls, fences or plantings may be constructed and maintained in the rear yard portion of any lot and must be approved by the ACC. Fencing on corner lots must not infringe on neighboring lots front yard set-backs. All fencing and fencing materials must meet Architectural Control Committee's approval. No fences shall exceed six feet in height.
- 7. OFF-STREET PARKING.** All vehicles, except recreational vehicles, commercial vehicles, or vehicles not designed for passenger use, owned by the respective lot owners shall be parked in the garage or driveway of the respective lot, and parking on the streets as shown in the Plat of the Subdivision shall be prohibited for a period of time exceeding three (3) days. Recreational vehicles and equipment, including but not limited to boats, motor homes, travel trailers, campers and the like, can not be parked or stored on the respective lot for a period of time exceeding three (3) days.
- 8. SIDEWALKS AND DRIVEWAYS.** Concrete sidewalks are to be constructed by the individual lot owner at the time the driveway is installed. Sidewalks will be installed on one side of street as per plot. They must be 4 feet wide and 4 feet from the curb. Sidewalks shall be made with a light broom finished concrete with expansion joints cut on eight foot centers. All driveways are requested to be of some decorative type (example: brick lined, brick expansions, aggregate, or pattern concrete, etc.)
- 9. SIGNS.** No signs, either permanent or temporary, or any kind, including political yard signs, shall be placed or erected on any property, except, the homeowners of Brookbury Woods hereby reserve the right to have a permanent sign to designate the name of the addition at the entrance and that a single sign not more than five (5) square feet in size may be permitted upon an individual property to advertise the same for sale. Exception: "Open House" or "Yard Sale" signs are allowed at

the entrance of Brookbury for a maximum of 3 days. Any such sign must be removed promptly after 3 days.

10. TEMPORARY STRUCTURES. No trailer, basement, tent, shack garage, barn or other outbuilding erected on a building site covered by these covenants shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

11. OUTBUILDINGS No outbuildings shall be allowed. Cabana structures or gazebos may be built and maintained within the building area on any lot in the addition. The interior area of a detached cabana will not be included in the determination of the minimum dwelling sizes.

12. SATELLITE DISHES, BASKETBALL GOALS AND GARBAGE COLLECTION. Satellite dishes 18 inches or smaller are allowed, but not in plain sight of the street, unless approved by the ACC.

Basketball goals are permitted but must be at least 15 feet from the street. Should a portable basketball goal be used in the street for a specific occasion, the home owner must return the goal to the allowed property area within 24 hours. All goals must be well-maintained and safe. No external means of support (i.e. sandbags, bricks, etc.) may be used. Basketball backboards cannot be attached or affixed to any part of the house and must be attached to a standard post or pole designed specifically for a basketball backboard.

Garbage cans, recycling bins, etc. shall be stored out of sight of the street (back yard or in an enclosed area).

13. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted, nor shall oil wells, crude oil tanks, tunnels, mineral excavations, or shafts be permitted upon or in any building site. No derrick or other structure designed for use in boring for oil, natural gas, salt, or any other mineral or petroleum product shall be erected, maintained or permitted upon any building site.

14. LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised or kept on any residential building site, except that dogs, cats, or other household pets may be kept, provided that they are not kept or maintained for any commercial purposes.

15. EASEMENTS. Easements for installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat. No incinerator structures, buildings, or improvements shall be grown, built, or maintained within the area of the utility easements. Owners are hereby put on notice that any structures or plant material in the easements are subject to removal.

16. NUISANCES. No noxious or offensive activity shall be carried on any lot, nor shall anything be done thereupon which may be or may become an annoyance or nuisance to the neighborhood. Household pets may be kept, provided they are not kept or maintained for commercial purposes. Grass, weeds, and tree sprouts shall be kept neatly cut and shall not be allowed to exceed six (6) inches from the ground surfaces. All yards and landscaping shall be maintained in comparable condition to the surrounding Brookbury lots. Non-occupied homes shall be maintained by the owner to these same standards. Fences or outside structures or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Upon owner's failure to comply with this subsection, the developer or other property owners may cut grass or weeds or perform maintenance upon fences, outside structures, or outdoor decorations, or remove building materials and debris or maintain street lights, and shall be entitled to charge a reasonable fee to the owner of the lot for said service and be entitled to file a lien and said expenses, the procedure to be followed as set forth in paragraph number 25 herein. No building materials of any kind or character shall be placed or stored upon any lot in the subdivision until the owner is ready to commence construction of the improvements requiring such materials. Construction sites shall always be neat and orderly. Building sites are to be completely cleaned up weekly of trash and scrap materials or have on site dumpsters throughout construction. If these requirements are not adhered to Brookbury Woods can get cleanup crews for building sites in violation and asses costs to the owner. Portable toilets must be on all job sites during construction. Building materials shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials shall be removed from the subdivision.

