

Instrument # 22311698
Bannock County, Pocatello, Idaho
11/06/2023 04:19:14 PM No. of Pages: 28
Recorded for: ADAMSON DANNIS
Jason C. Dixon Fee: \$91.00
Deputy: jbrewer

DECLARATION

OF

PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

FOR

BROOKSTONE ESTATES WEST HOMEOWNERS ASSOCIA-
TION, INC. – DIVISION 12

Table of Contents

	Page
Article 1 - Purpose and Declaration	1
1.1 Purpose	1
1.2 Declaration.....	1
Article 2 - Definitions	1
2.1 Additional Land	1
2.2 Annexation Declaration	1
2.3 Architectural Control Committee	1
2.4 Articles.....	1
2.5 Assessments	1
2.6 Association	1
2.7 Board.....	2
2.8 Bylaws	2
2.9 Common Areas	2
2.10 Declarant.....	2
2.11 Declaration.....	2
2.12 Developer.....	2
2.13 Governing Documents	2
2.14 Lot.....	2
2.15 Manager	2
2.16 Member.....	2
2.17 Occupant	2
2.18 Owner	2
2.19 Period of Declarant Control.....	2
2.20 Person	2
2.21 Plat	2
2.22 Project.....	2
2.23 Property.....	3
2.24 Public Park.....	3
2.25 Residence.....	3
2.26 Restrictions	3
2.27 Rules	3
2.28 Unimproved Lot.....	3
Article 3 - Use Restrictions	3
3.1 Rules	3
3.2 Use of Common Areas.....	3
3.3 Use of Lots and Residences	3
3.4 New Construction	4
3.5 Commencement and Completion of Construction.....	4
3.6 Offensive or Unlawful Activities.....	4
3.7 Pets	5
3.8 Vehicles and Sports Recreation Vehicles	5
3.9 Nuisances	5
3.10 Signs	5
3.11 Trash Containers	5
3.12 Parking.....	5

3.13	Leases	5
3.14	Water and Sewer Service	5
3.15	Variances	5
Article 4 - Architectural Controls.....		6
4.1	Purpose	6
4.2	Architectural Control	6
4.3	Review of Proposed Construction	6
4.4	ACC Guidelines	7
4.5	Solar Panels	7
4.6	Fencing	7
4.7	Detached Structures	7
4.8	Exteriors.....	7
4.9	Driveways	7
4.10	Drainage Swale.....	8
4.11	Towers and Antennas.....	8
4.12	Utilities	8
4.13	Landscaping and Sprinkler Systems.....	8
4.14	No Waiver.....	8
4.15	Non-liability.....	8
4.16	Declarant's Exemption	8
Article 5 - Brookstone Estates West Homeowners Association.....		9
5.1	Organization	9
5.2	Purpose	9
5.3	Membership	9
5.4	Record of Ownership	9
5.5	Voting Rights.....	9
5.6	Board of Directors	9
5.7	Powers and Duties	10
5.8	Liability.....	11
5.9	Dissolution.....	11
Article 6 - Budget and Assessments		11
6.1	Annual Budget	11
6.2	Reserve Account	11
6.3	Capital Improvements.....	11
6.4	Covenant to Pay Assessments.....	11
6.5	Purpose of Assessments.....	12
6.6	Regular Assessments	12
6.7	Special Assessments	12
6.8	Individual Assessments.....	12
6.9	No Offsets.....	12
6.10	Declarant's Exemption from Assessments	12
6.11	Personal Obligation and Lien	12
6.12	Billing and Collection.....	13
6.13	Due Dates, Delinquency, and Collection Charges.....	13
6.14	Late Fees and Interest	13
6.15	Collection Actions	13
6.16	Power of Sale.....	14
6.17	Association Responsibility After Foreclosure	14

