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State of Missouri, County of Lincoln  
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Melba Houston, Recorder of Deeds

*Nancy Cox*  
Deputy



(Space above reserved for Recorder of Deeds certification)

1. Title of Document: **Declaration of Restrictions, Easements, Liens and Covenants of Brownhaven**
2. Date of Document: **June 11<sup>th</sup>, 2002**
3. Grantor(s): **William H. Brown and Dolores Brown, husband and wife  
Brown Haven Subdivision**
4. Grantee(s): **The Public**
5. Statutory Mailing Address(s): **PO Box 96, Whiteside, MO 63387**
6. Legal Description: **See first page**
6. Reference Book and Page(s): **N/A**

TCLTS  
020314/2460

**DECLARATION OF  
RESTRICTIONS, EASEMENTS, LIENS AND COVENANTS  
OF  
BROWNHAVEN**

THIS DECLARATION OF RESTRICTIONS, EASEMENTS, LIENS AND COVENANTS FOR BROWNHAVEN is made by W. H. Brown and Dolores Brown, husband and wife, hereinafter referred to as Grantors.

WHEREAS, the tract described on Schedule A attached hereto has been subdivided and the plat of it recorded in the Recorder's Office of Lincoln County, Missouri, in Plat Book 13, Page 60, and known as Brownhaven; and

WHEREAS, it is the purpose and intent of this Declaration to protect to protect Brownhaven against certain users by the adoption of restrictions; and

WHEREAS, Grantors want to make legal provisions which relate to the roadway and fifty feet wide (50') utility easements running through the subdivision.

NOW, THEREFORE, in considerations of the premises and of the benefits that shall accrue to Grantor and to the subsequent Lot Owners, Grantors subject Brownhaven to the terms, conditions and restrictions of the Declarations, to-wit:

**I. DEFINITIONS**

- A. "Trustees" are the people responsible for running the Brownhaven Homeowners Association.
- B. "Grantors" are W.H. Brown and Dolores Brown
- C. "Lot" is each lot shown on the record plat or plats of Brownhaven recorded in the Recorder's Office of Lincoln County, Missouri.
- D. "Lot Owner" is the person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Lot.

**II. CREATION OF THE ASSOCIATION**

- A. Grantors by this document form an association known as "Brownhaven Home Owners Association", which shall exercise all the rights, duties, powers, and privileges granted the Association under the following terms.

The Association is vested with the right in its own behalf and on behalf of each Lot Owner to enforce all the restrictions, easements, liens, and covenants contained in this Declaration, but nothing in this document will prohibit an individual lot owner from proceeding on his/her/their own to enforce the same.



B. Every right, duty, power, and privilege that this Declaration gives the Association is given to the Association for its purposes, and is vested with the Trustees, unless otherwise specified.

C. Grantor will quit claim to the Association all of its interest in the roadways, easements and other real property interests in Brownhaven at a point in time when 90% of the lots of the subdivision are sold. Until that time grantors retain all of the power delivered over to the Association by this document.

D. The Trustees of the association shall be chosen by vote at a meeting called by the Grantor as to time, date and place, but no later than January 1, 2003. At that meeting the lot owners shall elect 3 trustees, one to a 3-year term, one to a 1-year term. Thereafter on the first Saturday of the month during which the original meeting was called by grantors, the 3 trustees shall call and hold an annual meeting of the association. Each lot is entitled to one vote. Trustees shall each hold their office for 1 year thereafter or until their successor is elected and qualified. At that meeting the trustees shall address all the business of the association. Notices shall be ordinary mail.