17. INOPERATIVE VEHICLES. No automobile, truck, bus, tractor, trailer, or other vehicle, shall be left inoperative on any platted lot or street for a period of more than five (5) days.

18. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, or landscaping material which obstructs sight lines at intersections in the subdivision shall be permitted.

19. UTILITIES. All utilities in this subdivision shall be placed underground.

20. YARD LIGHTS AND MAILBOXES. The owner of each lot in Brookbury Woods shall install, at owner's expense, a yard light and mail box conforming with specifications to be determined by the Architectural Control Committee and purchased from Brookbury Woods or approved supplier to ensure uniformity of design and quality construction. The light and mail box will be competitively priced. The location of the yard light and mail box shall be designated on a plot plan to be submitted to the Architectural Control committee prior to construction of a residential dwelling. The yard light and mail box must be installed and operating at the time a certificate of occupant is issued by the building inspector of the city of

Fayetteville, Arkansas. The yard light is to be controlled by a photoelectric cell, and the yard light is to be equipped with an external electric outlet. It shall be the responsibility of the owner of each lot to maintain both the yard light and the mail box to be installed on each lot and to keep them in a reasonable state of repair and in good appearance at all times. If these requirements are not adhered to, Brookbury Woods can repair and maintain the appearance of yard lights and mailboxes and assess any related costs to the homeowner.

21. VIOLATIONS CHAIR – ACTION ON ALLEGED VIOLATIONS. In order to provide for the proper enforcement of these Protective Covenants, there shall be established a Violations Chair for Brookbury Woods as outlined in the By-Laws.

It shall be the function of the VIOLATIONS CHAIR to receive from owners and/or residents of lots in Brookbury Woods, any complaints as to alleged violations of these Protective Covenants and Restrictions. Upon receipt of any written complaint concerning alleged violations, it shall be the duty of the VIOLATIONS CHAIR to carefully consider and review the complaint within five (5) days after having received the same. It shall be the duty of the Violations Chair to reasonably notify the alleged violator of the complaint and alleged violation. The notification shall be made by ordinary mail and certified mail with return receipt requested.

In the event of any violation or attempted violation of any of the Covenants or Restrictions before the expiration date hereof (whether the original expiration date or the expiration date of any extensions hereof), it shall be lawful for any person or persons owning any lots in Brookbury Woods to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate such Covenants or Restrictions and either to prevent him or them from so doing and/or to recover damages for such alleged violations. PROVIDED HOWEVER, that it shall be a prerequisite for the taking of any legal or equitable proceeding against an alleged violator, that the complaining party follow the procedures above set forth in making the alleged violation known to the VIOLATIONS CHAIR and having action taken by the VIOLATIONS CHAIR, as above provided.

22. BINDING EFFECT AND AMENDMENTS OF COVENANTS. All persons or corporations who now or shall hereafter acquire any of the lots in this subdivision shall be deemed to have agreed and covenanted with the owners of all other lots in this subdivision and with their heirs, successors, and assigns to conform to and observe the restrictions, covenants, and stipulations contained herein for a period as hereinafter set forth. The covenants may be amended any time with the written approval of the owners of two-thirds (2/3) of the lots within the subdivision. Further, no amendments shall be allowed which would be in violation of the zoning designation in effect at the time of the amendment. No changes in these Protective Covenants shall be valid unless the same shall be placed of record in the office of the Recorder of Washington County, Arkansas, duly executed and acknowledged by this requisite number of owners.

23. DURATION OF COVENANTS. These covenants and restrictions shall run with the land for a minimum period of thirty (30) years, to be automatically extended for successive periods of five (5) years without further action unless terminated by a majority of the lot owners in the subdivision, casting votes as herein above set forth in the amendment section of these covenants, and voting one (1) vote for each lot. It is the intent that these covenants promote the aesthetic value of Brookbury Woods.

24. SEVERABILITY. Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions, or any of any part thereof, as set forth herein, but they shall remain in full force and effect.