6.18	Estoppel Certificate.....	14
Article 7 - Easements and Rights in Common Areas.....		14
7.1	Utility Easement	14
7.2	Fence Easement.....	14
7.3	Use of Common Areas.....	15
Article 8 - Maintenance.....		15
8.1	Association Maintenance.....	15
8.2	Owner Maintenance.....	15
8.3	Owner Maintenance Neglect	16
Article 9 - Enforcement.....		16
Article 10 - Annexation of Additional Land		17
10.1	By Declarant	17
10.2	By Association.....	17
10.3	Method of Annexation	17
10.4	Annexation Declaration	17
10.5	Rights and Obligations of Owners of Annexed Land.....	17
10.6	Withdrawal of Land.....	17
Article 11 - Special Declarant Rights.....		18
11.1	Improvements	18
11.2	Special Declarant Rights.....	18
11.3	Interference with Special Declarant Rights	19
11.4	Limitation on Improvements by Association.....	19
11.5	Transfer of Special Declarant Rights.....	19
11.6	Changes by Declarant or Developer	19
11.7	Easements Reserved to Declarant and Developer	19
Article 12 - Right of Entry		20
Article 13 - Amendments		21
13.1	Amendments by Declarant.....	21
13.2	Amendments by Association	21
Article 14 - Miscellaneous.....		21
14.1	Notices	21
14.2	Consent in Lieu of Voting	21
14.3	Interpretation and Severability.....	21
14.4	Covenants to Run with Land	21
14.5	No Waiver.....	22
14.6	Security	22
14.7	Effective Date	22
14.8	Annexation.....	22

**DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR**

BROOKSTONE ESTATES WEST HOMEOWNERS ASSOCIATION, INC.

This Declaration of Protective Covenants, Conditions, Restrictions and Easements is made by Brookstone, LLC, an Idaho limited liability company ("Declarant"). This Declaration shall be effective as of the date recorded with the Bannock County Recorder's Office.

RECITALS

Declarant owns the real property described in Exhibit A attached hereto (the "Property") and desires to develop the Property into a planned community known as Brookstone Estates West. Brookstone, LLC, an Idaho limited liability company ("Developer") shall be the initial developer of the community. The purpose of this Declaration is to establish covenants, conditions, and restrictions for the benefit of all future owners and occupants of the Property.

Article 1 - PURPOSE AND DECLARATION

1.1 Purpose. The purpose of this Declaration, and the Restrictions and Rules set forth herein, is to enhance the value, desirability, and attractiveness of the Property for the mutual benefit of the Declarant, the Association, and each Owner.

1.2 Declaration. Declarant hereby declares that the Property, including all of the Lots or Unimproved Lots, shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to this Declaration and the Restrictions and Rules, which Restrictions and Rules shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Declarant, the Association, and each Owner, including their respective heirs, successors, and assigns.

Article 2 - DEFINITIONS

2.1 Additional Land. Any parcel of land that is annexed into the Project by Declarant.

2.2 Annexation Declaration. A declaration by which Additional Land is made subject to this Declaration pursuant to Article 11.

2.3 Architectural Control Committee. The committee having architectural control powers as further described herein.

2.4 Articles. The Articles of Incorporation for the Association, as amended and restated from time to time.

2.5 Assessments. Any monetary charge or fee imposed or levied by the Association against Owners as provided in this Declaration or other Governing Documents.

2.6 Association. The Brookstone Estates West Homeowners Association, Inc., an Idaho nonprofit corporation.

2.7 Board. The Board of Directors of the Association. The Board is the governing body of the Association.

2.8 Bylaws. The Bylaws of the Association.

2.9 Common Areas. Any real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation, park facilities, Association signs or monuments, open space, landscaped areas, street signage, lighting detached from Residences, and other similar improvements, all roadway improvements within the Project shown on the Plat as private roads and which are not accepted for dedication by a municipal authority, and all land, and the improvements situated thereon, within the Project that Declarant designates as Common Areas on the Plat or other recorded instrument.