### III. POWERS OF THE ASSOCIATION

The Association shall have the power to

- A. Adopt and amend Rules and Regulations;
- B. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for Association expenses;
- C. Institute, defend, or intervene in litigation or administration proceedings in its name on behalf of itself or two or more Lot Owners on matters affecting Brownhaven;
- D. Make contracts and incur liabilities;
- E. Regulate the use, maintenance, repair, replacement, and modification of the road and streets and any utilities (including sewers and water lines) which may be constructed in the Road Easements and the Utility Easements, all of which are shown on the recorded plat for Brownhaven. The Association has no responsibility for the lateral water lines serving each Lot which lateral taps into the main service water line; each Lot Owner has responsibility for installation, maintenance, repair, and replacement of the lateral water line serving each Lot;
  - 1. The roadway through the subdivision as shown on the recorded plat is 50 foot wide. The entire 50 foot width (and more, at the turnarounds) are subject to the placement of utilities at any time for providing services to the lot owners. The names of the roadways are Erica Drive, Levi Lane and Max Lane.
  - 2. There shall be an area 10 feet wide on either side of the 50 feet roadway meandering through the subdivision and known as Erica Drive, Levi Lane, Maxie Court which shall be used for utilities in the discretion of grantors and the Trustees.

F. Cause additional improvements to be made as a part of the Road Easement and the Utility Easements;

G. Impose charges for late payment of assessment and after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association;

H. Assigns its rights to future income, including the right to receive assessments;

I. Exercise any other powers conferred by this Declaration or the Bylaws;

J. Exercise any other powers necessary and proper for the governance and operation of the Association.

The above paragraphs are grants of powers only and the Association may or may not exercise them from time to time as it may deem proper under the circumstances then prevailing in its sole discretion.

#### IV. ASSESSMENTS AND LIENS

The Association (and Grantors before it) are authorized to make assessments upon and against Lots in accordance with the provision of this instrument.

A. 1. The Association is authorized to make uniform Annual Assessments in an amount initially not to exceed Two Hundred Dollars (\$200.00) per Lot in each calendar year upon and against each Lot, beginning at date of lot purchase, with no prorations. The purpose of this assessment is to allow the Association to carry out all of the general duties and powers of the Association; to enable the Association to defend and enforce the Rules and Regulations, and Restrictions of Brownhaven ; to maintain the roadways, the entrance ways, landscaping and shrubbery; or to perform or execute any powers or duties provided for in this instrument. This assessment may be used for the maintenance of a capital improvement fund, a replacement reserve, or a contingency fund.

The association may change the annual assessment from the initial Two hundred Dollars (\$200.00) per year beginning with the assessment for calendar year 2003.

2. The procedures to be followed in establishing the assessments and the budget may be set by the Association in its Bylaws or Rules and Regulations.

3. The Association is further authorized to levy specific assessments against any particular Lot, including but not limited to, reasonable fines as may imposed in accordance with the terms of this Declaration and for damage to facilities and property for which the Association is responsible caused by the Lot Owner's tenant's, Lot Owner's trustees, or Lot Owner's guests.



B. 1. Any delinquent assessment together with late charges, to be established by the Trustees, interest not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

2. Each such delinquent assessment together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Lot Owner of such Lot at the time any assessment arose, and his or her grantee shall be jointly and severally liable for such portion as may be due and payable at the time of conveyance.

3. Recording in the Recorder's Office of Lincoln County, Missouri of the resolution of the Board setting out the account of the lien (assessment) shall constitute perfection of the lien. Notice of same shall be sent by certified mail to the lot owner's last known address as shown on the Lincoln County records, before any suit may be filed to foreclose the lien.

4. In the event the assessment remains unpaid after sixty (60) days from the due date, the Association may, as the Trustees shall determine, institute an action to collect such amounts and/or foreclose its lien.

5. Each Lot Owner, by acceptance of a deed or as a party to any type of a conveyance, vests in the Association, or its agents, rights and power to bring all actions against him or her, personally for the collection of such charges as a debt and/or to foreclose the lien in the same manner as a mortgage on real estate on a power of sale under Sections 443.290-443.380 R.S.Mo., or any successor provisions or to collect such sums in any other legal manner. The lien provided for in this article shall be in favor of the Association and shall be for the benefit of all Lot Owners.

6. The Association shall have power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot.

7. No Lot Owner may waive or otherwise escape liability for the assessments provided for this Declaration including by way of illustration, but not limitation, abandonment of the Lot, or non-use of the road.

8. All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessments, additional assessment, or special assessment which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of annual or specific assessment(s), which is the subject matter for suit in the order of their coming due.