25. ENTRYWAY MAINTENANCE ASSESSMENTS. The developers and present lot owners hereby acknowledge and agree that the entry way to Brookbury Woods, consisting of the entry walls, sign and landscaping, is an integral part of the value and quality of the subdivision itself and that it is in the best interest of all owners of lots in Brookbury Woods subdivision that the said entryway be properly maintained and kept in a good state of repair. It is further acknowledged that the entry street, as well as all other streets in Brookbury Woods, has been dedicated to the City of Fayetteville, Arkansas for public use and maintenance. Subject to the public dedication of the entry streets, however, the lot owners with Brookbury Woods shall be deemed collectively to have an interest in the maintenance and protection of the said entryway which consists of the entry walls, signs, landscaping, lighting, sprinkler systems and common areas provided solely for the property owners and they are private properties.

It is agreed that, as and when from time to time, maintenance of or repairs to the entry way (entry walls, sign and landscaping) become necessary, the owners, acting by a majority vote of those attending a meeting called for that purpose, shall be authorized to levy an assessment against all lot owners, proportionately, to defray the costs of making such maintenance and repairs.

No lot owner of Brookbury Woods Subdivision shall be subject to any liability of any kind or nature to any third party with respect to the construction, maintenance or repair of the entryway (brick entry walls, sign or landscaping) by reason of the provisions of this paragraph, and the only liability to any such lot owner shall be the proportionate share of costs for repair and/or maintenance prescribed by a special assessment levied in accordance with this paragraph.

Initial \$50 per year assessment to be made starting January 1, 1996 for maintenance on all Brookbury Woods common areas. This assessment to be made to individually owned lots, excluding developers.

In the event five (5) or more lot owners of lots in Brookbury Woods shall, in writing, request the LANDSCAPE CHAIR to cause maintenance to take place or repairs to

be made to the entryway, and shall specify the maintenance and repairs so desired, it shall be the duty of the LANDSCAPE CHAIR, to serve upon all owners of lots in Brookbury Woods Subdivision a written notice of the time and place for a meeting to consider such request, which notice shall identify the lot owners requesting the meeting and the purpose of the meeting. The notice shall be mailed or delivered to each lot owner at their residence address within Brookbury Woods, or at the address of the owner reflected by the records of the Washington County Tax Collector, not less than ten (10) days prior to the date of the meeting to be called for that purpose. Any such notice shall be deemed to have been given when personally delivered or when deposited in the United States mail with proper postage attached and addressed as stated above.

At any such meeting, the minutes of the meeting shall be recorded by the Secretary and shall be signed by both the Secretary and Landscape Chair when transcribed.

At the meeting, the LANDSCAPE CHAIR shall first give the recommendation, if any, to the lot owners concerning the request for maintenance, or repair under consideration.

After hearing and considering the recommendation of the LANDSCAPE CHAIR and after hearing any further recommendation, statements or comments with respect to the matter, the Chair shall put the request to a vote and if, by majority vote (one vote per lot) of the owners present at the meeting, either in person or by written proxy, the lot owners present determine to take any affirmative action such as authorized at the meeting, such action shall be binding upon all lot owners.

Prior to the commencement of the maintenance and/or repairs which might be so authorized, a detailed and final bid for all costs and expenses to be incurred in connection with same shall be secured by the LANDSCAPE CHAIR and placed on file. The pro rate share of the said bill for which each lot owner shall be responsible, shall be arithmetically determined and the lot owners shall be so notified, by the United States mail, of their proportionate share of such costs and shall be requested to make payment within thirty (30) days after the mailing of such notice to them.

In the event there shall be a levy of special assessment for maintenance and repair of the common areas or entrance way in accordance with this paragraph, if any lot owner shall fail or refuse to pay his or her prorated share of such assessment in accordance with the provisions of this paragraph, then the prorated portion due with respect to that owner's lot, shall constitute a valid lien against the lot until paid. Evidence of the nonpayment of such prorated share and the establishment of a lien, shall take the form of an affidavit executed by the Landscape Chair, stating that a meeting was properly called and held at which the assessment was levied; attaching a certified copy of the minutes of the meeting so levying such assignment; and further attaching a copy of the letter notifying the lot owner of the

obligation to pay the assessment. The notice shall also include a legal description of the lot on which the unpaid assessment has been levied. The affidavit shall include by the verified statement that, to the best knowledge of the Chair and the Secretary of the POA, the assessment has not been promptly paid as required by paragraph 25 of the Articles of the Protective Covenants and Restriction for Brookbury Woods.