2.10 Declarant. Brookstone, LLC, and its successors and assigns.

2.11 Declaration. This Declaration of Protective Covenants, Conditions, Restrictions and Easements.

2.12 Developer. Brookstone, LLC, and its successors and assigns.

2.13 Governing Documents. Collectively this Declaration, the Articles, the Bylaws, Plat, Rules, and Restrictions, as each may be amended from time to time.

2.14 Lot. Each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas and Public Parks. References to "Lot" include any Residence or other improvement constructed thereon.

2.15 Manager. A person selected by the Board to manage the affairs of the Association.

2.16 Member. A Lot Owner.

2.17 Occupant. Any Person living, dwelling, visiting, or staying in a Residence.

2.18 Owner. The record owner, whether one or more Persons, including Declarant, holding fee simple interest of record to a Lot which is a part of the Property or Additional Land, and buyers under executory contracts of sale, but excluding those Persons having such interest merely as security for the performance of an obligation, unless and until such Person has acquired fee simple title pursuant to foreclosure or other proceedings.

2.19 Period of Declarant Control. The period starting on the effective date of this Declaration and continuing until the later of such time as (i) Declarant is no longer an Owner and (ii) Declarant elects in writing to not add any further Additional Land to the Project under Article 11.

2.20 Person. Any individual, partnership, corporation, trust, estate, or other legal entity, including Declarant and Developer.

2.21 Plat. The official subdivision of plat(s) of Brookstone West Estates, filed and recorded in the official records of the Bannock County Recorder's Office and any Additional Land annexed into the Project and made subject to this Declaration.

2.22 Project. All the Property, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto, and shall at any point in time

mean and refer to the entire Brookstone West Estates subdivision. The Project shall also include any Additional Land annexed into the Project and made subject to this Declaration.

2.23 Property. The real property in Bannock County, Idaho, described in the attached *Exhibit A* and any Additional Land annexed into the Project and made subject to this Declaration.

2.24 Public Park. A park, playground, recreation center or any other area in the Project, according to the Plat, which is dedicated to the City of Chubbuck for use by the public, pursuant to Development Agreement(s) between the City of Chubbuck and Brookstone, LLC. Public Park, as used herein, shall not mean any public park under the control of the City of Chubbuck; only those public parks identified on the Plat are so designated.

2.25 Residence. A structure intended for use and occupancy as a residence, together with all improvements located on or with respect to the applicable Lot which are used in connection with such Residence. The Residence shall include, without limitation, the roofs and all exterior surfaces, exterior trim, gutters, downspouts, structural members, and foundations. The Residence shall also include any mechanical equipment and appurtenances located within any one Residence, or located without said Residence but designed to serve only that Residence, such as appliances, air conditioning compressors, sprinkler systems, antennas, fixtures and the like. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Residence or serving only the Residence shall be deemed part of the Residence.

2.26 Restrictions. The covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

2.27 Rules. The rules, resolutions, regulations, policies, and guidelines adopted by the Board or the ACC.

2.28 Unimproved Lot. Each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas and Public Parks, which do not include any Residence or other improvement constructed thereon. An Unimproved Lot is converted to a Lot upon the issuance of a Certificate of Occupancy or a substantially similar authorization document from the applicable government agency.

Article 3 - USE RESTRICTIONS

3.1 Rules. The Board has authority to issue (i) Rules expanding, clarifying, or otherwise amending the use restrictions contained in this Article, and (ii) new Rules imposing additional use restrictions not contemplated by this Article.

3.2 Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots or Unimproved Lots.

3.3 Use of Lots and Residences. Each Lot and Residence shall be used only as a single-family dwelling. No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot or Residence except with the prior written consent of the Board and applicable governmental entities. In addition, no form of temporary housing is authorized on any Lot, Unimproved Lot or otherwise within the Project. Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if only normal residential activities would be observable outside of the Residence, the business activity does not involve persons coming on to the Project who do not reside in the Project, the business activity does not involve the solicitation of Occupants or