9. There will be no assessments against Grantors before the lots are initially sold. Assessments will begin against the developer on the developer's lots only after the developer initially sells that lot and then later comes back in to ownership thereof.

## V. RESTRICTIVE COVENANTS

Grantor does by this Declaration impose upon the Lots the following restrictions and conditions, to-wit:

A. The land to be restricted by these covenants is located in Lincoln County, Missouri and is described as shown on Exhibit A attached hereto and made a part hereof.

These Restrictions are to run with the ownership of each Lot and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date this Declaration is recorded, after which time the Restrictions shall be automatically extended for continuing successive periods of ten (10) years each unless such Restrictions are modified or removed as provided below; provided however, that nothing stated herein shall affect the existence of the easements discussed in Article IV above.

B. Utility Easements for the installation and maintenance of utilities have been reserved on the fifty foot roadway, as well as on a 10 foot strip on either side of the 50 foot roadway.

C. 1. All lot owners shall provide and maintain, at their own expense, road entrance to their respective tracts; such private entrances shall be constructed so as not to obstruct the side or cross drainage of the roadway. There shall be placed in all driveway, to the proper grade and depth, a pipe culvert of not less than fifteen (15) inches in diameter made of corrugated galvanized metal or standard strength concrete pipe. Such driveways shall be of an easy grade, coinciding with the connected roadway.

2. All homes constructed shall be a minimum of 1,850 square feet for ranch homes 2,200 square feet for two story homes, exclusive of garage or basement footage. No multi-family dwellings, such as townhouses, condominiums, or cooperatives are allowed. No modular, manufactured, mobile, or earth contact homes shall be allowed.

3. All homes shall be built on concrete foundations with full basements or crawl spaces, and shall have an exterior of, 30% brick or stone, and 70% vinyl, aluminum, or steel siding. All building plans shall be approved by a majority of the trustees before construction begins.

4. Only occasional camping on the lots herein is allowed until the owner or owners have completed construction of a residence in accordance with these restrictions. Both the depth and width of all residences shall exceed 24 feet.

5. All fire chimneys constructed shall be of the type and construction approved by the insurance underwriters.

All outside exterior walls of any structure shall be completely finished within 120 days after the footing or foundation of any structure has been completed.



6. With respect to any construction, only new materials may be used. No residential dwellings and other buildings, fences, walls or other structures shall be erected, nor shall any exterior additions, changes or alternations therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to and approved in writing as to the size and the harmony of external design in relation to surrounding structures and topography by the Trustees or an authorized representative thereof. The Trustees shall not be unreasonable in granting this decision.

Fences, walls or other structures are not permitted nearer than fifty (50) feet from the center of the front street line.

7. The construction, maintenance and use of outside toilets or latrines is prohibited and no open sewage or drain system shall be permitted for disposal of the sewage or water from internal household purposes. All water or sewage shall be disposed of through systems authorized and permitted by the authorities of Lincoln County, Missouri, and the Missouri Department of Natural Resources, under their existing sewer ordinance or any amendments thereto. Any lot owner wanting a lagoon must have location of such approved by the majority of the trustees. Outside toilets may be permitted temporally during the construction of a dwelling unit, but not to exceed a period of one hundred twenty (120) days.

8. No lot or tract of land shall be used for commercial purposes, except upon granting of a variance by the Trustees. The variance may be granted by the Trustees only upon written application by the Lot Owner. The application must state the nature of the business or commercial use, the impact of the business upon the residential nature of the subdivision, and accompanied by a signed consent of Lot Owners representing 65% of the Lots of the entire subdivision. The variance, if granted shall be personal to the present owner/application of that Lot requesting the variance, and shall not be a permanent variance which is transferable, or to become a permanent variance or covenant running with that Lot, and shall constitute a variance for the commercial use or business applies for only.

9. No animals, livestock, swine or poultry of any kind shall be raised, kept or bred on any lot, or in any house on any lot, except for horses, dogs, cats or other household pets. There shall be no keeping, breeding or maintaining of any animals for commercial purposes. Each lot owner is allowed a maximum of two (2) horses and two (2) dogs per lot and two (2) cats per lot. All allowed animals shall be suitably restrained or confined in accordance with state and local law. The trustees, upon ten (10) days written notice to any lot owner, are authorized to demand compliance with this provision and serve as complaining witnesses on any state or local law violation for allowing animals to run at large. If any allowed animal shall give birth, the lot owner shall have a reasonable time to come into compliance with this provision concerning the number of allowed animals, not to exceed eight weeks for cats and dogs. All barns, stables and dry lots shall be maintained to prevent the accumulation of excessive animal waste and noxious odors.



10. No derelict or unlicensed automobiles or other vehicles, including boats and recreational vehicles, unless garaged, are permitted to be left or stored on any tract. No automobiles or other vehicles shall be parked upon a street or roadway except on occasion. There shall not be continuous parking or stopping on the street. Each lot owner shall provide off street parking for more than occasional parking. No recreational vehicles, trailers, boats or campers shall be parked on a permanent basis within sight of the front street.

11. No sign of any kind shall be displayed to the public view in any lot, except one sign of not more than five (5) square feet advertising the property for sale, or signs used by a builder or developer to advertise the property during the construction and sale.

No lot shall be used or maintained as a dumping ground for rubble or trash of any kind. Trash, garbage, or other waste shall not be kept on any premises except in sanitary containers for disposal less than weekly.

All lots or tracts shall be subject to any easement over, under and across said lots or tracts for utilities required for the benefit of others.

No tract or lot in this subdivision shall be subdivided. Each lot shall be used for single family residential only.

The individual lot owner will be responsible for the cost of taking the water line and other utility lines from the street onto the individual lot owner's property.

12. Original Grantors shall control the enforcement of these conditions until 90% of the building lots are sold, at which time the Trustees shall control. While the original Grantors are in control, they may and will use unsold lots for the growing of field crops.

## VI. MISCELLANEOUS PROVISIONS

A. No modification or amendment to this Declaration shall be valid unless such modification or amendment has the written assent of the Lot Owners representing in the aggregate 65% or more of all Lot Owners present and voting at a meeting having a quorum and duly called for the purposes of such modification or amendment. Such modification or amendment must be duly recorded in the Recorder's Office of Lincoln County, Missouri.

B. The members of the Association shall be those persons who are the Lot Owners. These memberships are appurtenant to and conjunction with the ownership of such Lots. The rules and provisions relating to the election of Trustees and the government of the affairs of the Association shall be provided for in the bylaws.

C. In any event and in any vote referred to herein by members of the Association, and notwithstanding any language to the contrary, each lot in Brownhaven shall be entitled to one vote and only one vote.

D) All road repairs or maintenance as the subdivision trustees shall determine, in the trustees' sole and absolute discretion, to be necessary.

E) The easements for all utilities and roads, as shown on the subdivision plat, are hereby dedicated to the use and common benefit of all lots owners within the subdivision. No



dwelling or outbuilding shall be constructed on any utility road easement within the subdivision.

F) No tractor-trailers, large commercial vehicles, or any other type of heavy-duty construction or commercial vehicles shall be parked or stored in the subdivision.

G) All roadways depicted on the plat for Brownhaven are hereby dedicated to the use of the present and subsequent owners of each lot in the subdivision. In addition to the roadway easement along the exterior perimeter of each lot, as depicted on the plat, 15 feet in width and 75 feet in depth, for purposes of installation and maintenance of water, electricity, phone and other utilities. The minimum setback line for all homes, outbuildings, or plantings of any trees or shrubs shall be 75 feet from the centerline of the road.

IN WITNESS WHEREOF, Grantors have executed this Declaration on the day and year stated below.

## GRANTORS

W H Brown  
W. H. Brown

Dolores Brown  
Dolores Brown

STATE OF MISSOURI )  
 )SS.  
COUNTY OF LINCOLN )

On this 11<sup>th</sup> day of June, 2002, before me personally appeared W.H. Brown and Dolores Brown, husband and wife, to me known as to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in the City or County and State aforesaid, on the day and year first above written.

**\* NOTARY SEAL \***  
Denise J. Black, Notary Public  
Lincoln County, State of Missouri  
My Commission Expires 11/26/2003

written.  
Truse Black  
NOTARY PUBLIC